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Welcome to our summer newsletter

With the Conservative leadership race underway and 'Brexit' still over our heads there is still much uncertainty this summer. However, the recent D-Day commemorations remind us that we have faced worse situations in the past. We owe a lot to the 'Greatest Generation' that gave their tomorrow for our today and take encouragement from the spirit they demonstrated and their determination to crack on with the business at hand.

In this edition we look at some of the most pressing tax issues with yet more attacks on our homes and forthcoming changes that will affect the accounting of VAT within the construction industry. We also meet the friendly team at The Mermaid Inn and find out more about a business which has been trading since the 12th century.

We hope you enjoy this issue.



Photo credit: The Mermaid Inn.



VAT CHANGES AFFECTING THE CONSTRUCTION INDUSTRY

The Domestic Reverse Charge comes into effect on 1 October 2019. If your business is in the construction sector then do read our article and supporting factsheet.

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THE FAMILY HOME IS UNDER ATTACK – YET AGAIN

Senior Partner Ian Pascall looks at yet more taxation issues on the Principal Private Residence.

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TAXATION OF CRYPTOCURRENCIES

Taking us right up to the minute, we look at tax considerations of cryptocurrencies.

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VAT - the Domestic Reverse Charge for Construction Services

From 1 October this year there will be a significant change to the way VAT is accounted for in the construction industry, with the introduction of the "Domestic Reverse Charge" (DRC) affecting certain supplies of construction and building services.

The change is being implemented as a measure to prevent missing trader fraud committed by subcontractors providing labour for construction services. This type of fraud occurs where a subcontractor provides labour to the main contractor, and charges VAT on this supply, but "disappears" before paying the VAT over to HMRC. Under the new system, the subcontractor would not charge VAT on its supplies to the main contractor – it would instead be accounted for by the contractor, by way of a reverse charge.

Who is affected?

The DRC applies to businesses in the chain of supply of construction services, where both the supplier and the customer are VAT registered. Construction services are defined as services falling under the long-running Construction Industry Scheme (CIS), so will be familiar to most businesses operating in the industry.

The supplies covered include most construction work such as:

- Groundworks.
- Demolition.
- Building work.
- Installation of heating and lighting systems.
- Painting and decorating.
- Cleaning the inside of buildings after construction work.



The following are examples of activities excluded from the definition of construction services:

- The professional services of architects or surveyors.
- The installation of security systems.
- Carpet fitting.
- Delivering materials.

End users and other exclusions

Supplies to "end users" are excluded from the DRC. End users are businesses that receive building and construction services, and have to report its payments for these through CIS, but do not supply these services alongside other building and construction services.

As an example, a retail business spending more than £1m a year on the construction of retail units for its own use, is classed as a "deemed contractor", and has to include such payments through CIS returns. They would however be classed as an end user and

would be excluded from the DRC, because they are using the construction services for themselves and not selling them on. In this situation, the supplier of construction services would need to charge VAT on its supplies as normal.

End users should be writing to their suppliers to make them aware that end user status applies. If a business wrongly claims end user status then they will still be liable for the output tax that should have been paid, and penalties may also be applied.

There are also exclusions for certain scenarios with supplies to connected businesses, or where the supplier and recipient are landlord and tenant, and the DRC does not apply to zero-rated construction services nor services supplied to a customer who is not registered for VAT.

How it will work in practice

When making a supply to which the DRC applies, suppliers must show all the information normally required to be shown on a VAT invoice, and annotate the invoice to make clear that the domestic reverse charge applies and that the customer is required to account for the VAT. The amount of VAT due under the domestic reverse charge should be clearly stated on the invoice but should not be included in the amount shown as total VAT charged.

The business receiving the supply of services to which the DRC applies, will need to account for that VAT amount through its own VAT return instead of paying the VAT amount to its supplier. It will be able to reclaim that VAT amount as input tax, subject to the normal rules.

Subcontractors supplying services under the DRC may need to consider the impact to their cashflow. The opportunity to use VAT as working capital between the time it is received from the customer and the time it is paid over to HMRC will no longer exist.

Contractors will no longer suffer a delay between paying out VAT and recovering it, since both will now be dealt with on the same VAT return.

