paylesstax 2020autumnedition

## A pandemic lifeline - Investors' Relief?

**During these very difficult times, viable businesses are looking in all directions for funding. This could be achieved in a number of different ways, such as Government backed loans and grants, Funding Circles or through businesses jumping through HMRC hoops so they qualify as Enterprise Investment Scheme companies, which, in turn, may entice the discerning investors to make that investment leap. All of these options have their merits, but for one reason or another, they may either not be suitable for the business or the investor or both. In some cases, the level of investment/funding may be insufficient to meet the needs of the business.**

**A much-forgotten option could be going down the Investors' Relief route.**

• An unlisted UK trading company or a holding company of a trading group could seek investment this way. **It does not matter what type of trade the company is involved in.** Therefore, certain businesses involved in property development, hotels or farming, for example, who can't seek investment via the Enterprise Investment Scheme route, could potentially do so using the Investors' Relief incentive.

• The investor could be an individual or the investment could even be via an Interest in Possession Trust.

• The investor would subscribe for ordinary shares in the company.

• As a shareholder they can be paid dividends and, if they hold on to the shares for at least 3 years, **any gain they make on the sale of those shares, up to a lifetime limit of £10 million, would attract a Capital Gains Tax rate of only 10%.** This is more attractive than the present Business Asset Disposal Relief (formerly known as Entrepreneurs Relief) which attracts the 10% Capital Gains Tax rate on a lifetime limit gain of £1 million and also requires an active involvement with the business.


**The legislation has tax avoidance clauses within it to try to ensure that the investment is for genuine commercial reasons.**

• The investor or a member of their family should not be employed by the relevant company at the time of the investment or within 180 days of the investment being made.

• At the time of subscribing for the shares there should have been no reasonable expectation that either the investor or the family member would be employed by the company. Therefore, it is preferable that they did not have an active role in the business.

This opportunity for both the investor and the company seeking such investment should be looked at in the great surround of all the other possibilities out there, some of which have been mentioned earlier in this article.

**Top tip:**

If you are a company seeking investment/funding or an investor looking at making such an investment, come and have a chat with us and we will be happy to report on the relevant qualifying criteria needed to access the best tax result and incentive for both the company and the investor alike.

## All is not lost

As well as for many others, the Covid-19 situation is undoubtedly creating ongoing financial issues for the self-employed. As a result of this, some businesses will face losses rather than profits this year.

This reality is difficult to accept, but all is not necessarily lost if this happens. Depending upon the particular circumstances, those losses can be utilised in a variety of different ways to either trigger off a tax and National Insurance (NI) refund and/or mitigate the future tax and NI bill.

- If you made a loss in one of the first four years of trading you can elect to carry the loss back three tax years and set it against your trading income and other income arising in those years. You go back to the furthest tax year first.

***For example:***
Tom has been self-employed for four years and has made a trading loss in the tax year ended 5 April 2021 (2020/21 tax year) of £40,000. If he decided to elect to go down this route, he would carry this loss back firstly to the tax year ended 5th April 2018 (2017/18 tax year) and set it against trading income and other income arsing in that year. Any remaining loss still available could then be carried over to the tax year ended 5th April 2019 (2018/19 tax year).

**You may have been trading for some years**, in which case, the aforementioned option might not be open to you. However, if you have made a loss in, say, the 2020/21 tax year, **you can elect to set that loss against other income in the same tax year and/or elect to carry the loss back to set against trading income and other income in the 2019/20 tax year.**

**If there is any loss still remaining** and you have made a disposal of an asset which potentially creates a capital gains tax liability in the same year, **you can opt to set the remaining loss against that gain**.

If your business has ceased and you made **a trading loss in the last 12 months of trading, you can elect to carry back that loss and set it against trading profits arising in the previous three years**. In this case though you set the loss against the most recent tax year first.

This could trigger a tax, Class 4 National Insurance and, in some cases, a Capital Gains Tax refund.

**You can also simply make a claim to carry forward the loss to set against future trading profits thereby mitigating your future tax liabilities.**

You may be able to avail yourself of more than one of those loss options. How best to utilise the loss needs to take into account each person's particular circumstances, review their cash flow position, check which tax years (if any) the individual suffered tax at the higher tax rate and, where feasible, try to ensure that the tax-free personal allowances in a particular chosen tax year have not been wasted. It is also important, if you are continuing to trade, to keep a separate running track record of the loss when setting it against your Class 4 NI liability, as an element of that loss may still be available for Class 4 NI mitigation for several years after the loss has been claimed for tax purposes.

### Top tip:

**There are so many options which are open to you if you sadly have a trading loss.** We would encourage our clients to provide their accounting details for that loss-making period as soon as possible along with the rest of their Tax Return information for the year in question. At that point we can make an early judgement on which option or options are available. Please do not hesitate to contact us on this matter if you would like our help.

