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your real time accountant

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We are delighted to present the June 2016 edition of our new quarterly tax newsletter. Our newsletter is designed to keep you up to date with tax trends and issues that may impact your business and personal financial affairs.

In this issue we look at:

Revenue's new Electronic Tax Clearance (eTC) regime

From 1 January 2016, new applications for a tax clearance certificate must be made through Revenue's new eTC system on ROS or myAccount. The only exceptions to this are:

- Tax Clearance Certificates required for Standards in Public Office (SIPO) purposes,
- Non-resident applicants who have no Tax Registration number in the State,
- Non e-enabled applicants
- Non-registered voluntary bodies.

Guidelines on using the new system are available on www.revenue.ie

Changes to the circumstances requiring a Capital Gains Tax (CGT) clearance certificate

From 1 January 2016 CGT clearance certificates are not required on sales of residential property (houses and apartments) where the sales proceeds do not exceed €1 million. Previously this threshold was €500,000.

CGT clearance certificates are also not required for disposals of assets with a CGT exemption and sales by financial institutions of loans secured on land in the State.

Tax tip and trap
Focus on landlords

Tip

From 1 January 2016, landlords who rent residential property to tenants in receipt of certain social housing supports for a 3-year period can qualify for a 100% mortgage rent deduction against rental profits (rather than the normal 75% deduction). Under this new provision, the additional relief is given as a deduction against rental profits in the year after the 3 year lease period has expired.

Trap

Pre-letting expenses i.e. expenses incurred prior to the date on which the premises were first let apart are not allowable expense deductions against rental profits. There are some exceptions to this rule – auctioneer's letting fees, advertising fees and legal expenses incurred on first lettings are allowed.

The new CGT Entrepreneur Relief

From 1 January 2016 a reduced rate of 20% capital gains tax (CGT) applies on the disposal of chargeable business assets by a qualifying individual up to a lifetime limit of €1million chargeable gains.

If you have owned business assets for 3 years before you sell them you may qualify for the reduced rate of CGT on gains of up to €1 million. This €1 million is a lifetime limit on all disposals of chargeable business assets. If you held 5% of ordinary shares in a company and were an employee or director spending 50% of your working time in a managerial or technical role for 3 years before you sell the shares the disposal of the shares may qualify for the reduced rate, subject to the lifetime limit.

In order to qualify:

- the disposal must be made after 1 January 2016
- the disposal must be of chargeable business assets in a qualifying business
- the disponer must be a qualifying individual

What are chargeable business assets?

Chargeable business assets are assets, including goodwill, used for a qualifying business carried on by an individual or certain ordinary shares in a company carrying on a qualifying business. Certain investment assets, development land and assets that would not have a chargeable gain are excluded from the definition of "chargeable business assets".

What type of business qualifies?

A business other than

- a business holding securities or assets as investments, or
- a business that holds development land, or
- a business that develops land or is letting land

What type of individual qualifies?

An individual who

- has been the beneficial owner of chargeable business assets for a continuous period of at least 3 years in the 5 years immediately prior to the disposal of the assets;
- is (or has been) an employee or director of a company
- who must spend at least 50% of his working time working for the company in a managerial or technical capacity, and
- has served in that capacity for a continuous period of 3 years in the 5 year period immediately prior to the disposal of the chargeable business assets.

Is there a cap or a lifetime limit?

Yes, the 20% rate will only apply to chargeable gains on chargeable business assets up to a limit of €1,000,000. This is a lifetime limit. Any chargeable business assets in excess of €1,000,000 will be liable to the full capital gains tax rate (currently 33%).

