Bricks & Mortar News

MHA MacIntyre Hudson's Construction and Real Estate Tax and Finance Newsletter

Health warning for contractors

Most contractors see 2016 as being a solid year for business with good levels of enquiries and strong order books. They foresee improving margins and there is every opportunity for many to do very well. However, the year will go very quickly and 2017 may be a more challenging year.

The BREXIT is an issue that will get resolved this year it would now seem, but it could have short to medium term effects for 2017 and onwards. The experts seem to infer that if we leave the EU, interest rates may go up purely to protect Sterling as a currency. If Sterling does fall, costs of imported materials is likely to go up, thereby making pricing very difficult.

Contractors should continually assess the credit worthiness of their supply chain and make efforts to improve their pipeline with customers that they have traded with successfully and for whom they are the preferred supplier. Some contractors are either reducing or avoiding their dependency on residential construction work. Difficult to do when there are good opportunities, but they also recognise the tap that is on at the moment need not necessarily continue and people and businesses prefer to have a more balanced portfolio of work.

What should be important for businesses is that they look to achieve their targeted margins and don't go for turnover, as everyone knows turnover is vanity, whilst profit is sanity.

When contractors are busy they tend not to press and resolve retentions. Some take the view that there is profit out there waiting to be brought in and will be accounted for when it is received! In good times they would rather go after work that is fresh and not review retention monies.

One should consider this more carefully and possibly work along the lines that a bird in the hand is worth two in the bush. It is probably better now to resolve retention recoveries than wait until the market has somewhat contracted or gone quiet, as this is the time when retentions seem more difficult to recover and litigation prevails.

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Audit burden reduction:
An opportunity for property developers?

For corporates the Government has recently announced that the audit threshold has been increased for financial years commencing on or after 1 January 2016.

From that date there is no audit requirement at the balance sheet date if a company satisfies at least two of the three following criteria for two consecutive financial years:-

- Turnover ≤ £10.2m
- Balance Sheet to be ≤ 5.1m
- Number of employees ≤ 50

The threshold where groups are concerned are:-

- Turnover ≤ £12.2m
- Balance sheet ≤ £6.1m
- No of employees 50

For many property developers this increase in threshold presents a potential opportunity to avoid the audit altogether, with the right planning on the structure of the company.

Whilst this was possible prior to the Government's announcement, the increase helps widen the scope as now holding companies and subsidiaries in a group can have up to the threshold of £10.2m turnover net, or £12.2m gross in total – a more realistic and useful threshold commercially, making a good business case to review your corporate structure.

The number of employees is generally not an issue. So, in any one year a company can either exceed the turnover threshold or the balance sheet total but not both. The balance sheet total is the aggregate of all assets held in the business i.e. fixed assets (property, plant and equipment) stock, debtors and cash ignoring any liabilities.

One could for example see a scenario where a developer runs two groups, or more, independently owned with the holding company being the banker and non trading, whilst the trading subsidiary undertakes individual deals.

If the stock held in the subsidiary company does not have a potential GDV of £10.2m then the audit is never in question. The timing of sales receipts, which may spread over one or more years, needs to be considered. At the end of the project, profits are distributed to the holding company (tax free) and are available for working capital for the next project which could be done in a new subsidiary. Contractors may feel having the service delivery in one company and the fixed assets and plant in another independent company with a management charge passing between the two also has its merits.

In summary, we suggest you consider the structure of your company NOW as it may pay significant rewards in terms of a reduction in audit fees. It is worth noting that once you are in the audit net one year, no matter what happens the second year, you still have to complete an audit so time is definitely of the essence.

Contact us

To discuss the options available to you, please contact a member of our specialist Construction and Real Estate sector team or send us an enquiry online.

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Construction SMEs beware

As reported in Accountancy Age in January 2016, HMRC investigations into the construction sector have increased 17%, resulting in yields rising from £131m to £154.2m in 2015.

HMRC has been actively targeting self-employed workers within the sector for the past five years and it seems it will remain their focus in 2016.

Chris Blundell, Partner at MHA MacIntyre Hudson who is part of the firm's Construction and Real Estate sector states: "Increased tax gained from HMRC investigations in 2015 into construction companies shows it's more important than ever to ensure all labour taken on and paid through CIS is genuinely self-employed and that care is always taken to operate CIS properly. Investigations into SME's, which most construction companies are, is now a focus of HMRC in a way that it's never been before."

Our CIS specialists

If you have an issue with the operation of the *Construction Industry Scheme (CIS) or want to ensure that what you are doing is correct, please contact our Employment Tax Services team who have significant experience in working with clients on the CIS.

Author
Chris Blundell
Tax Partner

Residential care and VAT recovery

At present, most care home operators providing residential care suffer a VAT cost as their supplies are deemed to be VAT exempt.

In order to alleviate the burden of VAT, we have devised a VAT mitigation structure that enables the care home operator to legally recover a proportion of the VAT it incurs. Please note, our idea applies to residential care only.

With careful planning and more importantly implementation, a proportion of this VAT cost can be negated by altering contracts with Local Authorities resulting in VAT being charged to the Local Authority. Local Authorities will be able to recover VAT charged in full as they have special status under the VAT Act. Our planning has been acknowledged in writing as valid by HM Revenue & Customs. Equally the Care Quality Commission (CQC) are aware of the planning and have not raised any objections.

Whilst our idea results in a VAT charge to Local Authorities on residential care, it ensures that VAT is not charged to individuals paying from their own means.

