DNS Accounting Group

TAX TIPS & News

Newsletter *November 2020*

Welcome to November's edition of the Tax Tips & News bulletin.

For a straight six months, Covid-19 has been the major headline of our newsletter. The content has provided information about the various Covid support packages and job protection schemes, and we've explored what the pandemic means to some businesses and the economy. Brexit, meanwhile, took a back seat, but now with the UK's exit from the European Union imminent, the subject has climbed the ladder in terms of importance both for businesses and HMRC.

The Job Retention Scheme (JRS) officially ends on 31 October and the Job Support Scheme (JSS) will replace it, running for six months from 1 November. Initially, the JSS appeared to be less generous than the JRS, but given the changes, the JSS is a blessing for business mainly in the Tier 2 R-rate areas. With Britain now in an R-rate Tiered system and Brexit only 60 days away I cannot think of a situation any more challenging than the one the government is currently trying to deal with.

Looking in general at world history, there has never been the need to create a modern economic theory, financial theory or formula to gain a handle on a situation like the one the world is going through now. To me, the long-salvage solution seems to be how we can learn to live effectively with Covid. Who knows, there may be more viruses to come. Eventually, a vaccine seems to be the only solution, but personally, I see this as an evolution: How the economy evolves, budgets change, or survival pans out, very much depends on the world order and which trajectory the power shifts take. With the American elections looming, and given the power struggle between China and America, the next few months will be interesting to watch.

Chancellor Rishi Sunak has no choice but to change tack and tinker with the economic plans on a daily basis. I do admire the agility of HM Treasury to respond to the demands and requirements to keep everything in some sort of balance. The question I ask myself is for how much longer the Treasury can continue to provide support to both individuals and businesses and borrow in order to do so. Eventually, we must face the reality that we cannot sustain a state-fed or a state-supported economy, as this in the long run will make us unproductive and inefficient. We must all, therefore, be ready to make some stark changes to our life.

My hope is that the government will be able to keep the economy in the delicate balance it has been able to maintain so far, and that approval of a vaccine will come just in time to stabilise our economy.

There is plenty to catch up on in this month's newsletter, so please continue reading, enjoy, and I hope you find it informative. Please stay safe, comply with the restrictions and help wherever you can.

This issue includes updates and news on...

- Foreign income disclosure: Take corrective action or pay penalties at 300%!
- Bounce Back Loan Scheme (BBLS): Losses could top £26bn
- Tax-collection notice letters for property owners
- Employees working from home may be due a tax refund from HMRC

Tax Tips and questions

- Family investment companies: The benefits and disadvantages
- Using rental losses against other income
- VAT on early termination of contracts and compensation payments
- Building a garden office: The tax implications for the company and the director

Finally, please refer to the **Key Dates and Deadlines for November 2020** to be sure that you keep up to date with the filing deadlines for your business.

Kind regards,

Sumit Agarwal ACMA, ACA (India)
Founder & Managing Director

Foreign income disclosure: Take corrective action or pay penalties at 300%!

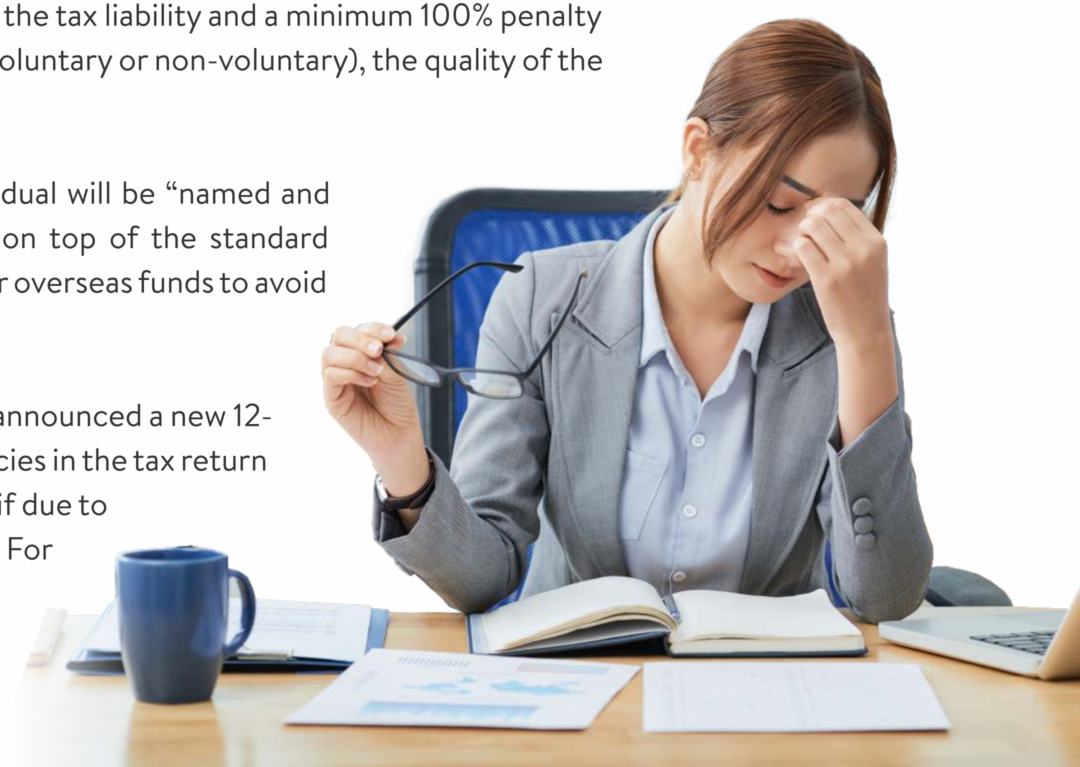
Taxpayers with foreign bank accounts or foreign links have started receiving “nudge letters” from HMRC asking them to make a disclosure under the Worldwide Disclosure Facility (WDF), if they have unreported income or gains.

