Autumn 2012

Talking Tax

Guiding you to lifelong prosperity

Introduction

Welcome to our autumn 2012 edition of Talking Tax, the newsletter from Hazlewoods tax team.

With the summer of celebration and sport behind us, and before you think about Christmas, now is the perfect time to compile your tax return information. If you have already sent it to us, thank you. If not, please let us have it as soon as possible. To show our appreciation, if you submit all your information by 31 October you will be entered into our tax prize draw, see page 4 for more information.

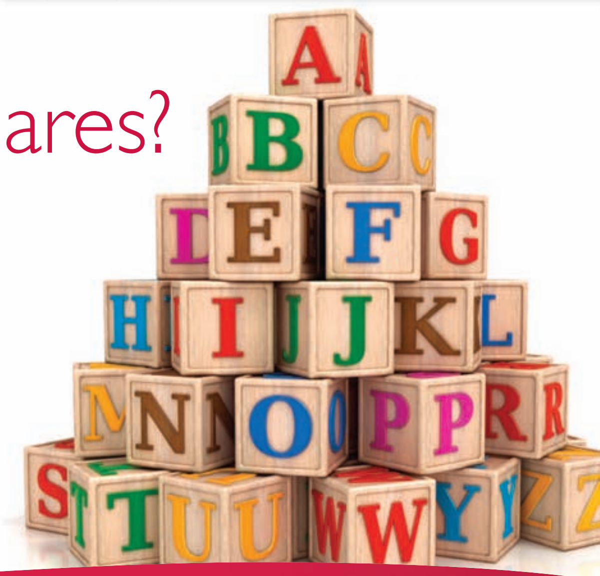
During the summer the 2012 Finance Act became law. In this edition we look at a few of the important changes, for example, we consider whether you could save inheritance tax by giving more to charity. We also look at the changes in store for those owning high value properties.

Other articles include a light hearted look at the personal information we need to advise you on the new high income child benefit charge. There is also a reminder to make sure you are ready for PAYE Real Time Information.

If you have any questions or comments about any of the articles please speak to your usual Hazlewoods contact or the person who wrote the relevant article.

Contents:

Can your business still save tax using alphabet shares?



The use of alphabet shares for Small and Medium Enterprises (SMEs) is well established and can be very useful and tax efficient. However, with recent legislative changes and the outcomes of a couple of tax cases, tax planning with alphabet shares is coming under increased scrutiny. There are still situations where alphabet shares can be used legitimately, so make sure you do not miss out.

The basics

Alphabet shares are shares of different classes, often set up as 'A' shares, 'B' shares, 'C' shares etc. Many companies find alphabet shares very useful for remuneration and dividend planning. This is because they allow different rates of dividends to be paid (usually at the discretion of the Board), and are more flexible and simpler than dividend waivers.

For most people dividends are better than salary from a tax perspective because you do not pay National Insurance Contributions (NIC) on dividends. This is why many business owners take a small salary, whilst

Continued on page 2

HAZLEWOODS
DRIVING LIFELONG PROSPERITY

ensuring they qualify for state benefits under the NIC rules, then top up with dividends. Using alphabet shares for family members can help utilise tax allowances between them and, by using this type of arrangement for key employees it can provide them with tax advantages.

The law has for a few years looked to limit the use of alphabet shares if they simply provide employees with a source of PAYE and NIC free income.

These arrangements have come under more scrutiny because of the PA Holdings case being won by HMRC at the Court of Appeal. Although this case revolved around a highly contrived tax avoidance scheme it is feared that the decision could have wider implications for more 'normal' tax planning.

Three legitimate uses of alphabet shares

Founder shareholders

A company can be set up with any type of share capital that its founders see fit. Once a shareholder has subscribed for a share the nature of the dividend income which arises from that share is unchanged. So even if a shareholder later becomes an employee of the company their dividend income cannot be re-classed as earnings.

This type of planning is also valid where shares in a family company are passed down to the next generation and then re-classed.

Business partners buying in at market value

This is where the business is essentially like a 'partnership' although it's carried on through a company, with each person genuinely owning a share in the business. Alphabet shares are used where co-owners want to control the way in which they share the profits, but it is important that the shares acquired carry real equity and voting rights.

