

# ABOUT BUSINESS

Summer 2009



## Make do and mend?

**In the current economic climate, you might decide to repair some of the facilities on your premises, for example your electrical systems, rather than replace them. New rules in the Finance Act 2008, effective from 1 April 2008 for companies and 6 April 2008 for sole traders and partnerships, could restrict what costs you can deduct and when.**

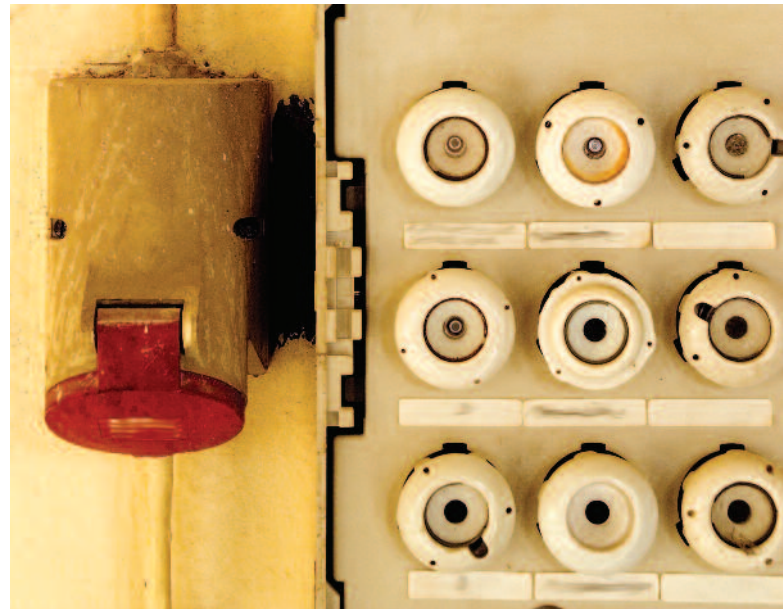
For specified equipment that forms an integral feature of a building, last year's reform of capital allowances introduced a new 10% annual rate of writing-down allowance. But what happens if you decide to repair this equipment instead of replacing it?

Integral features include electrical and lighting systems, water, heating and air conditioning systems (and the floors and ceilings that may be damaged while repairing these systems). Also included are lifts, escalators and external solar shading. A building's thermal insulation is included, except where the building is used as a residence.

The problem is that if, in any 12-month period, the total cost of repairing an integral feature is more than 50% of the cost of replacing it in full, the expenditure will qualify for capital allowances at the rate of only 10% a year. So if you intend to carry out repairs (for example, to a lighting system), you will need to obtain an estimate from a qualified third party of the cost of full replacement, and keep a running total of your current and future repair costs in a 12-month period to test against the 50% limit based on the estimate.

Although HMRC has issued further guidance, there are several unanswered questions. For example, the guidance does not explain what will happen to expenditure that is initially below the 50% limit, but then later exceeds it due to poor workmanship requiring remedial repairs, or whether expenditure can be reduced by insurance proceeds, so that only the net expenditure incurred is considered for the 50% test.

This is a complex area, so let us know if you are planning to repair or replace assets. When reviewing the tax treatment of repairs, we will also take other allowances into account, such as the annual investment allowance and the 100% allowance for energy-saving equipment. Why wait longer than you have to for a tax deduction on your expenditure?



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# How did the Budget stack up?



**This year's Budget, though aimed primarily at boosting the economy and plugging the government's financial gap, contained some useful measures for business.**

The temporary extended tax relief for trading losses is now more generous than previously announced. It is available for losses of two accounting periods, rather

than just one as originally planned. Businesses can carry back up to £50,000 of losses a year against the profits of the two years before the immediately preceding year. Businesses can already carry back unlimited trading losses against profits of the preceding year.

Company losses in accounting periods ending between 24 November 2008 and 23 November 2010 can benefit, and sole traders and partnerships can also claim additional relief for losses in accounting periods ending in the tax years 2008/09 and 2009/10.

Businesses investing more than £50,000 in equipment can benefit from a temporary first-year allowance (FYA) of 40%. This covers expenditure over £50,000, which would otherwise have received a 20% allowance. Some equipment is excluded, cars in particular. For more information on FYAs, see 'Temporary first-year allowance saves tax' below.

The small companies' corporation tax rate of 21% continues this year and the main rate will stay at 28% for the financial year 2010. Incorporation may become more attractive to individuals and partnerships who from

6 April 2010 will be hit by the 50% tax rate on income over £150,000 and the gradual withdrawal of the personal allowance on income over £100,000.

The introduction of new measures to crack down on income splitting between spouses has been postponed, so running a business as a company in which both partners take dividends remains beneficial. There are some limitations and you should take advice.

Capital gains tax (CGT) remains at 18%. One way of avoiding high rates of income tax may be to leave profits in your company. Eventually you could sell or liquidate the company, paying only 18% CGT, or even 10% if your gain qualifies for entrepreneurs' relief.