We have briefly summarised how the structure works below:

- Create a new company that is not state regulated;
- Move the contracts from OldCo to Newco;
- Newco VAT registers (best as a Group Reg);
- Newco contracts with OldCo so that OldCo continues to deliver the home care services – continuity of delivery;
- Newco charges Local Authority plus VAT;
- Local Authority entitled to recover VAT charged by Newco as within VAT legislation, they are defined as Section 33 bodies who get back, via a special scheme, VAT they incur; and
- Newco accounts for VAT on invoices issued and recovers VAT incurred through its quarterly VAT return.

The stages to implement are as follows:

1. Initial feasibility study to review both block and spot contracts and to analyse the management accounts to ensure the anticipated level of VAT savings actually exist;
2. Implementation involving negotiation with local authorities. Implementation also includes the issue of a novation agreement to the Local Authorities which is provided as part of the implementation process.

Financial Impact

With all VAT planning, the crucial question is "how much can I expect to save?" The potential savings can be best seen from the following on-going implementation:

- Care Home Group operating 13 homes
- 700 beds
- 480 residential
- 75% Local Authority occupancy
- VAT bearing costs £2m incl VAT
- Potential VAT Saving £170k pa

This is a significant addition to the bottom line in very difficult trading times.

Contact us

For more information, please contact Bilal Akram: bilal.akram@mhllp.co.uk.

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VAT Manager

Members voluntary liquidations

Property developers have a tendency to bring together sources of equity and finance to finance a property development. There may be several developments possibly done through individual special purchase vehicles ("SPV").

There will be new rules potentially in place (still subject to consultation but very unlikely to significantly change) from April 2016.

Where the following three conditions are met, distributions to individuals from the liquidation of a company in respect of share capital may be subject to income tax.

- The company is a close company.
- Within two years after receiving a distribution the person is involved with a similar trade or activity.
- It is reasonable to assume that the winding up is to obtain a tax advantage.

Even if the company is already in liquidation, but has not made the distribution yet, it is likely that any distribution made after 6 April will be subject to the new rules.

Where the company is a trading company, there has been the option to liquidate the company and take the proceeds as capital and seek Entrepreneurs Relief which would potentially qualify for a tax rate of 10%.

Generally developers work with financers for a period but find that after a time the deal they have needs to be changed for a variety of reasons.

Going forward property developers may wish to liquidate existing trading development vehicles before 5 April 2016.

After that date they may consider holding development companies through a holding company thereby allowing the retained profits of those companies to be dividend up to the holding company for reinvestment. Liquidation of the holding company being deferred until it is tactfully prudent.

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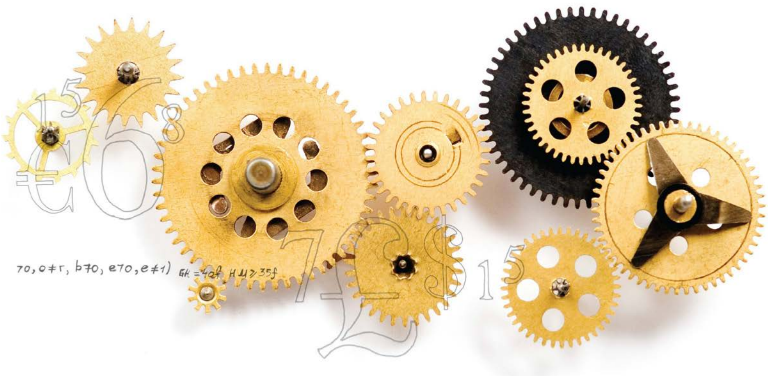

Buy to let under further attack?

The Bank of England are extremely concerned that the buy to let (BTL) sector poses a key risk to the economy.

Whereas residential house buyers now face more rigorous vetting on affordability, no such constraint presently applies to the BTL market where mortgages are often interest only.

Policy makers are extremely concerned with the growth in the private landlord market in the recent years (one in five residential properties is owned by a private landlord) and if the sector is not more effectively managed, we could see an uncontrolled and adverse impact on house prices.

It appears clear that Mark Carney (who faced the Treasury select committee in January) would like to see the Bank of England secure greater powers to curb lending in the sector with tougher restrictions and possibly the introduction of affordability tests for private landlords or the abolition of interest only mortgages for private landlords altogether.

Having said all of that, the impact of the Chancellors attack on the BTL market that are due to apply from April 2016 remains to be seen. We suspect that possibly only after the impact of these measures is understood will the Bank push for any changes it deems necessary.

Author
Jay Boyce
Partner

Ask us: Stamp duty on BTLs

In this regular feature we would like to hear from you. Our sector experts are on hand to answer your questions.

Q. I have heard on the news about changes to stamp duty for buy to let's, when are the changes coming in and is it just buy to lets?

A. In George Osborne's Autumn Statement 2015, he did announce there would be a 3% 'surcharge' on purchases of additional residential property. What has been dubbed the buy to let tax really is far more widely drawn. Although we only have draft legislation to rely on at the moment, the surcharge will be in place for all applicable transactions from 1 April 2016. This will not just catch buy to let property investors but broadly speaking anyone buying a UK residential property who has an interest in more than one property on the day they are buying the property and is not replacing their main UK residence will be caught.

Although the 3% does not seem a significant increase, in real terms if you are considering a purchase of a property for £300,000, the increase in stamp duty will be £9,000 being £5,000 pre April 2016 and £14,000 post April 2016. This is a 180% increase in the stamp duty payable. There are transitional rules in place for those transacting around April 2016.

Contact us

If you have a tax, VAT, CIS or any other question relating to the sector you would like answered, please email your query to Ricky Noimark: ricky.noimark@mhllp.co.uk.

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Uncovering the real cost of your premises

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