Newsletter December 2006

This month we are covering Christmas gifts and parties, tax deductions for professional subscriptions, a note of changes to company law, and what to do if you are absent from home and want to avoid capital gains tax complications,

In the tax diary we have noted the 31 December 2006 deadline for registering a payroll giving scheme. A grant of £500 is available and the government will match the first £10 donated by each employee, every month, for a period of 6 months. Please call if you need more information, or you could visit the website www.payrollgivinggrants.org.uk.

Don't forget to call if you need more information on any of the issues raised. The next newsletter will be published on Thursday 4 January 2007.

Christmas gifts and entertaining!

As the Christmas season is upon us yet again, we thought we would provide readers with a few tips to maximise the tax relief on expenditure to fund gifts and/or entertaining.

Gifts to customers

For tax purposes the items given must not exceed £50 in value for each recipient. Also:

- they must not comprise food, drink or tobacco, and
- should bear the business name conspicuously so that they may be regarded as advertising.

For VAT purposes the requirements are less stringent. The value of gifts given to any recipient in any twelve month period must not exceed £50, but otherwise there is no restriction on the type of gift, nor is there a requirement that the gift bears the donor’s name. This opens up the possibility of recovering VAT on seasonal gifts such as bottles of wine or even a modest bottle of malt whisky. However tax relief would still be denied - for the reasons set out above.

Christmas parties and other events

Entertaining of any type including parties, trips to the ballet or a concert, are all treated in the same way for tax purposes.
All costs of entertaining anyone except staff are disallowed for tax, and must be added back to profit. This includes any type of entertaining or hospitality - including related expenditure such as travel and accommodation. The element which relates to the members of staff attending the function will also

be disallowed, but would not under normal circumstances provoke a benefit in kind assessment on the member of staff concerned.

The costs of a staff party would be deductible for tax purposes!

VAT input tax can be recovered on staff entertaining expenditure. If staff partners/spouses or clients are also invited to the event the input tax has to be apportioned, as the VAT applicable to non-staff is not recoverable. However if non-staff attendees make a contribution to the event, all the VAT can be reclaimed and of course output tax should be accounted for on the amount of the contribution.

For benefit in kind purposes, staff entertaining does carry a limited tax exemption. An annual Christmas party or other annual event offered to staff generally is not taxable on those attending provided that the average cost per head of the function does not exceed £150.

All costs must be taken into account, including the costs of transport to and from the event or accommodation provided, and VAT. The total cost of the event is merely divided by the number attending to find the average cost. If the limit is exceeded then individual members of staff will be taxable on their average cost, plus the cost for any guests they were permitted to bring.

The event must be open to all staff, or all staff at a particular location. Employers should also note that strictly the exemption is not available for a one-off event, but applies to an annual party whether held at Christmas or another time of the year.

A final note on staff parties. The cost is only tax deductible for employees and their partners which would include directors in the case of a company but not sole traders and business partners in the case of unincorporated organizations.

Trivial seasonal gifts for employees!

Not withstanding the comments made previously, you may find the following Revenue concession useful - we have copied the note directly from the HMRC handbook:

An employer may provide employees with a seasonal gift, such as a turkey, an ordinary bottle of wine or a box of chocolates at Christmas. All of these gifts are considered to be trivial and as such are not taxable. For an employer with a large number of employees the total cost of providing a gift to each employee may be considerable, but where the gift to each employee is a trivial benefit, this principle applies regardless of the total cost to the employer and the number of employees concerned.

<u>Deductions for fees and subscriptions</u>

Many professionals, teachers, accountants, lawyers, health professionals and so on, are required to make a subscription to a professional body or learned society. If the following conditions apply the cost of the subscription may be claimed against taxable income.

- the statutory fee or contribution must be made out of your net taxed earnings, and

- membership of the professional body must be a requirement of your employment.

Further the activities of the professional body must be relevant to your employment, particularly:

- the performance of duties is directly affected by the knowledge concerned, or
- involves the exercise of the profession concerned.

