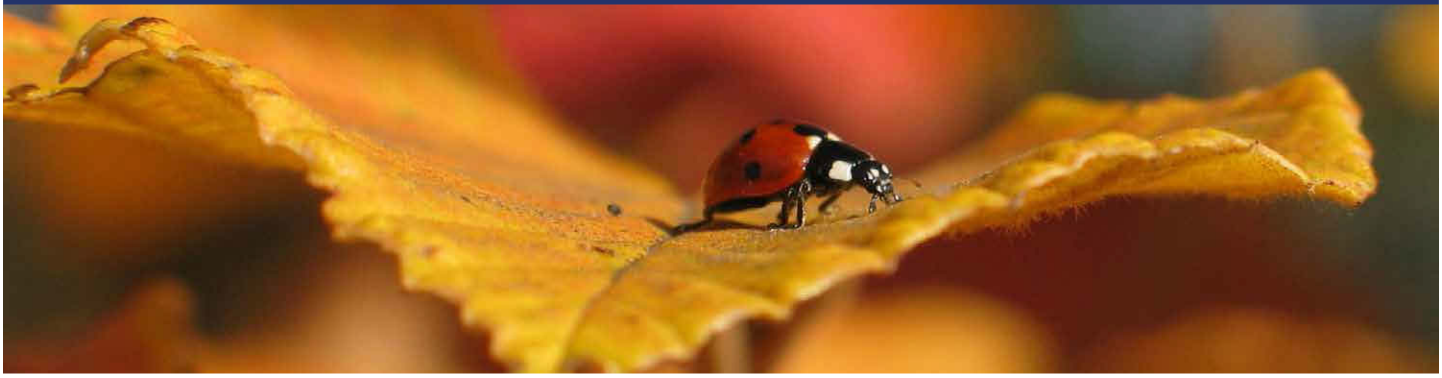
alexander marshall

84 Hamilton Road
Motherwell
ML1 3BY

Tel: 01698 258178
Email: info@alexander-marshall.co.uk
www.alexander-marshall.co.uk



newsUPDATE

Auto Enrolment… Get Ready

Let us help you get ready for the challenges ahead.

These will include:

- Knowing your staging date
- Assessing your workforce
- Budgeting for costs
- Choosing an appropriate pension scheme
- Ensuring payroll software is suitable

Contact us for more information or to arrange a meeting.

01698 258178
www.alexander-marshall.co.uk

AUTUMN 2014

Is now the time to invest?

A number of Government approved investment schemes are available to encourage private individuals to invest in smaller high risk unquoted trading companies, and with effect from 2014/15 in social enterprises.

All have detailed rules concerning qualifying investors, the investment vehicle and type of investment and advice should be taken to ensure these conditions are complied with. The schemes are:

- Enterprise Investment Scheme (EIS)
- Venture Capital Trust Scheme (VCT)
- Seed Enterprise Investment Scheme (SEIS)
- Social Investment Relief (SIR)

To encourage investment a number of tax reliefs are available which differ according to the scheme invested in and this article provides an overview of these incentives.

Income tax relief

A qualifying investment which ranges from £100,000 to £1 million depending on the scheme reduces an investor's tax liability for the tax year. In some cases a claim can be made to carry back the tax relief to the previous year which can be useful where there is insufficient income tax liability in the current year. The income tax relief available is 30% of the qualifying investment with the exception of SEIS which is 50%. To retain this relief the investments generally have to be held for three years extended to five years in the case of VCT investments.

Capital gains and losses

Where the qualifying investments are held for three years, then on disposal any capital gain will generally be exempt. Where investments are disposed of at a loss, the loss will be allowable, but this is reduced by any income tax relief claimed. There is no minimum ownership requirement for VCT shares to qualify for CGT exemption but losses are not allowable.

Capital gains deferral relief

A gain on the disposal of any asset can be deferred where the gain is invested in a qualifying investment for EIS and SIR. This relief is not available for VCT or SEIS investments. The deferred gain generally becomes chargeable when the qualifying investment is disposed of (though certain other situations can trigger the gain).