When alphabet shares may not work

Salary sacrifice

If an existing employee is given shares in return for reducing their salary so they are paid dividends instead of pay. This also applies if an employee receives dividends instead of a contractual bonus, or as part of a bonus arrangement.

Limited rights

If the rights of the alphabet shares limit capital and voting rights, in certain circumstances.

Redeemable preference shares

If the shares are redeemable preference shares.

Other considerations

As with all tax planning other tax and non tax issues need to considered. These include:

- employees must be paid the NMW. (If a person is carrying out duties as a director the NMW does not apply unless they have a service or employment contract).
- dividends must be legal and paid in accordance with the Companies Act.
- the Articles (or resolution creating the shares) must set out the rights of the shares properly.
- individuals being paid a lower salary and higher dividends may find it more difficult to get a mortgage.
- reporting obligations to HMRC on Form 42.

The future

At the moment it is unclear how far HMRC will go to attack alphabet share structures. The cases they have targeted so far have all involved complex tax planning schemes, so have been relatively easy wins for them. It is unlikely that the cases heard so far will encourage HMRC to target the more straight forward alphabet share structures. However, before introducing alphabet shares, contact us to ensure you are aware of the latest case law.

If you want to find out more about alphabet shares please speak to Tom Woodcock on 01242 237 661 or email tom.woodcock@hazlewoods.co.uk.

High value properties under the tax cosh

Budget 2012 announced various tax changes for UK residential properties with values of more than £2m. Some have already been implemented and others are proposed. The changes are summarised below.

Prior to these changes, for various tax and non-tax reasons people sometimes purchased residential properties using an offshore company. Although the new rules are aimed at targeting tax avoidance arrangements, as with most anti-avoidance legislation, unfortunately they are likely to catch legitimate users of offshore companies purchasing UK property.

SDLT rate of 7% on residential property with consideration of more than £2m

This change applies to transactions completed on or after 22 March 2012 (although there were some transitional rules for contracts made before 22 March 2012). This change affects all purchasers unless they're caught by the 15% SDLT rate detailed below.

SDLT rate of 15% on residential property with consideration of more than £2m

This charge applies to transactions completed on or after 21 March 2012 and applies to acquisitions made by certain 'non-natural persons' (subject to transitional provisions).

Non-natural persons generally include:

- companies;
- partnerships of which a company is a partner;
- collective investment schemes

Trusts (other than bare trusts) and 'bona fida' property developers are generally not included as non-natural persons for these purposes.

If more than one person is buying the property the charge will apply if any one of the purchasers is a non-natural person.

Annual charge

It is proposed that, from April 2013, there will be an annual charge to the same categories of non natural persons, but with the added exclusion of charities.

The proposed charges

Property value	Annual charge
> £2m - £5m	£15,000
£5m - £10m	£35,000
£10m - £20m	£70,000
> £20m	£140,000

The proposed introduction of the charge has been consulted on over the summer and we expect draft legislation before Christmas.

Capital Gains Tax extension

At the moment there is no Capital Gains Tax (CGT) liability when a non-resident company sells a UK property, although if the owner of the company is UK resident, the owner will be taxed directly.

The proposal is that from April 2013 non-resident, non-natural persons be taxed directly on the gain, probably at 28%. Again we are hoping for draft legislation before Christmas.

What can I do?

If you hold, or are thinking of buying, a high value residential property through a company or corporate partnership, you should consider these new rules carefully because the tax charges could be significant.

If you already own the property we suggest you sit tight until we know more about what the legislation will say. It may be that, in due course, there will be ways to unwind your current structure, but these could be costly, so careful consideration will be required.

If you are thinking of buying a residential property through a company speak to us because we may be able to help you achieve your aims by suggesting a different structure. If you want to talk about how these new charges affect you or you have any other property tax questions, please contact Nick Haines on 01242 237661 or email nick.haines@hazlewoods.co.uk

France targets foreign owners of second-homes

The French President Francois Hollande is looking to bolster his country's finances by increasing the taxes on foreigners who own homes in France.

Tax on rental income has leapt from 20% to 35.5%, while capital gains tax on property sales has rocketed from 19% to 34.5%.

The inheritance tax-free allowance between parents and children of about €160,000 (£134,000) - available to any child of the deceased - is expected to be slashed to €100,000.

