Spring 2012

Dental Focus

A fresh approach to achieving lifelong prosperity

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DRIVING LIFELONG PROSPERITY

The truth of the matter

We regularly come across various 'myths' regarding accounting and tax matters for dentists and some of the more common examples are considered below.

Incorporation

Incorporation is irreversible

It is possible to disincorporate, although professional advice would be needed and there may be costs involved. Before proceeding with incorporation in the first place it is important to consider the whole life of the incorporation, including your ultimate exit strategy. Careful consideration of all of the facts is essential so that an informed decision can be made.

All assets must be transferred to the company

Transferring all of the assets of the business could result in additional tax liabilities, both on incorporation and year on year. It is common for assets to be held outside of the company to avoid unnecessary costs. These include freehold property, saving legal fees and stamp duty, and the principal's car, avoiding an ongoing taxable benefit in kind.

The company's accounts will be available to the public

Accounts do need to be filed at Companies House. However most dental companies will qualify as small (turnover less than £6.5million, gross assets less than £3.26million, employees less than 50) so only abbreviated accounts need be filed. These include a Balance Sheet but not a Profit & Loss Account. Members of the public cannot identify your turnover or net profit. They can only see what assets and liabilities the company had at the year end and what profit has been retained (i.e. not paid out in dividends) for the year. Documents are available to download from Companies House for a small fee.

The GDC will not allow dental/dentist in the company name

Before a company can incorporate with dental/dentist in the company name it must seek approval from the GDC. In our experience, provided the name clearly indicates the nature of the services to be provided and is not likely to mislead the public, the GDC will grant approval.

There is added complexity on sale or retirement

This will depend on whether you sell the shares in the company, which may be needed if the company holds an NHS contract, or sell the assets, as you would as a principal.

Normally there are extra due diligence costs when a company is sold. This is because the new owners take on the history of the limited company and normally seek assurances that everything is "above board". To reflect this risk the sale and purchase agreement drafted by the solicitor will have to be more detailed. Selling the assets of the company is little different from selling as a sole principal. However you need to consider how to get the funds out of the company post sale.

You cannot make NHS superannuation contributions if you incorporate

NHS pension scheme rules allow NHS pension scheme contributions provided the practitioner has pensionable salary and/or dividends specifically from NHS work under a contract held by his or her company.

Associates

Incorporation will save a fortune in tax

Yes, it is possible for a dental Associate to incorporate, but care needs to be taken. Normally it is tax efficient to pay a small salary and then dividends to avoid a personal tax liability. The company would still pay tax on its earnings. However there could be an additional personal tax liability if income extracted exceeded the higher rate tax threshold. In these circumstances any tax saving would be significantly reduced.

An Associate can sell his/her goodwill to their limited company

It is generally acknowledged that Associates do not own goodwill and this should be clearly stated in any Associate agreement. Therefore no sale of goodwill can be made.

You cannot make NHS superannuation contributions if you incorporate

NHS Dental Services clarified this issue in the guidance for completing 2010/11 pensionable earnings declarations. It stated that an Associate's limited company is not recognised as a qualifying dental practitioner, so the Associate cannot be a member of the NHS pension scheme.

Recently this has been further clarified by new guidance regarding the NHS Pension Scheme Regulations. An amnesty is in place for Associates who have traded through a limited company prior to 7 November 2011. However, from this date if they continue to trade through a limited company they will lose their NHS pension entitlement. Given the generous nature of the NHS superannuation scheme consideration of the loss of pension benefits should be given by any Associates looking to incorporate.

You do not need a new Associate agreement and can just arrange for your monthly fees to be paid into your company's bank account

Without a proper agreement, the arrangement is open to attack by HMRC who could argue this is your income and not the company's.

Tax

Some common property related myths are considered below.

You don't need to complete a tax return if you don't make a rental profit

As soon as a new source of income is identified you should inform HMRC. HMRC have the power to raise penalties for failing to do so irrespective of whether the property business is profitable or not.

In addition, it is worthwhile declaring any loss as rental losses can be carried forward and offset against future rental profits.

I have informed HMRC, but there won't be any tax due because my rental income is the same as my mortgage payments

This may be the case if you have an interest-only mortgage, however if you have a repayment mortgage the capital element (the part that is repaying the loan) is not tax allowable. Therefore the property business may not generate any cash, however you will still need to find the funds elsewhere to pay any tax liabilities.

I'm a higher rate tax payer, so I'll just report the income on my spouse's tax return who does not work, so there won't be anything to pay

Using your spouse's unused allowances or basic rate tax band is simple and effective tax planning, but care must be taken. Where a property is owned jointly by husband and wife or civil partners, then income is automatically split 50:50 and must be reported in the tax return accordingly. The alternative is to make an election to tax the income in line with the ratio of ownership (i.e. 80:20, 70:30 etc).