The Common Reporting Standard (CRS) is a global framework under which more than 100 countries exchange the financial data of individuals annually. In 2018 alone, HMRC has reportedly received over 5.6 million records of non-UK bank accounts held by UK taxpayers. Moreover, in 2019, the number of disclosures received by HMRC under the WDF was 8,255, from which a whopping £170 million was collected in offshore tax. HMRC suspects that there are still thousands of individuals who need to correct their tax returns, and will continue to send out more nudge letters as and when they receive information under the CRS.

The Requirement to Correct (RTC) legislation, which came into force on 30 September 2020, required UK taxpayers to disclose to HMRC any offshore affairs relating to UK income tax, capital gains tax (CGT), or inheritance tax (IHT) on or before this date. HMRC had already warned that any individual who fails to correct their tax returns by the deadline would be subject to the new stricter penalties because of their Failure to Correct (FTC). The standard penalties under FTC are 200% of the tax liability and a minimum 100% penalty for any tax owed. The penalties vary depending on the taxpayer's behaviour (voluntary or non-voluntary), the quality of the disclosure and the geographic place in which the income or gains arose.

If the tax liability is more than £25,000, there is a possibility that the individual will be “named and shamed”. Then, another punitive measure can add a further 50% penalty on top of the standard penalties should the person accused be found to be moving or concealing their overseas funds to avoid the legislation.

Furthermore, as of April 2019, under the discovery assessment rules, HMRC announced a new 12-year back-assessment limit from the time the enquiry opened if the discrepancies in the tax return relate to offshore income. This reduces to the normal four years, or six years (if due to careless behaviour), if HMRC has received the information under the CRS. For deliberate errors or deliberate avoidance behaviour, HMRC can raise an assessment for the last 20 years.



As a taxpayer resident in the UK, every individual has the responsibility to disclose their worldwide income or gains and ensure they have paid the correct tax. This post is a reminder to individuals with offshore interests to check that their tax affairs are in order and disclose any unreported income or gains. We urge you not to bury your head in the sand assuming that HMRC will never find out, as undoubtedly this leads to further problems, creates undue stress and worry, and ends up with you paying too much in interest and penalties!

If you need to discuss in complete confidence your tax position relating to offshore income or assets, please contact your account manager or speak to our tax team.

Bounce Back Loans (BBLS): Losses could top £26bn

According to the National Audit Office (NAO), up to 60% of the loans made under the government's Bounce Back Loan Scheme (BBLS) may never be repaid – a situation that could land the taxpayer with around a £26bn loss.

Aimed at small and medium size businesses, the BBLS has been a success in so far as quickly getting the funds into the hands of struggling businesses and stopping many of them from going bust. Estimates suggest that the scheme would have loaned in excess of £43bn by the time it closes on 30 November 2020.

Under the scheme, commercial lenders loan the money, with the government providing a 100% guarantee in case of a default, and there are no fees or interest charged for the first 12 months. Furthermore, loan repayments can be extended from six years to 10 years under flexible payment options to help businesses meet the repayments.

The BBLS scheme was launched in somewhat of a hurry. It was a reactive measure, set up to help SMEs obtain funding after the government came under sustained criticism for failing to support struggling businesses that were unable to access funding under the strict criteria of the other Covid-19 support schemes. The criteria for BBLS is more relaxed, requiring business owners to self-certify that Covid-19 has adversely impacted their business while not requiring lenders to perform any type of strict credit checks. Businesses are able to receive funding within 24–72 hours in most cases.

The relaxed criteria and low level of credit-risk checks have led to significant exposure to fraudsters making applications for the loans. It is highly likely that a significant portion of the loans made to businesses will remain unpaid.

British Business Bank has said, “[W]hile some risks can be mitigated, there remains a 'very high' level of fraud risk, caused by self-certification, multiple applications, lack of legitimate business, impersonation and organised crime.” BBB adds that it is unable to estimate the overall level of fraud at present.

A BBC investigation revealed that fraudsters were using the names of people who had no idea a company has been set-up in their name and no knowledge of an application for a BBLS loan in their name. Such victims will only become aware of the loans when the repayment letters start landing on their doormat next year.