However, for SEIS a reinvestment relief exists which exempts 50% of gains up to a maximum investment limit of £100,000 (i.e. £100,000 x 50%) when a qualifying investment is made.

Investment income

Dividend (or other) income from the investment schemes are taxable with the exception of dividends on ordinary VCT shares which are exempt.

If this is an area of interest to you please do ask us for further advice.

VAT change for the digital business

The one-stop VAT service starts from 1 January 2015 for businesses supplying what are collectively known as 'digital services' in the EU. The effect of the measures is that a business will not have to account and pay VAT separately in each country where they do business which would otherwise be the case following a change in the place of supply rule.

Digital services essentially means broadcasting, telecoms and e-services including those selling apps, e-books, streaming services (e.g. sports/film/tv/music), dating services and journals, newspapers and magazines that are subscribed to electronically and smartphone games.

Change of place of supply

From 1 January 2015 the place of supply for VAT purposes for a EU business selling digital services will change. Currently, intra-EU supplies of digital services to non-business customers are subject to VAT in the member state where the supplier belongs.

From 1 January 2015 this changes, so that the VAT is due where the customer who receives the service lives or is located. This will ensure that UK consumers of these services will pay UK VAT no matter where the supplier of those services belongs.

In order that UK businesses supplying digital services do not have to register for VAT in every EU member state where they have customers, an optional VAT 'Mini One Stop Shop' (MOSS) online service has been set up by HMRC. Other EU member states will be building their own systems.

Sally Beggs, Deputy Director Indirect Tax, HMRC, said:

'The VAT MOSS is a tool that saves digital services suppliers from having to register for VAT in every member state in which they sell such services. Businesses with their main operation or headquarters in the UK will register with HMRC to use the service. They can register for the online service and then authorise an agent to act on their behalf.'

Between 27,000 and 42,000 UK businesses are expected to register with the service, most of them small and medium-sized enterprises.

Businesses will be able to register for VAT MOSS from October 2014. The service will be available to use from 1 January 2015.

If this affects your business and you would like more detailed information or guidance on the matter please do not hesitate to contact us.

How should I finance my company - loans or equity finance?

In the case of a family company a shareholder will not always consider the advantages and disadvantages of the different ways in which their company can be financed. It is very common for additional money to be injected into the company, as and when needed, as an informal loan rather than making a further subscription for shares.

It is important to be aware of the pros and cons of the alternative means of finance whilst the company is in a healthy position. If the matter is left until there are doubts that the funds can be returned to the shareholder there may be issues regarding available tax reliefs for the loss of funds.

So what tax relief is available on any losses I sustain?

In general terms a loss on a disposal of ordinary shares in a qualifying trading company may give rise to income tax relief. The loss can be set against income and so reduces the overall income tax liability. On the other hand, a loss on a loan may give rise to a capital loss which can only be set against capital gains to reduce the capital gains tax liability. In both cases, certain conditions have to be satisfied.

Losses on share capital

The starting point is that a loss on a disposal of shares, by default is a capital loss. However, a loss on a disposal of shares which have been subscribed for in a qualifying trading company can be relieved against income rather than capital.

Certain trades are excluded from this relief including companies whose trade consists of property development, farming and managing nursing homes. Please contact us for full details.

If the shares are not actually sold, a claim can be made to treat them as having been sold where the value of the shares has become of negligible value. This is important as HMRC will seek to deny the claim if the company is in financial difficulties at the time of the subscription on the basis that the shares had little value at the time of the subscription and have therefore not *become* of negligible value.

Irrecoverable loans to a company

If a company ceases to trade and a loan is still outstanding the irrecoverability of the loan may give rise to a capital loss. This may be set off against current capital gains or carried forward until gains are realised in the future.

Again the loan must have *become* irrecoverable and HMRC will seek to deny the claim if the company is already in financial difficulties at the time the loan is made.

Are there any other options?

Most taxpayers will prefer an income tax loss as opposed to a capital loss. It is possible to convert a loan into shares before making a claim for the loss against income.

