Corporate and business tax

1.Business motoring - tax aspects

This factsheet focuses on the current tax position of business motoring, a core consideration of many businesses. The aim is to provide a clear explanation of the tax deductions available on different types of vehicle expenditure in a variety of business scenarios.

2.Capital allowances

The cost of purchasing capital equipment in a business is not a tax deductible expense. However tax relief is available on certain capital expenditure in the form of capital allowances.

3.Cash Basis for the self-employed

Small unincorporated businesses can calculate their profits for tax purposes on a cash basis rather than the normal accruals basis. We look at the optional rules that allow for this, while also taking in the key tax points.

4.Companies - tax saving opportunities

Pre-year end tax planning is an important consideration and this factsheet outlines some of the key areas. Topics covered include corporation tax, capital allowances, dividends payments and capital gains.

5.Corporation Tax - quarterly instalment payments

Under corporation tax self assessment large companies are required to pay their corporation tax in four quarterly instalment payments. This factsheet considers the rules regarding these payments.

6.Corporation tax self assessment

This factsheet explains the procedures for filing your company's tax return and paying the tax due.

7.Fixed rate expenses

An optional system of fixed rate expenses applies for unincorporated businesses. We consider the optional rules which allow the use of a 'simplified' fixed rate deduction instead of actual costs.

8.

8.Off-payroll working and Personal Service Companies

The 'IR35' rules are designed to prevent the avoidance of tax and national insurance contributions through the use of personal service companies and partnerships. This factsheet summarises what situations are caught by the rules and the implications of the rules.

9.Research and development

Research and development (R&D) by companies is being actively encouraged through a range of tax incentives, which we consider in the points below.

10.The Construction Industry Scheme

The Construction Industry Scheme sets out special rules for tax and national insurance for those working in the construction industry. This factsheet considers the workings of the scheme.

1. Business motoring - tax aspects

For many businesses the tax allowances available for business motoring is an important matter to consider. At Franklyn & Co, we can provide advice for your business in the Nottinghamshire area.

This factsheet focuses on the current tax position of business motoring, a core consideration of many businesses. The aim is to provide a clear explanation of the tax deductions available on different types of vehicle expenditure in a variety of business scenarios.

Methods of acquisition

Motoring costs, like other costs incurred which are wholly and exclusively for the purposes of the trade, are tax deductible but the timing of any relief varies considerably according to the type of expenditure. In particular, there is a fundamental distinction between capital costs and ongoing running costs.

Purchase of vehicles

Where vehicles are purchased outright, the accounting treatment is to capitalise the asset and to write off the cost over the useful business life as a deduction against profits. This is known as depreciation.

The same treatment applies to vehicles financed through hire purchase with the equivalent of the cash price being treated as a capital purchase at the start with the addition of a deduction from profit for the finance charge as it arises. However, the tax relief position depends primarily on the type of vehicle, and the date of expenditure.

A tax distinction is made for all businesses between a normal car and other forms of commercial vehicles including vans, lorries and some specialist forms of car such as a driving school car or taxi.

Tax relief on purchases

Vehicles which are not classed as cars are eligible for the Annual Investment Allowance (AIA) for expenditure incurred. The AIA provides a 100% deduction for the cost of plant and machinery purchased by a business up to an annual limit. The amount of AIA available varies depending on the period of the accounts. The amount of AIA was set at £1,000,000 from 1 January 2019. Where purchases exceed the AIA, a writing down allowance (WDA) is due on any excess in the same period. The WDA available is currently at a rate of 18% or 6% depending on the asset. Cars are not eligible for the AIA, so will only benefit from WDA.

Capital allowance boost for low-carbon transport

A 100% First Year Allowance (FYA) is currently available for businesses purchasing zero-emission goods vehicles, gas refueling equipment and electric charge-point equipment.

Complex cars!

The green car

Cars generally only attract the WDA but there is one exception to this and that is where a business purchases a new car with zero emissions – a so-called 'green' car. Such purchases attract a 100% allowance to encourage businesses to purchase cars which are more environmentally friendly. A 100% write off is only available where the CO2 emissions of the car are 0 g/km (no more than 50g/km prior to April 2021) and the car is purchased new. The cost of the car is irrelevant and the allowances are available to all types of business.

When did you buy?

The allowances due are determined by when the car was purchased. The figures below apply for purchases from April 2021.

The allowance is dependent on the CO2 emissions of the car.

Cars with emissions between 1 - 50 g/km inclusive will qualify for main rate WDA.

Cars with emissions in excess of 50 g/km are placed in the special rate pool and will qualify for an annual WDA of 6%.

The 100% first year allowance (FYA) will be available on new zero emission cars purchased (not leased) by a business.

If a used car is purchased with CO2 emissions of 0g/km, this will be placed in the main pool and will receive the 18% WDA.

Non-business cars

Any cars used by the self employed where there is part non–business use will still be separately allocated to a single asset pool. The annual allowance will initially be based on the CO2 emissions and then the available allowance will be restricted for the private use element.

Disposals

Where there is a disposal of plant and machinery from the main or special rate pools any balance of expenditure, after taking into account sale proceeds, continues to attract the WDA.

Where there is a disposal of a car held in a single asset pool, the disposal proceeds are deducted from the balance of the pool and a balancing allowance or a balancing charge is calculated to clear the balance on the pool.

This applies to any cars used by the self employed with part non business use whenever purchased.

What if vehicles are leased?

The first fact to establish with a leased vehicle is whether the lease is really a rental agreement or whether it is a type of purchase agreement, usually referred to as a finance lease. This is because there is a distinction between the accounting and tax treatment of different types of leases.

Tax treatment of rental type operating leases (contract hire)

The lease payments on operating leases are treated like rent and are deductible against profits. However where the lease relates to a car there may be a portion disallowed for tax.

From April 2021 a disallowance of 15% will apply for cars with CO2 emissions which exceed 50g/km.

Tax treatment of finance leased assets

These will generally be included in your accounts as fixed assets and depreciated over the useful business life but as these vehicles do not qualify as a purchase at the outset. The expenditure does not qualify for capital allowances unless classified as a long funding lease. Tax relief is generally obtained instead by allowing the accounting depreciation and any interest/finance charges in the profit and loss account.

Private use of business vehicles

The private use of a business vehicle has tax implications for either the business or the individual depending on the type of business and vehicle.

Sole traders and partners

Where you are in business on your own account and use a vehicle owned by the business - irrespective of whether it is a car or van - the business will only be able to claim the business portion of any allowances. This applies to capital allowances, rental and lease costs, and other running costs such as servicing, fuel etc.

Providing vehicles to employees

Where vehicles are provided to employees irrespective of the form of business structure – sole trader/partnership/company – a taxable benefit generally arises for private use. A tax charge will also apply where private fuel is provided for use in an employer provided vehicle. For the employer such taxable benefits attract Class 1A National Insurance.

Vans

No charge applies where employees have the use of a van and a restricted private use condition is met. For details on what this means please contact us. Where the condition is not met there is a flat rate charge per annum. These benefits are £3,960 for unrestricted private use plus an additional £757 for private fuel in 2024/25 (£3,960 and £757 for 2023/24).

2. Capital allowances

Tax relief is available on certain capital expenditure in the form of capital allowances but the amount of these allowances can vary depending on the type of asset acquired. At Franklyn & Co, we can provide advice on maximising tax relief for capital expenditure for your business in the Nottinghamshire area.

Overview

The cost of purchasing capital equipment in a business is not a revenue tax deductible expense. However tax relief is available on certain capital expenditure in the form of capital allowances.

The allowances available depend on what you're claiming for. In this factsheet we give you an overview of the types of expenditure for which capital allowances are available and the amount of the allowances.

