

# Year End Tax Planning

Tax is a subject that excites very few people. It is easy to ignore awkward issues involving tax, such as those mentioned in this supplement. Don't - it could cost you dear. Instead, think of a regular review of your tax affairs (at least once a year) as an opportunity to reduce the taxman's take from your family.

The period leading up to the end of the tax year on 5 April is one of the best times to review your taxes and finances.

Here is a summary of the more important year end tax tips to help you identify areas that should be considered. As always we would be delighted to discuss with you the issues involved and any appropriate action you may need to take.

## Tax saving tips for the family

### Married couples

Each spouse is taxed separately, and so it is an important element of basic income tax planning that maximum use is made of personal reliefs and the starting and basic rate tax bands. Given that the personal allowance cannot be transferred between spouses it may be necessary to consider gifts of assets (which must be outright and unconditional) to distribute income more evenly. Currently a transfer of just £1,000 of savings income from a higher rate (40%) taxpaying spouse to one with income below the personal allowance (£6,475) may save £400 a year. With the introduction from 6 April 2010 of the new additional rate of tax (50%), applying to those with taxable income above £150,000, the saving may be £500 a year.

Income from jointly owned assets is generally shared equally for tax purposes. This applies even where the asset is owned in unequal shares unless an election is made to split the income in proportion to the ownership of the asset. The exception is dividend income from jointly owned shares in 'close' companies which is split according to the actual ownership of the shares. Close companies are broadly those owned by the directors or five or fewer people.

#### Tip

If you are self-employed or run a family company, consider employing your spouse or taking them into partnership as a way of redistributing income. This could be just as relevant for a property investment business producing rental income as for a trade or profession.

#### Comment

Care must be taken because HMRC may look at such situations to ensure that they are commercially justified. If a spouse is employed by the family business, the level of remuneration must be justifiable and the wages actually paid to the spouse. The National Minimum Wage rules may also impact.

The term spouse includes a registered civil partner, in this supplement.

### Those aged 65 and over

Taxpayers aged at least 65 should consider how to make full use of the available age allowances. The higher allowances are gradually withdrawn once income exceeds £22,900.

#### Tip

Consider switching to non-taxable or capital growth oriented investments to avoid losing out on allowances.

### Children

Children have their own allowances and tax bands. Therefore it may be possible for tax savings to be achieved by the transfer of income producing assets to a child. Generally this is ineffective if the source of the asset is a parent and the child is under 18. In this case the income remains taxable on the parent unless the income arising amounts to no more than £100 gross per annum.

#### Tip

Consider transfers of assets from other relatives (eg grandparents) and/or employing teenage children in the family business to use personal allowances and the basic rate tax band.

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Remember that children also have their own capital gains tax (CGT) annual exemption (£10,100). It may be better for parents to invest for capital growth rather than income.

For children born since September 2002 a Child Trust Fund (CTF) has been introduced. The idea is to encourage tax efficient savings by family and friends, with the government's help, to build a nest egg which the child can access once he or she reaches the age of 18. The government's initial contribution amounts to £250 (£500 for low income families) with a further payment of £250 (£500 for low income families) once the child reaches age seven. Other contributions of up to £1,200 per annum can be added to the fund and although there is no tax relief on making the contributions the fund is tax exempt.

### Non-taxpayers

Children or any other person whose personal allowances exceed their income are not liable to tax. Where income has suffered a tax deduction at source a repayment claim should be made. In the case of bank or building society interest, a declaration can be made by non-taxpayers to enable interest to be paid gross (form R85).

Remember that the 10% rate may still apply to savings income. If the only or first source of taxable income is bank or building society interest, then the first £2,440 (for 2009/10) is liable at only 10%. If 20% tax has been deducted at source a repayment may be due.

#### Tip

Tax credits on dividends are not repayable so non-taxpayers should ensure that they have other sources of income to utilise their personal allowances.

### Family companies

If the payment of bonuses to directors or dividends to shareholders is under consideration, give careful thought as to whether payment should be made before or after the end of the tax year. The date of payment will affect the date tax is due and possibly the rate at which it is payable.