One surprise Budget announcement is the abolition, from April 2010, of the tax reliefs for furnished holiday lettings. You might want to consider disposing of such property before 6 April 2010, so that you can claim CGT entrepreneurs' relief, rollover relief or holdover relief.

As always, we are happy to advise further on how you can plan for the changes announced in the Budget.

**Did you know that businesses will be able to delay paying part of April's 5% increase in business rates, though not immediately? Business rates generally have risen in line with the previous September's retail price index, but since last September, inflation has fallen to zero.** Relief will not be instant. When the regulations are in place, local authorities will write to businesses offering a revised payment schedule for 2009/10. Until then, businesses must pay the bills they have received. Rates will still rise by 2% with the remaining 3% phased in over the next two years. At present, the relief only covers England, but it may be extended to the rest of the UK.



## Temporary first-year allowance saves tax

**There are some generous tax breaks under the revised capital allowances regime. The latest in the Finance Bill 2009 is a temporary 40% first-year allowance (FYA) for expenditure on general plant and machinery. So what can you do now to maximise tax relief?**

Most businesses, regardless of size, benefit from the 100% tax-allowable £50,000 annual investment allowance (AIA) for investment in their plant and machinery.

However, if you spend more than £50,000 in a year on most types of equipment, the excess expenditure attracts a writing-down allowance of only 20%. Equipment that becomes part of a building when fitted, eg a cold water system, is classed as an 'integral feature' and attracts a writing-down tax allowance of only 10% a year. It was and still is worth considering bringing forward or delaying expenditure to avoid exceeding the £50,000 AIA limit in any one year.

The Finance Bill 2009 will allow businesses incurring expenditure in excess of the AIA cap to claim a 40% FYA instead of the 20% writing-down allowance. This temporary measure is intended only

for the 12-month period beginning on 1 April 2009 (companies) or 6 April 2009 (individuals and partnerships). The 100% allowance for designated energy saving or environmentally beneficial plant or machinery continues alongside the temporary FYA.

Some expenditure does not qualify for the temporary FYA, primarily 'special rate' expenditure (including long-life assets and integral features), expenditure on cars, and expenditure on assets for leasing.

A key point is that you still do not have to allocate expenditure to the AIA in the order you incur it. If you spend more than £50,000 on equipment, you can choose which expenditure falls within the AIA and which does not.

Please get in touch at the planning stage so that we can advise you on the new FYA rules. We can help you plan your business expenditure on assets to maximise your tax relief and carry out a review to ensure that you have claimed all available tax reliefs on what you have spent to date. Don't pay more tax than is necessary.

## VAT roundup

**With many businesses suffering during the current recession, every chance to enhance cash flow needs to be explored. Taking advantage of a variety of VAT measures could be one way of achieving this and avoiding VAT penalties. Some useful areas to explore are VAT on management charges, the 50% rule on leased cars and sales to non-EU customers.**

### VAT on management charges

If you trade through more than one company, you can move profit from one company to another by making management charges. This may save you money if profits are moved from a company paying tax at a higher rate to one paying tax at a lower rate. For example, if you are re-charging between companies for the use of staff, this will normally be liable to VAT unless the staff have joint contracts of employment.

Consider forming a VAT group, because it could help you to avoid such problems. Transactions within the group are ignored for VAT purposes so you do not need to remember to charge VAT.

### The 50% rule on leased cars

If you are thinking of buying a company car, which will have less than 50% business use, then from a VAT point of view it may make sense to lease it instead. As a general rule, VAT recovery on cars is blocked, but you may be able to recover 50% of the VAT your leasing company charges you.

If you are leasing already, but haven't yet claimed the 50% of the VAT on your VAT return, you may be entitled to go back up to 36 months to recover it.

### Non-EU customers

When filling in your VAT return, you should be entering the amount of your turnover (excluding VAT) in **Box 6**. However, if you 'make supplies outside the scope of VAT'

(eg sales to non-EU based customers) where do you include these?

If you do include them, the comparison with the VAT on sales figure in **Box 1** may look out of balance and so lead to enquiries from HM Revenue & Customs (HMRC). The advice given on the HMRC website differs depending on which page you are on. To avoid the unwanted attention of HMRC, you should exclude your 'out-of-the-scope-of-VAT' sales figures from **Box 6**.

Clearly, it is always better to take advantage of VAT opportunities from the outset and avoid mistakes that could later prove costly in terms of VAT penalties.

If you need advice on accounting for VAT, completing your VAT returns or correcting or disclosing errors, we are happy to help.

**An interest-free 'energy-efficiency loan' of between £5,000 and £200,000 from the Carbon Trust could help you cut costs by allowing your business to invest in more energy-efficient equipment, but you may be wondering how to get the necessary credit.**

As long as the projected cost of energy used after completion of the proposed project shows a significant reduction, the type of equipment used is not an issue. Unsecured and interest-free, with no arrangement fees, the loans can be repaid over a period of up to four years. Contact us to see if you might be eligible for one.