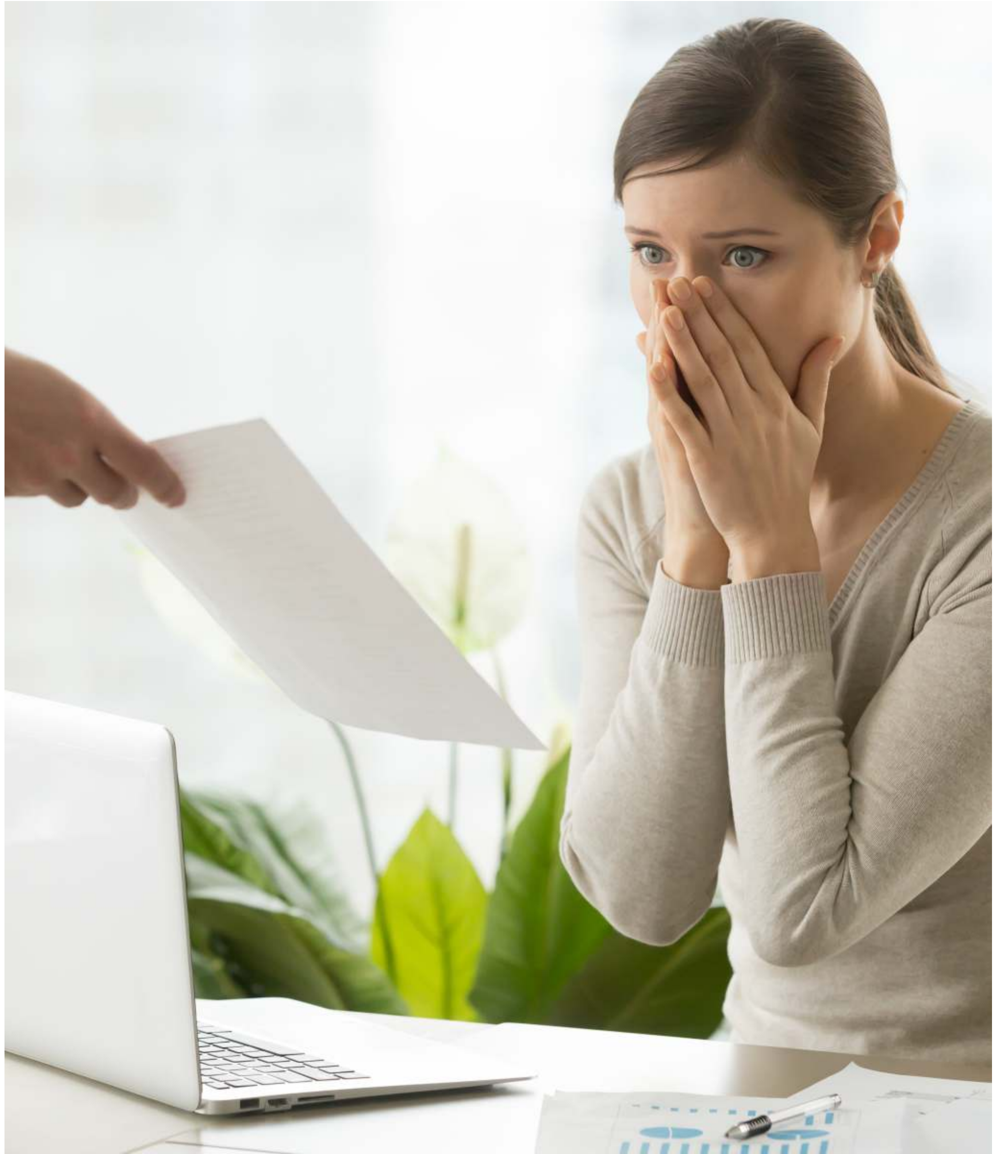
The level of loss will become clearer only once the banks start seeking repayments of the loans. Only then, will the public learn what the sum from public funds amounts to and exactly how much money was flushed down the drain due to fraud at the taxpayers' expense.

Note: The scheme was due to close on 4 November 2020, but as the Chancellor announced in his Winter Economy Plan on 24 September 2020, there is an extension to 30 November 2020. You can access a loan through the scheme via 28 lenders. BBLS offers unique flexibility and there are no early repayment charges to repay the funds under the scheme.

Tax-collection notice letters for property owners

According to a recent report, HMRC is set to target property owners by launching two separate “nudge-letter” campaigns. The first campaign, aimed at corporates, agents and taxpayers, relates to ATED returns that are outstanding with apparent discrepancies reported on the returns. The second campaign aims to target those who have disposed of UK residential properties.

HMRC will send out the ATED letter to companies that have purchased residential properties of £500,000 or more from 1 April 2020 and yet failed to submit an ATED return.



HMRC has targeted property disposals before and reported a 15% success rate. This time they plan to send out 14,000 letters to taxpayers where they believe capital gains tax (CGT) is due for 2018/19, but not been disclosed on the taxpayer's return. HMRC estimates that at least 2,000 taxpayers will have liabilities to disclose.

In addition, Airbnb – the leading online rental marketplace provider – has disclosed a statement in their UK accounts that they will be sharing data with HMRC on their UK platform's host earnings for the tax years 2017/18 and 2018/19.

This data from Airbnb will allow HMRC to open enquiries into taxpayers' returns where the income remains undeclared. Under the discovery assessment rules, HMRC can open an enquiry into a taxpayer's return for the last 4 years or 6 years (if carelessness is proved) and can go back up to 20 years in certain circumstances.

Therefore, landlords and property owners should make sure that they have declared all their income and gains from their properties, or risk paying a lot more in interest and penalties.

Employees working from home may be due a tax-refund from HMRC

The pandemic has seen many employees working from home, which could result in additional costs for them such as water, heating and electricity.

While some businesses may choose to reimburse these costs to employees, many of them will not be able to bear the additional costs, so the burden will fall on their employees. There is some good news for employees who have been working from home and have not received a reimbursement from their employer: you may be able to receive tax relief on these expenses directly from HMRC.

