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Tax

Tax and legal update

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R&D tax credit claim deadline approaching
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Making VAT Digital (MTD)

In summary, from 1 April 2019, most UK VAT registered businesses will be required to submit their VAT returns digitally to HMRC using software that is compatible with HMRC's Application Programming Interface (API) platform. It will no longer be possible to submit VAT returns by entering the details into HMRC's online portal. In addition, businesses must ensure they retain certain records in digital form. For certain businesses (including VAT groups and companies that make VAT payments on account) these changes have been deferred until **October 2019**. Further changes apply from **1 April 2020**.

Given that MTD will significantly change how businesses submit their VAT returns and store information, we recommend that you spend time reviewing your current VAT return preparation processes and understanding what, if any, adjustments are currently made to your VAT reporting data prior to its submission to HMRC.

At Grant Thornton, we have developed our own MTD compliant VAT submission tool, which allows businesses to submit their VAT returns to HMRC in an easy way. This has been tested and approved by HMRC.

Click **here** to view our full update about Making Tax Digital for VAT.

Company law updates

Audit exemption – rule changes

Recent changes introduced in the Companies (Statutory Audits) Act 2018 mean that audit exemption is now lost for the following two years, where an annual return is filed late and not in the current and following year, as had been the case previously.

With effect from 21 September 2018, an annual return that is being submitted late does not lose any potential audit exemption for that year, but will not be eligible for audit exemption for the following two years, as set out in Section 363 Companies Act 2014 as amended by section 10 Companies (Statutory Audits) Act 2018).

Objections to voluntary strike offs

Any person may deliver to the Companies Registration Office (CRO) an objection to the voluntary striking off of a company by submitting the prescribed statutory form. The objection must be confined to the ground(s) that one or more of the voluntary strike off conditions have not been satisfied. The period to object ends 90 days after the date of publication of the notice of strike-off and the Registrar of Companies will strike off a company if no valid objection is made and the company will be dissolved.

Discretionary trust vs bare trust

Finance Bill 2018 introduced an amendment to the dwelling house exemption from Capital Acquisitions Tax (CAT). For the relief to apply, the beneficiary must not have a beneficial interest in another dwelling. This has now been extended to include where a beneficiary is an object of a discretionary trust which holds a dwelling house.

We have reviewed the attributes of a discretionary trust in comparison to a basic bare trust.

Bare trusts

When assets are transferred to a bare trust by a settlor, the beneficiary has the absolute right to the assets immediately. Bare trusts are commonly used to transfer assets to minors. The assets are held in the name of the trustees until the minor reaches 18.

Tax implications:

- there is no Capital Gains Tax (CGT) or stamp duty charge on an inheritance. However, where the assets are transferred by way of a gift, stamp duty and CGT may be chargeable; and
- the beneficiary is liable to CAT on the date of transfer.

Discretionary trusts

When assets are transferred to a discretionary trust, the beneficiary of each asset is not fixed by the settlor. The assets are held and appointed at the discretion of the trustees.

Tax implications on discretionary trusts, where:

- the assets transfer to the trust by way of a gift, CGT and stamp duty may apply;
- there is no immediate charge to CAT. The beneficiary becomes liable only upon receipt of an appointment from the trust; and
- discretionary trust tax of a once off 6% charge and an annual 1% charge on the value of the trust assets applies, where the settlor has died and all of the beneficiaries are over 21. The once off charge is reduced to 3% if all the assets are appointed out within five years.

Trusts can be useful mechanisms to achieve succession planning goals however, the tax implications can vary significantly. Specialist tax advice should be obtained in advance.

Deadline for submitting an R&D tax credit claim is fast approaching, for accounting periods ended 31 December 2017

All R&D tax credit claims must be submitted no later than 12 months after the end of the accounting period in which the expenditure was incurred. Therefore, **31 December 2018** is the deadline for making a claim for such companies and if you miss this deadline you cannot amend the company's corporation tax return to include an R&D tax credit.

Ireland's R&D tax credit system is a major benefit to both multinational companies and SMEs operating in Ireland. The R&D tax credit was first introduced in Finance Act 2004 and offers a company undertaking R&D in Ireland a significant tax break, representing a **potential 25% refund of costs incurred**.

In order to utilise the R&D tax credit fully and optimally, it is important to ensure that all eligible costs are captured in the claim. Eligible R&D expenditure can come from a multitude of sources such as:

- direct costs;
- third party royalties;
- indirect costs/ancillary activities;
- plant and machinery;
- payments to third party subcontractors and third level institutes; and
- qualifying buildings/structures.

R&D tax credits are a specialist subject and we would recommend you contact one of our R&D tax credit team for further advice prior to making a claim.

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Grant Thornton Ireland

Offices in Dublin, Belfast, Cork, Galway, Kildare, Limerick and Longford.

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