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Clearly, the new rules may take some getting used to. HMRC have indicated that they will operate a light touch on genuine mistakes and penalties for a period when the new rules are implemented. However, we would recommend that the possible impact on your business is looked at as soon as possible, so that action can be taken where necessary.

We can assist with the implementation of the Domestic Reverse Charge rules, including matters such as:

- Helping to assess whether your business will be affected.
- Assisting with the completion of VAT returns where the DRC applies.
- Ensuring your systems enable you to remain compliant with the DRC.



More information on these changes can be found in our Factsheet (bit.ly/2FuS3OS). Alternatively, please contact your local MFW office for further assistance and advice.



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Client Profile

The Mermaid Inn, Rye

Owning such a treasure

The Mermaid Inn, owned by Judith Blincow and Georgina Kite, has occupied the same site since 1156 in the picturesque cobbled Mermaid Street from which it takes its name. Whilst the cellars and underground tunnels date back to this time, the building you see today was rebuilt in 1420, following a devastating fire. Being custodians of such an old business, and its premises, must be a great responsibility; but it is a role that Judith and Georgina are passionate about, and one in which they both excel.

During our visit, we met with Judith, who originally started working at the Inn as a hotel receptionist in 1984 and has been working in the business ever since. We asked her what it was like to run her own business and what she attributes as the secrets for the business' success.

Know your business inside and out

Judith has worked on all areas of the business, except for the kitchen, which has given her an excellent oversight of how the business operates. When the opportunity arose in 1993 to become a co-owner of the business, she jumped at the chance. Whilst initially the prospect was daunting, she recalls that it also felt like winning the lottery. It was, for her, the ideal opportunity to put all her experience and knowledge to good use, as she knew exactly how she wanted to run the business.

On meeting Judith, you start to understand the passion she has for the Inn and how this drives her to work so hard. She admits that she is obsessed with the business and has, at times, even put it before her family. We asked Judith why the Mermaid is so special to her;



↑ L-R Georgina & Judith welcome you to The Mermaid Inn.

"From starting to work at The Mermaid in 1984, I dreamt of owning this lovely building. Unbelievably in 1993, the opportunity arose to fulfil that dream. Since then it has been my passion through loving stewardship to ensure she has lost none of her historical charms. This has been underpinned on sound business principles. This has enabled the business to grow and flourish."

Ensure you have great support

During our meeting, Judith stressed the importance of having a good team behind you and acknowledged that she and Georgina were lucky in this respect. Key personnel include Head Chef Ben Fisher, Restaurant Manager Sean Downey, and Bar Manager Amy Tarrant, but every member of staff is treasured and valued. Everyone, it seems, shares the same passion with many long-serving members of staff and even generations of the same family working together. This results in a fun and friendly team who are almost a family themselves.

Expect to plough money back, especially in the early days

The business had been neglected for some time when Judith and her co-owners took over. In the early days profits had to be ploughed straight back into the business to make much needed improvements and upgrade the facilities. That meant that money was often tight. However, Judith believes you must, "Never give up and just keep going." She did just that and the efforts and investments she and the rest of the owners made, together with the hard efforts of all the Mermaid Inn team, now speak for themselves with the business continuing to go from strength to strength.

Get professional advice

Georgina and Judith are clients of our Cranbrook partner David Boobbyer. David has been working with Judith since 1998 and with Georgina in the last five years when she bought into the business. As part of his duties, David prepares the business' accounts and acts as engagement partner on the annual audit in order to report to the business' Non-Executive Directors.

David also prepares and submits tax returns on behalf of the business and has previously assisted the business in coping with HMRC tax enquiries. He has also helped in preparing valuations of the shares.

Judith says of working with David,

"He is a meticulous person, who keeps me on my toes, and every year the audit feels like exam time, but every year we have passed. So David has been another vital element of our success."

From catholic priests to smugglers and ghosts

During our visit, Judith kindly gave us a tour of the Inn and regaled just some of the tales it has to tell.

