



# OPASS BILLINGS WILSON & HONEY LLP

NUMERIC HOUSE, 98 STATION ROAD, SIDCUP, KENT DA15 7BY  
TELEPHONE 020-8300 2307 FACSIMILE 020-8300 4239  
EMAIL [opass@obwh.com](mailto:opass@obwh.com)  
WEBSITE [www.obwh.com](http://www.obwh.com)

# Tax Matters

## What a relief! Cutting the CGT bill

**Introduced in April 2008, Entrepreneurs' Relief is a valuable relief that reduces the amount of capital gains tax (CGT) payable on the disposal of qualifying business assets. This article includes advice to help you maximise the relief and minimise your CGT liability.**

To qualify for the relief, certain conditions must be met. The amount of gains qualifying for relief is capped at the lifetime limit (currently £10 million). Gains up to the limit qualify for a reduced rate of capital gains tax of 10%.

### Qualifying business assets

Generally, Entrepreneurs' Relief is available to individuals on the disposal (after at least one complete qualifying year) of:

- all or part of a trading business carried on alone or in partnership
- the assets of a trading business after cessation
- shares in the individual's 'personal' trading company
- assets owned by the individual used by the individual's personal trading company or trading partnership.

### Qualifying conditions

Depending on the type of disposal, certain qualifying conditions need to be met throughout a qualifying one year period.

For example you must have owned the business during a one year period that ends on the date your business was disposed of – if you are selling all or part of your business – or, if your business has ceased, on the day that it did so.

Relief is also available for associated disposals. However, this is a complex area and it is advisable to seek professional assistance.

### Lifetime limit

There is a maximum lifetime limit on the amount of Entrepreneurs' Relief you can claim on qualifying gains. As announced in the 2011 Budget, for disposals on or after 6 April 2011 the lifetime limit is £10 million.

### Maximising relief

Husbands, wives and civil partners each qualify for Entrepreneurs' Relief in their own right, giving potential relief on £20 million of gains per couple. This may be further increased in a family company situation.

However, to qualify, each individual must meet the qualifying conditions for the one year qualifying period. This means that forward planning is essential if you want to maximise relief. This is particularly pertinent where shares need to be transferred between spouses, as it is essential to do this at least a year in advance to ensure that the conditions are met throughout the qualifying period.

Each spouse must also hold at least 5% of the shares and voting rights to qualify for relief, but in anticipation of a sale an equalisation of holdings might maximise relief if it can be processed more than a year ahead.

If, on the other hand, one spouse holds less than 5% of the shares and the other spouse has met the qualifying conditions, assuming the lifetime limit has not been exceeded, transferring the small holding to the qualifying spouse just before the disposal will also mean relief can be obtained on all the shares. This approach can also be adopted if time is short and one spouse has not held a 5% holding for the requisite qualifying period.

The 10% rate applies to all gains qualifying for relief, irrespective of whether the taxpayer is a higher rate taxpayer. This can generate CGT savings of up to £1.8 million.

**Please contact us for further advice on how to minimise your CGT liability.**



### Inside this Issue...

*Revenue goes on the offensive*

*Tax breaks for charitable giving*

*VAT timing penalties – some good news for businesses?*

*Some VAT do's and don'ts*

*Tax Round-Up*

*Tax Tip and Reminders for your Autumn Diary*



**Autumn  
2011**

# Revenue goes on the offensive

HMRC is carrying out a series of campaigns throughout 2011/12 in an attempt to tackle what it sees as tax avoidance.

During the summer, it launched a new campaign to target VAT rule-breakers trading above the £73,000 turnover threshold who have not registered for VAT. Those that notify HMRC of their intention to take part before the deadline, and then make a full disclosure, may face a reduced penalty rate.

HMRC has also published details of a separate campaign that will target those who use e-marketplace sites such as e-Bay and Amazon to buy and sell goods as a trade or business. While occasional sellers are unlikely to be liable to tax, people earning a living as self-employed traders may need to pay income tax, national insurance and VAT.

## Private tutors

In addition, HMRC also intends to scrutinise the tax affairs of private tutors and coaches who are able to earn either a main or secondary income from their expertise. The campaign covers people providing private lessons, regardless of whether they have a teaching qualification, and could include, for example, fitness/dance/lifestyle coaches through to national curriculum subject tutors and others.

If you have any questions or concerns about the issues raised here, please contact us.



# Tax breaks for charitable giving

There is a wide range of tax reliefs available for gifts to registered charities. This article considers some of the most popular reliefs available and includes details of the forthcoming changes proposed by HMRC.