## Making the most of tax credits

**For tax credit purposes, it is likely that there is not as much time to advise HM Revenue & Customs (HMRC) about the changes to your financial circumstances as you think. You have only one month to advise of in-year changes, so what can you do to maximise your tax credits claim?**

Before 31 July, you should receive two tax credits documents from HMRC. The first of these is the annual review form on which you have to check that your 'personal circumstances' (ie eligibility to claim) have not changed. To be eligible, you need to be in paid work and responsible for children or young people. No change, no action. Then there is the annual declaration where you tell HMRC about your income for 2008/09.

By completing and signing this you are also making a claim for tax credits for 2009/10. (Even if you are not entitled to tax credits for 2009/10 you need to complete a declaration if you submitted a claim for tax credits in 2008/09.)

In general, the higher your income, the more your claim will be reduced. However, paying into a pension increases your tax credits by reducing your income. For example, income over £6,420 reduces entitlement to tax credits at the rate of 39p per extra £1 of income. A pension payment of £8,000 net (£10,000 gross) will increase tax credits paid by £3,900 (39%). As a basic rate taxpayer you receive 20% tax relief on your pension contribution. Over that rate, for every £1 that your income has been reduced, you receive 39p of tax



credits. With a combination of tax relief and tax credits, this can mean a tax deduction of up to 98% (20% + 39% + 39%) for a pension contribution.

Of course tax is not the only consideration. There are pros and cons to paying an extra pension contribution. Please come and talk to us about the full implications of extra pension contributions and your 31 July tax credit renewal forms.



# VAT – Option-to-tax date

If you made an option-to-tax election on a property back in 1989, it is possible you could revoke this election after 1 August 2009. An election is made in writing to HM Revenue & Customs and means that VAT is chargeable on any income you earn from an opted property, including rental income or the proceeds of any sale (freehold or leasehold). However, an election cannot be revoked until 20 years after it was first made. The tax issues involved in any property matter are very complex, so let us know if you need further advice.

## What's in a name?



**Stricter rules on the display of company names came into force on 1 October 2008. Your company's name must appear at its registered office, at all places where it carries on business, and at any place where it keeps records available for inspection under the Companies Act.**

**Visitors must be able to see the display clearly and read it with the naked eye. In the case of electronic**

**signs, the company name must be displayed continuously, or if six or more companies share the premises, the name of each company must appear for at least 15 continuous seconds every three minutes.**

There are two exceptions:

- You do not have to display names of companies that have been dormant since incorporation; and
- A company need not display its name at a place of business that is primarily living accommodation, such as a director's home.

The latest regulations also reiterate the rules for the display of company information in communications. The company's registered name must appear on business letters, notices, forms and orders; company cheques; bills, invoices and other financial documents; all other forms of business correspondence and documentation, including email; and company websites.

Business letters, order forms and websites

must also show where in the UK the company is registered and its registered office address and number. Investment companies must state that they are investment companies. Directors' names need not be shown, but if they do appear other than only as a signatory to a letter, all the directors must be listed.

Provided there is no risk of confusion, minor variations in the company name, such as punctuation and accents, are now allowed.

Companies can no longer have only corporate directors. There must now be at least one individual, though companies that had only corporate directors on 8 November 2006 have until October 2010 to comply. Directors must now be at least 16 years old.

There are also new opportunities for people to object to a company name. You can complain to the new Company Names Tribunal if you think a company has been registered with the aim of extracting money from you or to prevent you registering a particular name.

## New tax appeals and compliance system

**The new appeals framework came into effect on 1 April 2009. Although most taxpayers resolve any issues with HM Revenue & Customs (HMRC) without having to go through an independent appeal process, those who cannot come to an agreement on their case should welcome the new framework. It is intended to improve the fairness and consistency of the process for settling tax disputes and to make it more accessible to taxpayers.**

The new first-tier tax tribunals bring together the tax and VAT appeals systems, sweeping away the General Commissioners, Special Commissioners and separate VAT tribunals. The tribunals and their administration are independent of HMRC and operate under the overriding objective of dealing with cases fairly and justly.

An entirely new feature is a formal process for the taxpayer to request a review of a decision. This takes place after the taxpayer has appealed, but before the appeal is notified to a tribunal. Reviews will be carried out by a trained review officer, who will almost always be outside the line management chain of the decision maker. HMRC can also offer a review. Reviews are not compulsory and the taxpayer can bypass that stage and go straight to a tribunal.

If you do go to a tribunal, your case will be allocated to one of four 'tracks' depending on the issues and the tax at stake. The simplest

appeals, such as against fixed penalties, will go to the 'paper' track and will normally be decided by a tribunal without a hearing. 'Basic' track cases will have a hearing but a minimal exchange of documents beforehand. These are likely to keep much of the informality of hearings before General Commissioners. 'Standard' track cases will be subject to more formal and detailed case management.

Cases that are likely to be long or complex, or involve an important principle or a large financial sum, will go to the 'complex' track. Occasionally they may bypass the first-tier tribunal and go straight to the upper tribunal, which also takes the place of the High Court in the appeals process.

What has not changed is that we are happy to help you resolve any disputes with HMRC and can advise you whether an appeal is worthwhile for you.