Money Matters

Lang Bennetts

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Reporting property capital gains

New system tripping up taxpayers

Inside...

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New VAT rules for EU retail sales

The EU has extended its mini one stop shop (MOSS) to become a one stop shop (OSS) from 1 July 2021 covering a wider range of supplies.

The OSS simplifies and minimises VAT registration requirements for distance sales of goods to consumers. Only one VAT return is required for all sales within the EU, but the seller should apply the VAT rate for each state where goods are sold. A UK business can make use of the OSS system by registering as a non-Union VAT payer in one EU member state.

However for businesses that sell only a small amount of goods to the EU, the new arrangement may prove more burdensome. The previous simplified scheme allowed retailers to include sales to the EU on their UK VAT return.

VAT e-commerce package

The new rules are commonly described as the EU VAT e-commerce package. It consists of two key components: the OSS and the import one stop shop (IOSS). Both are optional and are restricted to online sales of goods and services to consumers in the EU.

- **OSS:** UK businesses that sign up to OSS must charge the VAT rate of the destination country at the point of sale and report and pay quarterly through an online portal.
- **IOSS:** The IOSS is used for online sales of goods imported into the EU from a third country. It can only be used for consignments worth up to €150 (£130). As with the OSS, the seller charges the VAT rate of the destination country at the point of sale but reports and pays it monthly. Using IOSS means goods travel through customs faster, and the customer does not face additional costs after sale.

Businesses that sell to EU consumers through an online marketplace, such as Amazon or eBay, may no longer need to account for VAT themselves because the marketplace will in certain cases become the deemed supplier and deal with the VAT itself. You should consult the marketplace about how to proceed.

“A UK business can make use of the OSS system by registering as a non-Union VAT payer in one EU member state.

Back in business with the Recovery Loan Scheme

If your business needs financial support as you recover from the pandemic and grow, the government's Recovery Loan Scheme (RLS) is still available to help.

The scheme aims to improve the terms offered to businesses by providing a government-backed guarantee against the outstanding balance of the loan. Nearly 50 banks and other lenders are accredited by the British Business Bank so far to participate in the scheme.

Lenders can provide up to £10 million to a business as one of:

- a term loan;
- an overdraft;
- invoice finance;
- asset finance.

The RLS guarantee depends on the amount borrowed. If that is £250,000 or less, the lender will not take any personal guarantee. Above that figure, the maximum that can be covered is capped at 20% of the outstanding balance of the RLS facility after applying the proceeds of business assets. The lender may also require a personal guarantee, which cannot include a borrower's only or main home.

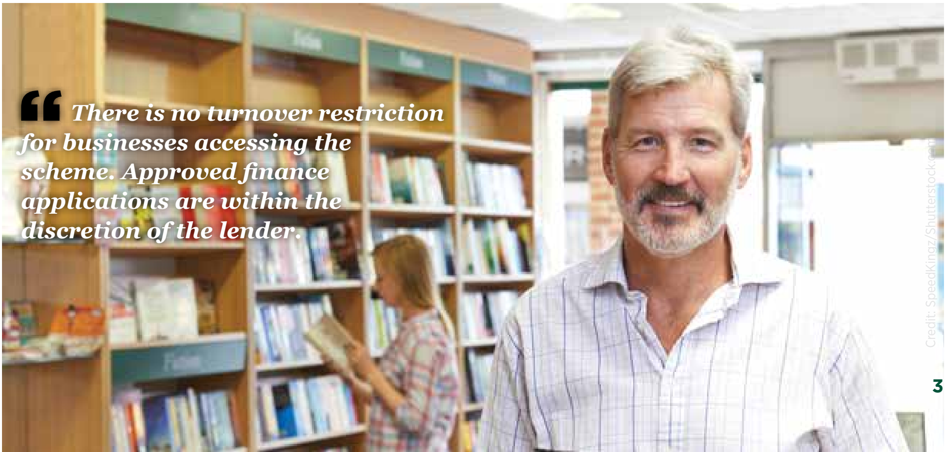
To qualify under the RLS your business must:

- have been impacted by the Covid-19 pandemic – you will have to confirm this to the lender;
- be trading in the UK;
- have a viable business proposition.

A lender may disregard any concerns over short- to medium-term business performance resulting from the impact of Covid-19.