## Gift Aid

The Gift Aid scheme is well-known and provides relief for gifts to charity. Community Amateur Sports Clubs are also able to benefit from the scheme. The scheme applies where gifts are made by UK taxpayers. The donor must complete a Gift Aid declaration confirming that the gift is to be treated as a Gift Aid donation. The gift is treated as being made net of the basic rate of income tax and the charity then reclaims the basic income tax from HMRC. If the individual is a higher or additional rate taxpayer, tax relief on the difference between the basic rate and the higher or additional rate, as appropriate, is reclaimed via the Self Assessment tax return.

### Example

Lucy is a higher rate taxpayer. She makes a donation of £80 to a charity under the Gift Aid scheme.

The donation is treated as being made net of the basic rate of tax. The gross donation is £100 (£80 x 100/80). The charity reclaims the tax of £20 from HMRC.

As Lucy is a higher rate taxpayer she is entitled to relief at 40% (i.e. £40). Basic rate relief (£20) is given at the time the deduction is made (as Lucy pays the net amount to the charity). The balance of the relief is given via Self Assessment by extending the basic rate band.

There is no limit on the donations that can be made under Gift Aid as long as the individual has paid enough tax.

However, there is a cap on the benefits that may be given to a donor in exchange for a donation. The benefit allowed in relation to gifts of £10,000 is capped at £2,500 (£500 before April 2011) or 5% of the donation if lower.

During 2012/13 HMRC is planning to introduce a new online system for registering Gift Aid details and making Gift Aid claims. In addition, from April 2013 charities will be able to claim Gift Aid on small donations of £10 or less (up to a maximum of £5,000 a year) without the need for a Gift Aid declaration.

## Payroll giving

Under payroll giving employees can make gifts to charity through the payroll. The donations are deducted from gross pay and as a result tax relief is given at source.

## Shares and securities

Income tax relief is available for certain gifts of shares and securities to charities. This relief extends to gifts of shares and securities listed on a recognised stock exchange or on the Alternative Investment Market (AIM), shares in an authorised unit trust, open-ended investment company and in certain collective investment schemes. Relief is given on the market value of the shares at the time they are given or sold to the charity, plus costs of disposal, less any consideration received. Relief is claimed via the Self Assessment tax return.

## Gifts of property

Income tax relief is also available for certain gifts of land and buildings to charity. As with shares, the relief is given on the market value of the property plus incidental costs of disposal, less any consideration. Again, it can be claimed via the Self Assessment tax return.

## Works of art

The Government is to consult on introducing a tax reduction for taxpayers who give a work of art or historical object of national importance to the State.

## Reduced rate of inheritance tax

In relation to deaths occurring on or after 6 April 2012 a reduced rate of inheritance tax will apply where 10% or more of the deceased's net estate (after deducting IHT exemptions, reliefs and the nil rate band) is left to charity. This rate of inheritance tax on the remainder of the estate is reduced from 40% to 36%. The proposals are subject to consultation.

**Please contact us to discover how you can make the most of the tax reliefs available. We would be delighted to assist you.**



# VAT timing penalties – some good news for businesses?

Following the introduction of a single penalty regime, making an error on your VAT return can prove costly. However, there may be some good news for businesses after HMRC confirmed that it is taking a 'softer' approach to the penalties charged as a result of timing errors.

## Correcting errors

Where an error is made on a VAT return, it is often possible to correct the error on a subsequent return. The procedures for correcting errors in VAT returns are set out in Notice 700/45, which is available to download from the HMRC website ([www.hmrc.gov.uk](http://www.hmrc.gov.uk)).

However, following the introduction of a single penalty regime for inaccurate tax returns and other documents (including those for VAT), any form of mistake made in calculating your VAT return figures could attract a penalty. These rules also make provisions for inaccuracies relating to timing differences e.g. where the VAT on an invoice should have been included in an earlier period.

Where a timing error has occurred, a penalty is not charged on the full amount of the error. Rather, if a return contains an inaccuracy that relates to a timing error which is automatically reversed in a subsequent tax period, the penalty is calculated on a reduced amount. The penalty is not charged on 100% of the tax involved, but on 5% of the delayed tax for each year of the delay. Where the delay is less than one year, this is reduced proportionately.

HMRC's Briefing gives the following example:

*If someone reclaims £100,000 VAT on a purchase in period 1 when it should have been reclaimed in period 2, they claim £100,000 too much in the first period but £100,000 too little in the second. Any penalty for the over claim in period 1 is not calculated on the £100,000 but on a reduced amount to take account of the automatic reversal of the inaccuracy in period 2.*

## Revised position

Until recently, HMRC's approach has been that, in order for the penalty to be calculated on the reduced potential lost revenue figure, the taxpayer had to have submitted the returns covering both the periods in question. As such, there are cases where HMRC has charged a penalty on the full amount because the second return had not yet been submitted.

However, HMRC has now reviewed its position for these cases. Where it is satisfied that, but for its intervention, the inaccuracy would have been automatically corrected in a subsequent return, taxpayers will receive the reduced penalty based on the rules for delayed tax.