Capital allowances are not generally affected by the way in which the business pays for the purchase. So where an asset is acquired on hire purchase (HP), allowances are generally given as though there were an outright cash purchase and subsequent instalments of capital are ignored. However finance leases, often considered to be an alternative form of 'purchase' and which for accounting purposes are included as assets, are generally denied capital allowances. Instead the accounts depreciation is usually allowable as a tax deductible expense.

Any interest or other finance charges on an overdraft, loan, HP or finance lease agreement to fund the purchase is a revenue tax deductible business expense. It is not part of the capital cost of the asset.

If, alternatively a business rents capital equipment, often referred to as an operating lease, then as with other rents this is a revenue tax deductible expense so no capital allowances are available.

Plant and machinery

This includes items such as machines, equipment, furniture, certain fixtures, computers, cars, vans and similar equipment you use in your business.

Note there are special rules for cars and certain 'environmentally friendly' equipment and these are dealt with below.

Acquisitions

The Annual Investment Allowance (AIA) provides a 100% deduction for the cost of most plant and machinery (not cars) purchased by a business up to an annual limit and is available to most businesses. Where businesses spend more than the annual limit, any additional qualifying expenditure generally attracts an annual writing down allowance (WDA) of 18% (or 6% for the special rate pool) depending on the type of asset. The maximum amount is currently set at £1 million. Cars are not eligible for the AIA, so will only benefit from the WDA (see special rules for cars).

Please contact us before capital expenditure is incurred for your business in a current accounting period, so that we can help you to maximise the AIA available.

Full expensing

From 1 April 2023 companies investing in qualifying new and unused plant and machinery will benefit from first year capital allowances.

Under this measure, a company will be allowed to claim:

- a first year allowance of 100% on most new and unused plant and machinery expenditure that ordinarily qualifies for 18% main rate WDAs (Full Expensing).
- a first year allowance of 50% on most new and unused plant and machinery expenditure that ordinarily qualifies for 6% special rate WDAs.

The relief specifically excludes expenditure on cars, and most plant and machinery for leasing. The relief is only available for companies and not for unincorporated businesses.

Pooling of expenditure and allowances due

- Expenditure on most items of plant and machinery are pooled rather than each item being dealt with separately with most items being allocated to the main rate pool.
- A WDA on the main rate pool of 18% is available on qualifying expenditure incurred in the current period not covered by the AIA or not eligible for AIA as well as on any balance of expenditure remaining from earlier periods.
- Certain expenditure on buildings fixtures, known as integral features (eg lighting, air conditioning, heating, etc) is eligible for a 6% WDA so is allocated to a separate 'special rate pool', though integral features do qualify for the AIA.
- Allowances are calculated for each accounting period of the business.
- When an asset is sold, the sale proceeds (or original cost if lower) are brought into the relevant pool. If the proceeds exceed the value in the pool, the difference is treated as additional taxable profit for the period and referred to as a balancing charge.

Structures and Buildings Allowance

Expenditure incurred on business-related buildings and structures will attract an annual 3% writing down allowance on a straight-line basis. This allowance is designed to encourage investment in the construction of new structures and buildings that are intended for commercial use, the necessary works to bring them into existence and the improvement of existing structures and buildings, including the cost of converting existing premises for use in a qualifying activity. Neither land nor dwellings are eligible for relief. Where there is mixed use, for example, between commercial and residential units in a development, the relief is reduced by apportionment. No relief is available for work spaces within domestic settings, such as home offices.

Special rules for cars

There are special rules for car expenditure. Cars are not eligible for the AIA or full expensing. The treatment of car expenditure depends on when it was acquired and its CO2 emissions.

The following rules apply for cars bought from April 2021:

Type of car purchase	What you can cla
New zero emission car	100% first year al
Second hand electric car	Main rate allowar
Not exceeding 50 g/km CO_2 emissions	Main rate allowar
Exceeding 50g/km CO_2 emissions	Special rate allow

Non-business use element

Cars and other business assets that are used partly for private purposes, by the proprietor of the business (ie a sole trader or partners in a partnership), are allocated to a single asset pool to enable the private use adjustment to be made. For cars, the rate of WDA claimable in the single asset pool will still depend on the CO2 emissions of the car. Private use of assets by employees does not require any restriction of the capital allowances.

The allowances are computed in the normal way, however, only the business use proportion is allowed for tax purposes. This means that the purchase of a new zero emission car which costs £15,000 with 80% business use will attract an allowance of £12,000 (£15,000 x 100% x 80%) when acquired.

On the disposal of a private use element car, any proceeds of sale (or cost if lower) are deducted from any unrelieved expenditure in the single asset pool. Any shortfall can be claimed as an additional one off allowance but is restricted to the business use element only. Similarly any excess is treated as a taxable profit but only the business related element.

Capital allowance boost for low-carbon transport

A 100% First Year Allowance (FYA) is currently available for businesses purchasing new zero-emission goods vehicles, gas refueling equipment and electric charge-point equipment.

Short life assets

For equipment you intend to keep for only a short time, you can choose (by election) to keep such assets outside the normal pool, with the expenditure going into a single asset pool. The allowances on them are calculated separately and on sale if the proceeds are less than the balance of expenditure remaining, the difference is given as a further capital allowance. This election is not available for cars or integral features.

The asset is transferred into the main pool if it is not disposed of by the eighth anniversary of the end of the period in which it was acquired.

Long life assets

These are assets with an expected useful life in excess of 25 years when new. These assets are combined with integral features in the special rate pool.

There are various exclusions including cars and the rules only apply to businesses spending at least £100,000 per annum on such assets.

Other assets

Capital expenditure on certain other assets qualifies for relief. Please contact us for specific advice on areas such as qualifying expenditure in respect of enterprise zones, Freeports and research and development.

Claims

Unincorporated businesses and companies must both make claims for capital allowances in tax returns.

Claims may be restricted where it is not desirable to claim the full amount available - this may be to avoid other allowances or reliefs being wasted.

For unincorporated businesses the claim must normally be made within 12 months after the 31 January filing deadline for the relevant return.

For companies the claim must normally be made within two years of the end of the accounting period.

3. Cash Basis for the self-employed

We consider the optional rules which allow small unincorporated businesses to calculate their profits for tax purposes on a cash basis rather than the normal accruals basis.

However, it is important to note that, although cash basis is the default position for all self-employed businesses, they can make a one-off election to use the accruals basis.

Certain businesses, including Limited Liability Partnerships, those involving a corporate partner, Lloyd's underwriters and those eligible individuals who wish to continue to claim averaging of profits e.g. farmers cannot use the cash basis.

Accruals basis and cash basis

One example which illustrates the difference between the accruals basis and cash basis is that credit sales are included in the accruals basis accounts income despite the fact that the customer may not have paid for the goods or services by the end of the accounting period. Under the cash basis the business is taxed on its cash receipts less allowable cash payments made during the accounting period. Under the cash basis, credit sales are accounted for and taxed in the year in which they are paid for by the customer.

Key tax points

Cash receipts

Cash receipts literally mean all cash receipts that the business receives during the accounting period. As well as trading income this will also include the proceeds from the sale of any plant and machinery. If a customer does not pay what is owed by the accounting year end then it will not be taxable until the next year when it is actually received by the business.

What deductions are allowable?

In terms of what deductions can be claimed the main rules are that the expenses must have been actually paid in the accounting period as well as being incurred wholly and exclusively for the purposes of the trade.

As is the case with calculating taxable profits generally for a business no deductions are allowed for items which are of a capital nature such as the purchase of property. However, under the cash basis the costs of most plant and machinery can be included as a deduction. One key exception is the purchase of cars but capital allowances would remain available.