VAT Compliance
10 tips to avoid Revenue's prying eyes

Revenue queries regarding the VAT compliance of a taxpayer can have a knock-on effect for the business as a whole. Often queries from Revenue can delay the release of a VAT refund which can be very problematic for cashflow planning. We give 10 practical suggestions about what businesses can do to help to reduce the frequency of queries being raised by Revenue:

1. Ensure VAT returns are correct and filed on time:
In general VAT returns must be filed with Revenue on a bi-monthly basis. Where the business files by way of paper return the filing deadline is the 19th day of the month following the end of the period to which the return relates. Nowadays most businesses file their VAT returns online using ROS and for these businesses the filing deadline is extended to the 23rd day of the month following the end of the period to which the return relates.
Interest and penalties can arise for any business that does not ensure its VAT returns are correct and are filed on a timely basis together with payment of any VAT due.

2. Ensure valid VAT invoices are issued to all customers on a timely basis.
To be considered valid a VAT invoice should include:
a. Date of issue and sequential number;
b. VAT number of supplier;
c. Details of goods / services supplied;
d. Full name and address of supplier and customer;
e. Invoice amount, VAT rate and VAT amount, and
f. The VAT in question must be Irish VAT expressed in euros.
The invoice should be raised within 15 days of the end of the month in which the supply was made;

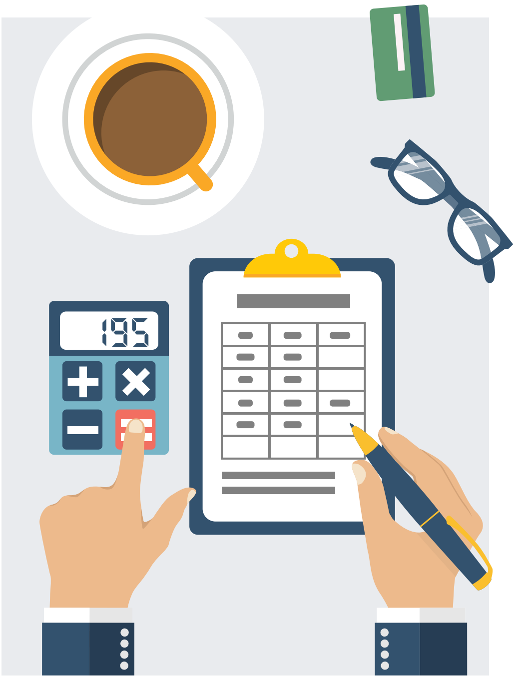
3. VAT on purchases
Businesses should ensure the accuracy of the amount of VAT input credit in their VAT returns. In particular, businesses should:
- actively monitor and check that all invoices received from suppliers are valid VAT invoices;
- restrict the VAT incurred on expenses that are used for a non-business / VAT exempt purpose;
- be familiar with list of expenses on which VAT cannot be reclaimed, even where the expense relates to the business. Businesses are not allowed to deduct VAT on:
• food, drink, or entertainment expenses incurred by the business, its agents or employees
• accommodation other than qualifying accommodation in connection with attendance at a qualifying conference
• the purchase, hire, Intra-Community acquisition or importation of a passenger motor vehicle (other than motor vehicles held as stock-in-trade)
• the purchase, hire, Intra-Community acquisition, or importation of petrol (otherwise than as stock-in-trade).
-Businesses supplying VAT-exempt goods or services should ensure that the VAT incurred on costs in relation to providing those services is disallowed. If the business supplies both VATable and non-VATable supplies, it should review its VAT recovery rate to ensure that the appropriate portion of overheads used for both types of supplies is being deducted e.g. light and heat, rent etc.
- If a business has deducted VAT but has not paid the invoice within 6 months of the end of VAT period in which that deduction was claimed, then the amount of VAT deductible will be reduced by the amount of VAT relating to the unpaid consideration. However, if there is a reasonable basis for not paying the supplier in full, it may be possible to avoid having to make the adjustment.
Where a business makes an adjustment and subsequently pays the supplier in full, it can increase the amount of input VAT accordingly.

4. Property transactions
VAT errors often occur where properties are bought or sold or where leases are being granted, assigned or surrendered. It is vital that VAT advice is taken prior to entering into such transactions to avoid costly mistakes after the contracts have been signed.

