The Construction Industry
Joint Taxation Committee

JTC

JTC NEWSLINE

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VAT treatment of non-residential conversions without planning consent – new briefing from HMRC

HMRC have published a brief clarifying their position on the VAT treatment of the conversion of non-residential properties into dwellings where statutory planning consent is no longer required. They have had to do this because the law absolutely requires planning consent before zero-rating could be granted.

The changes also affect conversions by private individuals under the DIY Housebuilders Scheme.

By way of background: Permitted Development Rights (PDRs) have been introduced to streamline the planning process by removing the need to obtain full statutory planning consent for certain property conversions.

In England, PDRs permit the conversions of buildings such as shops, offices and agricultural buildings into dwellings. PDRs have more restricted application in Wales and have not been introduced in Scotland or Northern Ireland.

The conversion of non-residential property into a building designed as a dwelling or dwellings is zero-rated, but, in order to meet the legal definition of 'designed as a dwelling' statutory planning consent had to have been granted, and the conversion must have been carried out in accordance with that planning consent. So PDRs whilst they seemed to have streamlined planning processes rather gummed up zero-rating and something else was needed.

HMRC have confirmed that the conversion of non-residential property without statutory planning consent will continue to be zero-rated but that they will require evidence to be produced to show that the work is lawful, such as written notification from the local planning authority advising the grant of prior approval or advising that prior approval is not required. If this applies to you you should read Revenue and Customs Brief 9/2016 at **bit.ly/JTC92016**.

In a nutshell, take special care when the conversion of a building into a dwelling does not require Planning Consent. There is a chance that the work may have to be standard rated. ■

Conversion of old pubs into dwellings - take care

Old public houses are now often surplus to requirements and are being sold for conversion to dwellings. They frequently contain the old living accommodation of the publican so the conversion work poses considerable problems for zero-rating and reduced-rating VAT.

The problems are so extensive that cases often come up at Tax Tribunal and the law is not certain or straightforward.

A recent case has been won by taxpayers where the building was divided into houses vertically rather than into flats horizontally and every unit contained a small part of the old publican's accommodation.

Until the law is better established, never undertake the conversion of a public house without getting specialist advice. ■

Capital Gains Tax (CGT) residential property

There have been a number of recent changes in the taxation of income and gains arising from UK residential property.

Private residence relief (PRR)

- From April 2014 the exempt final period of ownership was reduced from 36 to 18 months.
- From April 2015 UK residents may only claim PRR on their foreign homes if they are present in the property for 90 midnights during the tax year.
- From April 2015 non-UK residents may only claim PRR on a UK home if they are present in the home for 90 midnights.
- HMRC is proposing to reduce the reporting and payment deadline for UK residential property gains to 30 days from April 2019.

CGT: New rates and residential property

- From April 2016 capital gains tax rates fall to 10% and 20%.
- These lower rates will not apply to residential property gains which will continue to be taxed at 18% and 28%. ■

When you submit a tax return online

When you submit a tax return online there will be a calculation of the tax payable. Some people have, for example, made no note of the figure and logged back in to check the tax payable figure only to see 'no tax payable'.

Do not rely on this message. It appears because the HMRC system is slow in processing the information on returns.

If you think you owe tax when you submit a return, you do owe tax. Incorrect messages on the HMRC dashboard are no excuse for late payment when it comes to penalties for late payment of tax. ■

File outstanding 2014/15 returns to avoid £10 daily penalties

Anyone who has not yet filed their online self-assessment tax return with HMRC for the year ended 5 April 2015, must do so by the end of this month or risk being charged more money.

After this point the tax authority is allowed to charge individual taxpayers with overdue tax returns £10 per day until the return is submitted. These fines are on top of the £100 fixed penalty that HMRC will already have charged people for missing the statutory filing deadline of 31 January 2016.

The additional £10 per day penalty can be charged for a maximum of 90 days and so anyone who still has a return outstanding at the end of July will have accumulated fines of £1,000 in total. They are also likely to incur a further penalty of at least £300 if the return is not filed by 31 July 2016.