Again, if the company is already in financial difficulties the value of the loan will be very low and hence the value of the new shares will also be very low. If the loan still has some value, the cost of the new shares is calculated according to their value at the time of acquisition and not the value of the loan that is given up.

Please contact us for further advice if this is an area of interest to you.

When surrender means winning

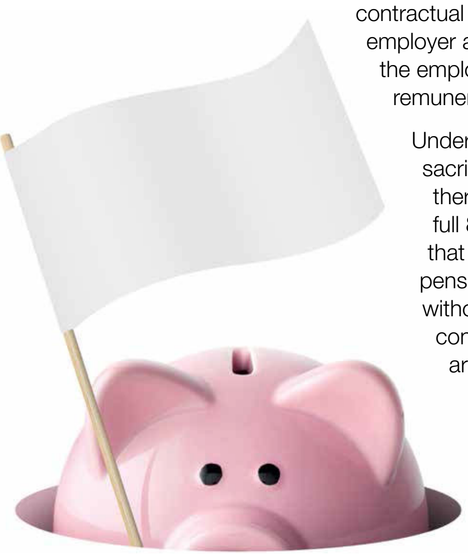
One of the most important developments affecting the owner managed business in their capacity as an employer over the next two to three years will be the implementation of auto enrolment. The smaller business sector with less than 50 employees start the process from 1 June 2015 onwards, with phased staging dates over the subsequent two year period. Employers will seek to minimise costs and maximise tax reliefs. Employees, whilst appreciating the need to provide for a pension in retirement, will also seek to do this in a tax and cost efficient manner.

A salary sacrifice arrangement will be an attractive option to consider in achieving both goals, particularly from October 2018 when the minimum contributions payable by the employer and employee rise to 3% and 5% respectively. Whilst the operation of a salary sacrifice arrangement is separate to the automatic enrolment provisions, an employer may run the two processes in parallel when complying with their employer duties.

What is salary sacrifice?

Salary sacrifice arrangements involve a contractual right to cash pay being reduced. For that to happen two conditions have to be met:

- the potential future remuneration must be given up, and
- the true construction of the revised contractual arrangements between employer and employee must be that the employee is entitled to lower cash remuneration and a benefit instead.



Under auto enrolment salary sacrifice arrangements can therefore be used to meet the full 8% contribution provided that active membership of the pension scheme can be achieved without the jobholder having to consent to the salary sacrifice arrangement before they are made an active member. What is crucial is that salary sacrifice cannot be the only payment method allowed for membership of the pension scheme.

Why is the arrangement advantageous?

Both the employer and employee save money because there are reductions in the individual's gross pay which is liable to employer and employee National Insurance contributions (NIC) in exchange for the pension contribution by the employer which is tax and NIC free. Therefore there are savings in:

- the employee's NIC payable on the salary sacrificed of up to 12% and
- the employer's NIC payable on the salary sacrificed of 13.8%.

There is no tax saving as the tax saved by giving up the salary is cancelled out by the tax relief top up from HMRC that would have been available on the employee's net contribution.

Example

A basic rate employee has a salary of £30,000 (no other remuneration) and surrenders the right to £1,500 (5%) salary in exchange for the employer making a pension contribution of the same amount. If there was no such arrangement, the employee choosing to remain in auto enrolment would have net pay using 2014/15 rates of £22,155 after £1,200 pension contributions are deducted from net pay. This would be topped up by HMRC with tax relief of £300 so that £1,500 goes into the pension scheme. By participating in a salary sacrifice arrangement the new salary is £28,500 but the net pay will be £22,335 due to the NIC saving of £180 (£1,500 x 12%) and the employer puts £1,500 into the scheme. In addition the employer saves 13.8% on the reduced salary of £207.

A salary sacrifice arrangement cannot reduce an employee's cash earnings below the National Minimum Wage.

What do employees need to consider?

When entering a salary sacrifice arrangement to replace part of cash pay with the tax/NIC free benefit, it is essential that employees understand what the sacrifice will mean in practical terms and consider carefully the effect, or potential effect, that a reduction in their pay may have. In particular, entitlement to state benefits such as Statutory Maternity Pay (SMP) is affected.

