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Business Update

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Cutting the relief

A proposed change announced in the Autumn Statement concerned the available capital gains tax (CGT) exemption on the main home.

For many, the gain arising on a property which has been the individual's private residence throughout their period of ownership is exempt from CGT. There are deemed period of occupation rules which may help to provide an exemption from CGT even if the individual has not lived in the property all the time. This may mean that the individual is accruing principal private residence relief on another property owned at the same time.

One of the deemed occupation rules is known as the final period exemption. This exempts the final period of 36 months of ownership of the property as long as the property has been established as the individual's private residence at some time during the ownership. It applies even though they may not be living in the property at the time of disposal. It is proposed that from 6 April 2014 the final period exemption will be reduced from 36 months to 18 months. There are some limited exceptions to the change so please contact us if you think this may affect you.

SPRING 2014

Encouraging employee entrepreneurs

The encouragement of share ownership for employees is high on the agenda of the current Government and a number of changes to current rules have been or will be made. Probably the most important development for small and medium sized enterprises is a change in the Enterprise Management Incentives (EMI) scheme.

EMI allows selected employees (often key to the employer) to be given the opportunity to acquire shares in their employer through the issue of options.

If shares or 'unapproved' options are given to an employee, a tax bill will arise on the employee often before the shares can be sold by the employee.

EMI allows options to be granted to employees which allow the shares to be received without any tax bill arising until the shares are sold.

How does it work?

Selected employees are granted options over shares of the company. Under the option the employee is given the right but not the obligation to buy shares at a later date. Typically the purchase price of the shares will be set at the market value of a minority shareholding in the company at the date the option is granted.

There will be no tax for the employee to pay when the option is exercised (or granted) so long as the amount payable for the shares under the option is the market value of the shares when the option is granted.

Following the acquisition of the shares, when the option is exercised, an employee may immediately dispose of, or may retain the shares for a period before selling them. At such time there will be a chargeable gain on the difference between the sale proceeds and the amount paid by the employee for the shares.

Chargeable gains, if they exceed the annual exemption are normally chargeable at 18% or 28%.

However, Entrepreneurs' Relief (ER) when available can reduce the CGT liability to 10% and this is where the recent change to the law has increased the attractiveness of EMI. ER normally requires the shareholder to:

- have held shares in the qualifying trading company for at least 12 months prior to sale and
- own 5% of the ordinary voting shares of the company.

The law has been amended to extend the relief to EMI shares by allowing the 12 month

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minimum holding requirement to commence on the date the option is granted and removing the 5% minimum shareholding requirement.

So, EMI provides an opportunity to participate in the future capital growth of the company while deferring any cash costs of buying shares until a later date and with a 10% tax bill on the net gain which only arises when the shares are sold.

What are the benefits to employers?

Employees have a potential stake in their company and therefore retention and motivation of these employees will be enhanced.

Options will not directly cost the employer any money in comparison to paying extra salary.

There will normally be no National Insurance contribution (NIC) charges for the employer when the options are granted or exercised or when the employee sells the shares. NIC liabilities may arise in some circumstances on other options or share awards.

A corporation tax deduction for the employer company broadly equal to employees' gains will be given when an employee exercises an option.

We can help you decide whether EMI is appropriate for your company and whether the company will qualify.

Employment revealed

The Government and HMRC are aware that increasingly some companies and employment businesses are using employment intermediaries to disguise the employment of their workers and are treating them incorrectly as self-employed. This is primarily to avoid employer National Insurance contributions (NIC) and reduce the costs associated with workers employment rights, such as the National Minimum Wage, Statutory Sick Pay and holiday pay.

The Government are consulting on strengthening the existing legislation to ensure that the correct amount of income tax and NIC are paid where the worker is, in effect, employed. This legislation is expected to take effect from April 2014.

The largest business sector which is likely to be affected is the construction industry but there is apparently widespread evidence that other sectors including the driving, catering and security industries are using these arrangements.

So what are the proposed changes?

The central proposal is to make a change to the agency legislation. At present if this legislation applies then the intermediary must deduct PAYE and NIC. However, this legislation only applies where workers provide their services under the terms of an agency contract in which the worker is obliged to personally provide services to the client.

Some intermediaries have set up contracts which allow the worker to send a substitute to do their job (even though this often does not occur) and on this basis it is argued that the agency legislation does not apply.

The Government propose to amend the legislation and remove the obligation for the worker to personally provide their services. Instead, where there is a supply of personal services and the end user exercises control over the worker the agency legislation will apply. This means that the payments from the intermediary to the worker will be deemed employment and, as a result, the intermediary must operate PAYE and NIC.

In order to assist HMRC in identifying possible cases of non-compliance with the new legislation, it is proposed that there will be a new statutory returns requirement. The intermediary will need to submit a quarterly electronic return containing details of any workers it has placed for whom it is not operating PAYE and NIC.

We will update you with any developments once the new legislation is finalised. In the meantime if you would like any further information please contact us for advice.

When will you retire?