Relief for interest payments

Generally, interest costs will be deductible but no relief is available for a tax year for interest paid by a person on a relevant loan if the partnership to which the loan relates uses the cash basis for its property business.

A 'relevant loan' is a loan to buy plant or machinery for partnership use or to invest in a partnership unless it is used for purchasing a share in a partnership.

The use of losses

If the business incurs a loss then under the cash basis this can be used in the same manner as businesses using the accruals basis.

Joining and leaving cash basis

In order to ensure that income is taxed and expenses are relieved 'once and once only' special calculations are needed on entering or leaving the cash basis. There are also special capital allowances rules for such situations.

4. Companies - tax saving opportunities

Tax saving opportunities often need to be considered prior to the year end of the company or prior to the tax year end of the individuals who are shareholders or directors of the company. At Franklyn & Co, we can provide pre-year end tax planning advice for your company in the Nottinghamshire area.

Due to the ever changing tax legislation and commercial factors affecting your company, it is advisable to carry out an annual review of your company's tax position.

Pre-year end tax planning is important as the current year's results can normally be predicted with some accuracy and time still exists to carry out any appropriate action.

We outline below some of the areas where advance planning may produce tax savings.

For further advice please do not hesitate to contact us.

Corporation tax

Advancing expenditure

Expenditure incurred before the company's accounts year end may reduce the current year's tax liability.

In situations where expenditure is planned for early in the next accounting year, the decision to bring forward this expenditure by just a few weeks can advance the related tax relief by a full 12 months.

Examples of the type of expenditure to consider bringing forward include:

building repairs and redecorating

advertising and marketing campaigns

redundancy and closure costs.

Note that payments into company pension schemes are only allowable for tax purposes when the payments are actually made as opposed to when they are charged in the company's accounts.

Capital allowances

Consideration should also be given to the timing of capital expenditure on which capital allowances are available to obtain the optimum reliefs.

Single companies irrespective of size are able to claim an Annual Investment Allowance (AIA) which provides 100% relief on expenditure on plant and machinery (excluding cars). The maximum amount of the AIA depends on the date of the accounting period and the date of expenditure. The maximum amount is set at £1 million.

Groups of companies have to share the allowance. Expenditure on qualifying plant and machinery in excess of the AIA is generally eligible for writing down allowance (WDA) of 18% (or 6% for capital expenditure on integral features).

Limited allowances are also available for qualifying expenditure on business-related buildings and structures.

Full expensing

From 1 April companies investing in qualifying new and unused plant and machinery will benefit from first year capital allowances.

Under this measure, a company will be allowed to claim:

A first year allowance of 100% on most new and unused plant and machinery expenditure that ordinarily qualifies for 18% main rate writing down allowances (Full Expensing).

A first year allowance of 50% on most new and unused plant and machinery expenditure that ordinarily qualifies for 6% special rate writing down allowances.

The relief specifically excludes expenditure on cars, and most plant and machinery for leasing. The relief is only available for companies and not for unincorporated businesses.

Trading losses

Companies incurring trading losses generally have three main options to consider in utilising these losses:

they can be set against any other income (for example bank interest) or capital gains arising in the current year

they can be carried back for up to one year and set against total profits (but see below for details of the extension)

they can be carried forward and set against profits arising from different types of income in future years.

The use of a company's or group's carried forward trading losses is restricted to an allowance of up to £5 million, plus 50% of remaining profits after deduction of the allowance.

For those companies within a group, current period trading losses can also be surrendered as group relief to reduce taxable profits in other group companies with corresponding accounting periods. For losses arising after 1 April 2017, companies can claim group relief for losses that have been carried forward, subject to the restriction noted above.

Extracting profits

Directors/shareholders of family companies may wish to consider extracting profits in the form of dividends rather than as increased salaries or bonus payments.

This can lead to substantial savings in national insurance contributions (NICs).

Note however that company profits extracted as a dividend remain chargeable to corporation tax.

Dividends

From the company's point of view, timing of payment is not critical, but from the individual shareholder's perspective, timing can be an important issue. A dividend payment in excess of the Dividend Allowance which is delayed until after the tax year ending on 5 April may give the shareholder an extra year to pay any further tax due. The Dividend Allowance is £500 for 2024/2025.

The deferral of tax liabilities on the shareholder will be dependent on a number of factors. Please contact us for detailed advice.

Loans to directors and shareholders

If a 'close' company (broadly, one controlled by its directors or by five or fewer shareholders) makes a loan to a participator, this can give rise to a tax liability for the company.

For loans made on or after 6 April 2022, if the loan is not settled within nine months and a day of the end of the accounting period, the company is required to make a payment to HMRC equal to 33.75% of the loan advanced. The money is not repaid to the company until nine months and a day after the end of the accounting period in which the loan is repaid.

A loan to a director may also give rise to a tax liability for the director on the benefit of a loan provided at less than the market rate of interest.

Rates of tax

The main rate of corporation tax increased from 19% to 25% on 1 April 2023 for companies with profits over £250,000. The 19% rate became a small profits rate payable by companies with profits of £50,000 or less. Companies with profits between £50,000 and £250,000 pay tax at the main rate reduced by a marginal relief, providing a gradual increase in the effective corporation tax rate.

Self assessment

Under the self assessment regime most companies must pay their tax liabilities nine months and one day after the year end.

In general, companies which have profits in excess of £1.5m have to pay tax in quarterly instalments. This limit is reduced if the company is a member of a group. If you require any further information on quarterly instalment payments, we have a factsheet which summarises the system.

Corporation tax returns must be submitted within twelve months of the accounting period end and are required to be submitted electronically. In cases of delay or inaccuracies, interest and penalties will be charged.

Capital Gains

Companies are chargeable to corporation tax on their capital gains less allowable capital losses. Relief for brought forward capital losses is available, but is subject to the same restrictions as those for brought forward trading losses.

Planning of disposals

Consideration should be given to the timing of any chargeable disposals to minimise the tax liability. This could be achieved (depending on the circumstances) by accelerating or delaying disposals and the availability of losses and other reliefs.

Purchase of new assets

It may be possible to delay a capital gain if the sale proceeds are reinvested in a new, qualifying replacement asset. This is called 'Business Asset Rollover Relief' and allows the company not to be taxed on the gain on disposal of the original asset, until the new asset is sold.

There are conditions to the relief, including that the replacement asset must be acquired in the four year period beginning one year before the disposal.

5. Corporation Tax - quarterly instalment payments

If your company is caught by the quarterly instalment payments rules, the first payment of corporation tax for a current accounting period will be before payment has been made for the previous accounting period. At Franklyn & Co, we can help check whether the regime may apply to your company and assist you to comply with the requirements of the regime for your business in the Nottinghamshire area.

Under corporation tax self assessment large companies are required to pay their corporation tax in quarterly instalments. These payments are based on the company's estimate of its current year tax liability.

Note that the majority of companies are not within the quarterly instalment payments regime and pay their corporation tax nine months and one day after the end of their accounting period.

We highlight below the main areas to consider when determining if your company needs to pay corporation tax in instalments.

Companies within the scope of quarterly instalment payments

Large companies

Large companies have to pay their corporation tax by quarterly instalments. A company is large if its profits for the accounting period exceed the 'upper limit' in force at the end of that accounting period. The upper limit is £1.5 million. However, if a company has taxable profits in an accounting period which exceed £20 million, it will be considered 'very large' and separate rules apply (see below).

The main rate of corporation tax increased from 19% to 25% on 1 April 2023 for companies with profits over £250,000. The 19% rate became a small profits rate payable by companies with profits of £50,000 or less. Companies with profits between £50,000 and £250,000 pay tax at the main rate reduced by a marginal relief, providing a gradual increase in the effective corporation tax rate.