#### Tip

Remember that any bonuses must generally be provided for in the accounts and actually be paid within nine months of the company's year end to ensure tax relief for the company in that period.

Alternatively, consider the payment of an employer's pension contribution by the company. This is generally tax and national insurance free for the employee (but see pension section below). Further, the company should obtain tax relief with no employer national insurance cost, provided the overall remuneration package is justifiable.

# Employer provided cars and fuel



Employer provided car benefits are calculated by reference to the CO<sub>2</sub> emissions and the car's list price. The level of business mileage is not relevant. The greener (environmentally!) the car, the lower the percentage charge. The lowest charge which currently applies is 9% of list price for an electric car with other cars ranging from 10% to 35%.

Businesses purchasing 'green' cars with CO<sub>2</sub> emissions not exceeding 110 grams per kilometre (g/km) can generally write off the full business cost of the car in the year of purchase. If the car is used by the proprietor of an unincorporated business the allowances will be restricted to take account of the proportion of private use. For cars with CO<sub>2</sub> emissions in excess of 110g/km, a lower annual allowance is available. This is 20% for cars with emissions up to 160g/km and 10% for those which exceed 160g/km.

#### Tip

Check your position to confirm that an employer provided car is still a worthwhile benefit. It may be better to receive a tax free mileage allowance up to 40p per mile for business travel in your own vehicle. If an employer provided car is still preferred, consider the acquisition of a lower CO<sub>2</sub> emission vehicle on replacement to minimise tax cost.

Where private fuel is provided, the benefit charge is also based on CO<sub>2</sub> emissions. You should review the arrangements to ensure no unnecessary tax charges arise.

# Employers...the form-filling starts here

If you are an employer the end of the tax year marks the start of the form-filling season! Here's a reminder of important deadlines for sending information (and money!) to HMRC.

#### 19 April 2010 (22 for electronic payments)

- Interest will run on any 2009/10 PAYE, NIC, student loan and CIS deductions not paid over by this date.

**19 May 2010** - Employers' year end returns (P35 and P14s) due for submission.

**31 May 2010** - Employees must be provided with their P60 (certificate of pay and tax deducted).

**6 July 2010** - Submission of P11Ds and P9Ds for 2009/10 which show details of expenses paid and benefits provided to employees and directors. Employees must also be given a copy of their P11D/P9D by this date.

#### 19 July 2010 (22 for electronic payments)

- Class 1A NIC for 2009/10 on most benefits provided to employees must be paid. Interest runs from this date on late payments.

**19 October 2010 (22 for electronic payments)** - PAYE settlement agreement liabilities for 2009/10 are due, together with Class 1B NIC. Interest runs from this date on late payments.

### Electronic filing and payment

For 2009/10, all employers must file their end of year returns electronically. Employers with 50 or more employees also have to file certain 'in year forms' online. These include forms P45 and P46. Compulsory online filing of 'in year forms' will then be extended from 6 April 2011 to small employers.

Large employers (those with 250 employees or more) must also pay their PAYE electronically and this is likely to be extended to smaller businesses in due course.

Talk to us if you are interested in using a PAYE settlement agreement to account for the tax due on minor employee benefits. It can reduce administrative hassle and save time!

#### Remember

- Penalties are chargeable for late submission or incorrect returns.
- Interest is due on late payments of PAYE, Class 1, 1A and 1B NIC, student loans and CIS deductions.
- Penalties may apply if there is more than one late payment of monthly/quarterly PAYE payments for all employers on 2010/11 liabilities. This includes Class 1, 1A and 1B NIC, student loans and CIS deductions.

# Investments - are yours tax efficient?

There is a wide range of investments with varying tax treatments. We take a look at some of the main ones that have special tax rules.

## WARNING

When choosing between investments always consider the differing levels of risk and your requirements for income and capital in both the long and short term. An investment strategy based purely on saving tax is not advisable.

## Individual Savings Accounts

Individual Savings Accounts (ISAs) provide an income tax and capital gains tax free form of investment. The maximum investment limits are set for tax years. Therefore to take advantage of the limits available for 2009/10 the investment(s) must be made by 5 April 2010.