However, as the usual position is 50:50 when properties are purchased jointly, this is not much help. The remedy is to either inform the solicitor when the property is acquired that you want the lower earning spouse to have a larger share, or amend the property sharing ratio by deed of trust. The election can then be made to put more income into the hands of the lower earning spouse. Legal advice should be sought.

If the property is your only home there won't be any Capital Gains Tax when you sell it

This refers to what is commonly known as Principle Private Residence (PPR) relief. PPR relief exempts your main residence from Capital Gains Tax (CGT) if you sell it at a profit. This is correct if you have lived there the whole time you have owned it, but extended periods of absence, or owning another property in which you also reside could cause some of the period of ownership to become chargeable to CGT.

It is worth noting that merely owning only one property does not make it your main residence if you do not live there. Professional advice should be taken.

You can get Principle Private Residence Relief on more than one property, so you won't have to pay any Capital Gains Tax

In certain circumstances and with timely advice it is possible to have multiple properties concurrently receiving Principle Private Residence relief, which may either eliminate Capital Gains Tax or significantly reduce it. Advance planning is essential and a tax adviser should be consulted when making any new or first time property purchases or when starting to let a property.

Summary

There is a lot of information available to dentists, particularly on the internet. Often that information is confusing or conflicts with another professional's advice. We strongly recommend that you speak to a specialist dental accountant, preferably a member of the National Association of Specialist Dental Accountants and Lawyers (NASDAL) or the Association of Specialist Providers to Dentists (ASPD). Ensure all aspects of any future plans, whatever they may be, are discussed before action is taken. This should include any potential risks so that an informed decision can be made.

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Pension Changes

For many years, pension rules have been extremely complex, with successive governments adding new rules and regimes, rather than improving existing ones. The latest rule changes greatly simplify contribution limits, although the underlying details remain very complex.

From 6 April 2011 an annual allowance of £50,000 of pension savings is available for everyone. For individuals contributions are also limited to 100% of relevant earnings. Employers' contributions are not subject to specific limits although, to obtain a business tax deduction, the contribution must be "wholly and exclusively" for the purposes of the business.

The £50,000 limit is ample for most people, but many higher earning individuals now need to take great care when planning their contributions. Tax relief will be available at your highest marginal rate, possibly 50%. However there will be no relief at all for excess contributions.

For money purchase pension schemes it is the gross amount of contributions (including tax relief), whether made by the individual or their employer, which counts towards the contribution limit. However, for NHS superannuation scheme members, it is not quite as simple as that!

The NHS pension scheme is a defined benefit scheme. The amount of savings is not the superannuation contributions made in the year but the increase in the value of your benefits over the pension input period (PIP). The PIP for the NHS scheme is generally the year to 31 March and calculations to identify the increase in benefits will be required.

Whether you are affected will depend on various factors including your level of NHS earnings, additional contracted UDAs, age etc. NHS pensions should automatically produce statements for 2011/12 and 2012/13 by October 2013 if you are over the £50,000 annual allowance. However, this is too late for 2011/12 tax returns which need to be filed by 31 January 2013! If you think you may be affected you can request a statement for 2011/12 from July 2012, after submission of 2011/12 pensionable earnings declarations.

For private pensions it is possible for the PIP to differ from the tax year, subject to when schemes began. These PIPs provide opportunities for contributions to be overlapped, potentially increasing the tax relief available in a single tax year. This requires careful planning with regard to timing of payments and consideration of other income sources.

The ability to carry-forward unused relief is also available. Up to three earlier years' unused contributions may be aggregated, but only where pension scheme membership already existed (i.e. not available for new schemes).

Lifetime Allowance

The Lifetime Allowance (maximum pension pot in plain English), currently £1,800,000, is to reduce to £1,500,000 from 6 April 2012 and seems unlikely to be increased in line with inflation on a regular basis. This means that although higher contributions may be made, greater care needs to be taken to ensure that future growth does not result in an excessive fund value at a later date.

Removal of Annuity Compulsion

On 9 December 2010 the Treasury announced a new retirement framework that sees the arrival of what they called 'Capped and Flexible drawdown', replacing the previous unsecured pension and alternatively secured pension, both more commonly known as income drawdown. The new rules took effect from 6 April 2011.

Most importantly, drawdowns may continue beyond age 75 and, as a result, annuity purchase may be delayed indefinitely. Instead, the fund remaining after a spouse's and dependants' pensions have been paid may be passed to beneficiaries, subject to a special tax charge of 55%. If there are no beneficiaries, the fund may be donated to charity tax-free.

