AAT Weekender 2014
Dr Steed's tax clinic

KAPLAN
HAWKSMERE

aat

Dr Steed's tax clinic

The Doctor will see you now.....

Question 1- Entrepreneurs’ Relief

- A client of mine has sold some agricultural land, which has had some grazing. This represents a significant portion of all the land owned.

- Is this a disposal of a business asset?

- And does he get ER?

Question 2

- Can you briefly explain how Entrepreneurs' Relief works for a sole trader who has an opportunity to sell their business; how to claim it and is it still available to claim?

Q1 and Q2 – conditions for ER for a sole trader

- ER available for a "qualifying business disposal"

- There are three of these:

  1 A "material disposal" by an individual;

  2 A disposal by an individual which is associated with a material disposal;

  3 A disposal by a trustee.

- To claim ER you have to meet the relevant qualifying conditions throughout a period of one year.

Q1 and Q2 – restriction to “relevant business assets”

- These include:

1 Goodwill;

2 The disposal of a business (or part of a business) carried on by the individual (ie the assets used in the business)

(includes business premises, but not shares held as investments, or other investments)

Important point

- Entrepreneurs' Relief is **not** available on the disposal of assets of a continuing business unless they are a disposal of a distinct part of the business;

- So the odd asset sale is not designed to attract the relief.

Associated disposals

- ER is also available on “associated disposals”

- Not relevant here – because an individual;

Claiming ER

- ER must be claimed by the individual;

- The claim must be made in writing by the first anniversary of the 31 January following the end of the tax year in which the qualifying disposal takes place;

- That is one year and 10 months from the end of the
- tax year in which the qualifying business disposal is made.

- For a qualifying business disposal in the tax year 2013–14 (ending on 5 April 2014) you must make a claim for Entrepreneurs' Relief by 31 January 2016.

Claiming ER

- If you can you should claim Entrepreneurs' Relief in your tax return;

- If you cannot make your claim in your tax return then a claim may be made to us either in writing or by filling in Section A of the form at the end of Helpsheet 275
- (available on HMRC's website).

Question 1 – relevant issues

- Is it a trade?
- Is it a business?

- Cessation of trade?
- OR
- Disposal of an investment asset?

Question 3

- Please ask Michael if we can have a detailed explanation of the correct accounting and tax treatment when transferring fixed assets from a ST to a company with reference to S266, CAA 2001.

Question 3

- TUS 2010 Helpsheet;

- On the AAT's website;

- Useful tax elections on incorporation.

Useful tax elections on incorporation include:

- S266/267, CAA 2001;
- Transfers the capital allowances pool from the ST business to the newly incorporated company at Tax Written Down Value (TWDV);
- This is a useful election because it saves having to deal with balancing allowances and charges.

Accounting and tax treatment

- Accounting treatment:
- Create disposal accounts and sweep the cost and the accumulated depreciation into it;
- Creates a profit or loss on disposal;
- But it is overwritten for tax.

The tax treatment

- Insert a disposal value that neither gives rise to a balancing charge or a balancing allowance

- (ie use the TWDV as the disposal value).

- Tax tip: CA29040

Question 4

- My client purchased significant assets last year but did not claim AIA due to his tax situation.

- This year, he could really use the AIAs on that spend.

- Can he claim now for last year's expenditure, or is he stuck with just WDAs?

The Annual Investment Allowance

- 1/6 April 2008 to April 2010 £50,000
- 1/6 April 2010 to April 2012 £100,000
- 1/6 April 2012 to 31 December 2012 £25,000
- 1 January 2013 to 31 March 2014/5 April 2014 £250,000
- 1/6 April 2014 to 31 December 2015 £500,000
- 1 January 2016 onwards £25,000

Example y/e 31/03/13

AIA £25,000 | AIA £250,000 | AIA £500,000

1 April 12 | 31 Dec 2012 | 1 April 14 | 31 Dec 2015

Year ended 31.3.2013

(275/365) x £25,000) + (90/365 x £250,000) = £18,836 + 61,644

£80,480

Max for expenditure:
1.4.2012 – 31.12.2012 = £25,000

1.1.2013 – 31.3.2013 = unused amount up to £80,480

Example – y/e 31/03/14

AIA £25,000 | AIA £250,000 | AIA £500,000

1 April 12 | 31 Dec 2012 | 1 April 14 | 31 Dec 2015

Year ended 31.3.2014

(365/365) x £250,000)

