

A·W·G

WARREN  
& Son.

NEWSLETTER

March 2024

### *Staff parties for employees*

They don't have to be at Christmas, and there can be more than one each year. The main conditions are that they have to be held annually and the total cost including VAT is strictly limited to £150 per person per annum. If you restrict it to just McDonalds you could probably hold one every month. Alternatively a Company just comprising a husband and wife could have a cheap weekend in Paris once a year.

### *Tax on interest received*

Now that interest rates have increased, one has to bear in mind the tax free limits, now that tax is no longer deducted at source. These are £1,000 for basic rate taxpayers, £500 for those on the higher rate and nothing for those on the additional rate. Also be aware that any interest in excess of £100 in the name of a child is taxable on the parent and the capital was given to the child by a parent.

### *Class 2 National Insurance (for the self-employed)*

Traditionally this was known as the NI stamp when originally it was an actual stamp put on a card. There were four different cards one starting at the beginning of each calendar quarter, with the final letter of ones' National insurance number being A,B,C or D representing each quarter. With effect from 6th April this year Class 2 NI will no longer be compulsory for the self-employed. However those who have not achieved 35 years of paying National Insurance can continue to pay voluntary contributions so as to earn their maximum state pension on retirement. The ability to pay arrears relating to the years 2006 to 2018 ceases on 5th April 2025.

### *Unincorporated businesses*

There are two changes taking place, from April 2024, for nearly all sole traders and partnerships. The first being that all such businesses will, as the default, keep their records on a cash accounting basis. This means all income received and expenditure paid, not just cash. In simple terms this means that the minimum records required is an income received record and an expenditure record. This will also apply to VAT where appropriate. The second change is for those businesses that have an annual accounting date other than that of 31st March or 5th April. Accounts in future will all have to be made up to the 5th April, by lengthening your current accounting period. Nick will be able to help you on either of these issues. For further information on any other article in this issue please contact Martyn

## Rental income

There is a popular misconception that rental income is more favourably taxed in a limited company rather than in the name of an individual(s). In reality higher rate taxpayers obtain 20% tax relief on interest, whereas the Company only receives 19% tax relief on the interest.

<b>COMPARISON BETWEEN RESIDENTIAL PROPERTY IN SOLE NAME OR COMPANY</b>	<b>Sole name</b>	<b>Company</b>
Net rental income before interest	£1,000	£1,000
Interest	£200	£200
Income after interest	£800	£800
Tax on net income before interest	£400	£190
Tax relief on interest	£40	£38
Tax payable on rents	£360	£152
Tax on dividend (£800-£152 at 33.75%)	nil	£218
Net income available to the individual	£440	£430

### Note –

Example is for a higher rate taxpayer, with rents under £50,000 assumes that income ends up in the individual's name, to make the comparison compatible (if income was left in the company it would have to be taken out at some time in the future at a minimum tax rate of 20%)

Costs of running the company are ignored.

## Value added tax

### VALUE ADDED TAX

There is a common misunderstanding that it is a business that is registered for VAT. However this is not the case as it is the legal entity that is registered. For a limited company it is the company itself covering every business that it runs which is the VAT registered entity. For sole traders and partnerships it is the individual(s) who is registered and any income which is liable to VAT comes within its scope. For example if, say a self-employed builder, also owns a furnished holiday letting then that income also has to be included as being liable for VAT. Where you find a careless error on an earlier VAT return the rectification can take place on the current VAT return provided that the error is under £10,000, or the lower of £50,000 or the figure in box 6 of the return. All errors should be reported to HMRC. They have a [VAT form 652](#) to enable you to do this. Although many people chose not to use

this form, there is an advantage in that if HMRC discover the error they can charge you a larger penalty if you have not notified them. For very minor errors they will not charge you a penalty at all if you notify them.

### *Property development*

Many people enjoy renovating older properties and then selling them at a profit. They are of the opinion that if they live in them, then the profit will be tax free. However the taxman, and the Courts have a different opinion. They look at two aspects. Firstly if the intention at the time of purchase was to live at the property for the foreseeable future with no intention of selling. They will be looking to see if the occupants have registered with local doctors, dentists and electoral role, changed the address to the new location of all their organisations and installed children at local schools etc. Then during their occupation they will check that the property was not put on the market or another house or plot of land also purchased for redevelopment. Secondly they will look for the reason behind the subsequent sale to establish if it was preplanned, and there should be evidence of this. There is no minimum period that one must live in the house. Unfortunately people in the building trade will always require a higher degree of proof.

### *A round-up of recent Tribunal cases*

*(the items in blue link to the actual case)*

[HMRC v. The Taxpayer 2024 UKUT 84476](#) – The taxpayer applied to the Tribunal that his case should be heard in private – the Tribunal agreed but stated that his name would be revealed if in a subsequent hearing the taxpayer lost the case.

[39 Fitzjohn v. HMRC 2024 UKFTT](#) – Mixed use claim failed because the access for a British rail tunnel (40 sq metres) under the property was not of sufficient size to warrant SDLT mixed use relief on a 1.52 acre site. Another workshop on site was not occupied & therefore could not qualify for mixed use.

[Patwary v. HMRC 2024 UKFTT TC 09035](#) – Tribunal found that there was not sufficient evidence to satisfactorily prove that taxpayer had lived at the property, although it was possible that he had lived there (see article above).

**Tung Chee-Chen (Orient Overseas Container Line) v. HMRC 2023 UKFTT TC 09007**

– Principal shareholder personally paid bonuses to the staff of the Orient Overseas Container Line (which he owned) - ruled that although the payments were not 'income from employment' they were 'made by reason of employment' and were therefore taxable.

