

Selling Your Business

Optimism is returning and some business owners are considering selling part or all of their business, and perhaps acquiring new businesses.

What To Sell

Established businesses can have complex structures; various companies, trades and valuable assets may all be mixed up. Plan exactly what you want to sell, and what to keep. It will take time to move the assets and trading licences into a company to sell cleanly. It may be easier to sell the assets instead of shares in the company. This will be a major negotiating point with any buyer.



Plan well
before the sale

Entrepreneurs' Relief

This tax relief takes the effective tax rate down to 10% on a maximum of £2 million of gains made by each business owner or shareholder. However, to qualify each shareholder must be employed by, or be an officer of the company or another company in the group. The shareholder also needs to hold at least 5% of the ordinary voting shares. Both these conditions must be met for at least one year ending with the date of the sale. Non-working shareholders could become non-executive directors for a year before the sale to ensure they qualify for the relief.

Employees with a less than 5% shareholding will not qualify for entrepreneurs' relief, but they would qualify as a partner in a limited liability partnership (LLP), even where their interest in the business is just 1%. A hybrid LLP and company structure (see page 2), can be used to ensure small shareholders gain entrepreneurs' relief, but it must be put in place at least one year before the sale.

Deferring The Gain

Many purchasers do not have the cash to fund the acquisition, so offer shares or bonds in their own company as payment. This can be beneficial as if the deal is structured correctly the taxation of the gain will be postponed until the new shares/bonds are sold. Please discuss any such deal with us at an early stage, as there are a number of conditions to meet to achieve full deferment of any capital gain.

VAT Errors Mean Penalties

If you receive a VAT inspection beware of accepting any adjustments to your VAT returns just to get rid of the Inspector. If you admit to a VAT error, even if it was your supplier's fault in charging the wrong rate of VAT, you will be charged a penalty of at least 15% of the VAT due. Please ask us for advice before the VAT inspector arrives.

Tax Deadlines

- 1 May**
New VAT scale charges for fuel used for private journeys in company cars. New international NIC rules and forms apply.
- 17 May**
Single farm payment claims for 2010 must reach Rural Payments Agency.
- 19 May**
Last day to file forms P35 & P14 online. Cheques for PAYE & NIC must reach HMRC, penalties apply for late payment.
- 26 May**
Last day HMRC will accept forms P14 & P35 without issuing automatic fine.
- 21 May**
Electronic PAYE payments for month to 5 May must reach HMRC.
- 31 May**
Give forms P60 to all those you employed at 5 April 2010. Corporation tax returns for year to 31 May 2009 must reach HMRC.
- 18 June**
PAYE and NIC cheques for month to 5 June must reach HMRC.
- 22 June**
Electronic payments for PAYE for month to 5 June to reach HMRC.
- 5 July**
Last day to reach PAYE settlement agreement for 2009/10.
- 6 July**
Forms P11D & P9D to reach HMRC and give copies to employees. Forms for reporting employee shares and share option schemes to reach HMRC.
- 19 July**
Cheques for PAYE & NIC due for month / quarter to 5 July to reach HMRC. Class 1A NIC due for 2009/10.
- 31 July**
Second payment on account of income tax due for 2009/10. £100 fine for 2008/09 tax returns still not submitted. 5% surcharge on unpaid income tax and CGT due for 2008/09.

Share Profits, Save Tax

Individuals with total income of £150,000 or more now pay income tax at a top rate of 50%, and everyone has had their personal allowances frozen or withdrawn, which amounts to a hidden tax rise. Changing your business structure may reduce the total tax your family pays.



Share the load

Simple tax planning works best. If your life-partner (spouse or otherwise), has a lower top tax rate than you, or is not using their full allowances, consider taking them on as a part-time employee in your business. The work your partner performs as an employee must be real and paid at the market rate.

Alternatively your life-partner could become a part owner of your business as a business partner, which allows more flexibility in the level of income they receive from the business. Check that your professional body or licensing authority will permit an additional person on the trading licence.

If you operate through a company consider giving ordinary shares in that company to your spouse or civil-partner. Beware of giving shares to children aged under 18, or using preference shares that do not have full voting rights. Manipulating dividends using dividend waivers is also not advisable.

A hybrid partnership/company structure can reduce the tax payable on profits. The company becomes a member of the limited liability partnership (LLP), and receives the income that would otherwise be taxed at very high rates on the individual partners. The funds in the company are released at a later stage as dividends, or on liquidation as a capital payment.

We should discuss your own circumstances in detail before making any changes to your business structure.

Reclaiming Overseas VAT

It is now much easier to reclaim the VAT your business has paid on expenses incurred in another EU county. You make a claim for the country concerned through the HMRC website, and its all done in English! HMRC will forward your claim to the relevant country, which will process the refund within four months of receipt. You should then receive the payment due within a further 10 days.

You mustn't claim for VAT that is blocked on certain purchases, such as for cars bought in the UK. There are different blocking rules in each EU country that are summarised in VAT notice 723A: Refunds of VAT in the European Community.

If you claim before 30 September 2010 you can recover overseas VAT incurred in the whole of 2009. Unfortunately claims for VAT paid on 2008 invoices are now out of time. Up to five claims can be made for each country for each calendar year: one for each quarter and a sweep-up claim for the whole year. The minimum amount of the VAT that can be included in each claim is €400 per quarter, or €50 for the final sweep-up claim for the full year. You can make just one sweep up claim for each country if you wish.

To make the VAT refund claim you need to register to use the VAT EU refunds system, which is part of the HMRC online service for VAT. Alternatively we can register on your behalf and submit VAT refund claims for you.

Tax Free Lunch?

If you are an employee (even of your own company), the tax free lunch exists, but not generally if you are self-employed.

Where all the employees, or all those working at one site, receive free or subsidised meals in a staff canteen on the same terms, the food is tax free for the employee. If some employees can opt-in or opt-out of the cheap meals using a salary sacrifice or flexible benefit arrangement, the 'same terms' condition is not met, so the tax exemption will be denied.

Where employees buy meals while travelling on business and present the receipt with their expenses claim, the cost is taxable but can be claimed on the employee's tax return. If the employer has a dispensation from reporting subsistence

expenses, the meal cost is not taxed on the employee. The employer can agree with HMRC to pay standard amounts (scale rates), to employees for meals taken while travelling or when working exceptionally late. Where an approved scale rate is paid the employee does not have to provide receipts for the meals.

HMRC do not allow the self-employed to claim the regular cost of meals taken while working. However, where the individual works away from home overnight, or makes the occasional business journey, which is not part of the normal pattern of the work, the reasonable cost of meals can be deducted. Long distance lorry drivers can claim reasonable expenses for breakfast and an evening meal if their journey requires them to sleep away from home.



Employees eat for free