The answer to this is no longer as easy as it used to be and, importantly, for many people there is no precise answer. If you are currently over 50, the answer is known but the precise date will vary according to age. For example for a person born between 6 October 1954 and 5 April 1960 the State Pension age (SPa) is 66. These dates are enshrined in the Pensions Act 2011 and will not change. If you were born after 5 April 1960 the Pensions Bill 2013/14 puts back the SPa in stages so that if you are born after 5 March 1961 the SPa becomes 67.

However, if you were born a few years after 5 March 1961, the answer to when you get to SPa is not known. All we know is that there will be a regular and structured method for considering future changes in the SPa - the first 5-yearly review will take place in the next Parliament, which begins in 2015. What is certain is that the SPa will continue to increase, first to 68 then 69 and beyond.

Specifically, on 5 December 2013, as part of the Autumn Statement, the Government announced that future changes should be based on the principle that people should expect to spend up to one third of their adult life in receipt of State Pension. In particular the increase of the SPa to 68 could affect people now in their forties with an increase to 69 for those in their thirties. The good news is that you will expect to live longer.

Sporting tax benefits

Sports clubs that promote active participation in approved sports have been able to register with HMRC for a range of tax benefits since 2002. Currently there are around 6,500 clubs which have registered as Community Amateur Sports Clubs (CASCs). In 2014, improved tax benefits will be available to encourage more clubs to register. The Government states that over 40,000 clubs have the potential to benefit from the rules.

The range of tax benefits available to registered CASCs is now due to be as follows:

- corporation tax exemption for interest, trading turnover of up to £50,000 (previously £30,000) per annum and rental income of up to £30,000 (previously £20,000) per annum
- exemption from corporation tax on chargeable gains for any disposals of the assets of the club
- at least an 80% exemption from business rates.

It should be noted that if trading turnover exceeds £50,000 (or rental income exceeds £30,000), all the trading profit (or rental income) is assessable to corporation tax.

The exemptions from corporation tax only apply if the CASC uses its funds for providing facilities for approved sports or promoting participation in those sports.

There is an additional tax benefit available where individuals make donations and gifts to the CASC known as Gift Aid relief. The prospect of Gift Aid relief may on its own be a sufficiently important factor to merit a club applying to be a registered organisation. The Gift Aid relief works in the same way as gifts made to charities by individuals, in that the club will be able to make a claim for repayment of basic rate tax on qualifying donations.

From 1 April 2014 there is a proposed new tax break. Companies will be able to donate money to the club and obtain a deduction against profits for the donation. This is known as corporate Gift Aid. The corporate Gift Aid provision will not only encourage companies to make donations to clubs which are registered as CASCs but will also encourage clubs with high levels of commercial trading to fully benefit from CASC status. A club with trading receipts above £50,000 will pay corporation tax on its profits. It could however set up a trading subsidiary and donate the profits to the club. The donation received by the club will not be treated as trading receipts. The new Gift Aid relief will eliminate the corporation tax charge on the profits of the company.

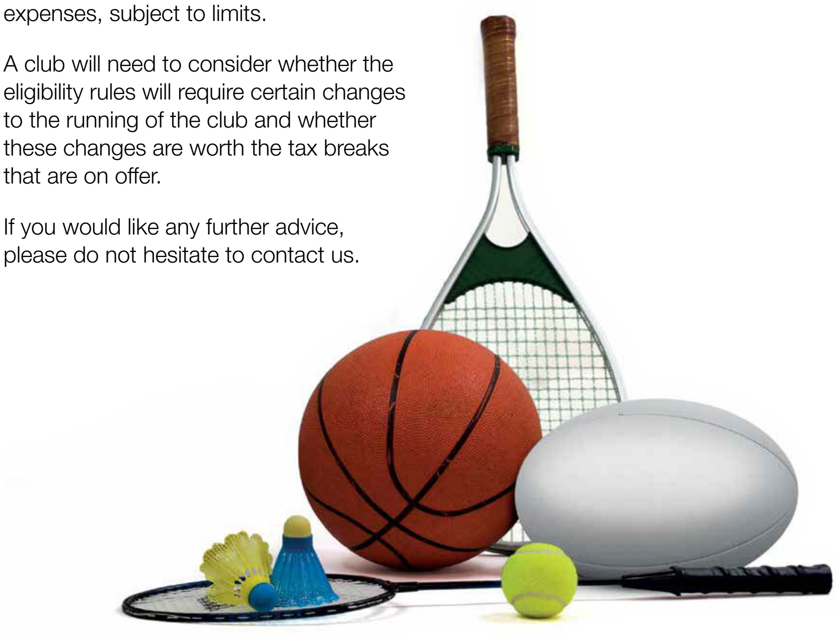
Other changes

Other changes to Regulations have been made relating to the eligibility rules for CASCs. The aim is to have clearer rules and to allow more clubs to register.

One example of this is that there will be expanded scope to pay player fees and expenses, subject to limits.

A club will need to consider whether the eligibility rules will require certain changes to the running of the club and whether these changes are worth the tax breaks that are on offer.

If you would like any further advice, please do not hesitate to contact us.



