

# Watson

Registered Auditors • Accountants • Business Advisors

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## EXTRACTING PROFIT - REPAYING SHARE CAPITAL



### Is there an easy, tax effective way to release cash tied up as share capital in my Company?

Up until October 2008 it was quite a laboured procedure to achieve this. You would have had to apply to the High Court for clearance to reduce the share capital. However, changes in Company Law in 2009 have made the whole process much easier.

Insofar as tax is concerned, the return of share capital hardly ever gives rise to tax. However, where the repayment is in effect a distribution of profit – it may well be taxable.

An advantage of releasing the share capital in a Company that no longer relies on it to fund operations will at the very least provide tax free cash!

#### What other possibilities exist?

You could possibly loan the money back to

the Company and charge interest and, just like dividends, this would not be liable to National Insurance! The advantage of a loan compared with share capital is that the terms e.g. interest rates can be different for each lender.

If you have an overdrawn Directors Loan Account and have borrowed money from the Company this could lead to tax charges and the Taxman keeps a keen eye out for such cases. If the overdrawn figure is say £5,000 for a Director and £15,000 for a Company, there would be tax to pay for both! *Possible solution:* Use the money from the repayment of share capital to repay the loan therefore cutting the tax bill for both yourself and your Company!

If you would like more information, give us a call!

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#### Our Services

- BUSINESS DEVELOPMENT SERVICE
- CORPORATE STRATEGY SERVICE
- OUTSOURCED MANAGEMENT ACCOUNTS
- TAXATION
- ACCOUNTING & AUDIT SERVICES
- PAYROLL
- IT SUPPORT
- LITIGATION SUPPORT

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## CREDIT CHECKING - SUPPLIERS BEWARE!

**How the Companies Act can allow the unscrupulous Director to pull the wool over your eyes!**

In this tough economic climate the risks of doing business for many suppliers has increased quite significantly. The Credit Check which all suppliers should be doing as a matter of course could become increasingly difficult as more Directors choose to keep their personal addresses out of the public domain.

As of 1 October 2009, the Companies Act allows Limited Company Directors to simply file a "service address" on the public records held at Companies House which could in fact be the Company's registered office address. It is a requirement that their normal residential address also be supplied however this can be held as "protected information" enabling vulnerable Directors to apply for such address to be withheld from credit reference agencies. Designed to protect individuals working within sensitive sectors i.e. medical research where animal rights activists may use such information to their advantage, these measures do however give the unscrupulous

Director free reign to take advantage themselves insofar as the inability to trace an individual Director's whereabouts is concerned.

Companies House have however confirmed that they would give access to Directors personal residential address to such authorities as the police and HMRC and has even said that it "may" in fact provide the same to credit agencies, which would as a result raise the cost of accessing credit reference databases.

Suppliers will need to be extra cautious when engaging with new trading partners. Too optimistic an attitude could lead to bad debts and even insolvency!



# TAX RELIEF FOR PENSION CONTRIBUTIONS

**Another assault on pension schemes, the Government announced it would restrict higher rate tax relief**



The restriction will start to apply when income exceeds £150,000 and will apply fully where income is at or above £180,000.

Using current tax rates this measure could cost an individual 20% in lost tax relief. By 2011 it seems likely that the loss will be 30% (e.g. 50% top rate tax less the basic rate of 20%).

As mentioned above, complex new legislation is being brought in, so called "anti-forestalling rules", which introduces the concept of a special annual allowance, normally £20,000 and, providing individuals do not exceed this allowance they escape the "forestalling" rules! It may also be possible to evade the rules for other reasons:

Any individual making pension contributions who is caught by the anti-forestalling rules will be required to pay a special tax charge which in effect broadly reflects the extra tax

relief that has been granted over and above basic rate tax relief.

In layman's terms – if an individual pays £50,000 in pension contributions before 6 April 2011 and this becomes caught by the rules, the higher rate tax of £10,000 (40% - 20%) should be paid to HMRC.

For those who have defined benefit pension schemes the rules are even more complex! It is necessary to measure the increase in the value of accrued benefits from one year to the next. Employer contributions would count as a pension contribution for these purposes and there are measures in place to stop salary sacrifice arrangements which in effect would help avoid the new regime!

If you need guidance through this minefield just get in touch!

## Main aspects of the changes:

1. From 6 April 2011 - those with income above £150,000 will no longer be able to enjoy higher rate tax relief on their pension contributions. Instead relief will be restricted to the basic rate – put simply 20% rather than 50% tax relief.
2. If you intend topping up your pension ahead of the 2011 rules coming into play, the Government have already put in place with immediate effect complex and wide ranging rules in an attempt to prevent this.

## Where will the special tax charge apply?

Where an individual:

- makes pension contributions of more than £20,000 pa;
- increases their pension contributions above what could be deemed their normal level of regular contributions; and
- earns at least £150,000 or has done so in the prior two tax years.

# OPTION TO TAX

**Whilst opting to tax land or buildings can be very beneficial in terms of enabling greater VAT recovery on land related costs, procedures involved in this can be complex – if you get it wrong there is little chance of succeeding with any appeal lodged!**

The Option to Tax is in effect a two stage process, you must :

- (i) make a decision to opt to tax a particular piece of land or a building; and then
- (ii) make it a legally valid option by notifying HMRC at its Option to Tax Unit in Glasgow

Unfortunately many fail to recognise the second stage and charge VAT without having notified HMRC.

Consider this scenario:

The landlord of a unit in which a business makes only taxable supplies starts to charge the business VAT on their rent.