5. Supplies of goods to customers in other EU Member States
Care must be taken when dealing with cross-border transactions. In many cases, VAT is not chargeable as the invoice will be zero-rated. However this treatment requires that certain conditions are satisfied. In order to "zero rate" such supplies the supplier must:
• establish that the customer is a VAT-registered business in another EU Member State;
• obtain the customer's VAT registration number (including country prefix) and retain it on the supplier's records';
• quote both the customer's and the supplier's VAT number on the invoice;
• obtain and retain evidence of the dispatch of the goods to the other Member State
Where these requirements are not met, the "zero-rate" does not apply and the taxpayer is technically liable to account for Irish VAT on these supplies of goods (e.g. at the standard 23% rate of VAT).

6. Self accounting on goods and services received from abroad
Businesses that purchase services from abroad or purchase goods from suppliers in other EU Member States must account for Irish VAT on the value of goods/ services through their Irish VAT return on a reverse charge basis. For traders with an entitlement to 100% VAT recovery, they are entitled to a matching deduction for this VAT, resulting in no additional tax due to Revenue. For other businesses who are not entitled to reclaim all of the VAT incurred (including VAT-exempt businesses), the self accounting for VAT represents a real VAT cost.

7. VAT rates
Businesses need to ensure the correct rate of VAT is applied to all goods and services supplied. While the standard rate of VAT in Ireland is 23%, the reduced rates of 13.5%, 9% and 0% apply to many goods and services (note some services are exempt from VAT). Additionally, businesses can make supplies at different VAT rates and this can cause confusion particularly where a mixture of goods / services are supplied for a single consideration.



8.Statistical returns and general compliance
As well as filing periodic VAT returns, there are a number of statistical returns that taxpayers may be required to complete. These include Intrastat statements (for cross border acquisitions and supplies of goods over certain threhsholds), VIES returns (for cross border supplies of goods and services) and the Annual Return of Trading Details (RTD), which reflects all transactions carried out during the year. Taxpayers can register for INTRASTAT and VIES returns for cross-border EU transactions by contacting the VIMA office in Dundalk.
Even though these returns do not provide for any VAT liability and are purely statistical in nature, the taxpayer should ensure that they are filed within the statutory deadlines. In recent times, Revenue has delayed the issuing of VAT refunds to taxpayers who have not filed the RTD.

9. Cash receipts basis of VAT accounting
A business claiming the cash receipts basis of VAT accounting should monitor its activities to ensure it continues to qualify for this treatment i.e. its annual turnover is less than €2m or 90% of its annual turnover comes from supplies of goods / services to customers who are not required to register for VAT (the general public etc).

10. VAT 13B authorisations
Revenue issues an authorisation (termed a VAT 13B) to certain taxpayers who derive at least 75% of their turnover from exports of goods to receive most goods and services from suppliers at the 0% rate. Where a taxpayer obtains this authorisation it should monitor the date of expiry of the relevant authorisation – ensure that it has not expired and apply for renewal in sufficient time. It usually expires after 2 years.
If a supplier receives a copy of a VAT 13B authorisation from a customer, the supplier should, before applying the zero rate of VAT ensure that the authorisation is still valid (based on the date stated on the certificate) and must quote the authorisation number on the sales invoice. If the authorisation has expired or if the supply relates to specifically disallowed items (e.g. food and drink), the supplier is obliged to charge VAT on the supply as normal.
Do not forget to inform Revenue should your business no longer qualify for the authorisation. Failure to do this can give rise to penalties.
In addition to the above suggestions for focus on VAT compliance, businesses operating in the construction, forestry or meat processing sectors should be aware of their obligations under the Relevant Contracts Tax (RCT) rules. Please see our commentary on page [3] of Revenue focus on this area.

Income tax credits in focus

Every year many individuals pay too much income tax because they are unaware of the range of tax credits available to them. Here we look at 2 income tax credits - the new "Earned Income Tax Credit" (introduced by Finance Act 2015) and the Home Carer Tax Credit.

