SPRING 2022 | ISSUE 36

WATSON

Why timing matters for your capital spend

Getting the maximum tax benefit from capital spending often involves a balance of considerations, and timing can be critical to the outcome. We look here at two timing issues that could impact your business.

Last chance opportunity to use Covid-19 extended loss carry back rules.

Strategically timed capital expenditure now, in tandem with the extended loss carry back rules, may have the potential to create or enhance a trading loss, generating a tax refund for your business. Current rules provide particular incentives for capital spending. The temporary higher level of Annual Investment Allowance (AIA) is available both to companies and unincorporated businesses, whilst the 130% super-deduction and 50% special rate allowance are available to companies.

The extended loss carry back rules apply to trading losses made by companies in accounting periods ending between 1 April 2020 and 31 March 2022. For unincorporated businesses, it's available for trading losses made in the tax years 2020/21 and 2021/22.

If you are planning capital expenditure, please don't hesitate to contact us to discuss the options on timescale. We can help you decide if it would benefit your business to accelerate capital spending to bring it inside the relevant extended loss carry back window.

Reprieve for the temporary higher AIA limit.

The AIA limit increased to £1 million from January 2019, and was scheduled to drop back to £200,000 from 1 January 2022. Autumn Budget 2021, however, extended it one last time. The £1 million AIA annual limit is now set to remain in place until 31 March 2023. In terms of timescale, this sets it on a par with the super-deduction regime available to companies: the two now both finish at the same time.

Extending the availability period certainly gives businesses more time to take advantage of the enhanced provisions. But if planning major capital expenditure, it's worth taking stock now of when the expenditure would be best made. The accounting year end is a key component in any decision here.

We recommend an early discussion to make sure that the timing of your purchase allows you to maximise the tax benefits available. Complex transitional calculations will be needed when the super-deduction comes to an end, and when the AIA drops back to its original level. It will be important to factor these into your planning. We should be pleased to advise further here.

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Benefits of Electric Cars

The fuel crisis last September has encouraged many people to consider buying an electric car.

Drivers of company-owned electric vehicles will find it particularly rewarding as the taxable benefit for using an electric company car is currently just 1% of its list price and there is zero taxable benefit for using an electric company van.

The taxable benefit for electric cars is due to double from 1% to 2% of list price on 6 April 2022 but then it will be frozen at that level until at least 6 April 2025.

If the company pays for the electricity to power the vehicle, either through a charging point at work or by providing a payment card for the employee to use at public charging points, there is no taxable benefit for the use of that electricity.

Where the employee charges a company vehicle at home they can claim 5p per mile for business journeys driven from 1 December 2021 (previously 4p per mile).

If your electric car is in your own name you can still claim the standard 45p per mile for business journeys (up to 10,000 miles per year) and you will have zero road tax (VED) to pay.

Where your company has the cash available to buy an electric car it can get a 100% deduction for the cost in the year of purchase with electric vans currently qualifying for a 130% deduction.

There are also government grants of £2,500 available for the cheaper electric cars and for installing charging points. For single-unit properties, installations need to be completed by 31 March 2022.

Electric vehicles are treated in the same way as any other car for VAT purposes and VAT is not recoverable when a vehicle is purchased. The exception to this rule is that the car is only ever available and used for 100% business purposes. When an electric vehicle is leased, 50% of the VAT paid on the leasing charge can be recovered.

Busting the research and development myth

Research and development (R&D). It's what other people do. Right?

The answer is, not necessarily. Many companies carry out R&D without realising that their activity could bring them within scope of the R&D tax regime. It matters because R&D tax relief is particularly generous.

There are two main R&D tax reliefs: Small and Medium-sized Enterprise (SME) R&D relief, and Research and Development Expenditure Credit. The first can provide an enhanced 130% deduction against taxable profits for qualifying R&D expenditure, in addition to the expenditure involved, making a total deduction of 230%. The second is potentially available to larger companies, and SMEs in particular circumstances. It allows a company to claim a credit calculated at 13% of qualifying R&D spend.

In the latest news, qualifying R&D expenditure changes to include specific data and cloud costs from April 2023 e.g. licence payments for datasets, and cloud computing costs attributable to computation, data processing and software. There are also measures 'refocusing' the reliefs on innovation in the UK, and thus restricting some costs for R&D activity carried out overseas.

What are the boxes to tick to qualify for relief? Not all activity described as R&D in commercial parlance counts as R&D for tax relief purposes. For tax relief, the activity must fall to be accounted for as R&D under generally accepted accounting practice, and must also conform to definitions set out in BEIS Guidelines. Qualifying projects are those aiming to make an 'advance in science or technology' through the 'resolution of scientific or technological uncertainty'.

It goes without saying that subtle technical distinctions apply. An uncertainty that could be readily resolved by a competent professional in that field, for example, does not count. And an advance in science or technology must be one that has a bearing on the overall capability in a particular field, not one that relates solely to the individual company's own knowledge or capability.

Having a clear idea of where your company sits with regard to R&D activity also matters for another reason. There is increasing government concern about error and fraud in R&D claims. One way such error can arise, for example, is through the use of unregulated, so-called R&D 'specialist' firms. Many of these operate by obtaining tax refunds for R&D claims that turn out not to be robust enough to withstand subsequent HMRC checks.

Legislation is being laid to improve R&D compliance, with various changes to the claims process anticipated. From April 2023, claims will be made digitally in most cases, with additional detail given. A named senior officer of the company will have to endorse claims, and where an agent has advised on the claim, their details will also be needed. With increased HMRC compliance activity on the horizon, it is more important than ever that claims are watertight.