Today the Mermaid Inn attracts visitors from across the globe but it can also lay claim to some illustrious former visitors too. From royalty in the shape of former sovereign Queen Elizabeth I to 'pop royalty' with a visit from former Beatle Sir Paul McCartney. The Mermaid can even boast an authenticated visit from arguably England's finest writer - William Shakespeare, no less. Inside Dr. Syn's Lounge, (named after the fictional smuggler created by Russell Thorndike), you will see a quote from his comedy, Love's Labour's Lost, as further evidence.

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↑ Linen Fold Panelled Restaurant

Photo kindly supplied by The Mermaid Inn.

The family home - yet again!



HMRC continues to find new ways to raise revenue and in the last couple of years they have been attacking what was for a very long time regarded as almost being untouchable – the family home – or “Principal Private Residence” (PPR) as it is formally known.

In our winter 2018 Newsletter (bit.ly/2E56Ek2) my colleague, Daniela Jarosova, wrote about the following changes:

- The reduction of the tax-free “no questions asked” final period of ownership from 36 months to 18 months and now to 9 months from April 2020. This is particularly relevant to those who can afford to buy a new home before the sale of their old one. If there are significant delays in selling, this could have a tax implication. It is also relevant to individuals who move from their home and then rent out the property before an eventual sale.
- Where a home had also been rented out during the period of ownership, a “lettings relief” of £40,000 was available. From April 2020, this relief is only available if owners actually share their occupancy with the tenants.

- In the 2018 case of *HMRC v Desmond Higgins*. Mr Higgins bought a flat “off plan” and was not able to take up residence until it was built some 39 months later. The Upper Tribunal considered that the gain made on the property should be time apportioned over the entire period of ownership and, as he only lived in the flat for 24 months, he was assessed to capital gains tax on a gain of £61,383. This scenario is somewhat different to the situation where an individual does not take up residence in the property immediately on acquisition because the property is being renovated. HMRC will, by concession, treat a period of up to one year as a period of residence. This period may be extended to up to two years if the delay was outside of the individual’s control, but it is only a concession, not law.

So, what else?

One might think that to avoid a problem with the last bullet point above, why not simply move in whilst the building work is being done? For this to work it would be necessary to prove “quality of occupation”. Let me explain by referring to the recent case of *Yechiel v HMRC*.

The taxpayer purchased the property in 2007 with the intention that it would be the family home for him and his fiancée. It needed significant work and planning permission to extend was applied for. The taxpayer subsequently got married, but the marriage became strained and in early 2011 divorce lawyers were instructed.

The taxpayer moved into the property for the first time in April 2011 while there were ongoing building works. He lived there for about 4 months before putting it on the market and moving back with his parents who lived 15 minutes away. The property was sparsely furnished,

Client profile continued... The Mermaid Inn, Rye

although he had a bed and slept there every night. He usually ate at his parents' house or bought takeaway food which he either ate standing up, in the car or in bed. He took all of his laundry to his parents' house.

The First Tier Tribunal found that the occupancy did not have the necessary **quality to constitute residence**. The occupation of the house should constitute not only sleeping, but also periods of "living", being cooking, eating a meal sitting down and generally spending some periods of leisure there. They concluded that the property did not qualify as a PPR.

HMRC know about all property transactions and, under self-assessment, taxpayers have to report chargeable capital gains on their tax returns. If a taxpayer believes they are entitled to claim PPR relief they will not make an entry on their tax return. If HMRC believes there is something to disclose then they will have to open up an enquiry. Quite how HMRC will know whether to enquire, or not, is unclear and there will be many instances, I would presume, when HMRC get it wrong, waste the taxpayers time, and cost them in professional fees. (Of course, these costs would be covered if they were our clients and had subscribed to our Tax Investigation Service - bit.ly/2Zr6Lhr).

Given all of these changes, now that there is some sort of relief for Inheritance Tax purposes in respect of the family home, is it only a matter of time before PPR relief from capital gains tax is eventually withdrawn?



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Wall panels and priest holes depict the scenes of fleeing priests during the time of the Catholic Reformation, whilst secret underground passageways tell tales of a time when smugglers pitted wits against the Revenue men. The Mermaid Inn was, after all, a favourite haunt of the infamous Hawkhurst Gang, a notorious gang of smugglers who, during the 18th century, terrorised the South of England.