It is worth getting expert help if your 14/15 return is not in because the penalties may well cost more than the accountant from this point on. ■

Reporting expenses and benefits in kind for 2015/16

Cheer up – this will be the last year, or almost the last year of so many P11Ds for most employers. There is new guidance relating to the year-end requirements for expenses and benefits.

Forms P11D

Employers who submit P11D information in a list rather than completing forms for each employee must:

- Use a font size no smaller than 11-point Arial.
- Sort the list by employee, not by benefit.
- Include the employer reference.
- Include each employee's name, National Insurance number or date of birth and gender.
- Include all expenses and benefits provided to an employee on the same list.
- Show the code letters assigned to each P11D benefit.
- If employees have had expenses and benefits payrolled, these should be marked as such.

Amended forms must show the original amounts and items as well as the revised ones.

Forms P11D (b)

Paper forms submitted to HMRC which show a Class 1A NIC amount due must have an original signature written in ink.

Paper forms which include a charge will be rejected if they are photocopies, scanned copies or include a stamp of a signature.

Amended forms must show the original amounts and items as well as the revised ones.

Paying Class 1A NIC

Use your 13 character accounts office reference followed by 1613 when making the Class 1A NIC payment. ■

Apprenticeship Levy

Many small businesses will benefit from proposed amendments to Finance Bill 2016 which will enable connected employers to share the £15,000 Apprenticeship Levy allowance which will be introduced from April 2017.

The Apprenticeship Levy will be charged at 0.5% of employers' pay bills. This is subject to an allowance of £15,000 which is intended to ensure that only the largest employers, with pay bills in excess of £3 million, would be affected by the charge.

Originally the proposals were that where companies were connected with each other, only one could claim the allowance; if there was more than one employing company then each additional employer would be subject to the charge regardless of its size. As a result more companies would be affected by the charge than was intended.

HMRC have announced that the Finance Bill will be amended so that a group of connected companies can share the £15,000 allowance between them in any proportion that they choose. The proportion of the allowance that each company will receive will be decided by them at the beginning of each tax year and cannot then be changed until the next tax year.

Companies are connected if one of them has control of the other or if both are under the control of the same person or persons. A person or persons have control if they are entitled to the greater part of a company's votes, income or capital on a winding up. ■

HMRC PAYE and payroll reminders

Employers' NIC allowance

- A limited company whose director is the only employee is no longer eligible to claim the allowance.
- Companies affected need to stop their claim using an Employer Payment Summary (EPS).

Micro employers

- The two year on-or-before reporting relaxation for employers with fewer than 10 employees ended on 5 April 2016.
- All employers must now report their PAYE information on or before each payday unless there is a genuine reason for reporting late.

Auto enrolment payment increases

- The date that payments increase has been aligned with the tax year.
- Payments will now increase from 2% to 5% in April 2018 (instead of October 2017).
- Payments will now increase from 5% to 8% in April 2019 (instead of October 2018).
- Employer staging dates are not affected.

Useful reminders for Employment Intermediaries

- Since April 2015 Employment Intermediaries have been required to make quarterly reports when they supply workers without operating PAYE.
- From April 2016 Employment Intermediaries cannot pay any sort of travel and subsistence allowances free of tax. More information at **bit.ly/JTCEmpInt.**

Useful reminder for employers - Expenses exemption:

- From April 2016 dispensations cease to exist.
- An exemption for reimbursement of qualifying expenses is introduced instead enabling employers to pay employee expenses without deducting PAYE or NIC
- A new pdf version of booklet 490 Employee Travel: A tax and NIC guide for employers is available at **bit.ly/JTC490travel**. ■

Flat rate VAT

A revised notice has been issued for the Flat Rate VAT scheme, VAT Notice 733 - flat rate scheme for small businesses. It has revised guidance on which rate to use if a business does not clearly fall within one of the trade descriptions offered. ■

If you have a query regarding any of the items featured in this issue of newsline please contact Liz Bridge.
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