

#### **Belfast**

Horwath House, 20 Rosemary Street,  
Belfast BT1 1QD  
Tel: +44 28 9024 9222  
Fax: +44 28 9024 9333  
Email: alan.curry@asmhorwath.com

#### **Magherafelt**

The Diamond Centre, Market Street,  
Magherafelt BT45 6ED  
Tel: +44 28 7930 1777  
Fax: +44 28 7930 1666  
Email: mark.mcneill@asmmfelt.co.uk

#### **Dungannon**

8 Park Road, Dungannon,  
Co. Tyrone BT71 7AP  
Tel: +44 28 8772 2139  
Fax: +44 28 8772 3549  
Email: norman@asmdungannon.co.uk

#### **Newry**

Wyncroft, 30 Rathfriland Road,  
Newry BT34 1JZ  
Tel: +44 28 3026 9933  
Fax: +44 28 3026 9944  
Email: mail@asmhnewry.com

#### **Dundalk**

First Floor, Block 1, Quayside Business Park,  
Dundalk, Co.Louth, Ireland  
Tel: +353 4293 31637  
Fax: +353 4293 34639  
Email: mail@asmhdundalk.com

#### **Dublin**

355 North Circular Road, Phibsboro, Dublin 7,  
Ireland  
Tel: +353 1830 8155  
Fax: +353 1830 8578  
Email: mail@asmhdundalk.com

# Newsletter



## ASM Horwath

[www.asmhorwath.com](http://www.asmhorwath.com)

## On the way out

### Additional tax relief

Many businesses already obtain 100% relief on plant and machinery expenditure but there are situations when the Annual Investment Allowance of £50,000 is simply insufficient. In recognition of this and to encourage investment in the current economic climate, an extra temporary first year allowance (FYA) of 40% is currently available instead of the normal 20% annual allowance.

The temporary FYA can be claimed on qualifying expenditure incurred in the 12 month period ending 31 March 2010 for a company or 5 April 2010 for individuals and partnerships.

The FYA will not apply for expenditure on integral features, cars, long life assets and assets for leasing. However it is available to any size or type of business entity so take advantage before it disappears.

## And on the way in

### PAYE penalties for late payment

Penalties are to be introduced for PAYE from 6 April 2010 where payment is late. The liability to a penalty will be based on a totting up procedure depending on the number of defaults during a tax year. A penalty will not be levied for the first default and may then be charged depending on the number of defaults on a rising scale from 1 to 4%.

Further, any tax which is still unpaid six months after the due date, may incur a further penalty of 5% and a further 5% can be levied after 12 months.

Please contact us if you require further advice on these matters.

## SPRING 2010

# A light at the end of the tunnel

In the current climate there will be a number of individuals faced with a potential loss of capital on private company shares. This may occur because they have had to sell at a low price or, as is more likely, the company is being wound up following cessation of the trade. So what relief is available?

A loss on a disposal of shares is generally an allowable capital loss for tax purposes. Whilst this is reassuring to know, this often means that there is no immediate relief if an individual currently has no chargeable gains. This is because a capital loss can normally only be relieved against current or future gains.

### Relief against income

However, certain losses on shares can be relieved against general income rather than capital. This alternative treatment may provide tax relief more immediately and is also likely to generate a more substantial tax saving. This is because in 2009/10 both the income tax basic rate of 20% and the higher rate of 40% exceed the 18% capital gains tax rate. Further if the loss is triggered in 2010/11, it could even save 50% income tax.

The taxpayer has the choice to relieve any such qualifying loss against income in either the same tax year (for when the loss is established) or the preceding tax year or both.

The conditions which must apply for the shares to qualify in such circumstances are:

- the individual must have subscribed for the shares when issued and
- the shares must be in an unquoted qualifying trading company.

Certain trades are excluded and include leasing, legal or accountancy services, property development, farming and operating or managing hotels or nursing homes.

### What about irrecoverable loans?

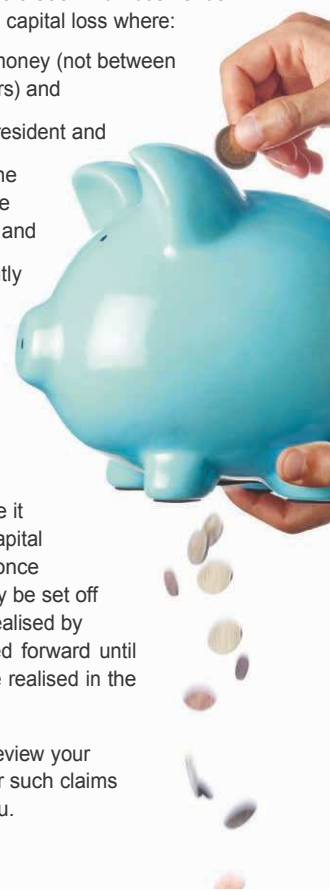
Provisions also apply so that an individual lender can make a claim for a capital loss where:

- an individual lends money (not between spouses/civil partners) and
- the borrower is UK resident and
- the borrower uses the monies wholly for the purposes of a trade and
- that loan subsequently becomes irrecoverable.