If tales of famous visitors and smuggling exploits are not enough incentive for you to pay a visit then what about a ghostly tale, or two, about the Inn's resident ghosts who haunt six of the Inn's 31 bedrooms? Guests have told of ghostly sightings including sword fights accompanied by the sounds of clanging steel, which occur at the same time each night. In fact, so popular are the tales that Judith runs ghost tours every last Sunday of the month and promises that one day she will put pen to paper and write a book too.

Looking to the future

It is great to see such an old Inn thriving today and being so expertly maintained for future generations to enjoy. It must be due to this excellent custodianship, together with the passion of all at The Mermaid, that the Inn's future looks so rosy.



If you would like to book a room at The Mermaid Inn, or book a space on one of Judith's ghost tours, then do call the friendly team on 01797 223065 or visit their website at www.mermaidinn.com

Taxation of cryptocurrencies



Most people will have seen articles in the news over the last year regarding cryptoassets, or cryptocurrencies as they are more commonly referred to, such as Bitcoin and Ethereum.

New technology, driven by the IT age, has resulted in individuals being able to readily buy such assets online. This rise in people trading in cryptoassets has, of course, not gone unnoticed by HMRC, who at the start of this year released guidance regarding cryptoassets for individuals and the specific tax implications that buying and selling them could have. In this article, we will look at what cryptoassets are and what this means for individuals from a tax perspective.

What are Cryptoassets?

HMRC defines cryptoassets as 'cryptographically secured digital representations of value or contractual rights' that can be:

- transferred,
- stored,
- traded electronically.

HMRC have also identified three types of cryptoassets:

- **Exchange tokens** – cryptoassets intended for use as a method of payment. This includes cryptocurrencies like Bitcoin.
- **Utility tokens** – cryptoassets that provide the holder with access to specific goods or services. For example, a business may issue tokens and commit to accepting the tokens as payment for goods or services.
- **Security tokens** – cryptoassets that provide the holder with particular interests in a business, for example a share of profits.

The remainder of this article will focus on the most commonly known cryptoassets, exchange tokens, and the tax implications that owning them may bring.

Exchange Tokens and Capital Gains Tax (CGT)

The key point to be aware of when considering investing in cryptoassets, such as Bitcoin, is that HMRC does not consider them as money/currency. Instead, they are seen as 'chargeable assets' and therefore any gains realised on such investments will be liable to CGT. This seems slightly at odds with the usual CGT regime, as the cryptocurrency assets are digital and therefore intangible. However, they do count as 'chargeable assets' and fall within the boundaries of CGT, as they are both:

1. capable of being owned, and;
2. have a value that can be realised.

CGT is payable on the profit when you sell (or 'dispose of') an asset that has increased in value. Disposing of an asset includes selling it, giving it away as a gift, swapping it for something else or using it to pay for goods and services.

The current CGT rate is either 10% or 20% dependent on your level of income, and there is a tax-free allowance in respect of gains of £12,000 for the 2019/20 tax year.

Example:

You purchased 500 Bitcoins for £10,000 and later disposed of them for £30,000. This is a gain of £20,000 and is the amount that would be chargeable to CGT. Assuming the 10% tax rate is applicable to you and taking account of the tax-free allowance, the total tax payable to HMRC for this disposal would be £800.

It is therefore important that when purchasing cryptoassets that you keep accurate records of your purchase price, as this will be of significance for any CGT calculations later down the line.

Mining cryptoassets

In the early days of Bitcoin it was possible to generate them by "mining", simply by using home computers and laptops. Mining is a term used to describe how new cryptoassets are generated through the process of using computers to solve complex mathematical problems. However, things have now progressed and the sheer computational power required to solve these mathematical problems means that today, generally speaking, only specialised warehouses filled with high-end and powerful processors can cope with this, and that these need also to be based in countries with low cost electricity to make any sort of profit.

Whether mining amounts to a taxable trade rather depends on a range of factors, and would be subject to income tax. Similarly, if an individual receives cryptoassets as payment for services provided, then the pound sterling value would also be subject to income tax.

