

NEWSLETTER AUGUST 2018

NO VAT PAYABLE ON IMPORTS AT THE BORDER

The government has announced through guidance issued on 23 August 2018 that if there is a no deal Brexit, businesses importing goods from the EU or from outside the EU will not have to pay import VAT as soon as the goods arrive in the UK.

Postponed accounting will be used, enabling importers to account for the VAT later on their VAT returns. This will be a relief for importers and a positive result for current importers of goods from outside the EU who will see cash flow improve as a result.

HMRC guidance states that it will be possible to defer the VAT but customs declarations and the payment of any other duties will still be required for imports from the EU in the same way as currently applies when importing goods from outside the EU. An import declaration will be required and any customs duties must be paid. Customs checks may also be performed at the place of importation.

In addition, Low Value Consignment Relief (LVCR) will not be extended to goods entering the UK as parcels from the EU. This means that all goods entering the UK as parcels sent by overseas businesses will be liable for VAT unless they are zero-rated or exempt from VAT. For parcels valued at £135 or less, a technology-based solution will collect VAT from the overseas business selling the goods into the UK.

CHILD CARE SCHEME- Change is Closer Employers need to decide before 4th October 2018.

Clients, who are employers, may continue offering the current scheme to eligible staff, however, it will only be available to those who sign up before 4th October 2018. From this date onwards, any new applicants will only be eligible for the government led programme which requires no involvement on your businesses' behalf. This new scheme instead asks individuals to deposit funds into an account on the HMRC website, and the government will also contribute up to £2,000 per child per year.

Alternatively, you may take this opportunity to cease their involvement in the employer-led voucher scheme altogether, as this is totally voluntary in an effort to make things more equal for all staff. However, you should consider how this will be received by those who currently benefit from it, particularly if this forms part of an attractive benefits package.

Whichever way you decide to proceed, it is important that you inform the employees appropriately, using a combination of emails, promotional posters, and informal meetings. If your business plans to continue offering the scheme you should encourage interested staff to apply as soon as possible, as they must have received the first set of vouchers prior to the cut-off date if they are to be able to use the scheme.

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You should amend any existing policy on childcare vouchers to make staff aware of the new options available to them. Human resources and payroll departments will also need to work in unison to ensure only those eligible for the employer-led scheme receive the relevant salary deductions going forward. Managers must also be informed on the available options, allowing them to deal with disgruntled staff who may feel that they are missing out as a result of the new scheme.

Some commentators have suggested that the government-led scheme could lead to some parents losing out on funds that would have been available to them under the existing employer-led scheme. If your business is concerned about this they may consider other methods of support working parents in their organisation, such as partnering with a local day-care centre to see if an arrangement can be made to offer staff discounted rates for childcare. However, you are under no obligation to do so.

Ultimately your business can decide whether to continue providing childcare vouchers to those who sign up before October's deadline. If you wish to change the approach, then you must ensure staff are informed in good time and those workplace policies are amended accordingly. If you require advice on this, please do not hesitate to contact us.

Overpaid Tax ? It Can Still Be Recovered

We wish to draw attention to overpayment relief in the context of tax return errors by individuals.

Mistakes can easily happen in tax, some of which may result in an overpayment by the taxpayer. For example, an individual may have made an error when completing their self-assessment tax return. HMRC may not notice it meaning that the error is only discovered some time later. What can be done to correct this?

The tax legislation allows individual taxpayers (and trustees) to amend their tax returns to correct mistakes, etc. However, the amendment cannot normally be made more than twelve months after the filing date for the tax return.

What if this time limit has passed?

There's a Relief!

Fortunately, a form of relief is potentially available in such circumstances. For individuals, the 'overpayment relief' rules apply for income tax and capital gains tax purposes (TMA 1970, Sch 1AB). Overpayment relief also applies to claims in respect of overpaid Class 4 National Insurance contributions (see HMRC's Self-Assessment Claims manual at SACM12005). There are similar rules for companies (FA 1998, Sch 18, Pt IV), but this article concentrates on overpayment relief for individuals.

A claim for overpayment relief can be made, broadly, where a person believes that tax has been paid, assessed, determined or directed, which is not due. However, the relief is not available in

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certain specific circumstances, which are listed in the legislation as 'Case A' to 'Case H' (in TMA 1970, Sch 1AB, para 2).

These overpayment relief restrictions are broadly as follows (see Self-Assessment Claims Manual SACM12065 onwards for detailed guidance):

- Case A: Mistake in claims, elections, etc. - where the amount in the overpayment relief claim arises broadly from a mistake concerning a claim, election or notice (e.g. failing to make a claim), or capital allowances;
- Case B: Other relief available - where the person can correct the overpayment or over-assessment by other means (e.g. by amending a return, if within the time limits);
- Case C: Other relief out of time - where the person could have obtained relief by other means when they first knew, or ought reasonably to have known, that the relief was available;
- Case D: Grounds of claim considered on appeal - where a court or tribunal has already considered the grounds on which the overpayment relief claim is made; also, where HMRC has considered the grounds and settled the appeal by agreement;
- Case E: Grounds of claim not considered on appeal - where the person knew (or should reasonably have known) the grounds for the overpayment relief claim at a time when they could have been put forward on an appeal to a court or tribunal;
- Case F: HMRC proceedings - where HMRC has taken proceedings to enforce payment of the amount in the overpayment relief claim under an assessment or determination, or where proceedings have been settled by agreement; and
- Cases G and H: Practice generally prevailing – overpayment relief is not available in respect of income tax or CGT that was understood to be due under the practice generally prevailing at the time the liability was calculated (Case G), or for PAYE income where the amounts were calculated in accordance with the practice generally prevailing 12 months after the end of the tax year (Case H). However, Cases G and H do not apply if the tax is charged contrary to EU law. In addition, the onus is on HMRC in any appeal hearing to demonstrate that there was a practice generally prevailing (SACM12105).

Overpayment relief is obviously helpful, but the above restrictions present high hurdles for the taxpayer to jump over when considering whether an overpayment relief claim is appropriate.

Example 1: Overpayment relief claim available

Arthur understated an allowable cost when calculating his profits from self-employment, which resulted in an overpayment of tax. However, he only spotted the problem after the statutory deadline for amending the return had passed. An overpayment relief claim may be possible (see the time limit for making claims below).

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Example 2: No overpayment relief claim possible

Donald's profit from self-employment was arrived at after deducting an expense which had been restricted in accordance with normal practice at that time. However, in a subsequent tax case, it was decided that this practice was wrong and that such expenses should not be subject to restriction.

Unfortunately, an overpayment relief claim is not available to Donald, due to restriction G above.

Practical Tip:

An overpayment relief claim cannot be included in a tax return. The claim must normally be made in writing within four years of the end of the 'relevant tax year'. This is defined as broadly the tax year to which the incorrect tax return relates, or the one in which the tax was paid, or the one to which the excessive assessment, determination or direction relates, depending on the circumstances. However, there is an exception from the above time limit in cases of 'special relief' (under TMA 1970, Sch 1AB, para 3A). For HMRC guidance on the contents of a claim, see Self-Assessment Claims Manual SACM12150.

Whilst we have made every effort to ensure the accuracy of the information contained in this newsletter, it is provided entirely for information only and should not be considered as fully researched professional advice. Accordingly, we wish to state that we do not accept liability for or grant any warranties where any person uses the information contained in this newsletter without taking proper legal accountancy advice on the subjects raised.

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