This means that employees who have worked from home even for a single day due to the coronavirus restrictions can claim tax relief on their home-working expenses. However, please note that the relief only applies if your employer has asked you to work from home, it does not apply if you have chosen to work from home. The tax break has been designed to cover the additional costs employees build up due to working from home rather than the office.

As of 6 April 2020, employees can claim £6 per week or £26 per month without submitting evidence. For previous tax years, the relief is restricted to £4 per week or £18 per month. If the claim is more than these amounts, the employee will be required to provide evidence to substantiate the claims. The tax relief given reflects the employee's tax rate; a basic-rate taxpayer, for example, could claim at least £41.60 (£4*52*20%) for 2019/20 and £62.40 (£6*52*20%) for 2020/21. For a higher rate taxpayer, the tax break could be much higher.

Eligible employees should make the claim via HMRC's online portal directly. Taxpayers could backdate their claim up to four years, i.e. a claim can still be made for tax years 2019/20, 2018/19, 2017/18 and 2016/17. If the claim is for the current tax year, HMRC will adjust to the employee's tax code; for successful claims relating to previous years, the employee would receive a cash refund.

Additionally, employees can also claim tax relief on the costs of professional subscriptions, uniforms, equipment purchased for employment duties and travel costs to a temporary workplace.

DNS can help you submit a claim with HMRC for your employment expenses. Please contact us on 03300 88 66 86 to learn more.

Family investment companies: The benefits and disadvantages

A Family Investment Company (FIC) is a custom-made vehicle set up to assist parents, grandparents or senior members of the family efficiently manage the family wealth. It allows them to retain control of the assets, and facilitates succession planning through tax-efficient accumulation and distribution of wealth among family members.

Initially in the FIC, the senior family members fund the FIC in lieu, either by subscribing to shares or by making loans to the company. The shares are then gifted to the children and other family members with the intention that they can receive the benefits from the FIC in the future. Often, senior family members will retain some control through the shares, which means they retain control over the FIC. Thus, as board members, they can also make investment decisions on behalf of the FIC and, most importantly, control the distribution of benefits to shareholders.

What are the benefits of family investment companies?

- Generally, if you set up a family company, you put cash or other assets into the company and create different classes of shares. The shares that hold the capital value of the assets are then gifted to the children and other family members.

- To help senior family members maintain control over the assets in the company, appointing them as a director and a preferential shareholder means they retain voting rights but no rights to the capital. Taking this approach, so long as no beneficial interest in the shares is retained (i.e. the shares are an outright gift) then, after seven years, the value of the money or property transferred will fall outside of the estate for inheritance tax (IHT) purposes.

- There are also tax advantages, including relief on interest paid on commercial loans for properties held in the company. Furthermore, profit from investments will be subject to corporation tax, which is lower than the higher rate income tax.

- A significant feature of the FIC is that transferring cash into it is not subject to the initial IHT charge of 20% (unlike discretionary trusts) even if the threshold of £325,000 is crossed. Therefore, it is an attractive proposition for individuals who wish to transfer funds in excess of £325,000 to their children, while retaining full control.

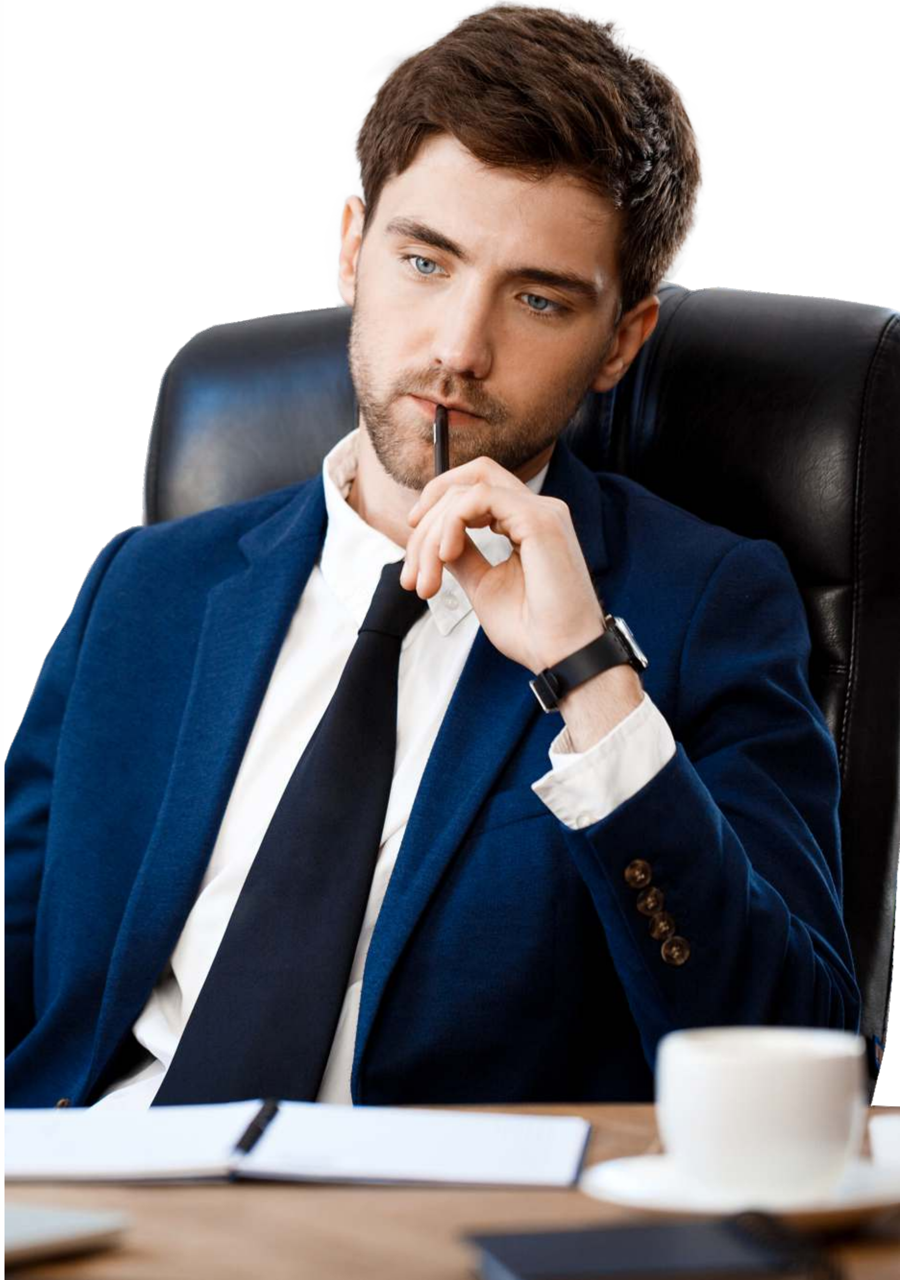
What are the disadvantages of family investment companies?

