



## COMPANY PENSION CONTRIBUTIONS FOR DIRECTORS. A SIMPLE TAX SAVING ??

### BACKGROUND

Our clients are always asking us if there are ways that we can help them **'save some tax'**, and my response is generally that **'Yes'** there are some simple and not so simple things that can be done to **save some tax** – but the most useful and valuable thing that we can do is to help you make more money !

However in reality it is both helping clients to **increase their turnover** and generate more profits along with using some of the more **simple and straightforward tax saving** opportunities.

**AND ONE of those is 'company paid' 'tax deductible' pension contributions for directors !**

### KEY ISSUES

So when are pension contributions a deductible expense for the company ?

1. they have to be **wholly and exclusively** incurred for the purposes of the trade i.e. whether an expense is **wholly and exclusively** is always subjective and each case would have to be considered as to the reason for the contribution.
2. a contribution made by an Employer to an employee's pension scheme will be deductible as an expense as part of the employee's overall remuneration package. However, are there any non-trade purposes for the company making the contribution ?
3. unless it is deemed that the overall the remuneration package for the employee (including the pension contribution), is excessive for the level of work done by the director, the contribution will meet the **wholly and exclusively** test and be fully deductible.
4. If the contribution is made in the final period of trade, it would need to be considered whether the payment is made as part of the normal costs of employing staff - or whether the cost is incurred as part of going out of business.

### PLEASE NOTE –

- Pension contributions are usually **deductible for tax purposes in the period in which they are paid not when they are accrued** (Finance Act 2004 s196)
- Very large pension contributions may need to be spread over several accounting periods, in certain circumstances (amounts of circa £500,000)
- There may also be income tax implications for a Directors where the pension contribution along with any personal contributions, exceeds the director's annual allowance for the tax year (£40,000)



## **CAUTION – HMRC’S VIEW OF PENSION CONTRIBUTIONS**

Although this is quite a common tax saving opportunity for company(ies) and their Directors, be aware that it can often be challenged by HMRC !

In our experience, we have seen challenges by HMRC to disallow the tax deductibility of pension contribution – **although we have generally successfully defended the Client !**

We believe there are certain criteria in respect of the pension contributions that attract a review and/or a challenge from HMRC including -

- regular (very) large pension contributions
- occasional or ‘one off’ large pension contributions
- pension contributions to employees that are related to the directors
- pension contributions to individuals that already have a record of earnings or income from other sources (**‘wholly and exclusively’** issue).

Obviously there are no specific grounds that HMRC apply when reviewing pension contributions by a company, but these appear to be factors in the challenges we have seen with HMRC.

## **NEXT STEPS**

For those companies with **31<sup>st</sup> December financial year ends**, the next few weeks are key when considering if pension contributions are an appropriate tax saving option for the company !

As with all **‘tax savings’** opportunities, consider other practical impacts as well i.e.

1. ensure that you review your ‘up to date’ accounts from your management accounts or bookkeeping
2. ensure that you actually have ‘profits’ that will generate a ‘tax saving’ from a pension contribution
3. ensure that adding additional cost(s) into the business results have unintended impacts i.e. affects annual bonuses, debt covenants etc
4. ensure that the business has the available cashflow or can manage cashflow **after** the pension contribution(s)
5. ensure that any pension contributions from the business DO NOT breach any annual allowances i.e. generating a tax bill for the Director !

**Contact the Sakura Team if you are looking for simple ways to ‘save on tax’ as we are currently working on building a library of 101 Simple Tax Savings for businesses !**

**Contact us on 0207 952 1230 or [info@sakurabusiness.co.uk](mailto:info@sakurabusiness.co.uk)**