The Revenue have a published list of the organisations that they will accept as valid professional bodies. This list is updated from time to time.
If you are required to make subscriptions to professional organisations make sure that you let us have full details at tax return time so that we can ensure you get the correct relief.

New Companies Act 2006

Although the new Act largely consolidates existing legislation, there are a number of relaxations that apply to private companies that we would like to point out. The changes noted will be effective at some date before October 2008. The exact timing is yet to be announced.

1. **Accommodation addresses.** It will be possible for directors and shareholders to post accommodation addresses to Companies House records, and thus avoid the disclosure of their home address.
2. **Company Secretary.** There will no longer be a requirement for the appointment of a company secretary, unless the company wishes to appoint someone to that post.
3. **AGM.** There will no longer be a need to have an annual general meeting, unless again the company chooses to do so.

The new Act applies to the whole of the UK, so there will no longer be separate legislation for Northern Ireland.

Main residence and capital gains tax

It is a well known fact that potentially any profit you make from selling your own home is free of capital gains tax. To qualify you need to be resident in the property for the entire period of ownership. However there are a number of circumstances where temporary absence from your home will not affect your tax exempt status.
Periods of absence may qualify as follows :

The final three years in all cases.

Provided that the residence has at some time been occupied as the main residence, then the last three years are always treated as occupied, even if another property also qualifies for main residence relief at the same time.

A period of up to 4 years while the owner is working elsewhere in the UK, any period of absence not exceeding 3 years in total, and any period during which the owner is employed abroad.

These rules allow those absent from their property for some time due to work commitments to sell the property without paying tax on the gains. However, in most of the above situations, it is important that you reoccupy the property as your main residence after the period of absence.
A common mistake that taxpayers can make is to leave the UK for work abroad, say for four years, and if at the end of this period the house is sold without reoccupation - the deemed occupation rule cannot apply, and the taxpayer is left seeking the shelter of the last 36 months rule to protect the gain.
Also, there must be no other property occupied as a residence during the period of absence (hotel accommodation is OK) - but this issue can be resolved by making elections within 2 years of moving into the other accommodation.

Non-residence - the 5 year rule

If you have been absent for at least 5 complete tax years, and therefore not UK resident for tax purposes, any potential gain would not be taxable - as long as the disposal was completed while you were not UK resident for tax purposes.

Letting the property.

If you let your home for whatever reason you may also qualify for "letting relief" to shelter any potential capital gain.
The relief applies to any gain attributed to the period when you let the property. The lettings relief will exempt this let gain up to a maximum of the lower of the exempt gain and £40,000. Where the property is jointly owned (e.g. if you are married or in a civil partnership) you will each have the £40,000 relief.
As you can see being absent from your house for any period, and for whatever reason, can possibly affect the capital gains tax status of any profit you make on a subsequent sale. So that we can advise you properly we would request all clients advise us in advance if changes in residence are planned. In this way we can ensure that you maximise the tax free gain available when you sell.

Tax Diary December 2006/January 2007

1 December 2006 - Corporation tax due for companies with a tax liability for the trading year ending 28 February 2006.

19 December 2006 - PAYE and NIC deductions due for month ending 5 December 2006. (If you pay your tax electronically the due date is 22 December 2006)

30 December 2006 - If you file your 2006 Tax Return via the Internet you must send it back by this date if you want the Revenue to consider collection of outstanding tax for the year through your tax code. This will only be possible where you owe less than £2,000.

31 December 2006 - Deadline for registering a payroll giving scheme to qualify for the £500 grant.

1 January 2007 - Corporation tax due for companies with a tax liability for the trading year ending 31 March 2006.

19 January 2007 - PAYE and NIC deductions due for month ending 5 January 2007. (If you pay your tax electronically the due date is 22 January 2007)

31 January 2007 - Due date for payment of any residual self assessment liability for the year ending 5 April 2006, and due date for the first instalment on account for the year ending 5 April 2007.

31 January 2007 - Deadline for filing your self assessment tax return for the year ending 5 April 2006.