An individual aged 18 or over may invest in one cash ISA and one stocks and shares ISA per tax year but limits apply.

- A cash ISA allows you to invest up to £3,600 with one provider only, in any one tax year.
  - A stocks and shares ISA allows you the option to invest up to £7,200 (per tax year) with one provider in any one tax year.
  - However, if you want to invest in both then the stocks and shares ISA investment should be capped so that overall you do not exceed the £7,200 limit.
  - From 6 October 2009 the limit for people aged 50 and over to invest in a cash ISA was raised to £5,100 with one provider only, in any one tax year.
  - From 6 October 2009 the limit for people aged 50 and over to invest in a stocks and shares ISA was raised to £10,200 with one provider only, in any one tax year.
  - If you are aged 50 and over and you want to invest in both, the stocks and shares ISA investment should be capped so that overall you do not exceed the £10,200 limit.
  - 16 and 17 year olds are able to open a cash ISA only.
- The current ISA limits for those aged 50 and over will be increased for all investors from 6 April 2010.

## Other investments

**National Savings and Investment bank (NS&I)** products are taxed in a variety of ways. Some, such as National Savings Certificates, are tax-free.

**Single premium life assurance bonds** and 'roll up' funds provide a useful means of deferring income into a subsequent period when it may be taxed at a lower rate.

**The Enterprise Investment Scheme (EIS)** allows income tax relief at 20% on new equity investment (in qualifying unquoted trading companies) of up to £500,000 per tax year. Capital Gains Tax (CGT) exemption is given on qualifying shares held for at least three years.

Capital gains realised on the sale of any chargeable asset (including quoted shares, holiday homes etc) can be deferred where gains are reinvested in EIS shares.

## A Venture Capital Trust (VCT)

invests in the shares of unquoted trading companies. An investor in the shares of a VCT will be exempt from tax on dividends (although the tax credits are not repayable) and on any capital gains arising from disposal of shares in the VCT. Income tax relief currently at 30% is available on subscriptions for VCT shares up to £200,000 per tax year so long as the shares are held for at least five years.

## Second hand endowment policies (SHEPs)

can be very attractive. Purchasing a SHEP will give an initial cost plus subsequent premiums payable to maturity. On maturity a capital gain arises less the purchase price and premiums paid. It may be possible for each member of a family to use their CGT annual exemption in this way.

Finally, review your borrowings. Full tax relief is given on funds borrowed for business purposes. Your mortgage does not qualify for any tax relief.

# Capital gains tax

The capital gains tax (CGT) system radically changed from 6 April 2008. The changes included:

- a simplification of the system whereby chargeable gains are generally calculated by deducting the cost of the asset from sale proceeds (with no relief for inflationary increases to the cost of the asset)
- a flat rate of CGT of 18% for all chargeable gains and
- Entrepreneurs' Relief (ER) may be available giving a 10% tax rate on the first £1million of qualifying business gains, per individual, per lifetime.

Please contact us to discuss any planned business or company share disposals so that we can help to establish the correct approach to secure the availability of any ER.

## Annual exemption

The first £10,100 of gains made in 2009/10 are CGT free being covered by the annual exemption. Note that husband and wife both have their own annual exemption, as indeed do children. A transfer of assets between spouses may enable them to utilise their annual

exemptions. Consider selling assets standing at a gain before the end of the tax year on 5 April to use the annual exemption. Bed and breakfasting (sale and re-purchase) of shares is no longer tax effective but there are two variants which still work:

- sale by one spouse and repurchase by the other
- sale followed by repurchase via an ISA.

These techniques may also be used to establish a loss that can be set against any gains.

## Two homes?

If you have two homes then consider making an election so that future gains on your 'main residence' are exempt from CGT. Talk to us if this is relevant for you.

## Other ideas

A capital gain can be deferred if the gain is reinvested in the shares of a qualifying unquoted trading company through the Enterprise Investment Scheme.

A capital loss can be claimed on an asset that is virtually worthless. Where the asset is of

'negligible value' by 5 April 2010 the capital loss can be used in 2009/10.