If you are one of the 200,000 UK citizens who own a second home in France, contact us for help and advice.

Give to charity to reduce Inheritance Tax

If your estate is worth more than £325,000, the usual rate of Inheritance Tax (IHT) of 40% will reduce to 36% where you leave at least 10% of your estate to charity.

How it works

This new relief applies to deaths on or after 6 April 2012. To qualify you must leave at least 10% of the net value of your estate to a qualifying charity. The net value of your estate is the sum of all your assets minus any debts, liabilities, reliefs, exemptions and the nil rate band (currently £325,000).

See Example 1

If not all your estate is 'free' you need to apply the 10% test to each of the three possible components of your estate. These are:

1. assets that you own jointly with someone else that pass by 'survivorship'
2. assets in trust
3. the free estate (that is assets that you own outright or as tenants in common with someone else).

So it is possible for one component of your estate to obtain the 36% reduced rate whilst another pays tax at the full 40% rate.

Components can also be merged together to obtain the maximum benefit from the reduced rate.

See Example 2

The tipping point

Because the reduced rate is an all or nothing relief, a small change in the amount of a charitable donation near the tipping point could significantly alter the estate's IHT liability.

See Example 3

Planning ideas

Charitable legacies in your will

If your will already leaves reasonable charitable legacies, but less than the magic 10%, you should calculate the effect of increasing your charitable legacies. It could be that you reduce the IHT charge whilst also enabling your beneficiaries to receive more of your estate.

Your will needs to be worded carefully to ensure that you obtain maximum relief whilst taking in to account possible fluctuations in values and changes in circumstances. Your solicitor will be able to deal with this for you.

Deeds of variation

The above idea might be able to be backdated and used against the estate of someone who has already died by using a deed of variation.

Lifetime giving or legacy?

You may be tempted to think that you should stop making annual Gift Aid payments, and instead make a large or larger charitable gift in your will. However, in most cases it will still be beneficial to continue making Gift Aid payments.

As with all tax planning ideas you need to consider the non tax implications as well. So even if it could potentially be more tax efficient for you to swap Gift Aid payments for legacies you need to think about the other implications. For example the charities you give to are likely to benefit more the earlier they receive the money and can claim back the Gift Aid.

If you want to talk about the reduced rate of IHT or IHT planning please speak to Helen Richmond on 01242 237661 or email helen.richmond@hazlewoods.co.uk.

Example 1

If you have a free estate (generally assets you own outright) of £1,000,000 and have the full nil rate band available the minimum charitable legacy you would need to leave is:

	£
Gross estate	1,000,000
Less: nil rate band	(325,000)
Net value of estate	675,000
Minimum charitable legacy @ 10%	67,500

Example 2

Using the figures from example 1, example 2 shows that, although leaving a charitable legacy under the new rules reduces the estate available to the non-charitable beneficiaries the reduction is significantly lower than would have previously been the case.

	Before 6 April 2012 £	**6 April 2012 and after** £
Gross asset	1,000,000	1,000,000
Less: nil rate band	325,000	325,000
Net estate	675,000	675,000
Less: charitable legacy	67,500	67,500
Taxable estate	607,500	607,500
IHT @ 40% / 36%	243,000	218,700
Distribution to non-charitable beneficiaries - charitable legacy given	689,500	713,800
Distribution to non-charitable beneficiaries - no charitable legacy	730,000	730,000
Reduction in amount to non-charitible beneficiaries	40,500	16,200

Example 3

Given the same circumstance as example 2, but looking at the effect of increasing a charitable legacy from less than 10% to 10%.

	£50,000 to charity £	**£67,500 to charity** £
Gross asset	1,000,000	1,000,000
Less: nil rate band	325,000	325,000
Net estate	675,000	675,000
Less: charitable legacy	50,000	67,500
Taxable estate	625,000	607,500
IHT @ 40% / 36%	250,000	218,700
Distribution to non-charitable beneficiaries	700,000	713,800
Increase in the charitable legacy		17,500
Increase in distributable estate		13,800

The example shows that in this case both the charity and the non-charitable beneficiaries will be better off if the charitable legacy is increased.