Similar rules apply to payments made under a guarantee.

The loss relief is not as advantageous because it can only qualify as a capital loss. This means that once established, it may only be set off against capital gains realised by the individual or carried forward until such time as gains are realised in the future.

Please contact us to review your position if you consider such claims may be available to you.



# Facilitating Funding

In the Pre-Budget Report of 9 December 2009, the Chancellor announced an extension to the Enterprise Finance Guarantee scheme (EFG) which was originally due to end on 31 March 2010. The announcement stated that a further £500 million of new bank lending is to be guaranteed between 1 April 2010 and 31 March 2011.

## How does it work?

The scheme aims to facilitate bank lending to viable businesses which are generally otherwise unable to secure funding, due to the lack of a track record or collateral. Guarantees are provided by the government to commercial lenders who participate in the scheme, to the extent of 75% of the loan. Loan amounts can range between £1,000 and £1 million and there are now more than 35 participating lenders.

## Who is eligible?

The scheme is aimed at small businesses with the definition of small being generously defined as enterprises with up to £25 million annual turnover.

Most sectors of business are eligible although there are restrictions in certain sectors including agriculture, banking, insurance, finance and transport.

## What can it cover?

The guarantee aims to cover the following types of lending:

- new term loans (with terms of between three and ten years)
- refinancing existing term loans, where the loan is at risk due to the deteriorating value of security or where for cash flow reasons, the borrower is struggling to meet existing loan repayments
- conversion of an existing overdraft into a term loan to meet working capital requirements
- guarantee on invoice finance facilities to support an agreed additional advance on a SME's debtor book. This will supplement the invoice finance facility already in place.
- guarantee on new or increased overdraft borrowing for the SMEs experiencing short term cash flow difficulties.

## What does it cost?

In addition to regular capital and interest payments to your lender, and any arrangement fees which they may charge, a premium is payable to the Department for Business, Innovation and Skills.

The premium is equivalent to two per cent per annum on the outstanding balance of the loan, assessed and collected quarterly in advance throughout the life of the loan.

For further information please contact us or visit [www.berr.gov.uk/whatwedo/enterprise/finance/efg/page37607.html](http://www.berr.gov.uk/whatwedo/enterprise/finance/efg/page37607.html). The site includes a list of lenders and restricted business sector areas.

# Ringing the right tone

The provision of a phone for business use is an essential modern tool but it is important to avoid the tax traps...

For a number of years Mr Enterprise was employed in a management position and had always been provided with a mobile phone by his employer for personal and business use which he understood was a tax free benefit. When he set up his own company he entered into a new one year mobile phone contract early in April 2009. The contract was taken out personally but as 85% of his usage would involve business calls, he simply put the monthly bills through the company. Over the tax year 2009/10 the total payments made by the company amounted to £1,200.

Imagine his surprise to learn that there is a taxable benefit which should be included on his form P11D. As a higher rate tax payer this would result in an initial income tax charge of £480, before a claim is made to offset the business expense element. In addition both he and his company as his employer will also have to pay Class 1 National Insurance as it is the settlement of a personal bill.

## What went wrong?

When directors and employees take out contracts with suppliers in their own name and then the employer settles the liabilities arising - this is treated as taxable irrespective of the nature of the expense. The taxable amount should then be recorded on form P11D. However, for NIC purposes, it is treated as cash earnings and not as a benefit. This means that Class 1 NIC is due by both the employee and employer rather than Class 1A NIC by the employer only.

In the alternative situation, where the employee settles the bill initially but is then reimbursed by the employer, the payment should be included on the payroll, and will therefore be subject to PAYE and Class 1 NIC.

These rules apply in any situation where the employee/director pays personal bills and is reimbursed by the employer or where the employer settles the personal bills direct and not just in relation to mobile phones. Other examples could be home phone costs, internet or private medical cover.

## Putting it right

In relation to the mobile phone provision Mr Enterprise should arrange his next contract so that it is between his company and the supplier to ensure that for 2010/11 there are no tax or NIC charges. This is because the provision of a mobile phone by an employer in this way is a tax free (and NIC free) benefit. Only one such contract is tax free for each employee.

## What about employer provided home phones?

Where a home phone is provided and the employer is the subscriber, the provision of any private benefit is generally taxable (unlike a mobile phone). In this case the whole cost incurred should be treated as a chargeable benefit (this includes line rental) less any costs made good by the employee. The individual can then make a tax claim for any business calls necessarily incurred to reduce the amount actually taxable.

For NIC however, unless all private costs are made good then Class 1A is due on the whole cost incurred by the employer even if the individual subsequently claims a deduction for the business element. This is clearly wasteful and should be avoided. This can easily be done by ensuring that directors and employees pay their own home phone costs and are reimbursed for business calls only. This may be achieved by posting the expense to a directors' current account where in credit.

As you can see this is an area where tax and NIC can be unintentionally incurred so please contact us to review your position on these areas.