It is important to note that this only applies to timing inaccuracies – i.e. those that are automatically reversed in a subsequent period after they are made without you having to do anything more.

## Take action if necessary

If you have been charged a penalty on the full amount of the error in these circumstances, we can contact HMRC to request that the penalty is reviewed. Please contact us if you require assistance. More details on the recent changes are available on the HMRC website under Business Brief 15/11.

**If you have made an error in your VAT return, it is important to notify HMRC as soon as possible. We can help with your VAT queries and concerns – please contact us for further advice.**



## Some VAT do's and don'ts

✓	DO keep a monthly record of your turnover – late registration can result in severe penalties	✗	DON'T claim the VAT paid on the purchase of a motor car – it is not recoverable except in some very special cases
✓	DO notify your local VAT office when major changes take place – changes must be notified within 30 days	✗	DON'T claim the VAT paid on goods or services used for private purposes. Where there is an element of private use (e.g. telephone) an appropriate percentage should be claimed. Special arrangements apply to private use of fuel
✓	DO retain records for the last six years – these could be demanded by law	✗	DON'T claim the VAT paid on entertaining (except for reasonable, relevant costs of entertaining overseas customers)
✓	DO obtain and keep VAT invoices – these are your authority to claim back VAT on supplies made to you	✗	DON'T charge VAT on the transfer of a business as a going concern (make sure contracts incorporate appropriate VAT provisions)
✓	DO account for VAT on fuel used for private motoring using the appropriate scale charge		





# Tax Round-Up

## Latest PAYE errors revealed

HMRC has sent letters to up to 4.7 million taxpayers informing them that they paid either too much or too little income tax in 2010/11.

Every year HMRC conducts a reconciliation exercise to check that people have paid the right tax via the PAYE system. Last September, HMRC faced severe criticism when it emerged that 5.7 million people had not paid the correct tax via PAYE for the years 2008/09 and 2009/10, which led to about 1.4 million people having to pay an extra £1,428 each on average, while about 900,000 taxpayers had their debts of up to £300 written off. The explanation given by the Revenue was that a new, more effective computer system had revealed previous calculation errors.

This year the reconciliation exercise for 2010/11 took place in late July. HMRC estimates that between 1.7 and 3.5 million people will be repaid an average of £340 each, while 1.2 million will owe £500-£600 each.

Cheques for people previously overtaxed are being issued in August and September, and calculations for underpayments will be sent in batches after that, with the last going out in December.

Those presented with a bill will have time to challenge the calculations if they think they are wrong. If the challenge is unsuccessful then the money will be taken from their earnings each month via a change to their PAYE tax code for 2012/13. Up to £3,000 per individual will be collected this time via PAYE, more than the previous limit of £2,000.

## Changes to the Low Value Consignment Relief threshold

With effect from 1 November 2011, the Low Value Consignment Relief (LVCR) threshold – the level below which goods imported from outside the EU are VAT-free – is being reduced from £18 to £15.

LVCR was introduced in the UK in 1984 at a level of £18, the maximum permitted under EU law. However, the burgeoning growth of UK online sales for items such as CDs and DVDs has led to claims that British businesses are facing a competitive disadvantage.

At the 2011 Budget the Government said its intention was to stop the LVCR from being exploited and to 'improve the competitive position of UK small and medium enterprises'.

Although some experts have argued that November's £3 reduction in import tax is unlikely to have a significant impact, the Government has signalled that it will review the issue again at the 2012 Budget with a view to reducing it further.

**As accountants, we can advise on a wide range of personal and business tax issues.**

**Please contact us to discover how we can help you maximise your personal wealth, increase your business turnover and minimise your tax liability along the way.**

## Tax Tip

### Making a 'green' purchase?

When considering purchasing new equipment for your business, find out whether it is energy or water efficient. If it is, you could benefit from the Enhanced Capital Allowances scheme, which offers a 100% deduction for the cost in the year of purchase.

Check the list on [www.eca.gov.uk](http://www.eca.gov.uk) to see if your purchase qualifies.

## Reminders for your Autumn Diary

### September 2011

30 End of CT61 quarterly period.

Last day for UK businesses to reclaim EC VAT chargeable in 2010.

### October 2011

1 Due date for payment of Corporation Tax for period ended 31 December 2010.

5 Individuals/trustees must notify HMRC of new sources of income/chargeability in 2010/11 if a Tax Return has not been received.

14 Due date for income tax for the CT61 quarter to 30 September 2011.

19/21 Quarter 2 2011/12 PAYE remittance due.

31 Last day to file 2011 paper Tax Return without incurring penalties.

### November 2011

1 £100 penalty if 2011 paper Tax Return not yet filed. Additional penalties may apply for further delay. Please ensure you are retaining your documents for the 2012 Tax Return.

2 Submission date of P46 (Car) for quarter to 5 October.