Group companies

When a company is a member of a group, the upper limit will be reduced. The rules on how this upper limit is reduced changed in April 2023.

For accounting periods beginning on or after 1 April 2023, the upper limit is reduced by dividing the limit by one plus the total number of associated companies. Broadly, a company is associated with another company if:

one company has control of the other; or

both companies are under the control of the same person or persons.

Control is usually defined by reference to ownership of share capital or voting rights. A company may be an 'associated company' regardless of where it is resident for tax purposes.

So, for example, if a company has two associated companies, the upper limit is reduced to £500,000.

Associated companies which did not carry on trades or business at any time during the accounting period are ignored. The upper limit is also proportionately reduced for accounting periods less than 12 months.

Any of the companies that have taxable profits exceeding the upper limit are considered 'large' and will be subject to the quarterly instalment payments regime. Those which do not exceed the upper limit will not be subject to the regime.

Some companies have many group companies and are treated as being large even though their own corporation tax liability is relatively small. Where the corporation tax liability is less than £10,000 there is no requirement to pay by instalments. This £10,000 limit is reduced proportionately if the accounting period is less than 12 months.

Growing companies

A company does not have to pay its corporation tax by instalments if:

its taxable profits for that accounting period do not exceed £10 million; and

it was not large for the previous year.

Where there are associated companies, the £10 million threshold is divided by one plus the number of associates at the end of the preceding accounting period. The threshold is also proportionately reduced for short accounting periods.

The effect of this exemption is that growing companies will not be instalment payers in the first accounting period in which they are large, unless the growth is substantial. It therefore gives them time to prepare for paying by instalments (but see below).

The pattern of quarterly instalment payments

A large company with a 12 month accounting period will pay tax in four equal instalments, in months seven, ten, 13 and 16 following the start of the accounting period. The first instalment payment is due six months and 13 days after the start of the accounting period, then each three months until the final instalment payment which is due three months and 14 days after the end of the accounting period. So, for a company with a 12 month accounting period starting on 1 January, quarterly instalment payments are due on 14 July, 14 October, 14 January next and 14 April next.

There are special rules where an accounting period lasts less than 12 months.

Pattern of payments for a growing company

If a growing company is defined as a large company for two consecutive years, the quarterly instalments payments regime will apply for the second of those years.

Very large companies

For accounting periods beginning on or after 1 April 2019, 'very large' companies are required to pay corporation tax by instalments four months earlier than large companies. A company is a 'very large' company if its taxable profits for an accounting profit are more than £20 million. Similar to large companies, this threshold is reduced proportionately if the accounting period is less than 12 months, and where the company has one or more associated companies. The same corporation tax liability threshold test applies as with large companies, whereby if a company's corporation tax liability is less than £10,000, the company is not considered 'very large' and does not need to pay corporation tax in instalments.

For very large companies with a 12 month accounting period, quarterly instalment payments are due on the 14th day of the third, sixth, ninth and twelfth months of the accounting period.

Working out quarterly instalment payments

A company has to estimate its current year tax liability (net of all reliefs and set offs) and then make instalment payments based on that estimate. This means that by month three for very large companies and by month seven for large companies, a company has to estimate profits for the remaining part of the accounting period.

A company's estimate of its tax liability will likely vary over time, particularly as an accounting period progresses, and each instalment payment should be calculated on the revised estimate. The system of instalment payments allows a company to make top-up payments – at any time – if it realises that the instalment payments it has made are inadequate. A company will normally be able to claim back all or part of any instalment payments already made if later it concludes that they ought not to have been made, or were excessive.

Interest and penalties

HMRC charges interest on late or underpaid instalments. Interest is calculated and charged only once a company has filed its company tax return, or HMRC has made a determination of its corporation tax liability and the normal due date has passed.

HMRC will pay a company interest on instalment payments that turn out to be unnecessary, payments made early or overpayments. This interest is calculated and charged retrospectively once the liability for an accounting period is established, which is normally when the tax return is submitted.

Rates of interest

Special rates of interest apply for the period from the due and payable date for the first instalment to the normal due date for corporation tax (nine months and one day from the end of the accounting period).

Thereafter, the interest rates change to the normal interest rates for under and overpaid taxes. This two-tier system takes into account the fact that companies will be making their instalment payments based on estimated figures but, by the time of the normal due date, should be fairly certain about their liability.

Interest received by companies is chargeable to tax, and interest paid by companies is deductible for tax purposes.

Penalties

A penalty may be charged if a company deliberately fails to make instalment payments or makes instalment payments of insufficient size.

Special arrangements for groups

There is a group payment arrangement facility which allows groups to make instalment payments on a group-wide basis, rather than company by company. This should help to minimise their exposure to interest.

6. Corporation tax self assessment

There are a number of procedures for filing your company's tax return and paying the tax due. We set out the basic elements here but at Franklyn & Co, we can prepare the necessary returns and advise on the tax payments due for your company in the Nottinghamshire area.

Key features

The key features are:

a company is required to pay the tax due in advance of filing a tax return

a 'process now, check later' enquiry regime when the tax return is submitted

the inclusion in the tax return, and in a single self assessment, of the liabilities of close companies on loans and advances to shareholders and others, and of liabilities under Controlled Foreign Companies legislation

the requirement for companies to self assess by reference to transfer pricing legislation.

Practical effect of CTSA for companies

Notice to file

Every year, HMRC issues a notice to file to companies. In most cases, the return must be submitted to HMRC within 12 months of the end of the accounting period.

Filing your company tax return online

Companies must file their Company Tax return online. Their accounts and computations must also be filed in the correct format - inline eXtensible Business Reporting Language (iXBRL).

Unincorporated organisations and charities that don't need to prepare accounts under the Companies Act can choose to send their accounts in iXBRL or PDF format. However, they must still file their tax return online and any computations must be sent in iXBRL format.

Penalties

Penalties apply for late submission of the return of £100 if it is up to three months late and a further £100 if the return is over three months late. Additional tax geared penalties apply when the return is either six or twelve months late. These penalties are 10% of the outstanding tax due on those dates.

If the tax return is filed late three times in a row, the £100 penalties increase to £500 each.

Submission of the return

The return required by a Notice to File contains the company's self assessment, which is final, subject to:

taxpayer amendment

HMRC correction, or

HMRC enquiry.

The company has a right to amend a return (for example, to change the claim to capital allowances). The company has 12 months from the statutory filing date to amend the return.

HMRC has nine months from the date the return is filed to correct any 'obvious' errors in the return (for example an incorrect calculation). This process should be a fairly rare occurrence. In particular the correction of errors does not involve any judgment as to the accuracy of the figures in the return. This is dealt with under the enquiry regime.

Enquiries

Under CTSA, HMRC checks returns and has an explicit right to enquire into the completeness and accuracy of any tax return. This right covers all enquiries, from straightforward requests for further information on individual items through to full reviews of a company's business including examination of the company's records.

The main features of the rules for enquiries under CTSA are:

HMRC generally has a fixed period, of 12 months from the date the return is filed, in which to open an enquiry

where the company is a member of a group (other than a small group), HMRC can open an enquiry up to 12 months from the due filing date

if no enquiry is opened within this time limit and the company does not amend the return, the company's return becomes final - subject to the possibility of an HMRC 'discovery'

HMRC will give the company formal notice when an enquiry opens

HMRC is also required to give formal notice of the completion of an enquiry, and to state its conclusions

a company may ask the Tribunal to direct HMRC to close an enquiry if there are no reasonable grounds for continuing it.

