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Client Briefing Note

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Targeting The New Annual Investment Allowance

Legislation was included in the recent Finance Act introducing a new Annual Investment Allowance (AIA) in respect of the first £50,000 per annum of capital expenditure of a business, on most types of plant and machinery. The effect of the new allowance is that where a business incurs expenditure up to £50,000 in a year, the full cost of the new asset will be deducted in calculating the taxable profit therefore tax relief will be obtained in the year of the expenditure.

The AIA is available to individuals, most partnerships and companies but the question arises as to the situation where more than one business is involved. An obvious tax planning mechanism would be to fragment or split businesses to generate entitlement to more than one allowance but complex rules exist in this area which should be considered when expenditure is incurred by anybody with involvement in more than one business.

In considering when related businesses may be required to share the AIA, it is necessary to look at limited companies and unincorporated businesses separately. Where two businesses are operated through a single limited company, only one AIA is available and it would be necessary to ensure the allowance is allocated in the most advantageous fashion.

Where more than one business is operated using separate limited companies, the entitlement to one or more AIA will depend on whether the businesses either share premises or are engaged in similar activities. If the companies are under common control and either of these 'shared premises' or 'similar activities' conditions are met, the companies will be treated as "related" and will only be entitled to a single AIA between them.

Similarly where unincorporated businesses, such as sole traders or partnerships, are under common control and meet either of the shared premises or similar activities conditions, again only one AIA will be due.

In summary, whilst the introduction of the AIA is a welcome acceleration of tax relief on capital expenditure, complications can arise where more than one business is operated and it will be important to seek advice when incurring expenditure, as to the level of allowance which will be available and the most tax advantageous fashion of allocating the allowance.

Based on law in force as at September 2008

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