The new "Earned Income Tax Credit"

As a first step in aligning the tax treatment of self-employed individuals and proprietary directors with that of employees, Finance Act 2015 introduced a new "Earned Income Tax Credit".

The credit came into effect on 1 January 2016 and is worth a maximum of €550 per year. It applies to taxpayers earning self-employed trading or professional income in certain cases and to business owner/ managers who are not eligible for the PAYE credit on their salary income. The new credit is the lesser of €550 and 20% of an individual's qualifying earned income. If an individual has income that qualifies for both the Employee (PAYE) tax credit and the Earned income tax credit, the combined value of both tax credits cannot exceed €1,650.

For married couples or civil partners taxed under joint assessment and one or both of the individuals are in receipt of qualifying earned income, the earned income tax credit is available in respect of each person who has qualifying earned income. However, if either person is also entitled to the PAYE credit, the maximum credit available to that individual is €1,650.

The Home Carer Tax Credit

The Home Carer Tax Credit is available where one spouse or civil partner in a marriage or civil partnership is the Home Carer and cares for one or more dependent persons. The couple must be jointly assessed.

In this context, a "dependent person"

- must not be a spouse or civil partner
- is a child in respect of whom you or your spouse are entitled to child benefit;
- is an individual who was aged 65 or more during the tax year;
- is an individual who is permanently incapacitated (mentally or physically)

The dependent person must normally reside with the couple or if they are relatives (including a relation by marriage and a person for whom you are legal guardian) they must reside next door in a neighbouring residence, on the same property or within 2km of each other.

The amount of the tax credit is the lower of €1,000 and the amount which reduces your income tax liability to nil. Full tax credit is due if the Home Carer's income is less than €5,080. If the carer's income is between €7,200 - €9,200, reduced relief is granted.

Caution: If the home carer tax credit is claimed, the couple are not entitled to the increased standard rate band normally given to couples in a marriage or civil partnership where both spouses or civil partners are in receipt of income. If only one spouse / civil partner has income or the increased standard rate band is sufficient to cover the combined income of both spouses or civil partners then this issue does not arise. However, if this is not the case then Revenue will award whichever is the more beneficial treatment.

Recent Revenue Activity

Increased compliance interventions in the Construction Sector

As a result of the increased focus on compliance in the construction sector, Revenue published a briefing in March highlighting some of its main findings from compliance interventions carried out to date, which include the following:

- Failure by the principal contractor to self-account for the VAT due on construction operations (excluding haulage),
- Incorrect completion of VAT invoices by subcontractors,
- Application of 2/3rds rule where principal contractor self-accounts for the VAT,
- Incorrect completion of VAT 3 returns; and
- Failure to apply VAT on the reverse charge basis where the construction contract is between connected parties.

Compliance interventions in the construction sector also focus on the payment of country money without deduction of PAYE, PRSI and USC. All criteria laid down by Revenue should be met in order for the payment of country money to be made tax free. Checks on this payment are a feature of Revenue interventions in the sector. Employers should ensure that all payments of country money satisfy the relevant criteria.

Failure by principal contractor or subcontractors to operate VAT, RCT or PAYE correctly will impact on their compliance history and may result in penalties and/or their RCT rate being increased.

These areas continue to be closely monitored by Revenue.

Anti-fraud measures on the cancellation of VAT numbers

Under "anti-fraud" measures introduced in Finance Act 2015, where Revenue cancels a business registration number they may, in certain circumstances, advise the businesses' suppliers that the number has been cancelled. They may also publish the particulars of the cancellation.

The aim of this measure is to ensure that suppliers, in particular suppliers in other Member States are aware of the cancellation of particular VAT registration numbers and will charge VAT on future supplies accordingly.

Contact us
If any of the topics covered affect your business or your personal finances, please contact us we will be delighted to discuss issues that are relevant to you.

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