Discovery assessments

HMRC has the power to make an assessment (a 'discovery assessment') if information comes to light after the end of the enquiry period indicating that the self assessment was inadequate as a result of fraudulent or negligent conduct, or of incomplete disclosure. The normal time limit for HMRC to make a discovery assessment is four years after the end of the relevant tax period, but is extended to six years if the loss of tax was caused by careless behaviour and further extended to 20 years in certain instances such as deliberate behaviour or failure to notify chargeability.

Payment of tax

There is a single, fixed due date for payment of corporation tax which is nine months and one day after the end of the accounting period (subject to the Quarterly Instalment Payment regime for large and very large companies).

If the payment is late or is not correct, there will be late payment interest on tax paid late and repayment interest on overpayments of tax. These interest payments are tax deductible/taxable.

Credit interest

If a company pays tax before the due date, it receives credit interest on amounts paid early. Any interest received is chargeable to corporation tax.

Loans to shareholders

If a close company makes a loan to a participator (for example most shareholders in unquoted companies), the company must make a payment to HMRC if the loan is not repaid within nine months of the end of the accounting period. The amount of the tax is 33.75% for loans made from April 2022. The company can reclaim the Corporation Tax paid on a director’s loan that has been repaid, written off or released), subject to specified time limits.

Additional rules for loans to shareholders

Further rules prevent the avoidance of the charge by repaying the loan before the nine month date and then effectively withdrawing the same money shortly afterwards.

A ‘30 day rule’ applies if repayments totalling £5,000 or more are made and within 30 days, new loans or advances of at least £5,000 are made to the shareholder. The old loan is effectively treated as if it has not been repaid. A further rule stops the tax charge being avoided by just waiting 31 days before the company advances further funds to the shareholder. This is a complex area so please do get in touch if this is an issue for you and your company.

This tax is included within the CTSA system and the company must report loans outstanding to participators in the tax return.

7. Fixed rate expenses

Self-employed and interested in in reducing your record keeping? An optional system of fixed rate expenses allow the use of a 'simplified' fixed rate deduction instead of actual costs paid or incurred. Using fixed rates may reduce the need for some of the detailed record keeping and calculations necessary to support tax deductible expenses. The amount of the overall tax allowable deductions could be greater or smaller compared to an actual cost comparison. We set out the fixed rates available but at Franklyn & Co, we can advise on maximising the relief due to you if you live in the Nottinghamshire area.

Am I eligible?

The use of fixed rates is available to anyone who is self-employed. Partnerships can also use them as long as all the members of the partnership are individuals.

What do the fixed rates apply to?

Principally they apply to the following:

- business mileage
- deductions for business use of home
- adjustments for private use of business premises

We consider the rules for calculating the fixed rates and when these are available.

Business mileage

Rather than claiming the actual deductions for purchasing, maintaining and running a motor vehicle or motorcycle, businesses can calculate allowable expenditure using a fixed rate based on mileage. The rates are:

Vehicle type	
Cars and vans	- up to 10,000 miles
	- over 10,000 miles
Motorcycles	

It is important to note that once the fixed rate is used for a particular vehicle, the same method must continue to be used for as long as the vehicle remains in the business. It will therefore be important to keep a detailed mileage log/diary. Additional business costs that are journey specific, such as parking fees and congestion charges will still need to be recorded and claimed. If capital allowances have been claimed the fixed rate cannot be used. Additionally, where for example a van has been claimed as an allowable payment under the cash basis, then the fixed rate cannot be used.

Business use of home

It is very common for self-employed individuals to work at least some of the time from home. Some tax relief is available if part of a home is used solely for the purpose of the business for a specified time. It is important however to ensure that part of the home is not exclusively used for business purposes unless absolutely necessary as this restricts the capital gains tax main residence exemption on the eventual sale of the home. Instead of recording actual costs on running a home (e.g. utilities, telephone and internet charges) and claiming a business proportion, a fixed rate deduction can be claimed. If you decide to adopt the fixed rate then the following rates apply:

Number of hours worked per month
25 or more
51 or more
101 or more

Hours worked is the number of hours spent wholly and exclusively on work done by yourself or an employee in your home wholly and exclusively for the purposes of the business. You can revert to actual costs in another year after choosing to use the fixed rate for one year.

Private use of business premises

If you use premises both as a home and as business premises (for example, a pub), the total expenses of the property need to be adjusted for private use. A fixed scale can be used to adjust for the private use which will increase taxable profits. Only premises which are used mainly for the purposes of carrying on a trade will qualify.

The fixed scale is as below and is for each month (or part month) falling within the period:

Number of relevant occupants
1
2

Number of relevant occupants
3 or more

The 'number of relevant occupants' is based on how many people (including children) use the business premises each month (or part of a month) as a private home.

HMRC have advised that the flat rate includes all household goods and services, food and non-alcoholic drinks and utilities but not mortgage interest, rent, council tax or rates. This appears to make the rates above expensive add backs as a further adjustment is therefore required for these other expenses.

8. Incorporation

If you run your business as a company you may save a considerable amount of tax. However there may be disadvantages and a sole trade or partnership structure may be better. If your business is in the Nottinghamshire area we, at Franklyn & Co, can show you the potential tax savings currently available to you from operating as a company.

The issue of whether to run your business as a company or a sole trader or partnership is an important one. In this factsheet, we summarise the potential tax savings available from operating as a company.

Tax savings

The examples below give an indication of the 2024/25 tax savings/cost of incorporation for a sole trader that:

has no other sources of income

takes a salary of £9,100 from the company with the balance (after corporation tax) paid out as a dividend.

[1] Profits £50,000 [2] Profits £100,000

Tax and NI payable:

As sole trader £9,732 £30,689

As company £10,322 £33,513

Potential saving/(cost) (£591) (£2,825)

Clearly, the extent of the saving/cost is dependent on the precise circumstances of the individual's tax position and may be more or less than the above figures. In particular, if the individual does not need to extract all profits from the company this could increase tax savings of a company. For example, if the same dividend was extracted in scenario [2] as in scenario [1], the tax payable operating through a company reduces to £22,890 (a tax saving of £7,799).

Summary of relevant tax and national insurance (NI) rates 2024/25

Rate of corporation tax

The main rate of corporation tax is 25% for companies with profits over £250,000. A small profits rate of 19% applies for companies with profits of £50,000 or less. Companies with profits between these limits will pay tax at the main rate reduced by marginal relief, which provides a gradual increase in the effective corporation tax rate.

Taxation of dividends

The cash dividend received is the gross amount potentially subject to tax. The rates of tax on dividend income are 8.75% for basic rate taxpayers, 33.75% for higher rate taxpayers and 39.35% for additional rate taxpayers.

A Dividend Tax Allowance taxes the first £500 of dividends received in a tax year at 0%.

National Insurance

National insurance contributions (NICs) for company directors are calculated on an annualised basis and the rate of employees' NICs is 8% above £12,570 (for 2024/25). In addition, a 2% charge applies to all earnings over the NIC upper earnings limit (£50,270 for 2024/25). The rate of NICs for the self-employed is 6% on profits above £12,570, and 2% on profits above £50,270 for 2024/25.

NICs can be reduced to nil by incorporating, taking a small salary up to the threshold at which NICs are payable and then taking additional profits as dividends.

Pension provision

As an employee/director of the company, it should be possible for the company to make pension contributions (subject to limits) to a registered pension fund irrespective of the salary level, provided it is justifiable under the 'wholly and exclusively' rule. Pension contributions are deemed to be a private expense for sole traders or partners.

Other tax issues

In addition we consider other relevant factors including potential disadvantages. It is all too easy to focus exclusively on the potential annual tax savings available by operating as a company. However, other tax issues may be significant and should not be underestimated.

Capital gains

Incorporating your existing business will involve transferring at least some of your assets (most significantly goodwill) from your sole trade or partnership into your new company. The transfer of goodwill may create a significant capital gain although there is a mechanism for deferring the gain until any later sale of the company if the business is transferred in exchange for shares in the company.