Questions we would rather not ask - but will have to because of the High Income Child Benefit Charge

Following our 'money saving ideas' article in the summer edition of Talking Tax, the High Income Child Benefit Charge has become law. The practicalities of this new charge really do not appear to have been properly considered. Although observations made by The Institute of Chartered Accountants in England & Wales and other commentators led to a debate in the House of Commons, nothing significant changed before the rules were enacted. This article looks at the implications of the new rules and, in particular, how it might affect our relationship with you.

Already too nosy?

Those of you who use us to complete your self-assessment tax return each year are probably already under the impression that we know far too much about your personal affairs. In fact, you may even feel that our annual questionnaires and queries are bordering on nosy. Despite this, you bear with us as you realise that, to complete your tax return in an accurate (and tax efficient) manner, we need to understand the ins and outs of your personal financial situation.

What about other aspects of your personal affairs? What if your accountant was to ask about the sleeping arrangements in your household? You would doubtlessly feel that this could not possibly have any bearing on your tax position and may question your choice of adviser. However, if you are earning more than £50,000 per year this is just one of many personal questions that may need to be posed in the future.

The advent of the High Income Child Benefit Charge, which claws back child benefit from those earning over £50,000, will require accountants and tax advisers to fully understand the situation of their clients in relation to both their own and possibly others' children. This is because the legislation applies the charge to the highest earner that has "responsibility" for a child. This could include not only the child's parents but also step-parents and live-in partners, hence the question regarding sleeping arrangements. Under the legislation a lodger is not relevant in relation to these rules. However if you are conducting a live-in personal relationship with someone, they may be subject to pay the claw-back if they earn above the threshold.

The question as to the pros and cons of the cessation of child benefit for the wealthier is not the issue here. It is the manner in which the Government has decided to tackle this problem which is awkward, convoluted and bordering on the absurd. The Institute of Chartered Accountants in England & Wales has expressed concern that these changes could become a "practical disaster".

The questions

And so, here are the questions that your accountant would rather not have to ask, but will be required to in order to ensure your tax return is correct in respect of the new charge:

- When did your new boyfriend/girlfriend move in to your house?
- Are you still with the same partner as last year? If not, did you have any others in between?
- Do you have any illegitimate children?
- Have you stopped claiming child benefit for any of your children who are no longer in full-time education?
- Are you and your housemate "just friends"?
- Did you live with more than one man or woman at any point in the tax year?

We will of course try to find a more palatable way of asking you these absurd and prying questions. But please bear in mind that we don't want to ask the questions just as much as you don't want to hear, or possibly answer, them!

If you want to find out more about the High Income Child Benefit Charge please speak to Megan Bourke on 01242 680 000 or email megan.bourke@hazlewoods.co.uk.

High Income Child Benefit Charge

Key facts

- The charge will claw back child benefit paid where a person with "responsibility" for a child earns more than £50,000 per year.
- The claw back is 1% of the child benefit received for every £100 of earnings over £50,000 (reducing the child benefit to nil where the earnings are £60,000 or more).
- It affects Child Benefit payments made on or after 7 January 2013.
- You may be able to avoid the charge by:
  - Equalising incomes between couples so neither earns more than £50,000.
  - Making additional pension contributions to reduce income to £50,000 or less.
  - Not claiming the benefit (being careful not to jeopardise any non working partner's entitlement to certain state benefits).

Real Time Information - are you ready?

If you are an employer you are hopefully already preparing for the introduction of Real Time Information (RTI). If not, don't panic, just read on to see what it's all about and what you should be doing.

What is RTI?

RTI is arguably the biggest change to payroll since PAYE was introduced almost 70 years ago. It is a new system for employers and pension providers to report employee pay, tax and national insurance to HMRC. It means you need to submit payroll data electronically to HMRC every time you pay employees and it also changes the PAYE end of year procedures.

When does RTI start?

HMRC started a pilot scheme in April this year and Hazlewoods payroll is joining the Pilot from November. Almost all employers will be required to begin sending payroll information to HMRC in real time in April 2013, with all employers to be routinely reporting PAYE in real time from October 2013. HMRC will contact you four to six weeks before your start date.

How can I prepare for RTI?

Act now. You should carry out a review of your payroll records and the process you undertake when employing new staff. Under RTI you will be required to record complete details of your staff including their full name (surname and forenames), date of birth and National Insurance Number. In addition you will need to identify the number of hours each member of staff would normally be expected to work and apply this to one of four bands prescribed by HMRC.

