Spring 2012

Talking Tax

Guiding you to lifelong prosperity

Introduction

Welcome to the latest issue of Talking Tax, the newsletter from Hazlewoods tax team.

Following the publication, at the end of last year, of draft clauses for Finance Bill 2012 we look at some of the anticipated changes. These include tax incentives for individuals investing in small start-up companies and changes to the capital allowance rules on fixtures.

In advance of the end of the tax year on 5 April 2012 we include a top ten of personal tax planning tips to save you tax. Although you are probably just recovering from submitting your 2011 tax return it really is worth having a look at the planning ideas. There are often simple steps you can take to make your finances more tax efficient.

Other articles include highlighting how our membership of HLB International could help you and a warning of some of the pitfalls to be wary of when completing P11Ds.

We hope you find something useful in this newsletter and even better if you read something that helps save you money. If you have any comments or questions please do not hesitate to speak to your usual Hazlewoods contact or the person who wrote the relevant article.

Contents:

Top ten personal tax planning tips for 2011/12

For many people this time of year is when they want to forget all about tax, other than maybe promising themselves that they will submit their tax return earlier next year.

But this is exactly the time of year when you should be taking a step back and thinking about your tax position. Action taken now can mean future tax payments could be significantly smaller than would otherwise be the case.

Tax planning before the tax year ends on 5 April 2012 applies equally to individuals looking at their personal finances and business owners.

Although many planning ideas are simple, others are more complex and require time and consideration before implementation, so it is never too early to start thinking about them.

Tax planning includes making sure you take full advantage of the allowances and exemptions offered by the Government.

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DRIVING LIFELONG PROSPERITY

This year's top ten

1 Married couples* should use both personal allowances and basic rate bands

For the year ending 5 April 2012 all individuals with income of £100,000 or less are entitled to a personal allowance of at least £7,475. Married couples should make use of both spouses' allowances. If one spouse has not used their allowance but the other has, the couple should consider transferring income-earning assets to the spouse with the lower income.

The same idea applies to the basic rate band, which for the year ending 5 April 2012 is £35,000. So again make sure that, where possible, both spouses' basic rate bands are used before either spouse starts paying tax at the higher rate of 40%.

Clearly there are other issues to consider, not least anti-avoidance legislation, but this type of planning is absolutely legitimate and over several years can save a married couple a significant amount of tax.

2 If your taxable income is over £100,000 minimise your exposure to the 50% tax rate and loss of personal allowance

If your income is between £100,000 and £114,950 your effective tax rate might be as high as 60% because of the restriction in your personal allowance.

Planning could include:

- Reducing your taxable income by making pension contributions or gift aid payments to charity.
- Defer income such as dividends from 2011/12 to 2012/13 or accelerate expenditure such as buying capital equipment from 2012/13 to 2011/12. You need to consider the impact on future tax bills and be aware of the anti-avoidance legislation.
- When looking at investments, think about maximising capital growth which will be taxed at the maximum Capital Gains Tax (CGT) rate of 28%.

3 Sole traders and partners should use the full Annual Investment Allowance of £100,000

An Annual Investment Allowance (AIA) of 100% of the first £100,000 of expenditure on plant and machinery (excluding cars) is available until 5 April 2012 (31 March 2012 for companies). All businesses should, where possible, plan capital expenditure to ensure the maximum benefit is obtained from this allowance before it reduces to a maximum of £25,000 from 6 April 2012 (1 April 2012 for companies).

Where you have an accounting date that spans the date of the change you need to be careful because the pro-rating of the allowance can be tricky.

4 Make the most of the Furnished Holiday Letting rules before they change

If you have a furnished holiday home that you let out, either in the UK or EEA, take advantage of the more generous Furnished Holiday Letting (FHL) rules before they change on 6 April 2012.

From 6 April 2012:

- The minimum period the property is available to let will increase from 140 days to 210 days.
- The minimum period the property is actually let will increase from 70 days to 105 days.

You should also consider whether your property will still be able to benefit from FHL status from 6 April 2012 when the required periods the property is available and is actually let increase. If the property would not qualify as it stands you should consider action to ensure that it does.

