Corporation Tax

246. Management expenses

Under new legislation (new s 75 of ICTA 1988, introduced by FA 2004) a company whose preponderant activities are trading will now be able to obtain tax relief for the expenses of managing its investment portfolio. In the words of the Inland Revenue:

groups will no longer have to introduce extra companies in order to ensure that investments are held within an investment company.

The requirement that a company had to be UK-resident in order to be entitled to deduct management expenses has been dropped. This means that permanent establishments of non-UK resident companies are now able to obtain tax relief for the costs of managing their investments.

Management expenses are deductible for the accounting period in which they are charged against the profits in the company's accounts as long as those accounts are drawn up in accordance with generally accepted accounting practice.

The new legislation specifically states that expenses of a capital nature can never be management expenses, a view contradicted by the recent High Court decision in the case of *Camas v Atkinson* ([2003] STC 860).

From a talk by Robert Jamieson at the 2004 Tax Faculty Conference.

247. Duty of company to give notice of coming within charge to corporation tax

There is now a statutory obligation for companies to notify the Revenue within three months of coming into charge to corporation tax or coming into charge following a period of dormancy. There are penalties for failing to notify on time.

The primary legislation is contained in s 55, FA 2004. Final Regulations Corporation Tax (Notice of Coming Within Charge – Information) Regulations 2004 (SI 2004/2502) came into force on 13 October 2004.

Draft Regulations were published earlier in the year and the Revenue published information on the comments received. These can be viewed at www.inlandrevenue.gov.uk/drafts/clause55.htm An explanatory memorandum was published at the same time as the final Regulations, but adds very little to what they say.

The Regulations set out the information that must be supplied. This includes the company's name and address and the date to which accounts will be prepared.

The intention is to issue a revised Form CT41G which will indicate the information that is mandatory under s 55. If that information is provided on Form CT41G then only one form need be submitted. This will not assist new companies that do not intend to trade immediately or existing companies, which are dormant, and begin to trade again.

248. The quirk in the 10-month filing deadline

It is a well-known fact that company accounts have to be filed with Companies House by 10 months from the end of the company's year end. It is also a well-known fact that often the delays in filing the company's accounts are due to last minute tax planning. It is often the tax advisers who are asking for more time to finalise matters in the accounts, or indeed the clients pushing the tax advisers to sort matters out within the 10-month deadline.

All tax advisers must therefore be aware of the quirk of the 30 September year end. These accounts have to be filed by 30 July, not 31 July. When looking at dates by which accounts have to be filed one generally looks to the last day of the month, not one day before the last day of the month, and those £100 filing fines can hurt. Tax advisers make a note for your diaries on 30 July 2005 because there is only one month when this peculiarity happens.

Contributed by Julie Butler of Butler & Co.

Editorial note: This peculiarity, which applies to private companies, arises because s 244(1)(a) Companies Act 1985 sets the filing deadline as exactly ten months after the year-end. The courts take a strict view of this and there is recent precedent in *R (on Application of POW Trust) v Registrar of Companies* [2004] BCC 268; *Registrar of Companies v Radio-Tech Engineering Ltd* [2004] BCC 277).

VAT

249. Partial exemption advantages

To most general practitioners the idea of partial exemption is most irritating. However, there are examples in the horse world where this can be distinctly advantageous. With horsey culture continuing to grow there are a large number of small businesses who can benefit from this.

The John Window tribunal decision (17186 *John Window v C&E Commrs* (2001) unreported) ensured that with horse liveries where the provision of care was relatively small the supply of the livery was an exempt supply for VAT purposes. This was of great advantage to the small livery provider in that most of their customers would be private and therefore not able to claim the VAT back and would have advantages in the pricing structure. However, to some farmers who have a large business activity the introduction of the small element of exempt supply could be extremely irritating, not least the fact that they cannot claim back the input VAT. The position on this needs to be carefully reviewed.