Relief for goodwill

Generally where goodwill is sold to the company for cash or debt on or after 3 December 2014, individuals are prevented from claiming Business Asset Disposal Relief (BADR) and capital gains tax (CGT) arises on the gain.

Property taxes

Depending on where the property is situated there will be Stamp Duty Land Tax (SDLT), Land and Buildings Transaction Tax (LBTT) or Land Transaction Tax (LTT) charges to consider when assets are transferred to a company. Goodwill and debtors do not give rise to a charge, but land and buildings may do so.

Income tax

The precise effects of ceasing business in an unincorporated form, including 'overlap relief' or transitional adjustments arising from changes to basis periods, need to be considered.

Capital allowances

Once again the position needs to be carefully considered.

Other advantages

There may be other non-tax advantages of incorporation and these are summarised below.

Limited liability

A company normally provides limited liability. If a shareholder's shares are fully paid he cannot normally be required to invest any more in the company. However, banks often require personal guarantees from the directors for borrowings. The advantage of limited liability will generally apply in respect of liabilities to other creditors.

Legal continuity

A company will enjoy legal continuity as it is a legal entity in its own right, separate from its owners (the shareholders). It can own property, sue and be sued.

Transfer of ownership

Effective ownership of the business may be more readily transferred, in comparison to a business which is not trading as a limited company.

Borrowing

Normally a bank is able to take extra security by means of a 'floating charge' over the assets of the company and this will increase the extent to which monies may be borrowed against the assets of the business.

Credibility

The existence of corporate status is sometimes deemed to add to the credibility or commercial respectability of the business.

Pension schemes

The company could establish an approved pension scheme which may provide greater benefits than self-employed schemes.

Staff incentives

Employees may, with adequate safeguards, be offered an opportunity to acquire an interest in the business, reflecting their position in the company.

Disadvantages

No analysis of the position would be complete without highlighting potential disadvantages.

Administration

The annual compliance requirements for a company in terms of administration and accounting tend to result in costs being higher for a company than for a sole trader or partnership. Annual accounts need to be prepared in a format dictated by the Companies Act and, in certain circumstances, the accounts need to be audited by a registered auditor.

Details of the directors and shareholders are filed on the public register held by the Registrar of Companies.

Privacy

The annual accounts have to be made available on public record - although these can be modified to minimise the information disclosed.

PAYE/benefits

If you do not have any employees at present, you do not have to be concerned with Pay As You Earn (PAYE) and returns of benefits forms (P11Ds). As a company, you will need to complete PAYE records for salary payments and submit details of salary payments on a timely basis under PAYE Real Time Information (RTI). You will also need to keep records of expenses reimbursed to you by the company. Forms P11D may have to be completed.

Dividends

If you will require regular payments from your company, you will need to set up a system to correctly pay dividends.

Transactions with the business owner

A business owner may introduce funds to and withdraw funds from an unincorporated business without tax implications. When a company is involved there may be tax implications on these transactions.

Director's responsibilities

A company director may be at risk of criminal or civil penalty proceedings e.g. for the late filing of accounts or for breaking the insolvency rules.

8. Off-payroll working and Personal Service Companies

We summarise what situations are caught by the special rules that apply to some personal service companies and the implications of the rules. At Franklyn & Co, we can help check whether the regime may apply to your company if you live or work in the Nottinghamshire area.

The off-payroll working rules are designed to prevent the avoidance of tax and national insurance contributions (NICs) through the use of personal service companies and partnerships.

The rules do not stop individuals selling their services through either their own personal companies or a partnership. However, they do seek to remove any possible tax advantages from doing so where the worker would otherwise be an employee of the client.

The application of the rules differs depending on the client to whom the services are provided; whether the client is a public sector body, a large or medium private sector business or a small private sector business.

Summary of approach

Removal of tax advantages

The tax advantages mainly arise by extracting the net taxable profits of the company by way of dividend. This avoids any national insurance contributions (NICs) which would generally have been due if that profit had been extracted by way of remuneration or bonus. In addition, dividend tax rates are lower than those applicable to salary income.

The intention of the rules is to tax most of the income received from the client as if it were the salary of the person doing the work.

To whom does it apply?

The rules apply if, had the individual sold their services directly rather than through a company (or partnership), they would have been classed (by HMRC) as employed rather than self-employed.

For example, an individual operating through a personal service company but with only one customer for whom they effectively work full-time is likely to be caught by the rules. On the other hand, an individual providing similar services to many customers is far less likely to be affected.

Employment v self-employment

One of the major issues under the rules is to establish whether particular relationships or contracts are caught. This is because the dividing line between employment and self-employment has always been a fine one.

All of the factors will be considered, but overall it is the intention and reality of the relationship that matters.

The table below sets out the factors which are relevant to the decision.

HMRC will consider the following to decide whether a contract is caught under the rules:

Mutuality of obligation

– the customer will offer work and the worker accept it as an ongoing understanding?

Control

– the customer has control over tasks undertaken/hours worked etc?

Equipment

– the customer provides all of the necessary equipment?

Substitution

– the individual can do the job himself or send a substitute?

Financial risk

– the company (or partnership) bears financial risk?

Basis of payment

– the company (or partnership) is paid a fixed sum for a particular job?

Benefits

– the individual is entitled to sick pay, holiday pay, expenses etc?

Intention

– the customer and the worker have agreed there is no intention of an employment relationship?

Personal factors

– the individual works for a number of different customers and the company (or partnership) obtains new work in a business-like way?

HMRC has provided a digital tool to help identify the employment status of a worker.

Planning consequences

The main points to consider if you are caught by the legislation are:

the broad effect of the legislation will be to charge the fee paid by the client income of the company to NICs and income tax, at personal tax rates rather than corporate tax rates

there may be little difference to your net income whether you operate as a company or as an individual

to the extent you have a choice in the matter, do you want to continue to operate through a company?

if the client requires you to continue as a limited company, can you negotiate with the client for increased fees?

if you continue as a limited company you need to look at the future company income and expenses to ensure that you will not suffer more taxation than you need to.

Exceptions to the rules

If a company has employees who have 5% or less of the shares in their employer company, the rules will generally not be applied to the income that those employees generate for the company.

Note however that in establishing whether the 5% test is met, any shares held by 'associates' must be included.

How the rules operate

There are different rules which apply depending on the client to whom the services are being provided.

Where the client is a small, private sector body then responsibility for determining the status of the worker lies with the personal service company.

Where the client is a public sector organisation or a medium or large-sized private business, broadly that entity will have responsibility for determining the status of the worker and communicating that via the issue of a status determination statement.

Definition of a small company

The legislation uses an existing statutory definition within the Companies Act of a 'small company' to exempt small businesses from the new rules. A small company is one which meets two of these criteria:

a turnover of £10.2 million or less

having £5.1 million on the balance sheet or less

having 50 or fewer employees.

If the business receiving the work of the individual is not a company, it is only the turnover test that will apply.

Application - services provided to small, private sector client

These rules are sometimes referred to as the IR35 rules.

The personal service company operates PAYE & NICs on actual payments of salary to the individual during the year in the normal way.

If, at the end of the tax year - ie 5 April, the individual's salary from the company, including benefits in kind, amounts to less than the company's income from all of the contracts to which the rules apply, then the difference (net of allowable expenses) is deemed to have been paid to the individual as salary on 5 April and PAYE/NICs are due.

Allowable expenses include:

certain employment expenses (but not travel)

certain capital allowances

employer pension contributions

employers' NICs - both actually paid and due on any deemed salary

5% of the gross income to cover all other expenses.