You may be able to take advantage of the two year 'period of grace'. This enables FHL businesses to elect to continue to treat a property as an FHL providing the failure to qualify is only because the property was not actually let for at least 105 days.

For a list of countries in the EEA please request a copy of our FHL factsheet.

5 Use your CGT annual allowance

For the year ending on 6 April 2012 all individuals have a CGT annual exemption of £10,600 so you should try and use it, if possible.

6 Consider Entrepreneurs' Relief

If you are likely to sell a business interest or business asset in the next 12 – 24 months you should speak to your tax adviser to ensure that you qualify for Entrepreneurs' Relief. This relief can save you up to £1.8 million of tax but the rules are stringent so they must be considered well in advance of a sale.

7 Make tax free investments

- Consider utilising your annual ISA allowance, which is £10,680 for 2011/12.
- Up to £3,600 can be invested into a Child Trust Fund (CTF) for 2011/12.
- If you have a child under 18 who does not have a CTF you could invest up to £3,600 in a new Junior ISA.

8 Make use of your Inheritance Tax exemptions

Take advantage of the annual gift exemption of £3,000 where possible. If you have not made use of the exemption in one year, it can be carried forward and used the next year. The exemption can be offset against a larger gift, or used to cover several smaller gifts. Certain other small gifts, some gifts on the occasion of marriage and gifts to charitable and political organisations are also exempt.

9 Plan for your retirement

In the last few years there have been many changes made to pension tax relief and more

changes will apply from 6 April 2012. You should speak to your financial adviser to ensure you understand the changes and maximise your benefits.

Some of the key changes are:

- In April 2011 the annual allowance reduced to £50,000, although generally any unused allowance from one year can be carried forward for three years. This means that any unused allowance for 2008/09 will not be able to be used beyond 5 April 2012.
- From April 2012 the lifetime allowance will reduce from £1.8 million to £1.5 million. If you want to take benefits or register for fixed protection of £1.8 million you must do this before 6 April 2012.
- State pension age is increasing, so you need to consider how this affects your retirement planning.

10 Tell HMRC about any undeclared income before they catch you

HMRC has more powers than ever to obtain information about taxpayers and more sophisticated tools to interrogate the information obtained. Given the extra resources HMRC are putting into tackling tax avoidance and evasion we expect pressure to continue to mount on those who have underpaid tax.

If you have undeclared income or capital gains from any year you should speak to your tax adviser to discuss the best way to proceed, to minimise any interest and penalties that may arise.

If you would like more details about planning ideas to consider before the tax year end please phone Richard O'Neill on 01242 680000 or email him at richard.oneill@hazlewoods.co.uk.

* references to married couples and spouses apply equally to civil partnerships and civil partners.

Can you benefit from the Seed Enterprise Investment Scheme?

From 6 April 2012 until 5 April 2017 the Seed Enterprise Investment Scheme (SEIS) will help new companies raising equity and individuals investing in such companies. Read on to see if you or your company could benefit.

Income tax relief

The SEIS will allow individuals who invest up to £100,000 per year in a new start-up company to claim income tax relief equal to 50% of the amount invested. The 50% tax break applies to everyone, and does not depend on the rate at which you pay income tax.

The investor can claim to carry back up to £100,000 to the previous tax year subject to an overall limit of £100,000 per tax year (at the moment it is unclear whether this will apply for the first year of the scheme).

Capital Gains Tax exemptions

- Capital gains on SEIS shares will be exempt from Capital Gains Tax (CGT) if the shares are qualifying for three years.
- Investors will be exempt from paying CGT on any asset sold during the 2012/2013 tax year as long as the proceeds are reinvested in a SEIS in the same year.