**Mohamed v. Crown Prosecution Service 2023 UKEAT 3323914.2016**

– The Tribunal awarded Mr Mohamed £135k because his employers did not make provision for his disability, being excessive flatulence caused by medication for a heart condition.

**Independent Workers Union v. Deliveroo 2023 UKSC 43** – The Court ruled that Deliveroo drivers were self-employed and could not be employed because drivers can work for other firms, do not have to work specific hours and can appoint a substitute.

**Ahmed v. NatWest Bank 2023 UKET 2309466-2020** – Ahmed was operating a sex business in the car park of his employer – however the Tribunal found the resulting dismissal unfair, not because of the circumstances but because the dismissal procedures were not followed. It is surprising how many cases fail at Tribunal just because the dismissal procedures were not followed.

**Milasenco V. HMRC 2023 UKFTT TC 08861** – Sales on eBay were held to be trading and not a hobby or sale of personal items or items purchased on behalf of friend at no profit (note the first £1,000 of profit is not taxable).

**Hunt v. Singh 2023 EWHC Ch 1784** – The Court more clearly defined the precise time when the Directors should prefer creditors when a Company is or maybe insolvent.

**Owen v. Willow Tower 2023 UKET 2400073** – The Tribunal ruled that being a vegan does not amount to being a philosophical belief or a protected characteristic.

**Meades v. HMRC 2023 UKFTT TC 08844** – Tribunal found that the husband divorced many years previously had to repay the child benefit because it was he who originally claimed it even though the benefit was received by the mother.

[Palladino v. Next Steps 2023 UKET3312958 2021](#) – Employee disagreed with the ‘clubbing’ venue chosen for the Xmas party stating that it was discrimination – case dismissed (see article above).

[Konstruct v. HMRC 2023 UKFTT TC 08925](#) – A VAT registered business has a duty to carry out due diligence checks on suppliers to prevent fraud - the Tribunal, under the ‘Kittle’ principle, agreed that checks had not been undertaken & £160k penalties were correct.

### *Limited Companies – new legislation*

The Economic Crime & Transparency Act 2023 comes into force during 2024. The main changes are -

1. Identity verification will be required for -
  - a) New Company directors (prior to company formation)
  - b) Directors to be appointed (prior to appointment)
  - c) Persons with significant control
  - d) Agents who file at Companies House (to obtain Authorised Corporate Service Provider – ACSP – they must be authorised by Co Ho and have a supervisory body for money laundering)
2. The Government will have the power to change the name of a limited Company and have stricter rules for accepting names.
3. The Company must register, at Companies House, an email address of the Company (not visible for searches) in addition to the registered office, which must be an address where a document would come to the attention of a person acting for the Company (so no PO boxes or unstaffed addresses).
4. The register of Directors and Persons with Significant Control (PSC) must be held at Companies House, not at the registered office
5. The register of members must be kept at the registered office and not at Companies House (a full list to be sent to Co Ho with the first confirmation statement).

In addition there will be greater accountability and an extension of the disclosure regime. Companies House will vet new Companies and interrogate company accounts. If individual employees or directors cannot be identified the Company itself will be liable (an extension of the Corporate manslaughter legislation). Introduction of a ‘failure to prevent

fraud' offence, with reasonable prevention procedures in place, including –

1. Risk assessments
2. Financial & accounting controls
3. What [constitute the offences](#), and the procedures for investigation
4. Anti-fraud culture and appropriate training
5. Ongoing monitoring and reporting

To see more detail please visit the [Economic Crime & Transparency Act 2023](#)

### *Companies House increase fees*

Companies House fees are to increase on 1st May 2024 –

Incorporation £50 (£78 same day)

Confirmation statement £34

Change of name £20 (£83 same day)

Striking off £33

Restoration £468

Please note our fees are in addition to the above for any work undertaken in these respects.

### *Sale of personal possessions*

HMRC have recently announced that they will be receiving details where members of the public are selling items through internet sites. These sites include items sold through eBay, Etsy, Vinted, Depop and others, but only sales of more than 30 items in a year will be notified. However to reassure people, any personal possession which you originally bought for your own use is not taxable, whatever profit you might make. It is only items that you acquire with the intention of reselling them that are taxable if you make a profit. Even then you will only have to pay tax if the total profit in any one year exceeds £1,000. Incidentally Airbnb are also having to inform HMRC of rentals that they are involved with. There is a similar £1,000 tax free allowance against these rents.

### *Short term rentals*

The government has proposed that from this summer short term rentals in England, including Airbnb, will require separate planning permission if the rentals cover a period in excess of 90 days a year. There will also be a fee charged. Wales is introducing a similar statutory licensing scheme for all visitor accommodation providers. HMRC will have access to all this information.

## *The Spring Budget*

The main aspects of the Budget which relate to many of our clients include –

1. The registration threshold for VAT increases from £85k to £90k in April 2024.
2. National Insurance (class1) for employees reduces from 10% to 8%
3. National Insurance (class4) for the self employed reduces from 8% to 6%
4. Stamp duty land tax relief for the purchase of multiple dwellings is abolished
5. Additional reliefs for furnished holiday lettings are abolished
6. The rate of Capital gains Tax on sales of residential property, for those whose annual income and gains exceeds £50,270, will reduce from 28% to 24%.
7. Child benefit relief is currently restricted for those with an income between £50k and £60k. From next month these figures will change to £60k and £80k. Then in 2026 it will relate to household income rather than individuals.
8. Currently persons whose domicile is outside the UK only pay tax on their income earned or received in the UK, if they have lived in the UK for less than 7 years. From April 2025 this will reduce to 4 years, after which they will pay the same tax rates as other UK residents.





This newsletter deals with a number of topics which, it is hoped, will be of general interest to clients. However, in the space available it is impossible to mention all the points which may be relevant in individual cases, so please contact us for personal advice on your own affairs.

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