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Tax Newsletter

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**CHARTERED
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Foreword

Welcome to the November 2011 issue of the Anderson Anderson & Brown LLP tax newsletter.

We hope you find the information in this newsletter to be useful. Please do not hesitate to contact us should you wish to discuss your own tax affairs in more detail.

Changes to Capital Allowances effective from 1 April 2011

- The period for which an asset can be treated as a short life asset has increased from 4 to 8 years for expenditure incurred after 1 April 2011. A short life asset claim can be beneficial when a company expects to sell or scrap an asset within 8 years.
- There have been changes made to the Enhanced Capital Allowances Scheme effective from 1 October 2011 to introduce more items which can receive 100% first year allowances. In particular the changes will include certain energy efficient hand dryers and will revise the criteria for automatic monitoring and targeting equipment. Visit <http://etl.decc.gov.uk/etl> for more specific information on products listed.

Changes to Capital Allowances effective from 1 April 2012

- The annual investment allowance will substantially reduce from £100,000 per year to £25,000.
- The writing down rate on main pool items will reduce from 20% to 18%.
- The writing down rate on special rate pools will reduce from 10% to 8%.
- For accounting periods that straddle the 1 April 2012, all of the above changes will result in a hybrid rate being applied for the entire year. For example a company with a year ending 30 June 2012 will have the following rates applied for the entire year:
 - Main pool - 19.5%
 - Special Rate pool - 9.5%
 - The annual investment allowance will be £81,250

Planning Point

Review planned capital expenditure pre 01/04/12 with a view to accelerating expenditure where possible to fully benefit from the Annual Investment Allowance before it reduces.

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Improved Research and Development Reliefs

The corporation tax deduction for qualifying expenditure under the SME Scheme has been increased from 75% to 100% (giving a total deduction of 200%) for expenditure on or after 1 April 2011. From 1 April 2012 the rate will be increased to 125% (giving a total deduction of 225%).

For a company paying tax at 26%, it receives tax relief of 52% on qualifying R & D spend from 1 April 2011 and 56.25% from 1 April 2012.

To allow for these increases, Vaccine Research Relief for SMEs will be reduced to 20% from 1 April 2011 and no claims will be possible by SMEs from 1 April 2012.

From 1 April 2012, and subject to further consultation:

- the rule limiting an SME company's repayable R & D tax credit to the amount of PAYE and NICs it pays will be abolished
- the £10,000 minimum expenditure condition will be abolished for all companies
- changes will be made to the rules for relief under the Large Scheme for work done by subcontractors

If you think that your company may qualify please get in touch with Moira McMahon, our R & D tax specialist

A new regime for foreign branch profits and losses

Finance Act 2011 introduced changes to the tax treatment of foreign branch profits and losses. Under the old rules, foreign branch profits are always subject to UK corporation tax, with credit relief available for the foreign tax suffered on the same profits (commonly known as double tax relief). If no credit relief can be taken the foreign tax suffered is deductible as a trading expense, reducing the profits subject to UK corporation tax.

Companies now have the option whether to elect into a new regime under which foreign branch profits are exempt from UK corporation tax with the flipside being that no UK tax relief is available for foreign branch losses. Important points to note before electing:

- the election applies to ALL foreign branches through which a company is currently trading, has previously traded or plans to trade in the future
- the election is irrevocable
- the election applies only to the company making it. In a group situation each company must elect separately.
- the taxable profits and losses of each branch must still be calculated as under the old regime

There are transitional rules in relation to loss making branches. The election will only apply after branch losses in the previous 6 years have been matched with branch profits.

To discuss the new regime for foreign branches further please contact Laura Campbell



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Watch out for phishing scams!

Do not open suspicious emails from HMRC - they do not send notifications of a tax rebate by email, or request that you update your security certification.

If you receive an email that doesn't address you by your first name or surname and then asks you to click on a link and/or disclose your details, you may well be revealing your details to a fraudulent website.

If you receive emails purporting to be from HMRC then please forward them to us as these are reported.

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Changes to associated company rules

The tests to determine whether or not a company is associated with another changed in Finance Act 2011. These changes will apply to accounting periods ending on or after 1 April 2011 and can affect the rate of corporation tax paid by a company.

If a company has no associates, it pays tax at the small companies rate of 20% on £300,000 of profits. If it has one associate the threshold is reduced to £150,000, two associates reduce the threshold to £100,000 and so on.

To determine the number of associates a company had under the old rules, it was first necessary to determine which person (or group of people) directly controlled a company according to:

- Share capital or issued share capital;
- Voting power;
- Income distributed to shareholders;
- Entitlement to assets on a winding up.

The next step was to look at indirect control - the rights of the individual were aggregated with the rights of his or her associates. The most common associates included blood relatives and business partners.

Under the new rules you only need to look at the direct control test unless one company has a relationship of 'substantive commercial interdependence' with another company.

Where there is substantial commercial interdependence between the companies you extend the control test to consider indirect control. So a husband's company will only be 'associated' with his wife's company if there is substantial commercial interdependence between the companies.

Substantial commercial interdependence is determined by taking the following factors into account:

- Financial interdependence where one company gives financial support to another or one company has a financial interest in the other
- Economic interdependence where the companies have common customers or the activities of one benefits the other or they seek to realise the same economic objective.
- Organisational interdependence where the companies share the same management or employees or premises or equipment

If companies are substantially commercially interdependent you must aggregate the rights of associates to determine if the companies are associated.

If you have any queries regarding any of the points listed above please get in touch with your tax manager or tax partner



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Reduction to the main rates of corporation tax

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|------|--------------|-----|
| From | 1 April 2011 | 26% |
| | 1 April 2012 | 25% |
| | 1 April 2013 | 24% |
| | 1 April 2014 | 23% |

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