If you have an interest in salary sacrifice, please get in touch so that we can discuss matters further.

Good news for low earners

The National Minimum Wage (NMW) is a minimum amount per hour that most workers in the UK are entitled to be paid. The government has approved a rise in NMW, with more than one million people set to see their pay rise by as much as £355 a year from 1 October 2014.

The increases are as follows:

- the main rate for workers aged 21 and over will increase to £6.50 (currently £6.31)
- the 18-20 rate will increase to £5.13 from £5.03
- the 16-17 rate for workers above school leaving age but under 18 will increase to £3.79 from £3.72
- the apprentice rate will increase from £2.68 to £2.73 per hour.

No excuses

HMRC released a briefing providing some of the elaborate excuses employers used for not paying the NMW when challenged by HMRC officers. These ranged from one employer claiming his underpaid employee was his wife, but could not remember her name when probed by the officer to another employer claiming that the NMW was not paid to his employees due to their lack of awareness of the rules because they could not speak English!

Penalties may be levied on employers where HMRC believe underpayments have occurred. The potential penalties have increased from 1 February 2014, with HMRC now having the power to 'name and shame' non-compliant employers.

Anyone who believes they are not being paid the NMW can call the Pay and Work Rights Helpline.

If you have any queries on the NMW please do get in touch.

Chasing cars

The provision of a company car to an employee is one of the many benefits that can be provided to employees. The provision of the car has its own special rules to tax the benefit of having the car available for private use on the employee.

In broad terms the regime for taxing these cars is intended:

- to encourage manufacturers to produce cars which are environmentally friendly and
- to give employee drivers and their employers a tax incentive to choose more environmentally friendly vehicles.

Company cars are taxed according to the list price of the car but graduated according to the level of its carbon dioxide (CO^2) emissions. The percentage charge for most cars has generally been between 10% and 35%. However, changes have been announced to the emissions tables which now extend to the 2019/20 tax year.

The emissions tables for the current 2014/15 tax year and the 2015/16 tax year are set out below.

Car Benefits emissions

2014/15	Percentage of list price charged as a benefit
No CO^2 emissions	0%
75gms/km or less	5%
76 - 94gms/km	11%
95gms/km	12%
Then every 5gms/km to 210 or more	+1% to 35%

2015/16	Percentage of list price charged as a benefit
Up to 50gms/km	5%
51 - 75gms/km	9%
76 - 94gms/km or less	13%
Then every 5gms/km to 210 or more	+2% to 37%

Note that diesel cars have a 3% supplement added to these percentages but the maximum cannot exceed 35%/37%. The diesel supplement will no longer apply from 2016/17.

Reimbursement to reduce the benefit

Generally, where the employee is required to pay an amount of money for the private use of the car, the amount can be deducted from the car benefit. A recent case at the First tier Tribunal examined this point, HMRC argued that a deduction can only be claimed where it is paid in the same tax year as the relevant car benefit and not if paid after the end of the tax year. However, the Tribunal did not agree and allowed the taxpayer to claim the deduction which had the effect of negating his car benefit.

As HMRC lost this point they have amended the legislation in Finance Act 2014 which ensures that a deduction is only given if payment is actually made in the tax year. This applies for 2014/15 and subsequent years so private use contributions must be paid before the end of the tax year to have effect. This applies to both cars and vans.

Private fuel

There is a further tax charge where a company car user is supplied with private fuel or is allowed to claim reimbursement for private journeys. The fuel scale charge is based upon the same percentage used to calculate the car benefit and is applied to a set figure which is currently £21,700 and is increased each year.

The rules on reimbursement do not apply in the same way to the provision of private fuel. Only full reimbursement of any private fuel element is taken into consideration, thus removing the benefit. Partial deductions are not effective.

Class 1A NIC

The employer has a Class 1A NIC liability of 13.8% on both the car and private fuel benefit.

As a result of the above you may find that your income tax liability increases. If you are concerned or if you are planning to change your company car in the short term please contact us for further advice.