Where salary is deemed in this way:

appropriate deductions are allowed in arriving at corporation tax profits and

no further tax/NICs are due if the individual subsequently withdraws the money from the company in a HMRC approved manner (see below).

Application - services provided to public sector or medium/large private sector client

Where the legislation applies, the public sector engager or fee-payer is treated as an employer for the purposes of tax and Class 1 NICs (including employer NICs) and the amount paid to the worker's intermediary will be deemed to be a payment of employment income to that worker.

The 5% allowance used by the worker's intermediary for certain business expenses is not available for contracts with the public sector.

Income received by the personal service company which has been taxed as employment income under these rules is not chargeable to corporation tax, nor is there additional income tax to pay on extraction of the funds.

Points to consider from the working of the rules

In order to perform the calculations of the deemed payment under the first set of rules, you need to have accurate information for the company's income and expenses for this period. You may need to keep separate records of the company expenses which will qualify as 'employee expenses'. There is a tight deadline for the calculation of the deemed payment and paying HMRC. The deemed payment is treated as if an actual payment had been made by the company on 5 April and tax and NICs have to be paid to HMRC by 19 April.

Payments made by your personal company into a personal pension plan will reduce the deemed payment. This can be attractive as the employer's NICs will be saved in addition to PAYE and employee's NICs.

The timing and method of future extraction of funds from the personal service company should be considered in order to minimise cashflow impacts of taxation.

Other points to consider

Partnerships

Where individuals sell their services through a partnership, the rules are applied to any income arising which would have been taxed as employment income if the partnership had not existed.

Many partnerships are not caught by the rules even if one or more of the partners performs work for a client which may have the qualities of an employment contract.

The rules will only apply to partnerships where:

an individual, (either alone or with one or more relatives), is entitled to 60% or more of the profits or

all or most of the partnership's income comes from 'employment contracts' with a single customer or

any of the partners' profit share is based on the amount of income from 'employment contracts'.

Penalties

Where a personal service company or partnership fails to deduct and account for PAYE/NICs due under the rules, the normal penalty provisions apply.

If the company or partnership fails to pay, it will be possible for the tax and NICs due to be collected from the individual as happens in certain circumstances under existing PAYE and NIC legislation.

Managed Service Companies (MSCs)

MSCs had attempted to avoid the IR35 rules. The types of MSCs vary but are often referred to as 'composite companies' or 'managed PSCs'. Broadly, the main difference is that an MSC provider is involved with the worker's company. For example where the provider benefits financially from providing the services of the worker or influences/controls the provision of those services or the way payments are made to the individual. Legislation has been introduced to ensure that workers providing services through an MSC are subject to similar rules to those for PSCs above.

9. Research and development

Research and development (R&D) by companies has been actively encouraged through a range of tax incentives including an increased deduction for R&D revenue spending and a payable R&D tax credit for companies not in profit. At Franklyn & Co, we can provide R&D advice for your company in the Nottinghamshire area.

A new merged Research and Development (R&D) scheme has been introduced, replacing both the current SME and R&D Expenditure Credit (RDEC) regimes. The changes apply to accounting periods beginning on or after 1 April 2024.

A new set of rules makes aid available to most companies, in the form of a payable credit calculated by reference to expenditure on R&D. A second set of rules makes aid available to SMEs that invest heavily in R&D, in the form of an adjustment of profits or losses for corporation tax purposes, calculated by reference to expenditure on R&D and, where that adjustment produces or contributes to a trading loss, a payable credit calculated by reference to that loss.

The new RDEC

The RDEC allows the company to claim a taxable credit of 20% for expenditure incurred on eligible expenditure. As this amount is taxable it is also known as an 'above the line' credit. The credit received must be used to settle corporation tax liabilities of the current, future or prior periods subject to certain limitations and calculations. Where there is no corporation tax due the amount must be used to settle other tax debts and may then be able to be repaid.

There are broadly three categories of qualifying R&D expenditure which may qualify for R&D:

In-house expenditure - incurred on staffing costs; on software, data licences, cloud computing services or consumable items; is qualifying expenditure on externally provided workers.

Expenditure attributable to relevant R&D contracted out by the company.

Expenditure attributable to relevant R&D contracted out to the company broadly by a non-taxpayer.

Relief for loss-making, R&D-intensive SMEs

The existing SME rules are used as the basis for the new relief for companies that are SMEs, invest heavily in R&D and do not make associated trading profits. This provides relief in the form of an additional deduction where the investment is made in the course of a loss-making trade i.e. 186% relief. These rules are amended to add new conditions, namely that:

The company meets the R&D intensity condition in the period or obtained relief under the R&D-intensive rules for its most recent prior accounting period of 12 months' duration, having met the R&D intensity condition in that period.

The company makes a loss in the trade in the period.

Broadly, the company meets the condition if its relevant R&D expenditure for the period amounts to at least 30% of its total relevant expenditure for the period.

Where the conditions are met, a repayable credit of 14.5% may be due but this repayment is subject to a number of detailed restrictions.

The qualifying expenditure brackets mirror the three categories detailed above under the RDEC scheme.

Qualifying projects

R&D relief can only be claimed by companies that have incurred expenditure on qualifying R&D projects that are relevant to the company's trade. A project should address an area of scientific or technological uncertainty and be innovative. The innovation needs to be an improvement in the overall knowledge in the relevant field of research, not just an advancement for the company.

An important point to appreciate is that the activity does not have to create something completely new from scratch. It could include:

Developing a product that exists but where there is some technological uncertainty which can be improved.

Making an appreciable improvement to a product or process e.g. exploring new cost-effective materials which will allow a product to perform better.

Companies should document the uncertainties and planned innovation at the start of a project to provide evidence to support an R&D claim.

Once the company is comfortable that R&D is taking place, then the next step is to identify the activities of the business that relate to the R&D activity.

There are essentially two types of activities:

those that contribute directly to achieving the advancement certain activities that indirectly contribute to achieving the advancement.

Examples of direct activities are:

scientific or technological planning

scientific or technological design, testing, and analysis

activities which design or adapt software, materials or equipment.

Examples of indirect activities are:

information services e.g. preparation of R&D reports

indirect supporting services to the R&D project e.g. maintenance, security, clerical

ancillary services e.g. leasing laboratories and equipment.

Indirect activities all have to be undertaken for the R&D project.

The R&D project begins when the work to resolve the scientific or technological uncertainty starts and ends when that uncertainty is resolved. It is therefore beneficial for companies to keep a timeline of activities and their purposes to detail when the business starts to move into the production phase to optimise their claims.

Claiming relief

If a company has not previously claimed R&D relief, or not claimed within the last three years, then it must notify HMRC within six months of the end of the accounting period in relation to which that R&D is incurred.

In addition, for any company wishing to claim relief, claimants must provide additional information to support a claim before filing the corporation tax return. If this information is not supplied the claim will be invalid.

10. The Construction Industry Scheme

For those working in the construction industry, the compliance requirements of the Construction Industry Scheme needs to be coped with. At Franklyn & Co, we can assist you to comply with the onerous requirements of the Scheme for your business in the Nottinghamshire area.

The Construction Industry Scheme (CIS) sets out special rules for tax and national insurance (NI) for those working in the construction industry. Businesses in the construction industry are known as ‘contractors' and ‘subcontractors'. They may be companies, partnerships or self employed individuals.

The CIS applies to construction work and also jobs such as alterations, repairs, decorating and demolition.

Contractors and subcontractors

Contractors include construction companies and building firms and also government departments and local authorities. From 6 April 2021 any other business spending more than £3 million over a rolling 12 month period on construction is classed as a contractor for the purposes of the CIS.

Subcontractors are those businesses that carry out work for contractors.