Reducing rates to support business

The Government has announced a package to help boost firms and high street businesses by capping increases in business rates. The scope of this article is limited to those announcements which apply to England due to the variations which may apply in Wales, Scotland and Northern Ireland.

The measures, to be introduced from 1 April 2014 will particularly support small and independent businesses. The Chancellor announced that business rate rises will be limited to 2% instead of being linked to inflation and that all businesses will be able to pay their business rates in 12 monthly instalments, rather than 10.

Businesses with retail and food and drink premises, with a rateable value of up to £50,000 will also receive a discount of £1,000 on their business rates for a period of two years. A 'reoccupation relief' will also be introduced that will see eligible businesses entitled to a 50% business rates discount when they move into retail premises that have been empty for more than 12 months. The discount will apply for a period of 18 months and is available to businesses that move into empty premises between 1 April 2014 and 31 March 2016.

A current scheme that offers business rate relief to small businesses has been extended. The doubling of the Small Business Rate Relief (SBRR) will be extended for a further 12 months to April 2015. The extension will mean that around 360,000 of the smallest businesses will continue to receive 100% relief from business rates until April 2015, with a further 180,000 benefitting from tapering relief. The criteria for SBRR eligibility will also be amended to allow businesses in receipt of SBRR to retain it for one year when they take on an additional property.

Death of the tax disc

The well-worn scenario of the police officer strolling around your car and exclaiming: ‘do you realise your tax disc is out of date Sir?’ should be relegated to the history books after September this year.

Since 1 January 1921 a tax disc has been issued for motorists to display on their vehicle windscreen as evidence that Vehicle Excise Duty (VED) has been paid. Apparently the police now rely on the Driver and Vehicle Licensing Agency's electronic vehicle register and tools like Automatic Number Plate Recognition cameras to support VED compliance.

Also motorists will be able to pay their VED by direct debit annually, biannually or monthly, should they wish to do so. However a 5% surcharge will apply to biannual and monthly payments.

So on the 1 October when the new law takes effect; who is going to be brave enough to remove their tax disc from the car windscreen? We suggest you do not throw it away but leave it in your glove box just in case.

Because the police officer will still be able to utter a variation of the historic sentence: ‘according to my records, your road tax has not been paid Sir’ after he has consulted the electronic records.

Pension Changes - do you need protection?

The Government had previously announced a couple of important changes to the pension regime which will take effect from 6 April 2014. Here is a quick reminder of the changes and how they could impact on you.

Firstly, there is an annual limit for giving tax relief on pension contributions. This is known as the annual allowance and is currently set at £50,000. Contributions paid in excess of this limit can, in some instances, give rise to an income tax charge on the individual member of the pension scheme. For the tax year 2014/15 the annual allowance is to be reduced by 20% to £40,000.

Secondly, there is an overall limit on the total amount of tax relieved pension savings that an individual can accumulate over their lifetime. This is known as the lifetime allowance and is currently set at £1.5 million. If an individual has savings in excess of this allowance the excess can be charged at 55% if taken as a lump sum or 25% if taken as income. This charge will generally crystalize when the individual starts to take their benefits from their pension scheme. For the tax year 2014/15 the lifetime allowance will be reduced by approximately 17% to £1.25 million.

However, for those who believe they may be affected by this change, the Government has announced measures to protect pension savings which have already reached certain levels. The first of these which is already available is the ‘fixed protection’ (FP2014) regime and this entitles an individual to a lifetime allowance of £1.5 million. Applications for this protection need to be received by HMRC before 6 April 2014 so you may need to act quickly if this is likely to affect you. One key point to be aware of under this arrangement is that any new pensions savings made by or on behalf of the individual from 6 April 2014 are likely to lead to the loss of this fixed protection. Ordinarily, this will mean that the individual has to opt out of active membership of all registered pension schemes of which they are members.

Further, the Government announced that they would also be introducing an individual protection (IP14) regime, in addition to FP2014. This will provide an individual with a personalised lifetime allowance where they have pension savings of between £1.25 million and £1.5 million as at 5 April 2014. In contrast with FP2014 further pension savings can be made, although when benefits are taken any pension savings above the individual’s personal lifetime allowance, as at 5 April 2014, will be subject to either the 55% or 25% charge as mentioned above.

So, to conclude, if you believe these changes could impact on you, and/or you require any further advice please contact us as soon as possible.

Social investment relief

The Government are to introduce a new range of tax incentives for individuals investing in equity and certain debt in qualifying social enterprises with effect from April 2014.

Eligible organisations are charities, community interest companies and community benefit societies.

Currently, many social enterprises have difficulty raising capital from investors and commercial lenders. The measures are intended to increase investment in social enterprises seeking external finance by providing incentives to individuals who invest in them.

The range of tax reliefs for qualifying individuals who make qualifying investments is set to include:

- income tax relief as a percentage of the amount invested (investment is capped at £1m annually), to be deducted from the individual’s income tax liability for either the tax year of investment or the previous year
- capital gains tax (CGT) deferral on chargeable gains in certain circumstances and
- CGT exemption on social enterprise investments subject to conditions being met.

Please contact us for further details if this is an area of interest to you.