SEIS qualifying companies

The company must:

- have been incorporated within two years of the share issue;
- be unquoted;
- have 25 or fewer employees;
- have gross assets of no more than £200,000 at the point of investment;
- be carrying on or preparing to carry on a new qualifying business;
- have a UK permanent establishment;
- not be in financial difficulty (in essence this means that the company does not look like it will go out of business without intervention within the short or medium term);
- not have any subsidiaries or be a subsidiary;
- not be a corporate partner;
- not have had any previous Enterprise Investment Scheme (EIS) or Venture Capital Trust (VCT) investment;
- not have tax favoured investments of more than £150,000 (this is a cumulative limit over three years not an annual limit); and
- only issue a 'compliance certificate' (which allows SEIS to be claimed by the investor) once 70% of the money raised has been spent on qualifying business activity.

Other venture capital schemes

The SEIS is just another type of venture capital scheme, similar to VCT and the EIS, but specifically for start-up companies.

What next?

If you want to find out more about the SEIS and how much money you can save please speak to Ruth Dooley on 01452 634800 or email her at ruth.dooley@hazlewoods.co.uk.

Capital allowance rules on fixtures are changing - review your position now so you don't miss out

The Government has issued draft legislation changing the process for claiming capital allowances on fixtures. If the legislation is enacted it will increase the compliance involved in commercial property transactions.

If you own a commercial property you should act now to improve your cash flow and to increase the value of the property for any future sale.

Under the capital allowance rules where a company or business buys a property as a fixed asset certain capital expenditure within the property will qualify for tax relief through the claiming of capital allowances. In particular 'integral features' of a building qualify for capital allowances as fixtures. Integral features include electrical systems (including lighting systems), cold water systems, water heating systems and lifts.

If your business bought a used property on or after 1 April 2008 (6 April 2008 for unincorporated businesses) from a seller who had purchased it before 1 April 2008 (6 April 2008 for unincorporated businesses), the seller would not have been able to claim capital allowances on some integral features. This is because the term did not exist and, furthermore, not all assets which are now known as integral features initially qualified for capital allowances. This means that it is up to you as the purchaser to assess if there is any qualifying expenditure and make a claim.

From 1 April 2012 for companies (6 April 2012 for unincorporated businesses) purchasers of buildings will need evidence to show that the seller, where eligible, has already claimed capital allowances on fixtures before they can make a capital allowances claim on those same assets. It will no longer be possible to agree the value of fixtures qualifying for capital allowances after the date of sale without following an agreed formal procedure.

Act now

From April 2012 if you as a property owner have not properly identified fixtures qualifying for capital allowances any future owner may not be able to claim capital allowances.

Act now to identity fixtures eligible for capital allowances. This will enable you to claim the capital allowances you are entitled to and also increase the sales price of the property.

If you would like to talk about tax and property please speak to Nick Haines on 01242 237661 or email him at nick.haines@hazlewoods.co.uk.

Preventing P11D pitfalls

The submission deadline for this year's P11Ds of Friday 6 July 2012 probably seems like a long way off. However by leaving them until the last minute it can mean that errors slip in or you do not have time to check the correct treatment of the benefits you offer your employees.

This article looks at two common benefits provided to employees and points out the possible pitfalls.

Mobile phones

Simple summary

Where an employee is provided with a mobile phone which is available for private use there will normally not be a tax charge.

Potential pitfalls

A tax charge can arise if:

- The employer reimburses the employee costs incurred in respect of a privately owned mobile phone. This means the employer is reimbursing the employee's personal liability.
- The phone is owned by the employer but the contract has been made between the employee and the mobile phone company. Again this means the employer is reimbursing the employee's personal liability.
- The employee has the right to give up the phone for a higher salary.
- The exemption specifically applies to one phone, so if more than one is given the second will be taxable.

The exemption only applies to the employee so phones cannot be given to family members tax free.

It can be difficult to decide whether a particular phone is a 'mobile phone' or a 'computer'. For a device to be a mobile phone it must be a 'wireless telegraphy apparatus designed or adapted for the primary purpose of transmitting and receiving spoken messages and used in connection with a public electronic communications service'. We think the word primary was added to this definition in 2006 in an attempt by HMRC to establish that a 'BlackBerry' and other such devices now have so many functions that they are more like computers (and so are not primarily mobile phones). There have not been any court cases on this issue as yet, but given that it could be argued that the vast majority of phones have functions more akin to computers it seems unlikely, in our opinion, that HMRC would win.