There is no turnover restriction for businesses accessing the scheme. Approved finance applications are within the discretion of the lender, which will make all the usual checks. The lender will require evidence that you can afford to repay the loan and is likely to ask for management accounts, a business plan, annual accounts and details of assets.

The RLS is available until 31 December 2021. Approach lenders directly to make an application.



"There is no turnover restriction for businesses accessing the scheme. Approved finance applications are within the discretion of the lender.

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Reporting property capital gains

The online system for reporting capital gains on residential property is creating difficulties for taxpayers. The latest problem may lead to some investors paying too much tax.

UK residents who make a profit on selling UK residential property that is not their main home may have to pay capital gains tax (CGT). Affected properties include buy-to-let investments and additional homes.

The rules changed after 5 April 2020. Gains must now be reported, and CGT paid, within 30 days after completion using HMRC's online CGT on UK property reporting service. The obligation applies to individuals, trusts and personal representatives of estates. Non-residents have to report using the same service, but a wider range of properties is included.

Sticking points

Property gains reported online must also be included on the annual self-assessment tax return. In several circumstances the CGT calculated and paid will not be the final amount due, which is where problems can arise. For example:

- The rate of CGT – 18% or 28% – depends on the amount of income the taxpayer has during the year, which might not be known when the 30-day report is made.
- The taxpayer might make a loss later in the year that can be set off against the property gain.
- A figure in the calculation of the gain might have been estimated on the 30-day report but is known by the time the self-assessment is made.
- A tax relief might become available.

When the final CGT figure is higher than on the property report, the balance is payable on 31 January after the end of the tax year, together with any other tax due. However if the final figure is lower, it does not generate a refund, nor is it set-off against income tax. Instead, HMRC's calculation shows the full amount of income tax payable and a nil amount of CGT.

"The CGT calculated on the annual self-assessment tax return may not be the final amount due. A lower final figure does not generate a refund.

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Example

Maria sold a buy-to-let property in June 2020 with completion on 15 July 2020, and on 14 August 2020 reported a gain on which she calculated her CGT at £18,000. She submits her 2020/21 self-assessment on 1 July 2021, showing:

Income tax	£10,000
CGT	£15,000
Total tax due	*£25,000*

Maria has paid CGT of £18,000 so her net tax payable should be £7,000 (£25,000 – £18,000). However HMRC still demands payment of the £10,000 income tax and says the original property report must be amended to obtain the CGT repayment. This is cumbersome and it is unclear whether the property report can always be amended in such circumstances.

An earlier problem with the CGT property reporting service affected taxpayers who made property reports in both the 2020/21 and 2021/22 tax years. They found the later report often generated an incorrect tax calculation, but this has now been resolved.

Meanwhile the Office of Tax Simplification (OTS) has called for a lengthening of the 30-day deadline for reporting property gains. In a report on simplifying CGT practical, technical and administrative issues, presented to Parliament in May 2021, the OTS said 30 days was a challenging target, and recommended an extension to 60 days.

The operation of private residence relief and CGT on assets transferred on divorce and separation are also addressed in the report.

Please let us know if you have any queries about potential CGT liabilities.

News in brief...

HMRC's official interest rate cut

The official rate has been cut from 2.25% to 2% from 6 April 2021. This will help directors or employees who have a beneficial loan from their employer, as well as directors with an overdrawn current account with their company.

Simplification of VAT rules on land and buildings

The government has launched a call for evidence to look at potential options and ideas to simplify the land and property VAT exemption. There are now 15 exceptions to the exemption (originally just four), with some 26 sets of notes.

OTS proposal to change the tax year

The tax year has begun on 6 April since 1800, but the Office of Tax Simplification is looking at the implications of altering the date. Any change is likely to be to 1 April to align with the financial year, but 1 January is also possible.

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Capital allowances on cars change

The latest reductions to the capital allowances CO_2 emissions limits mean a significant number of cars now only qualify for the lowest amount of relief.

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The changes

From 1 April (6 April for unincorporated businesses):

- Only new fully electric cars with zero CO_2 emissions now qualify for the 100% first-year allowance. Previously, the CO_2 emissions limit was 50 g/km.
- The CO_2 emissions limit to qualify for writing-down allowances at the rate of 18% has been reduced from 110 g/km to 50 g/km.

Writing-down allowances are therefore available at the rate of 18% where a car's CO_2 emissions are between 1 and 50 g/km, and for second-hand electric cars. The lower rate of 6% is applied where CO_2 emissions are over 50 g/km.