If, perhaps, you have not previously considered whether your company is involved in qualifying R&D, we should be pleased to explore the issue with you. Please do contact us for more information on this, or any other area relating to R&D.

Take advantage: tax free benefits for directors and employees

And it's not too good to be true.

Don't be put off by the technical name. What are called 'trivial' benefits, are far from trivial. They can make a very worthwhile add-on to remuneration, allowing you to provide a benefit to an employee with no tax, no National Insurance and no need to notify HMRC. There's no limit on the number you can provide in a year - except for company directors and family members. An added advantage is that employers can claim income or corporation tax relief on the cost involved. But strict criteria apply.

Critical small print

A trivial benefit must meet the following conditions. It must not cost more than £50 (including VAT) to provide and must not be cash or a voucher that can be redeemed for cash. Non-cash vouchers, like store cards, pass the test, though. It must not be a reward for particular services carried out by the worker, and should not be in the terms of the worker's contract. Neither can it form part of a salary sacrifice arrangement.

Don't make it a reward for services. Trivial benefits can fail the rules by appearing to be a reward for services. So don't give a bottle of wine because someone made a great contribution – make it a morale booster on a grey day. Some businesses have used trivial benefits to enhance staff wellbeing during Covid-19, for example.

What constitutes a contractual element can be contentious: HMRC maintains that repeated provision of a benefit could create a legitimate employee expectation. This could then be viewed as a contractual arrangement which would fail to qualify.

Getting it right for company directors

There's a £300 limit to the trivial benefits that directors or office holders of 'close' companies (limited companies run by five or fewer shareholders) can receive in any one tax year. This includes benefits given to family or household members who aren't directors or employees of the company. But if other family members are also directors, they have their own £300 limit.

For an in-depth discussion, do please contact us.

HMRC sets sights on cryptoassets

For proof that cryptoassets are high profile, see Collins Dictionary's 2021 word of the year. It's NFT - non-fungible token.

NFTs are the crypto-world equivalent of certificates proving you own a digital (or physical) asset: a collectible, like digital artwork, or digital sports cards.

Collins Dictionary isn't alone in registering public interest in cryptoassets. So, too, is HMRC, and they have been writing to taxpayers they believe hold cryptoassets to point out potential tax liability.

The starting point for determining the tax treatment will be whether you are trading or investing. If you are in fact carrying on a business through crypto transactions (ie frequent trading in crypto assets), that may fall within the income tax regime and you may have income tax to pay. HMRC's view is that, in most cases, individuals will hold cryptoassets as a personal investment and so be subject to capital gains tax on disposal.

Disposing of cryptoassets, such as cryptocurrencies like bitcoin, brings a potential charge to capital gains tax (CGT).

Disposals include:

- the sale of assets for currency, like pounds or dollars;
- the exchange of one cryptoasset for another, such as bitcoin to ether;
- the use of cryptoassets to buy goods or services; or
- the gift of tokens to another person (unless it is a gift to your spouse or civil partner)

The annual CGT exemption can be used to cover such gains, up to £12,300. If gains exceed this, or chargeable assets worth more than £49,200 (in 2021/22) are disposed of, HMRC should be notified, usually via the self assessment tax return.

The tax position is not always intuitive. Where, for instance, different types of cryptoasset are exchanged, there can be a chargeable taxable gain, even if the assets aren't converted back to currency.

We are happy to advise on cryptoasset transactions to help establish if a tax liability has arisen.

Capital gains tax: property disposals

Autumn Budget 2021 reset the capital gains tax (CGT) clock for payments on disposals of UK land and property.

Until the Budget, UK residents disposing of UK residential property had a 30-day window after completion to report gains and pay any tax due. Non-residents disposing of UK property faced a similar deadline, with a need to report whether or not tax is due.

The 30-day regime was itself relatively new, and has had considerable teething problems. Over £1.3 million was charged in penalties for late-filed returns in 2020, something attributed, at least partly, to low public awareness of the new rules. Concerns over lack of time to prepare accurate figures, especially in complex cases, were raised by professional bodies.

But the Budget extended the deadline to 60 days from completion for disposals completed on or after 27 October 2021.

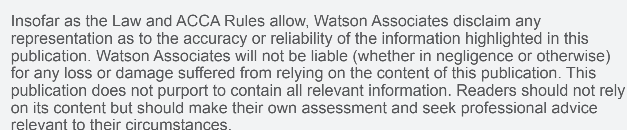
Where property has mixed-use, the 60-day window applies just to the residential element. For example a shop with a flat above, only the residential part of the gain should be reported on the UK property account.

For UK residents, the 60-day reporting requirement only comes into play where there is CGT to pay; and CGT on property disposal doesn't arise in every case. Where a property is always occupied as the only or main residence, principal private residence relief means CGT is unlikely to come into play. Disposals of second homes, disposals by landlords or divorcing couples are more likely to be affected.

The declaration must be made through an online UK property account which is a separate system from annual self assessment tax returns. HMRC will issue you with a reference number when you report the gain, which you must use when paying the tax due. The HMRC computer will issue penalties automatically if the reporting or tax payment is late.

Taxpayers must also report the same gain on their tax return for the year and declare how much CGT they have already paid through the UK property account. If you have paid too much CGT that overpayment must be reclaimed by amending your UK property account.

We are on hand to advise if this is an area of concern to you.



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