Telephones

Simple summary

Even with the wider use of mobiles phones it is still common for an employer to pay a proportion or all of a director or employee's home telephone costs.

Potential pitfalls

It is important to ensure that the employer has the contract with the telephone company,

otherwise the employee will have to pay a class 1 National Insurance Charge. If the employee does have the contract with the telephone company it depends how the bills are paid as to how the benefit should be reported. If the employer pays the telephone company the costs should be reported on form P9D or P11D. If, alternatively, the employer pays the employee who then pays the telephone company the pay should be put through the payroll under PAYE.

If the employee is to claim a deduction for business calls detailed records must be kept. Generally no deduction is allowed in respect of rental costs. The only exception is where there is a genuine business need for a second telephone line at home and that line is used exclusively for business calls.

Advance warning

By concession as long as your forms P11Ds, P9D and P11D(b) are submitted to HMRC by Friday 19 July 2012 you will not be charged a late filing penalty. HMRC are planning to withdraw this concession from 31 March 2013. So for 2013 onwards your forms P11D, P9D and P11D(b) must be returned by the deadline of 6 July following the end of the tax year in question (ie by Friday 5 July 2013, as the 6th is a Saturday) if penalties are to be avoided. The penalty for making a late return is £100 per month or part month of lateness for every 50 or part batch of 50 employees provided with taxable benefits in kind.

If you currently rely on this concession make sure you are prepared for next year.

If you would like to talk about how we can help you with your P11Ds please speak to Nicholas Smail on 01452 634800 or email him at nicholas.smail@hazlewoods.co.uk.

Are you thinking global? - We are

For many businesses global expansion is a natural progression, enabling them to grow and compete in a worldwide marketplace. Whether you are already operating internationally or planning your first overseas enterprise we can help.

HMRC and other tax authorities around the world are beginning to join forces to fight tax avoidance and evasion. They are doing this by sharing information on taxpayers and consulting on new tax laws. This means that more than ever it is vital that businesses with international aspects know and understand the tax rules of all the countries they operate in.

This is where our membership of HLB International can help. This is an international network of independent professional member firms that can provide you with the necessary proactive advice and support.

HLB International, through its member firms, has a worldwide network of tax professionals with the expertise, commitment and experience to provide business and personal tax advice. The services offered include:

- Choice of Business Entity
- Controlled Foreign Companies
- Corporate Tax Compliance
  Cross Border Mergers & Acquisition
- Estate Planning
- European Union Tax Issues
  Expatriate Taxation
  Foreign Tax Credits
- International Holding Companies
  Indirect Taxes e.g. VAT, GST
- Intellectual Property
- International Finance & Treasury Planning
- International Tax Structures
- International Personal Taxation
  Tax Treaties
  Taxation of e-Business
  Transfer Pricing

If you want to find out more about our international tax services or our membership of HLB International please speak to Tom Woodcock on 01242 237661 or email him at tom.woodcock@hazlewoods.co.uk.

Budget 2012 - follow it live with us

George Osborne will deliver his 2012 Budget on Wednesday 21 March. We will be running our popular live news feed during the speech at www.hazlewoods.co.uk. We will also provide more detailed analysis on our website in the hours and days following the speech, once we have had a chance to analyse the details of the announcements.

Much of the speech is likely to repeat changes announced in the Autumn Statement. But we could hear more on such matters as the future of the 50p tax rate, the introduction of a mansion tax and increasing the personal allowance to £10,000 sooner than anticipated.

So join as at www.hazlewoods.co.uk on 21 March to find out how the 2012 Budget will affect you.

Tax prize draw - the lucky winner is...

Michael Ford of Ford Fuels Ltd based in Dorset is the lucky winner of this year's Tax Prize Draw. Michael has won an iPad 2 along with a Smart Cover.

The tax prize draw has been running for a number of years to incentivise clients to send us their tax return information early. For all our other clients who filled in their prize draw cards, we wish you good luck for next year's competition!

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

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