£250,000

Example y/e 31/12/13

AIA £25,000 | AIA £250,000 | AIA £500,000

X 1 April 12 — 31 Dec 2012 — 1 April 14 — 31 Dec 2015

Year ended 31.12.2013

(365/365) x £250,000)

£250,000

Example y/e 31/12/14

AIA £25,000 | AIA £250,000 | AIA £500,000

1 April 12 | 31 Dec 2012 | 1 April 14 | 31 Dec 2015

Year ended 31.3.2014

(90/365) x £250,000) + (275/365 x £500,000) = £61,644 + £376,712

£438,356

Max for expenditure:
1.1.2014 – 31.03.2014 = £250,000

1.4.2014 – 31.12.2014 = unused amount up to £438,356

Question 5

- Do you have any tax-savings tips for clients (small business owners – one man bands) beside paying the personal allowance and taking the rest out as dividends.

- Also, is it worth paying the pension through the company as opposed to personally?

Types of benefit

Benefit

Taxable on P11D only

- Company cars
- Private fuel
- Company vans
- Assets made available
- Cheap loans

Exempt

Pensions

Exempt benefits

Taxable on everyone

- Personal debts settled
- Living accommodation
- Vouchers
- Company credit card

Exempt benefits include……

- Pension contributions
- Liability insurance – relating to employment
- Parking facilities at or near work
- Canteen meals – available to all employees
- Phones (one per employee)
- Personal laptops (incidental private use)
- Health care check-ups
- Some working from home payments
- Trivial benefits
- Director/employee entertaining up to £150 per head per annum.

Working from home

No choice

- Substantive duties
- No employer premises reasonably available
- Marginal costs allowable

Gas electricity

Phone

Metered water

Choice

- s316A still available
- Reasonable employer contribution tax free
- £4pw from April 2012

Question 5

- Please ask anonymously:
- What are the tax implications of someone who is selling a holiday villa in Thailand and would like to invest in a buy-to-let property in the UK or would it be better to buy a property to reside in, in the UK.

- The villa is expected to sell for £70,000.

- They are basic rate taxpayers.

Question 6 - taxis

- Taxis are plant for capital allowances purposes. What is a taxi?

- Does it differ from a licensed private hire vehicle?

What is a car for CA purposes?

- For CA purposes, a car is a mechanically propelled vehicle except a vehicle:

1 Constructed in such a way that it is primarily suited for transporting goods of any sort; or

2 Of a type which is not commonly used as a private vehicle and is not suitable for use as a private vehicle,

Is it a car?

- The following are NOT cars:
- Hackney carriages (traditional “London Black cab” type vehicles);
- Motor cycles;
- But a quad bike is a car if it is a road vehicle.

Taxis

- No AIA on a car within S268A, CAA 2001;
- Test: not normally used as a car and not suitable for use as a car;
- Litmus test: can I park in a parking bay at Sainsbury's and do the weekly shop?
- Tax tip: CA23510

Cas for cars – general rules

- 95g/km or less are eligible for a 100 per cent FYA;
- Over 95g/km but not more than 130g/km are written down at 18 per cent per annum on the reducing balance basis; and,
- Over 130g/km are written down at eight per cent per annum, also on the reducing balance basis.
- Note, the lease rental restriction has also be reduced with effect from 1 April 2013 to disallow 15 per cent of the payments in respect of cars with emissions exceeding 130g/km.

Capital allowances for cars

- Private use (PU) or no private use?
- If PU, then treat as single asset pool: normal CAs and PU adjustment and balancing charge/allowance on sale;
- If no PU (ie employees being given company cars), then normal CAs;
- But……..
- For all new cars purchased after 1 April 2009:
- No balancing adjustment on sale;
- So…
- Normally, a long time to get your tax relief.

Question – wedding company cars

- A Wedding Company purchases two Rolls Royce Phantom cars at £100,000 each;
- No private use by directors;
- CAs?
- AIA?
- What difference would it make if the vehicle was a funeral hearse or a limousine?