- The cost of setting up a family investment company can be significant. Lawyers, including corporate solicitors as well as accountants will need to be involved, and this can lead to a number of initial charges plus the set-up costs. The costs is still comparatively lower when compared with the benefit the structure offers.

- If planning to put a property into the company instead of cash, then be aware that this could potentially trigger CGT and stamp duty land tax (SDLT). In addition, if the funds are distributed regularly to family members a negative tax implication could result, because the funds can only be extracted as dividends, which would result in a bill for both corporation tax and dividend tax, which altogether could be higher when compared with the assets held directly.

In light of this, it is essential that when planning for the family's future all options come under careful review, as FICs are not suitable for everyone. Then, having considered the options in detail, if it is determined that the establishment of a FIC is the preferred route, careful implementation is key to its future success, including:

- The structure should be personalised to meet the specific circumstances of the family;
- A thorough analysis must be carried out before implementation to make sure that the structure is effective;
- It is essential to ensure that the structure is as robust as possible to withstand any challenges the future may bring.



Using property rental losses against other income

As a property rental business is considered by HMRC an "investment business" rather than a "trading activity", therefore, the general rule is that rental business losses cannot be offset against other income (for example employment income) in the current year, but should be automatically carried forward and offset against rental business profits in the following year.

So, property rental losses should simply be carried forward to the next year and must be offset against the first available profits; that is, property rental losses cannot be accrued and nor can just a small portion of the losses be used – losses must be fully offset as soon as possible once the profits are generated. This can be annoying, for example, in cases where in the year that follows you have rental profits, which your personal allowance could cover, but due to rule that means the brought-forward rental losses have to be used first, the personal allowance is wasted.

Note: One restriction to pay close attention to is that losses generated in different "capacities" – such as in a partnership, trust, or company – cannot be offset against profits in a "normal" personally owned rental portfolio (i.e. as a sole trader). This is why it is so vital when preparing property accounts to ensure that allowances and claims are made as beneficially as possible by the different entities.

The exception to the general rule

However, there is a very useful exception to the "carry-forward" loss relief rule for rental losses, which relates to capital allowances or income related to the agricultural connection. The element of a loss (i.e. the extent to which a rental loss relates to capital allowances) can be offset against non-rental income or general income, to generate an immediate tax repayment.

For example, say an individual made a £10,000 loss on their property business and then that the same individual has employment income on which they pay 40% income tax. Half of the losses in the property business relate to claiming capital allowances (e.g. purchase of a new fixture for a commercial enterprise such as a shop). The individual could claim £5,000 of the loss against their employment income, and receive a tax refund of £400 – instead of just carrying forward the loss to be offset against future income.

Note: For companies that run a rental business as well as a trading business, the rental losses of the current year can be offset against total profits in the current year, provided the creation of the loss was post-April 2017.

How long can rental losses be carried forward?

Property rental losses can be carried forward until fully utilised or until such as times as the property business ceases trading – so, until death potentially! On cessation of the property business, any rental losses carried forward will be lost, as rental losses cannot be shifted from one person to another, or be "inherited" on the death of an individual.