Whilst this rate seems very high, it is often far preferable to the loss of one's fund through annuity purchase and, if compared to the combination of income tax and inheritance tax on pension income "received but not spent" the effect is not dissimilar.

Capped Drawdown will operate in a similar way to current drawdown, other than a new maximum level (roughly 20% lower) and more frequent reviews (every three years instead of five).

Flexible Drawdown will allow unlimited income to be drawn, subject to a minimum income requirement of £20,000 per annum. This will include state pensions, final salary pensions and pension annuities and will apply to each individual i.e. no allowance for couples.

In summary, the changes represent genuine progress for retirement income planning. The high tax charge on death will prevent use of pensions to avoid inheritance tax, but the open ended choice of whether to purchase an annuity is very welcome.

Annuity purchase will still be the best route for lots of people as drawdown, by its nature, is not without risk. For people with little or no other income, an annuity gives certainty, while drawdown will always remain prone to variations in interest rates, economic growth, life expectancy and taxation policy. In contrast, once an annuity has been purchased, it is generally fixed for life.

However, for more wealthy, adventurous or sophisticated individuals, drawdown offers an opportunity to draw income while still experiencing investment growth or, perhaps, increasing interest rates in the future. Whilst these advantages are uncertain, the ability to pass on the fund on death may be the main attraction for many people.

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Compulsory pensions for employees

The Government has confirmed that the requirement for employers to automatically enrol staff into a pension plan will go ahead.

The rules intend to make employers responsible for ensuring that all employees contribute to their retirement by using in-work pension schemes. It means that employers must enrol employees into a pension scheme to which both the employee and employer contribute.

Although the rules do not start until at least October 2012, it is important to plan early. The following questions and answers provide some basic information about the changes.

When does auto enrolment start?

The start date for auto enrolment is phased between October 2012 and April 2017, based on the number of employees in an organisation. For those who employ fewer than 250 staff the earliest implementation date is 2014.

Do all employees have to be auto enrolled?

All eligible workers must be auto enrolled within three months of employment.

Eligible workers are those earning over the personal allowance (£7,475 in 2011/12) and aged between 22 and the state pension age.

What are the minimum contributions?

Contributions become payable on earnings over the National Insurance primary threshold (£7,228 in 2011/12). The minimum contribution levels will be phased in between October 2012 and October 2018 from 2% of qualifying earnings with at least 1% from the employer to 8% of qualifying earnings, with at least 3% from the employer.

What happens if I already have a pension scheme or National Employment Savings Trust (NEST)?

Employers can use their own existing schemes, provided they meet certain minimum requirements, or NEST.

What do I need to do?

Employers need to consider how the auto enrolment rules will affect them, such as:

- What needs to be done to comply with the new rules and how much will it cost.
- How auto enrolment will impact their current benefit and pension arrangements.
- Whether to change existing pension scheme contribution rates.

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Superannuation contributions - proposed changes

Proposed changes to superannuation contributions rates are due to take effect from 1 April 2012.

The four current contribution tiers are due to be expanded to seven. Lower earners will see no change to their contribution rates, middle earners will see a contribution rate increase of 1.5 percentage points and higher earners an increase of 2.4 percentage points.

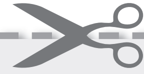
For middle and higher earners contributions will increase in real terms by between 23% and 37%, as follows:

Full-time 2010/11 salary or total pensionable earnings	2012/13 contribution	Percentage point increase	Percentage increase
Up to £15,00	5%	0%	0%
£15,001 to £21,175	5%	0%	0%
£21,176 to £26,557	6.5%	0%	0%
£26,558 to £48,982	8%	1.5%	23%
£48,983 to £69,931	8.9%	2.4%	37%
£69,932 to £110,273	9.9%	2.4%	32%
£110,274 and above	10.9%	2.4%	28%

Example

In the current year a dentist with pensionable earnings of £50,000 will pay superannuation contributions of £50,000 x 6.5% = £3,250. Allowing for 40% tax relief the net cost of the contributions is £1,950.

Under the proposed changes their contribution for 2012/13 onwards will be £50,000 x 8.9% = £4,450. Allowing for 40% tax relief the net cost of the contributions is £2,670. This is an increase of £720, or 37% more than the equivalent contribution in 2011/12.



Employment 'Snippets'

Approved mileage rates

From 6 April 2011 the rate of Approved Mileage Allowance Payments for employees (including directors) who use their private cars and vans for business mileage increased from 40p per mile to 45p per mile for the first 10,000 business miles in the tax year. The rate after 10,000 miles remains at 25p per mile.