The government is offering a further incentive for those looking to switch to electric cars by extending the 100% first-year allowance until April 2025.

Leasing

Leasing costs are deductible against profits regardless of a car's CO_2 emissions, so leasing will now be more attractive than ever, especially where cars with higher CO_2 emissions are concerned. However, only 85% of leasing costs are deductible if CO_2 emissions exceed 50 g/km; this threshold has also been lowered in line with the capital allowances limit.

Planning

For company owners, there are some very attractive tax advantages to choosing an electric company car:

- The 100% first-year allowance means that the full cost can be written off against profits in the year of purchase, saving corporation tax at 19% (or income tax at rates up to 45% for unincorporated businesses).
- The car benefit percentage is just 1% in 2021/22 and will then be 2% for the next three years. These low rates create minimal income tax implications, with only a small amount of class 1A NICs due.

Even though fully electric cars tend to be more expensive, the tax savings can be fed back into the purchasing decision.

> *“Only new fully electric cars with zero CO_2 emissions now qualify for the 100% first-year allowance, which is extended until April 2025.*

Working through an umbrella company

Many contractors have turned to umbrella companies as a hassle-free way of providing their services to clients now that the stricter off-payroll working rules apply for most contracts.

There are no genuine tax savings, but the use of an umbrella company will mean less administration and should be cheaper compared with maintaining a standalone personal service company.

How umbrella companies work

Finding a client will still be down to you, whether you do this directly or via an employment agency.

- You, as the contractor, will have an employment contract with the umbrella company and will therefore be an employee and subject to PAYE. This means the off-payroll working rules do not apply.
- The umbrella company is paid by the client or the employment agency.
- Your gross pay from the umbrella company is calculated after various costs, such as the umbrella company's administration costs, employer NICs, workplace pension contributions and holiday pay.
- The salary paid to you will have PAYE and employee NICs deducted.

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Holiday pay

As an employee of the umbrella company, you will be entitled to 5.6 weeks of paid holiday a year, and you should be paid this benefit if you leave with any accrued holiday entitlement.

However, holiday pay must normally be taken in the year it is accrued and cannot be carried forward. This is one area where an unscrupulous umbrella company can cost you, with some simply pocketing pay for unclaimed holidays.

Tax avoidance

Most umbrella companies are compliant with tax rules, but some use tax avoidance schemes. Be wary of an umbrella company that claims they can help you keep more of your earnings than others, or asks you to sign an annuity, loan or other agreement involving a non-taxable element of pay, especially if this involves a different organisation to the umbrella company.

> *"As a contractor you will have an employment contract with the umbrella company and will therefore be an employee subject to PAYE.*

The government wants to get you spending!

In recent months, you may have noticed government policy moving away from supporting those in need due to Covid-19, and towards kick starting investment in the economy. One of the policies that has been fairly well publicised is the so-called "Super Deduction" for capital allowances.

In simple terms, for every "Qualifying Asset" purchased from the 1st April 2021 (through to the 31st March 2023), businesses will receive 130% of the cost of the asset as a deduction from taxable profits (effectively saving 25% in tax).

The key word is "Qualifying, to receive this tax relief, there are certain conditions which need to be met:

- The assets must be brand new (not 2nd hand).
- The assets must qualify for "Plant & Machinery Allowances" (simplistically, most things which are tangible, expensive, and last over a year – although cars & work on buildings have special rules).
- You have to be operating as a Limited Company
- This is not open to sole traders or partnerships

Alongside this, two other improvements to the Capital Allowance regime for Limited Companies have been made:

- The annual limit for 100% tax relief on asset purchases is set at £1m until the 31st December 2021.
- For assets which would normally qualify for "Special rate allowances" (i.e. the relatively low annual rate of 8% – again, rather simplistically, these are cars with higher CO_2 emissions, and the rare building work expenses that do qualify for tax relief) – you can now receive 50% tax relief in the first year.

So, if you have been putting off upgrading your computer system; buying new machinery or similar large purchases – now might be the perfect time to make that investment, and effectively receive 25p tax reduction back on every £1 capital that you spend. Of course, we would never advocate spending money simply for the tax relief – but used wisely, this could help kick start your next phase of growth.

There are no changes for sole traders or partnerships with regard to capital allowances.

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