If the individual keeps the awarded assets, they may then have to pay CGT when they later dispose of them on any subsequent growth in value

Conclusion

There is no doubt that cryptoassets are a new avenue of investment that may appeal to some individuals. The price of a single Bitcoin rose from around \$0.003 in March 2010 to almost \$20,000 in December 2017, and this exemplifies the incredible gains that could come from such investments. However, values of cryptocurrency can also fall significantly and therefore the investments fall into the high-risk investment category. We recommend therefore that you seek advice from a reputable professional for this type of investment. It is also important to consider the tax liability on such transactions, when considering any investments. Whilst at McCabe Ford Williams we are unable to offer investment advice we can help answer and aid with any tax queries you may have on cryptocurrency and other investments. For more help call your local MFW office (mfw.co.uk/contact).



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Insolvency focus

HMRC Crackdown on Tax Abuse in Insolvent Companies

It must firstly be said that for the most part, company insolvencies occur as a result of genuine financial difficulties, but what about for the minority where this is not the case? There are a small number of companies that are placed into liquidation for the purpose of tax avoidance, tax evasion or "phoenixing".

The Finance Bill 2016 introduced the Targeted Anti Avoidance Rules (TAAR) to deal with solvent companies entering into a Members Voluntary Liquidation whereby the shareholders will receive a capital distribution (and often with entrepreneur's relief taking the rate of tax paid down to 10%) rather than a dividend. This treatment is normally absolutely fine unless another company is then set up in a similar field and the process is repeated, a process referred to as phoenixing.

However, when it comes to an insolvent company HM Revenue and Customs has limited powers to be able to challenge and indeed recover funds from those Directors who run up tax debts through avoidance, evasion and repeated non-payment and then place the company into liquidation.

Following consultations, it appears likely that new legislation will come into force in 2019/2020, which will allow HMRC to make Directors (and any other persons involved) jointly and severally liable for any tax liability arising from tax abuse where that company has become insolvent. The full consultation document can be found here <https://bit.ly/2YdQtbs>

It is anticipated that this new legislation will prevent companies using an insolvency process simply to avoid tax debts.

If you have a company that is having financial difficulties and are worried about personal liability then I would recommend that you seek professional advice as early as possible.

HMRC reinstated as a preferential supplier

Back in February I wrote a blog about the reinstatement of preferential status for HMRC following changes announced in the Autumn Budget, albeit this time around as a secondary preferential creditor. Whilst this is obviously good news for HMRC this will, of course, have an impact on other creditors. More details can be found in my blog (bit.ly/31VgXRu).



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Spotlight on Leigh Jones, FCCA - Partner, MFW Herne Bay

What do you enjoy most about being an accountant?

I like the fact that what most see as a compliance job, is actually about helping people. Many clients get really worried about compliance, payment of taxes and managing their business, so to take what worries some people so much and be able to ease their concerns, is quite rewarding.

What has been the most important life lesson you have had and what did you learn from it?

Ironically, the advice was given to me by an accountant, who said "to be a good accountant you don't need to know everything, you just need to know when to look something up". This has stayed with me in work, but in greater life the same principle applies. It's not about knowing everything all the time and there is no shame in needing some help.

How do you spend your spare time?

With two young children, my spare time is largely spent with my family, watching the children grow up and generally enjoying some family time. Having said that, with a job that sees me sitting down nearly all day long, I try and spend any other time being active in a combination of playing squash and going to the gym.

Name your favourite holiday destination

I can't narrow this to one, I have two for different reasons. As an adult, for me it is Dubai. I have so many happy memories from spending part of my honeymoon there and am always at my happiest in the hot sunshine. But having spent year upon year in Cornwall on holiday as a child and now with two young girls, I do love the relaxed way of life in Cornwall and that it provides so many things



↑ Leigh with his wife Hannah and daughters Freya and Mia.

for children to do. Two very different types of holiday, but both have their place.

What makes you laugh?

I think we work in a profession where most people think we don't know how to. For me though, it is probably a good stand-up act. Having said that, I do find the non-existent filters of children gives many a raised smile.

What words of wisdom will you give your children?

Education is important, but to do well at anything in life, you need to have a passion for what you do, and a work ethic to make you good at it.



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