Please remember that commuting to work is not classed as business travel.

Minimum Wage

The current National Minimum Wage is as follows:

Adults	£6.08 per hour
18-21 year olds	£4.98 per hour
16 and 17 year olds	£3.68 per hour

Maternity and sick pay

Statutory maternity (and paternity) pay is currently £128.73 per week and statutory sick pay is £81.60 per week.

PAYE reform

Pilots for Real Time Information (RTI) are due to begin in April 2012, with the aim of completing this in full by October 2013. This means that payroll information will be submitted to HMRC whenever employers carry out a payroll run, rather than once a year, after the year end. The implementation timetable is tight, given the amount of work involved in setting up systems, both at HMRC and for software providers. Once implemented it will be important to ensure data entered is as accurate as possible, as it is likely to be used by the government to help avoid another PAYE crisis and monitor personal information such as tax credit claims.

VAT Exemption for "Nursing" Staff under scrutiny

A tribunal case where an agency provided temporary dental staff to dentists has recently concluded. The agency was seeking to obtain repayment of output tax which it considered had been over-declared in the period 1985-1996.

In 2001, under their understanding of the law at that time, HMRC had ruled that the supply was VAT-exempt. However the agency was, at that point, out of time to claim for the period in question.

As a result of the Fleming case, the agency was subsequently able to submit its claim, by which point HMRC had revised its interpretation of the law, now considering the necessary condition for exemption being that the agency acts as principal and is supplying "care", not "staff".

The tribunal determined that it was the dentists who provided the "care", with the staff acting under their instruction. The conclusion was that the agency was merely providing staff, which would be chargeable at the standard rate thus increasing costs to a dentist by 20%.

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Tax update

Tax rates

Draft clauses for the Finance Bill 2012 indicate the following:

- The personal allowance will increase from £7,475 to £8,105 for 2012/13.
- The higher rate tax threshold will reduce from £35,000 to £34,370 for 2012/13. This change means there is no tax saving from the increased personal allowance for higher rate taxpayers.
- The Capital Gains Tax annual exemption will remain at £10,600 for 2012/13.
- The 50% additional rate threshold will remain at £150,000. Whilst the Chancellor has announced that he expects the 50% tax rate to be temporary, he has provided no indication of when the rate will be reduced.

Capital allowances

From April 2012 the Annual Investment Allowance (AIA) will decrease from £100,000 to £25,000 and the Writing Down Allowance will decrease from 20% to 18%. For businesses whose accounting year end is not 31 March, hybrid rates will apply.

The reduction in the AIA is substantial, so it would be prudent to consider bringing forward any capital projects if practice refurbishment or equipment purchases are planned in the near future. Please note that this does not reduce the amount that can be claimed on an asset overall but it does delay the relief by spreading it over a longer period.

Entrepreneurs' Relief

The lifetime limit on qualifying gains, made by an individual or trustee, has increased from £5 million to £10 million for qualifying disposals on or after 6 April 2011. There are no other changes to the rules and qualifying conditions relating to the relief.

If you are planning a capital disposal speak to your accountant in advance to ensure that you qualify for the relief wherever possible.

Company Corner

For those of you who have incorporated your practices, the following will be of interest.

Rate of Corporation Tax

The main rate of corporation tax is currently 26%, down from 28% in 2010/11. The rate will drop to 25% for 2012/13 and is expected to drop to 24% for 2014/15 and 23% for 2014/15.

The small companies' rate is currently 20%, down from 21% in 2010/11.

Online filing with HMRC

From 1 April 2011 it is compulsory for companies to submit their corporation tax returns online using iXBRL for accounts and computations. Most companies will no longer be allowed to send either accounts or computations on paper or as a PDF attachment to an online return.

Companies House filing fees

Since 6 April 2011 Companies House filing fees have changed. The most common one is the Annual Return fee. This is now £40 for paper filing (was £30) or £14 for online filing (was £15).

Companies House: majority of paper filing to be withdrawn from 2013

Companies House expects that all incorporations, filing of annual returns, main company changes and accounts submission will be electronic only by 2013.

Hazlewoods Dental Team

Services

Our dental team are happy to discuss matters arising from this newsletter, as well as any other issues relating to your business or personal affairs.

The services we provide include:

- Accounting and bookkeeping
- Taxation and compliance planning
- Management accounts
- Business planning and practice review
- Computer software advice to include installation and training on Sage
- Financial planning
- Payroll assistance to include bureau service
- Benchmarking and practice profitability advice
- Partnership changes
- Incorporation

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