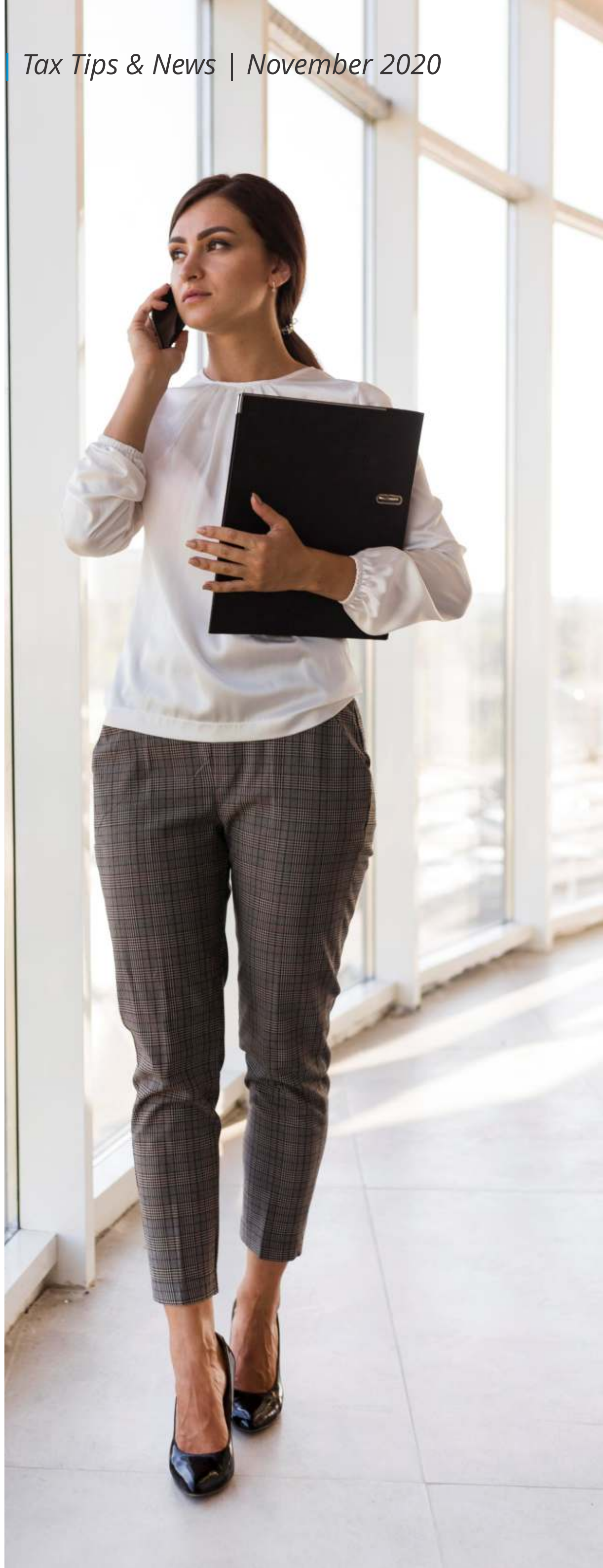
In summary, while no property investor sets out intentionally to make a loss on rental income, losses of this sort can be useful as a means to reduce future income tax bills. Therefore, a proper understanding of the legislation and guidance is required.

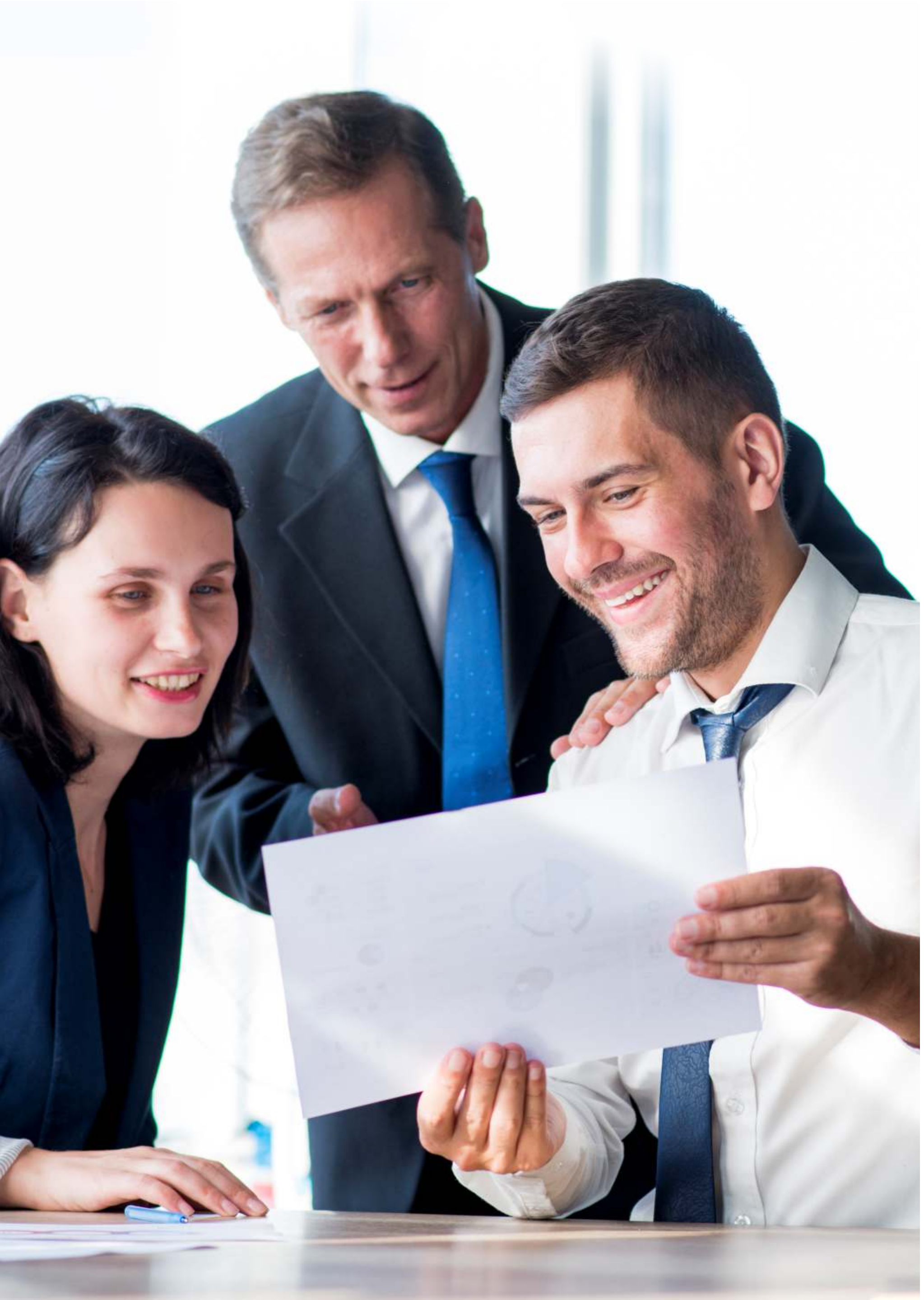
VAT on early termination of contracts and compensation payments