Many businesses act as both contractors and subcontractors.

Monthly return

Contractors have to make an online monthly return to HMRC:

confirming that the employment status of subcontractors has been considered

confirming that the verification process has been correctly dealt with

detailing payments made to all subcontractors; and

detailing any deductions of tax made from those payments.

The monthly return relates to each tax month (ie running from the 6th of one month to the 5th of the next). The deadline for submission is 14 days after the end of the tax month ie for the tax month 6 May to 5 June the deadline is 19 June.

Where a contractor has not made any payments to subcontractors in a tax month it is advisable to make a nil return to avoid HMRC chasing the return or issuing penalties for failure to make a return.

All contractors are obliged to file monthly even if they are entitled to pay their PAYE quarterly.

Identification

Subcontractors must give contractors their name, unique taxpayer reference and national insurance number (or company registration number) when they enter into a contract. So long as the contractor is satisfied that the subcontractor is genuinely self-employed the 'verification' procedure (explained below) must be followed.

Employed or self-employed?

A key part of the CIS is that the contractor has to make a monthly declaration that they have considered the status of the subcontractors and are satisfied that none of those listed on the return are employees. HMRC can impose a penalty of up to £3,000 if contractors negligently or deliberately provide incorrect information.

Remember that employment status is not a matter of choice. The circumstances of the engagement determine how it is treated.

The issue of the status of workers within the construction industry is not a new matter and over the last few years HMRC has been making substantial efforts to re-classify as many subcontractors as possible as employees. The courts have considered many cases over the years and take into account a variety of different factors in deciding whether or not a worker is employed or self-employed. The tests which are applied include:

the right of control over how, what, where and when the work is done; the more control that a contractor can exercise, the more likely it is that the worker is an employee

whether the worker provides a personal service or whether a substitute could be provided to do that work

whether any equipment is necessary to do the job, and if so, who provides it

the basis of payment - whether an hourly/weekly rate is paid, whether there is any overtime, sick or holiday pay and whether or not invoices are raised for the work done

whether the worker is part and parcel of the organisation or whether they are conducting a task which is self-contained in its own right what the intention of the parties is - whether there is any written statement that there is no intention of an employment relationship

whether there is a mutuality of obligation; that is, an ongoing understanding that the contractor will offer work and the worker accept it

whether the workers have any financial risk.

As can be seen from the above, there are a number of factors which must be considered and the decision as to whether somebody should be classified as employed or self-employed is not a simple one.

Clearly, HMRC would like subcontractors to be classed as employees, as this generally means that more tax and national insurance is due. However, just because the HMRC think that somebody should be re-classified does not necessarily mean that they are correct.

HMRC has developed software known as the employment status indicator tool, which is available on their website, to address this matter but the software appears to be heavily weighted towards re-classifying subcontractors as employees. It should not be relied on and professional advice should be taken if this is a major issue for your business. Please talk to us if you have any particular concerns in this area.

Verification

The contractor has to contact HMRC to check whether to pay a subcontractor gross or net. Not every subcontractor will need verifying (see below). Usually it will only be new ones.

The verification procedure will establish which of the following payment options apply:

gross payment

a standard rate deduction of 20%

a deduction made at the higher rate of 30% if the subcontractor has not registered with HMRC or cannot provide accurate details to the contractor and HMRC cannot verify them.

Subcontractors must be verified online and HMRC will give the contractor a verification number for the subcontractors which will be matched with HMRC's own computer. The number will be the same for each subcontractor verified at any particular time. There will be special suffixes for the numbers issued in respect of subcontractors who cannot be verified. The numbers are also shown on contractors' monthly returns and the payslips issued to the subcontractors.

Clearly, these numbers are a fundamental part of the system and contractors have to ensure that they have a fool-proof system in place for obtaining and retaining them. It is also very important to give precise details to HMRC because, if their computer does not recognise the subcontractor, the higher rate deduction will have to be made.

Who needs verifying with HMRC?

If a contractor is paying a subcontractor they will not have to verify them if:

they have already included them on any monthly return in that tax year; or

the two previous tax years.

A payslip?

Contractors have to provide a monthly ‘payslip' to all subcontractors paid, showing the total amount of the payments and how much tax, if any, has been deducted from those payments. The contractor has to provide this for each tax month as a minimum. Contractors are allowed to choose the style of the ‘payslips' themselves but certain specific information has to be provided including the:

contractor's name and their employer tax reference

tax month to which the payment relates

subcontractor's name, unique tax reference or specific subcontractor reference

the gross amount of the payment

cost of any materials which have reduced the gross payment

amount of any tax deductions made and

verification number where deduction has been made at the higher rate of 30%.

If contractors include such payments as part of their normal payroll system, it needs to be clear that although payslips are being generated for those individuals, they are not employees and have clearly been classed as self-employed.

Are tax deductions made from the whole payment?

Not necessarily. The following items should be excluded when entering the gross amount of payment on the monthly return:

VAT charged by the subcontractor if the subcontractor is registered for VAT

any Construction Industry Training Board levy.

The following items should be deducted from the gross amount of payment when working out the amount of payment from which the deduction should be made:

what the subcontractor actually paid for materials including VAT paid if the subcontractor is not registered for VAT, consumable stores, fuel (except fuel for travelling) and plant hire used in the construction operations

the cost of manufacture or prefabrication of materials used in the construction operations.

Any travelling expenses (including fuel costs) and subsistence paid to the subcontractor should be included in the gross amount of payment and the amount from which the deduction is made.

Penalties

The whole system is backed up by a series of penalties. These cover situations in which an incorrect monthly return is sent in negligently or fraudulently, failure to provide CIS records for HMRC to inspect and incorrect declarations about employment status. Late returns under the CIS scheme also trigger penalties as follows:

a basic penalty of £100 for failure to meet due date of the 19th of the month

where the failure continues after two months after the due date, a penalty of £200

after six months the penalty rises to the greater of 5% of the tax or £300

after 12 months the penalty will again be the greater of £300 or 5% of the tax but, where the withholding of information is deliberate and concealed, it will be 100% of the tax (or £3,000 if greater) and where information is withheld deliberately, 70% of tax (or £1,500 if greater)

where the return is 12 months late but the information only relates to persons registered for gross payment, the penalty will be £3,000 for deliberate and concealed withholding of information and £1,500 for deliberate withholding without concealment

where a person has just entered the CIS scheme penalties will be restricted to a maximum of £3,000 in certain circumstances.

Paying over the deductions

Contractors have to pay over all deductions made from subcontractors in any given tax month by the 19th following the end of the tax month to which the deductions relate. If payment is being made electronically, the date will be the 22nd, or the next earlier banking day when the 22nd is a weekend or holiday. If the contractor is a company which itself has deductions made from its payments as a subcontractor, then the deductions made may be set against the company's liabilities for PAYE, NI and any CIS deductions it is due to pay over.

What about subcontractors?

If a subcontractor first starts working in the construction industry they will need to register for the CIS.

To register, a subcontractor needs to contact HMRC by phone or over the internet and they will conduct identity checks.

Gross payment status

The rules for subcontractors to be paid gross include a business test, a turnover test and a compliance test. To qualify for gross payment a subcontractor must:

have paid their tax and National Insurance on time in the past

do construction work (or provides labour for it) in the UK

run the business through a bank account.

The turnover for the last 12 month, ignoring VAT and the cost of materials, must be at least:

£30,000 for a sole trader

£30,000 for each partner in a partnership, or at least £100,000 for the whole partnership

£30,000 for each director of a company, or at least £100,000 for the whole company.

If the company is controlled by five people or fewer, each must have an annual turnover of £30,000.

Subcontractors not registered with the HMRC will suffer the higher rate deduction from any payments made to them by contractors.