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NEWSLETTER JULY 2009

CHANGES TO VAT REGISTRATION DETAILS – KEEP THE AUTHORITIES UP TO DATE

Whilst most (and hopefully all!) businesses are registered correctly for VAT, there are a number of businesses that are unaware of the regulations relating to certain changes which occur after registration and which H M Revenue & Customs (HMRC) must be made aware of. Set out below is a summary of advice given by HMRC relating to changes which HMRC must be informed about and the way in which they should be informed.

Changes in names and addresses

You must inform HMRC within 30 calendar days if any of the following change:

- the name or trading name of your business
- the main address of your business
- the name and/or home address of any partner in the business
- if you are an overseas company or resident, the name and/or address of the UK agent for VAT purposes

Death and illness

If you are in a partnership, and one of the partners has died, then one of the surviving partners must inform HMRC of this fact within 30 calendar days of the date of death.

If you are the only surviving partner and you want to recruit another partner, you must write to HMRC within 30 calendar days of the new appointment. If you decide to continue the business as a sole proprietor, you should report this within 30 calendar days of the change taking place.

Changes to a partnership

If your business is a partnership and there are any changes relating to a partner leaving, a new partner joining, or both - then you must tell HMRC. You also have to tell HMRC if the name or home address of any partner in the business changes. (This last point is often overlooked by partnerships.)

You need to tell HMRC about the above changes within 30 calendar days.

If you are the sole owner of a business and go into partnership, or your partnership ceases to exist and one of the former partners becomes the sole owner of the business, this is a change in the legal status of your business. See the following section for what to do when the legal status of your business changes.

Changes in the legal status of a business

A change in the legal status of your business might happen when, for example, a company (or other incorporated body) is formed to take over a business previously run by a sole proprietor or group of people, such as a partnership or club - or if a business previously carried on by a company (or other incorporated body) is taken over by a sole proprietor or group of people.

If you change the legal status of your business, then you must complete a new VAT registration application. You must also either:

- transfer the VAT registration number to the new registration, if you want to; or
- cancel the existing registration, in which case you will be given a new VAT registration number.

Changes to goods and services supplied

You need to tell HMRC within 30 calendar days if your main business activity changes, eg if you are registered for VAT because you supply goods and/or services that are VAT taxable, but you stop making VAT taxable supplies.

A drop in turnover

You can ask HMRC to cancel your VAT registration when your annual VAT taxable turnover falls, or you expect it to fall in the next 12 months, below the threshold for deregistration - currently £66,000.

Changes to your bank details

You must inform HMRC if your bank details change, because these details are used to make repayments to you. If you pay your VAT by Direct Debit, you will also have to change your Direct Debit Instruction.

If you use the Annual Accounting Scheme and you change your bank account number and/or sort code, then this will affect your Direct Debit arrangements for your payments under the scheme.

Closing or selling a business

If you close or sell your business, you must cancel your VAT registration.

If any of the changes outlined above occur in relation to your business, please contact us and we will advise you as to how to inform HMRC of the change(s).

THINKING OF CONTINUING YOUR STUDIES? CONSIDER APPLYING FOR AN EDUCATION MAINTENANCE ALLOWANCE

At this time of the year many students are considering continuing their studies at their own school's sixth form, the sixth form of another school, or at a sixth-form college. However, in certain households the lack of funds to finance these studies may be a problem. If this is the case, you could consider applying for an Education Maintenance Allowance (EMA). The government has given details of the EMA on its Directgov website and we summarise this guidance below.

The basics of the allowance

The EMA comes in weekly payments of £10, £20 or £30 which go directly into the student's bank account.

The amount a student receives is calculated by looking at the student's household income. Part-time work undertaken by the student and any benefits received by the student's parents will not affect the amount of the EMA.

In addition to the weekly allowance a student can also receive a bonus and these are determined by the work put in by the student and the targets set by his or her teacher, tutor or provider.

Eligibility for the allowance

The following criteria will determine whether or not a student is eligible for the EMA:

Age

The student must be aged 16, 17 or 18 and have either left or is about to leave compulsory education.

The course undertaken

The student must be enrolled on one of the following courses which are held in England:

- a full-time further education course at a college or school
- an LSC-funded Diploma (where available) or a course that leads to an Apprenticeship
- an LSC-funded Entry to Employment (e2e) course (if the student is on an e2e course, he or she will get the maximum £30 weekly EMA payment regardless of the student's household income)

The student's household income

Eligibility for an EMA is determined by the student's household income which for the academic year commencing in September 2009 is based on the income for the tax year 2008/09. The amount of this income must be below £30,810.

The amount of the weekly EMA is calculated according to the household income as follows:

Annual household income	Amount of weekly EMA
Up to £20,817	£30
£20,818 to £25,521	£20
£25,522 to £30,810	£10

THE LASTING POWER OF ATTORNEY

From time to time circumstances may arise when an individual either no longer wishes to make decisions concerning their affairs (including their property) or their personal welfare. These circumstances usually come about due to mental incapacity.

In these situations the individual (known as the Donor) can complete what is known as a Lasting power of Attorney (LPA) whereby he or she chooses someone (known as the Attorney) who is empowered to make decisions for the Donor.

Note that in the case of mental incapacity the LPA can only be created before the Donor lacks mental capacity. In other words the Donor must have the mental capacity to complete the LPA.

In order for an LPA to be used it must first be registered with the Office of the Public Guardian (OPG). However it is permissible, and very common, for the LPA to be taken out and not registered until the Donor wishes it to be registered or until the Donor lacks the necessary mental capacity to make the decisions referred to above.

There are two different types of LPA:

- a Personal Welfare LPA; and
- a Property and Affairs LPA

A Personal Welfare LPA

This type of LPA allows the Attorney to make decisions on the Donor's behalf concerning their personal welfare. This will include whether to give or refuse consent to medical treatment on the Donor's behalf and deciding where the Donor is to live.

A Property and Affairs LPA

This type of LPA allows the Attorney to make decisions on the Donor's behalf about his or her property and affairs, including paying the Donor's bills, collecting their benefits or other income, or selling their house, subject to any restrictions and conditions.

An LPA can be made by any person who is aged 18 or over and who possesses the mental capacity to make an LPA. You cannot have a joint LPA - there must be a separate LPA for each individual. So, for example, you cannot have a joint LPA for a husband and wife.

In addition to the Donor and the Attorney (see above) there three other important individuals, all of whom must be named in the LPA. These individuals act as important safeguards to protect the interests of the Donor.

The "named person".

The named person is a person chosen by the Donor and stated on the LPA who must be notified when an application is to be made to register the LPA. The named person can object to the application.

The certificate provider.

This person must certify that the Donor understands the LPA and has not been put under any pressure to make the LPA.

A witness

The witness confirms that they witnessed the Donor or Attorney signing and dating the LPA.

The Enduring Power of Attorney (EPA)

The Mental Capacity Act replaced the EPA with the LPA. It is no longer possible to make an EPA or to amend an existing EPA. However, if an unregistered EPA is in existence it can still be used provided that it is registered with the OPG.

An individual can revoke an existing unregistered EPA with a LPA provided that the individual has the mental capacity to do so at the time of the revocation and replacement.

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