Following the publication of Revenue & Customs Brief 12 (2020), HMRC now considers in most cases that early termination or cancellation of payments will be covered and considered as subject to VAT.

What was the position before?

HMRC previously considered that payments described as "compensation" typically fell outside the scope of VAT. The conflicting decisions made by various earlier tribunals on this topic prompted HMRC to reconcile the conflicting decisions: Thus, HMRC drew a comparison between instances where tribunals had considered there was no supply for VAT purposes and cases where it had considered a supply for VAT purposes. As per HMRC guidance, in cases where the contract originally contained a right to terminate early in lieu of compensation for losses arising from the termination, the supply was deemed outside the scope of VAT; and where a separate agreement was required to enable termination it was deemed to fall inside the VAT legislation and, therefore, VAT was chargeable.





What is HMRC's current view?

As per a recent Court of Justice ruling in EU case law (ECJ Meo Case C-295/17), used in the case of Vodafone Portugal (C-43/19), HMRC's view has shifted completely. It now holds the view that, irrespective of whether the original contract gave a right to early termination or how the payments are defined, amounts paid in respect of an early termination of contract are considered a taxable supply and will be chargeable to VAT. In simple terms, the amount payable on early termination should be considered as part of the price that the customer had committed to pay under the contract.

Summary of the changes

- HMRC have announced that payments made to a supplier, as compensation arising from the early termination of a contract, will fall within the arena of VAT and no longer fall outside the scope of VAT.
- The changes are going to have retrospective effect on suppliers that have already received or are going to receive termination payments in the VAT accounting periods that ended within the last four years and earlier, and having treated those payments as outside the scope of VAT in line with previous HMRC guidance.
- This change will affect some payments in respect of settled claims for breach of contract, liquidated damages, cancellation fees and early upgrade fees and the like, regardless of whether these payments are described as compensation or damages.
- This change will mean you may need to account for VAT on historic payments.

What you need to do now

- You will need to review whether VAT is now chargeable on the payments you have received under a settlement agreement and check whether it was treated previously as falling outside the scope of VAT.
- If having reviewed your situation you believe that VAT may be chargeable on your earlier payments received under settlement contracts, you will need to correct the previous VAT treatment and returns and account for the retrospective VAT due to HMRC. Simultaneously, you should also review or find the clause in the contract and check if it mentions you will be liable for the VAT cost and, if not, contact your counterparty to decide who is going be liable for the VAT cost.

If you would like more information, please speak to your account manager or contact us on 03300 88 66 86.

Building a garden office: The tax implications for the company and the director

With more and more people working from home due to the pandemic, many directors inevitably will wish to convert a space to a home office – so imagine that the plan is to build a home office in the garden. Like many things, an undertaking like this will not be quite as simple as many may hope, as there are tax and legal issues you must be aware of before starting out. The tax issues generally depend on who is going to bear the cost of the structure – whether it will be the company or the individual him or herself.

Corporation tax

The company can fund the full cost of the garden office subject to its use for business purposes. However, no corporation tax deduction can be claimed on the element of the cost for the actual building, because HMRC considers this as a capital expense rather than revenue. Running costs, including heating and lighting the office, are tax deductible.

Capital allowances

As the company is purchasing a structure, it does not qualify as plant and machinery and will not therefore be eligible for capital allowances. However, costs incurred on installing power, electrical wiring, light fittings and heating could qualify for tax relief under capital allowances.

Benefit in kind (BIK) charge

If the office is solely for work purposes, there will be no benefit in kind (BIK) tax to pay. However, given that the plan is to build the office in the garden, HMRC is unlikely to accept that other members of the family will not use the office for private purposes, and therefore the structure could be treated as an employment-related benefit. The tax will be collected through payroll if the company has decided to payroll the benefit. There will be no NIC burden for the director, however, as it is the company that will have to pay Class 1A NIC.

Looking to the future, say the house was sold or the company wound-up or the office was no longer in use, again it will create a BIK charge, as the structure is going to belong to the owner of the house who paid nothing towards the expense of erecting the structure. The company could, however, dismantle and sell the structure before the house is sold.