As the business sub-lets spare space within their unit they assume that it too can automatically charge VAT in turn to the sub-tenant which in turn they do (stage (i) above). Technically the business is charging VAT illegally!

Upon the above scenario coming to light, HMRC may take the view that by the business deciding to charge tax on the spare space, it had taken the first step of deciding to opt to tax. However, if the sub-tenant should realise that its landlord had not notified HMRC they could demand a refund of all VAT that had been incorrectly charged on what is still an exempt supply. That in itself may mean that the

business making such charges is partly exempt and should have restricted recovery of its input tax.

If you recognise the scenario and believe you may have only completed the first stage of the Option to Tax, HMRC have a policy on allowing “belated notifications” providing certain conditions are satisfied and the position can be rectified by making a Belated Option to Tax.



Whatever the size of your business if you exercise the Option to Tax you should be clear on what you have opted and that such options have been notified to HMRC - and acknowledged by them! The last thing you would want should you come to sell your business and the purchaser's solicitor requests evidence of a valid Option to Tax!

Something you are considering and need assistance with? Please give us a call!



# CUTTING TAX ON YOUR COMPANY CAR

**When you add a sat-nav to your Company car it costs you more in tax - there is a way to reduce or even eradicate this extra tax!**

The tax paid on a Company car is calculated by taking into consideration the car's CO<sub>2</sub> emissions and its original list price. A car with higher emissions attracts a greater Benefit in Kind percentage tax charge against the list price and this includes the cost of any fitted extras, such as sat-nav.

## Example:

Peter decides to replace his car. He's looking at a similar model costing £20,000 with CO<sub>2</sub> emissions of 205g/km. The taxable benefit is 30% of the list price i.e. £6,000. But Peter decides to have fitted the manufacturer's "entertainment pack". This adds £2,000 to the list price and another £600 to the taxable benefit (£2,000 x 30%).

- There are however exceptions: The Taxman will not charge tax on any extras with a list price of £100 or less.
- There is no tax on extras if they are to be used for business purposes. HMRC use the example of a tow-bar which is used to pull a trailer for hauling equipment.

Using these exceptions it is perfectly reasonable to therefore assume that if your job requires that you drive to numerous locations that a sat-nav could be used for this and can therefore be excluded from the Benefit In Kind tax charge. (Note: Ensure that whoever is preparing your P11D is aware of any extras that need to be excluded from the list price of the car).

The cost of any extras is only added to the list price of the car if they are fixed to the vehicle as such a sat-nav or other accessory that isn't fitted to the car won't be charged to tax under the same rules, instead calculated at a flat rate of 20% of the cost of the extra.

## Example:

Assume the same facts as the previous example but instead of adding the manufacturer's options, Peter purchases separate DVD and sat-nav systems that are detachable. These cost him the same amount as the built-in ones - £2,000. But he'll now pay tax only on a benefit in kind of £400 (£2,000 x 20%).

When considering the above it is worth noting that some cars have a Benefit in Kind rate of less than 20% and where this is the case, adding fitted extras would cost less in tax than detachable versions.

It should also be borne in mind that the tax paid on any detachable extra is based on the price the Company pays for it rather than the original list price – worth knowing when shopping around for the best deal!

Finally, Employers' National Insurance Contributions are due on Benefits in Kind at 12.8%. As a result, any reduction in your Benefit In Kind charge will save you tax and your Company also cuts its NIC costs!

# ENTERPRISE INVESTMENT SCHEME (EIS)

## Tax breaks for individuals!

A new simpler rule has been brought in which governs the time period in which a company that qualifies for EIS must utilise the funds raised by finance from investors. This time limit has been increased from twelve months to two years.

Companies who raise funds via the issue of non qualifying shares will now be free to use the funds from such issue without reference to EIS rules even if the shares are issued on the same day as qualifying EIS shares.

The new rules also make conditions for a share-for-share exchange easier to be met when gains are rolled into EIS shares.

The Finance Bill 2009 removed the two restrictions which were in place being (i) Income Tax relief of up to £50,000 for an EIS investment which could be carried back to the previous tax year (ii) when investment is made before October. The annual limit of £500,000 for 20% Income Tax relief still applies to an EIS investment.



## RAISING COMMERCIAL FINANCE

### In such difficult times - is there light at the end of the tunnel?!

Since the banking crisis and economic downturn obtaining new finance, or renegotiating existing facilities, has become harder. With commentators now talking about a possible fragile economic recovery, are commercial lenders feeling any more supportive?

In truth, lending has continued throughout the recent difficulties although whilst serviceability has had more focus certain market sectors have been less favoured and interest margins have widened reflecting an increased perceived risk. What has been important, however, with

either new money approaches or negotiating existing facilities, is to make your case as strong as possible otherwise you may not obtain the monies you need, or pay too much!

Watson Associates Commercial Broking & Advisory Service, overseen by ex senior commercial banker Graham Carn, can provide support and solutions. Need help in this area? Please give Graham a call to see what we can do for you!

## Dates for your Diary

31 July 2010	5% surcharge on unpaid tax for 2008/2009
19 July 2010	Class 1A liability must be paid
31 July 2010	Second payment on account for 2009/2010 due
31 October 2010	Deadline for paper Tax Returns and/or if you want the Revenue to calculate your tax
4 January 2011	Standard rate of VAT increases to 20%
31 January 2011	First Self Assessment payment on account for 2010/2011 Capital Gains Tax payment due for 2009/2010 Balancing payment for 2009/2010 required Online filing deadline for 2010 Tax Return
28 February 2011	Last day to pay balance of 2009/2010 tax and Class 4 NICs to avoid automatic 5% surcharge
March 2011	Budget speech by Chancellor of the Exchequer