Review payroll records

The key things you should check are:

Name

Make sure you have each employee's full forenames and not just their initials. Make sure you have forenames and surname in the right order and make sure they are spelt correctly.

Date of birth

Always provide the employee's actual date of birth. You need to enter the day, month and full year of birth, such as 05/05/1985.

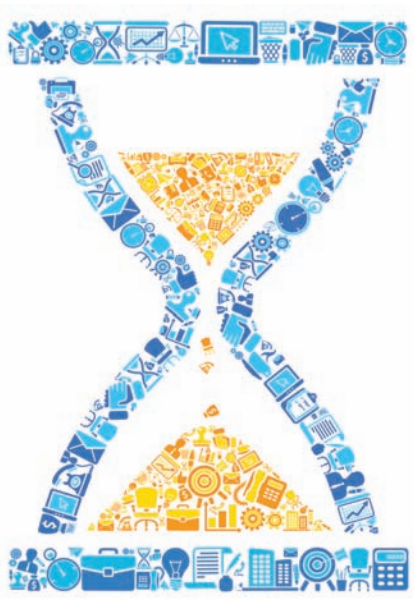
National Insurance number

Ensure you have the employee's correct National Insurance number. Watch out for any numbers that are obviously wrong - the number must begin with two letters, followed by six numbers and end with letter A, B, C or D.

We can help

The introduction of RTI will result in administrative challenges, not least in the way you manage and operate your payroll. Hazlewoods operate with the latest payroll software and are a registered BACS bureau. We recognise that change provides challenges and would be happy to discuss your payroll requirements as our qualified and experienced team are here to remove the anxiety that payroll can bring.

For more information speak to Roy Thorogood on 01452 634800 or email roy.thorogood@hazlewoods.co.uk.



Your lifeline for Tax Investigations

Hazlewoods Tax Investigations Service enables our fees to be paid should you face an HMRC enquiry. If you have not yet subscribed to the service for the year from 1 November 2012 read on to see why it may be beneficial.

Anyone can face an enquiry

Over the past two years, there has been a staggering increase in the number of investigations being conducted by HMRC. Although you may have done nothing wrong, nor done anything to warrant investigation, HMRC could select you for a random tax enquiry.

A typical tax enquiry can cost more than £3,000 and last a year and a half or more.

What we offer

Our Tax Investigations Service means that should you or your business suffer an HMRC investigation we can:

- Provide you with full professional representation from tax and accountancy staff who already know you and understand your tax affairs.
- Handle HMRC on your behalf by dealing with all correspondence and attending all meetings.
- Negotiate the best possible result for you.

New for 2012

We have always believed that our Tax Investigations Service provides a lifeline to our clients. We do this by providing low cost, but valuable, peace of mind at a time when it is most needed. This year the service is even better value because:

- You will not have to pay any excess should you face an investigation
- The limit of indemnity for all aspect enquiries has increased
- Our fees are unchanged

How to subscribe

If you have previously subscribed to our Tax Investigations Service you should have received your renewal form and invoice in the post. The renewal is not automatic so make sure you renew by 31 October 2012 to retain your cover.

If you want to find out more or to subscribe for the first time please call Margaret Wilkinson on 01242 680000 or email margaret.wilkinson@hazlewoods.co.uk.

Hazlewoods Tax Team

Services

We provide specialist advice in all areas of tax including the following:

- Business structuring
- Employer services
- Inheritance Tax and estate planning
- Partnership Tax services
- Tax Investigations
- VAT
- Corporation Tax
- International Tax services
- Owner Managed Businesses
- Personal Tax
- Trust Tax
- Stamp Duty and SDLT mitigation
- Transactions, planning and support
- Capital Gains Tax planning
- Tax Litigation Support

Hazlewoods Tax Team

Gloucester Office:
Windsor House
Barnett Way, Barnwood, Gloucester, GL4 3RT
Tel: 01452 634800 Fax: 01452 371900

Cheltenham Office:
Windsor House
Bayshill Road, Cheltenham, GL50 3AT
Tel: 01242 237661 Fax: 01242 584263

Staverton Office:
Staverton Court
Staverton, Cheltenham, GL51 0UX
Tel: 01242 680000 Fax: 01242 680857

www.hazlewoods.co.uk