

## Corporation Tax Self Assessment

### 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 issue 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 corporate 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 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 £200 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.

#### 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 changing a claim to capital allowances). The company has 12 months from the statutory filing date to amend the return.

HMRC have 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 judgement as to the accuracy of the figures in the return. This is dealt with under the enquiry regime.

#### Enquiries

Under CTSA, HMRC check 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 have a fixed period, of 12 months from the date the return is filed, in which to commence an enquiry
- if no enquiry is started within this time limit, the company's return becomes final - subject to the possibility of a HMRC 'discovery'
- HMRC will give the company formal notice when an enquiry commences
- HMRC are also required to give formal notice of the completion of an enquiry, and to state their conclusions
- a company may ask the Commissioners to direct HMRC to close an enquiry if there are no reasonable grounds for continuing it.

#### Discovery assessments

HMRC have 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.

### Summary of self assessment process

#### Example

A company prepares accounts for the 12 months ended 31 May 2011 and submits the return by 31 December 2011.

Key dates under CTSA are:

- 01.03.12 Payment of corporation tax
- 31.05.12 Deadline for filing the return
- 31.12.12 End of period for HMRC to open enquiry (being 12 months from the date the return was actually filed)

On 31 December 2012 the company tax position is finalised subject to HMRC's right to make a discovery assessment in some circumstances.

## Payment of tax

There is a single, fixed due date for payment of corporation tax, nine months and one day after the end of the accounting period (subject to the Quarterly Instalment Payment regime for 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 25% of the loan. This tax is included within the CTSA system and the company must report loans outstanding to participators in the tax return.

## Controlled Foreign Companies

A Controlled Foreign Company (CFC) is a non-UK company which is controlled by UK taxpayers and which operates in a 'low tax' country. If a UK company has a 25% interest in a CFC, it may need to include a share of the profits of the CFC in its tax due. The CFC rules currently may apply where a UK company has a subsidiary which operates in a country with a relatively low rate of corporate tax. In certain circumstances the profits of the subsidiary may be subject to UK corporate tax.

Interim improvements to the existing CFC rules were introduced in Finance Act 2011 and more fundamental proposed changes have been announced for consultation with interested parties. The legislative outcomes of the proposals will be included in Finance Bill 2012.

The main interim improvement is to exempt a CFC which carries on a range of 'foreign to foreign' activities involving transactions wholly or partly with other group companies. The exemption is designed to produce a proportionate outcome in contrast to the 'all or nothing' approach generally taken by the existing CFC exemptions.

The more fundamental proposed changes will concentrate on the artificial diversion of profits from the UK in two areas – group finance arrangements and intellectual property.

## Transfer pricing

Transfer pricing rules require the market value of transactions between connected businesses to be recognised for tax purposes whether or not these transactions are within the UK or 'cross border'. There are also record keeping regulations which require the companies to demonstrate that the transactions have taken place at market value.

## How we can help

Do not hesitate to contact us if you require any further information.

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