Capital gains tax (CGT)

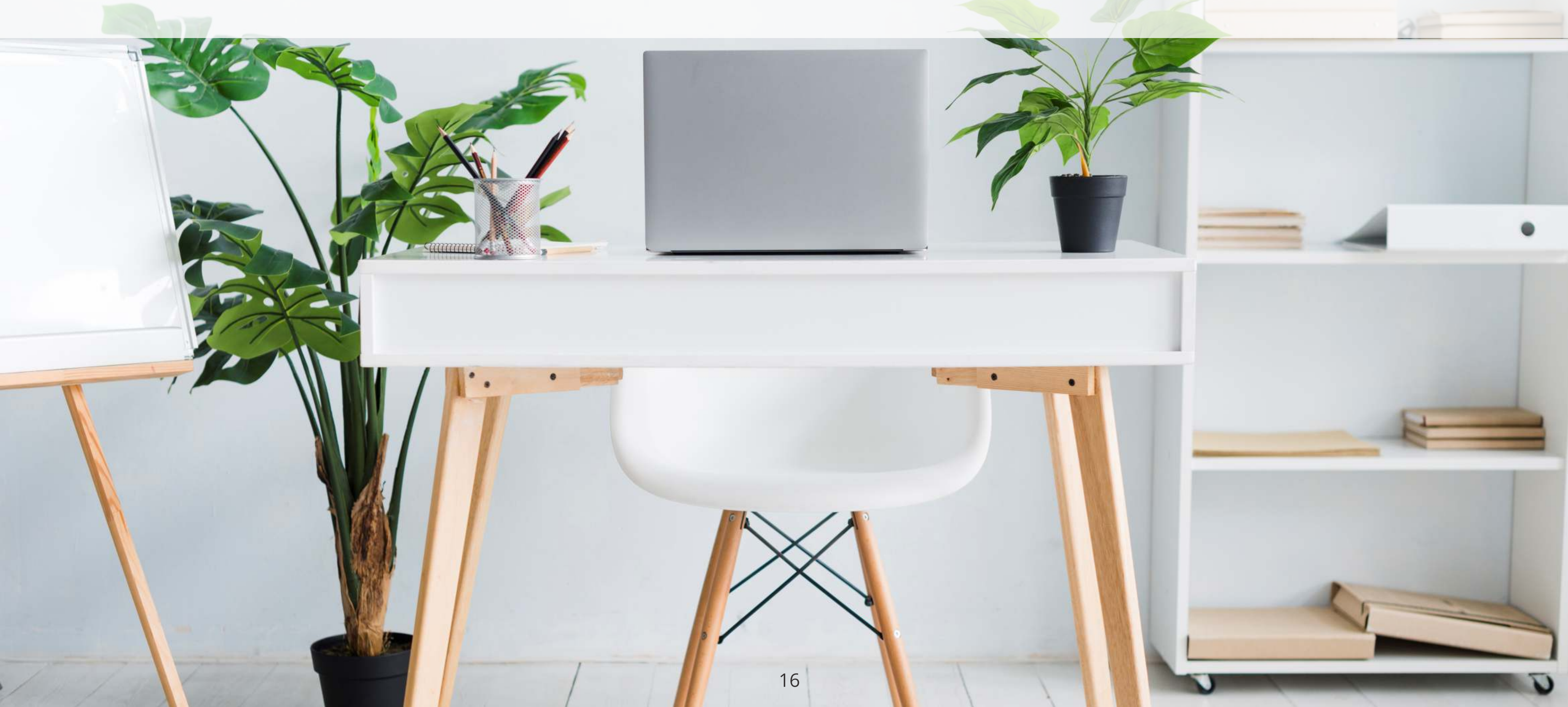
A principal residence is exempt from CGT so long as no part of the property is used wholly and exclusively for business purposes. Therefore, if the garden office is used only for business purposes, no BIK tax should be payable on it, but CGT might be due on the part of the gain once the house is sold.

VAT

If the company is VAT registered, there is potential to claim back the VAT on all of the costs, but only so long as the invoices are in the name of the company. If the office building is for mixed-use (i.e. it also has a personal use), then the VAT claim needs adjusting to reflect this.

Note: As your garden office is separate from your home, there is a risk that your local council could charge business rates for running your business from the building.

As you can see, there are complications involved when planning a home-office located in the garden. Therefore, often it is a lot more straightforward for the director of the business to pay for the costs and charge the company rent. Any rent charged will be seen as income for tax purposes and this needs to be disclosed in the director's personal tax return after allowing for expenses incurred wholly and exclusively in running the property. For the company, the rent paid will be an allowable expense and deductible for corporation tax purposes.



Key dates and Deadlines for November 2020

1st November 2020
- Due date for payment of corporation tax for the year ending 29 February 2020.

7th November 2020
- Deadline for VAT returns and payment accounting for the quarter ending 30 September 2020.

14th November 2020
- CT61 payment;
- EC sales list – VAT.

19th November 2020
- Monthly deadline for postal payments of CIS, NICs, PAYE and PAYE settlements to HMRC.

21st November 2020
- Intrastat VAT;
- EC sales list.

22nd November 2020
- Deadline for electronic remittance of CIS and NICs, including Class 1A and PAYE settlements to HMRC.

30th November 2020
- Corporation tax return (CT600) for filing accounts for the year ending 30 November 2019.
- Companies House deadline for filing accounts for the year ending 29 February 2020.

Awards & Accreditations

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Investing in People Award & Client Service Award

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Investing in People Award
2020

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FINALIST
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2020

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2018

PRACTICEexcellence
SHORTLISTED
2017

The Contracting Awards2020
FINALIST

British Accountancy Awards
2019 SHORTLISTED

British Accountancy Awards
2018 WINNER

British Accountancy Awards
2017 WINNER

The British Accountancy AWARDS 2013
WINNER

The Contracting Awards2019
FINALIST

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2019

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