## Covid 19 – accelerating retirement?

Looking at future uncertainty and perhaps significant losses going forward, some business owners, who may already have been contemplating retirement, could consider accelerating those plans. Against the Covid-19 backdrop, the energy to fight another 'recession' might be one too many. But what are some of the consequences to consider?

- If the company simply ceases to trade, there may be costs to consider such as redundancy payments or lease costs, for example.

- A distressed sale of the business might protect jobs and the trade going forward but for the retiree it could result in little value in their pocket.

- On top of that, if the trading company has reserves in excess of £25,000 and the owner manager simply winds up the company and extracts the reserves, they could, if they are a higher rate taxpayer, end up with a tax charge of up to 38.1%.

- If the expectant retiree believes that, over the next few years, they will become a basic rate taxpayer, they could consider taking the reserves out of the company over several tax years and, therefore, may only be taxed at 7.5%.

- It may, however, be preferential to go down the more formal member's voluntary liquidation route to extract the reserves. This could result in the tax liability being only 10%. Taking up this option, one has to balance the potential tax saving against the additional legal costs involved.

- Before winding up the company or extracting the reserves, one should ask the question as to what the retiree is intending to do with the money which is being taken out of the company. If it is for investment purposes, for example, to acquire a buy to let property, then is it worth considering not taking the cash out of the business but turning it into to an investment company, thereby avoiding the tax hit on extracting the reserves on the way out, leaving the retiree with more money to invest?

### Top tip:

There are many issues to consider when looking at going down the retirement route for the owner manager, this article has only touched upon a few. It is preferable to plan well in advance so all the issues and opportunities are explored, tax or otherwise, to ensure, as best you can, the retirement you hoped for. Please do not hesitate to contact us if you would like to go through those options based upon your personal circumstances.

## Are you one of the missing 2 million?

Were you born in the UK between 1st September 2002 and 2nd January 2011? If not, do you know anybody who was?

Back in September 2002, the Government wanted to encourage people to save from an early age so they created the Child Trust Fund (CTF) account.

- Any income or gains arising within the account is completely tax free.

- It was available to all children born in the UK whose parents were awarded child benefit. The government, to get things moving, in the child's first year contributed £250 into the account. At the age of 7, the Government topped up the CTF by a further £250. In the case of a child born into a low-income family the Government paid in £500 on each occasion.

- Parents, family members and friends can top up the CTF each year up to a maximum amount (£9000 for the 2020/21 tax year).

- Although the child can take control of the CTF at the age of 16 they cannot access it until the age of 18.

It is estimated around 55,000 people in the UK on average reach the age of 18 every month. **The first tranche of young people who could access the CTF was from September 2020**.

Approximately 4.5 million CTFs were set up by parents and guardians and around 1.8 million were created automatically by the UK tax authorities at the time because parents had failed to do so or the child was in local authority care.

**It is believed that around 2 million eligible young people are unaware of the existence of their CTF account. Are you one of those 2 million? Or do you know anybody who was born within that time period?**

Assuming no additional contributions were added to the CTF over the years, the educated view is that it might be worth around £1,400 or more now.

If the CTF provider (usually a bank or building society) does not hear from the 18 year old then they will transfer the monies into a 'protected' tax free account until they do so.

If the individual's birth fell between the aforementioned dates and they have reached the age of 16 (the age they can take control of the account but not access it), how can that person find out about their CTF account?

- They can do so by accessing the Government Gateway Services. If the person has not already set up a Government Gateway account, they will need to do that first. Once the individual has gained access, they will then require either their CTF unique reference number or National Insurance number. HMRC should contact them within 3 weeks to provide the person with details of the CTF provider to contact.

- If individual concerned was in local authority care then they should contact The Share Foundation charity who oversee these CTFs. The charity can furnish them with the necessary information.

There is a danger that millions of young people who have just, or are about to, reach the age of 18, could miss out on a small/medium or large windfall at a time, dependent on their circumstances, when they need it most.

**Top tip:**

If you are one of those young eligible people, have you thought what you want to do with this newly acquired capital sum? Are you going to simply spend it? Or will you use it as a deposit for a house/flat or invest in say a lifetime ISA for a future house purchase? Or will you want to use it to start up a business? Or look longer term by investing into a pension? The options are endless.

If you would like to talk to someone regarding those options then please do not hesitate to contact us. Where investment advice is required, we can bring in an IFA qualified to offer that particular piece of advice.


## We are here to help

We can help you by ensuring that you're aware of the changes that will affect you, your family and your business. To find out more about the ways that we can help you, do not hesitate to contact us.