Moving abroad can take you outside the CGT net. However it is clearly not a decision to be taken lightly and requires very careful planning. Please talk to us if this is an area of interest for you.

No CGT planning should be undertaken in isolation. Other tax and non-tax factors may be relevant, particularly inheritance tax in relation to capital assets.



# Giving to charity

Charitable donations made under the Gift Aid scheme can result in significant benefits for both the donor and the charity. Currently the charity is able to claim back 20% basic rate tax plus a 2% supplement on any donations and if the donor is a higher rate taxpayer the gift will qualify for 40% tax relief. Therefore a cash gift of £78 will generate a tax refund of £22 for the charity so that it ends up with £100. The donor will get higher rate tax relief of £19.50 so that the net cost of the gift is only £58.50.

With the introduction of the new 50% additional rate of tax from 6 April 2010, the net cost of the gift in this example would be only £48.75 for an individual liable at this rate.

Tax relief against 2009/10 income is possible for charitable donations made between 6 April 2010 and 31 January 2011 providing the payment is made before filing the 2010 tax return.

Always remember to keep a record of any gifts you make.

It may also be possible to make gifts of quoted shares and securities or land and buildings to charities and claim income tax relief on the value of the gift. This may be tax efficient for larger charitable donations.



# Pension contributions

There are many opportunities for pension planning but the rules can be complicated. The introduction of anti-forestalling legislation in the run up to the removal of higher rate tax relief for high earners in 2011 has further complicated this area.

The rules include a single lifetime limit (£1.75 million in 2009/10) on the amount of pension saving that can benefit from tax relief as well as annual limits on the maximum level of pension contributions (£245,000 for 2009/10). The single lifetime limit will be increased to £1.8million for 2010/11 and will be frozen from 2011/12 to 2015/16. The annual limit will be increased to £255,000 for 2010/11 and will be frozen from 2011/12 to 2015/16.

Tax relief is currently available on pension contributions at the taxpayer's marginal rate of tax. Therefore a higher rate taxpayer can pay £100 into a pension scheme at a cost of only £60. Indeed for some individuals, due to the complexity of the tax system, the effective relief may actually exceed 40%.

However, for individuals with an income in excess of £130,000 in 2009/10 or in either of the preceding two tax years, special rules may apply to limit the tax relief on certain pension contributions.

With the inability of the government to provide adequate levels of retirement pensions widely acknowledged, it is more important than ever to provide for a secure old age.

All individuals, including children, can obtain tax relief on personal pension contributions (not retirement annuity premiums) of £3,600 (gross) annually without any reference to earnings. Higher amounts may be paid based on net relevant earnings (NRE).

Individuals can make pension contributions of up to 100% of their NRE in a tax year. Contributions must be paid during the tax year. There is no facility to carry contributions back to the previous tax year.

Directors of family companies should, as an alternative, consider the advantages of setting up a company pension scheme or, alternatively, arranging for the company to make employer pension contributions. If a spouse is employed by the company consider including them in the scheme or arranging for the company to make reasonable contributions on their behalf.

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## National insurance matters

If a spouse is employed by the family business it is probably worth paying earnings in 2009/10 of between £95 (the lower earnings limit) and £110 (the earnings threshold) per week. There will be no employer or employee contributions due on the earnings but entitlement to a state retirement pension and certain other benefits is preserved. Note that the thresholds will be £97 and £110 per week respectively in 2010/11.

### Tip

A PAYE scheme would be needed to establish the employee's entitlement to benefits.

For the self-employed there is a requirement to pay a flat rate contribution (Class 2). If your profits are low you can apply for exemption. The limit for 2009/10 is £5,075. If contributions have been paid for 2009/10 and it subsequently turns out that earnings are below £5,075 a claim for repayment of contributions can be made. The deadline for this claim is 31 January 2011.

On the other hand as the contributions are only £2.40 a week for 2009/10 and 2010/11 it may be advisable to pay the contributions in order to maintain a contributions record. The alternative voluntary Class 3 contributions are £12.05 a week in 2009/10 and 2010/11!