

Loan Accounts

This factsheet is designed to give an overview of the issues involved with taking a director's loan from the company, whether this is an official director's loan or simply an overpayment of amounts due.

With respect to 'owner managed' companies i.e. those owned and run by the same person(s), the director is in a unique position in that he can withdraw money from the company account with little or no checks on what is being withdrawn. Due to this unique position, and in order to satisfy HMRC and various accounting regulations, a company would set up a 'Director's Account' within the accounting records of the company. All financial transactions between the company and the director must then pass through this account.

All payments due to the director such as salary, dividends and expenses will be credited to this account as amounts owing to the director and all payments to the director will be debited to this account thereby reducing the amount that is owed to the director. Provided a director only ever pays himself the exact amount owing in salary, dividends or expense reimbursement the balance on the Directors Account will net out to a nil balance.

If a director does not draw the full amount of money owed, then this will leave a credit balance within the company accounts. Likewise, if a director pays themselves more than what is owed this will leave a debit balance within the company accounts. The director will 'owe' the company the balance and so this becomes known as a Directors Loan.

Whilst HMRC have no problem with the company owing you money, a loan from the company to you carries various tax consequences as explained below. It makes no difference that the company is your own and that you may own all the shares because the company is a separate legal body and any loan made by it to you may be subject to additional taxes.

Also, you should note that a loan is only allowed under the Companies Act 2006, if there is prior shareholder approval (approval is not required if the loan(s) does not exceed £10,000).

Tax Consequences

There are two main areas that need to be considered when thinking about a director's loan these are the personal tax position (P11d) and the company tax position (section 455 CTA2010).



Personal Tax Complications

Any loan that exceeds £5,000 at any point during the year (even if just by a penny) must be declared on the P11d each tax year in which the loan is outstanding.

The benefit in kind arises if the loan is a 'beneficial loan' i.e. the interest charged on the loan is below the official interest rate as set by HMRC (currently 4.0% for 2012/13). The benefit

in kind value is equivalent to the official rate of interest on the loan less any interest paid by the employee (or director) to the company during the year.

The tax payable by the recipient of the loan will be at their marginal rate i.e. 20/40/50% on the benefit in kind value once calculated on the P11d and the company will also pay class 1a national insurance on this value.

Personal Tax Example:

The director of ABC Limited takes a director's loan of £50,000 on 6th April 2010. £10,000 is repaid to the company on 6th October 2010 with £40,000 being the balance outstanding at 5th April 2011; no interest has been paid to ABC Limited by the director so the loan is classed as a 'beneficial loan'.

The benefit in kind is calculated as follows:

Loan outstanding at 6th April 2010 (or date of loan made if later):	£50,000
Loan outstanding at 5th April 2011 (or date of loan repayment if earlier):	£40,000
Maximum outstanding balance during the period:	£50,000
Average Loan outstanding during the period:	£45,000
Official rate of interest:	4.0%
Benefit in Kind Value (Average loan multiplied by interest rate):	£1,800

The benefit in kind would then be declared on the director's personal tax return for the year and he would pay £360 (20% of BIK) in additional personal tax (assuming that he only has other income of £6,475 before dividends). If the director had salary and other income in excess of £43,875 before dividends the tax due would be £720 (40% of BIK) and £900 if the director had salary and other income in excess of £150,000 before dividends.

Effectively the BIK value is treated as salary and taxed as such, this also means that part of the basic rate band is taken up meaning that £1,620 in net dividends will now be pushed into the high rate threshold (assuming dividends have been previously declared up to or above the high rate threshold) which will result in additional high rate tax of at least £405 (possibly more if the director's total income then exceeded £100,000).

Company Tax Complications

Any loan that is outstanding at the company's yearend is subject to a corporation tax surcharge under section 455 of the Corporation Tax Act 2010 (section 455 CTA2010). The surcharge value is calculated as 25% of the outstanding loan at the yearend and is payable with the corporation tax at the normal due date.

However, if part or all of the loan is repaid within 9 months of the yearend then the surcharge charged is reduced by 25% of the repaid amount and as such, if the whole loan is repaid within 9 months of the yearend, there will be no surcharge applied.

The surcharge is repayable by HMRC but only at a point when the director's loan has been cleared. In this case, any monies paid under the surcharge will be repaid to the company 9 months after the end of the accounting period in which the loan is repaid.

Company Tax example:

A loan of £50,000 is taken on 6th May 2010 by the director and this is still outstanding at the company's yearend of 30th September 2010. The full £50,000 is repaid to the company on 31st August 2011.

As there was a loan outstanding at the yearend the 25% surcharge is applied which equates to £12,500 in this case and this is payable by the company with the corporation tax due by the normal due date of 30th June 2011. Interest will be charged by HMRC if the corporation tax or surcharge is paid late.

By the company's next yearend (30th September 2011) the loan has been fully repaid by the director and as such, the company is entitled to claim back the previous £12,500 that it had paid under section 455 CTA2010.

A letter will need to be sent to HMRC detailing the repayment of the director's loan and to request a repayment be made for the surcharge previously suffered, at this point HMRC may want to see evidence that the loan has been repaid (a copy of the bank statement showing the repayment normally).

Once they are happy the loan has been repaid HMRC will issue the repayment of the surcharge tax and this will be issued by 30th June 2012 (the date the corporation tax is due for the period ending 30th September 2011).

As you can see, the surcharge paid under section 455 can be very costly, especially given the time lag between the repayment of the director's loan HMRC issuing the refund.

Bed and Breakfasting

This is a term used by HMRC to classify a series of loans as one single loan for P11d and section 455 purposes. Basically speaking, if you take out a loan, repay it on 30th November (for example) to avoid the section 455 charge then take out a new loan for the same amount on 1st December, HMRC would deem there to have been no repayment and as such the section 455 tax would be due.

If you wish to take a new loan out shortly after repaying one you should ensure it is for a different amount, a different purpose and leave as big a gap as possible between the loans. This bed and breakfasting is again something we would advise against.

Conclusion

We always advise that you only withdraw funds from the company account as per your net pay and the value of any dividends declared. Anything over and above this would constitute a director's loan and due to the implications outlined above we would advise against this.

However, if you are happy that you only ever withdraw your net pay and the value of any dividend declared from the company it might be beneficial to take a director's loan if you have a genuine reason for needing to (i.e. a deposit is needed for a new house purchase) rather than taking the funds as salary/bonus or dividend. If this is something you are looking to do then please contact us before proceeding to discuss the implications specific to your situation.

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