Newsletter AUTUMN 2009

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In this issue

Opening the books on offshore income
Tax planning for company owners
Inheriting a nil-rate band
Rules benefit UK non-domiciles
New rules on tax return penalties

Pension relief hits the buffers

People with relatively high incomes could find that tax relief on part of their pension contributions is effectively restricted to just 20% this year. You will not be affected unless your income from all sources, including investments, is at least £150,000 in the current year or in either of the two previous tax years.

The restrictions apply to individual and employer pension contributions into any registered pension scheme, ranging from personal pensions to final salary-related schemes. The excess higher rate tax relief (but not basic rate relief) is taken away through a special tax charge on you personally. The rules were introduced in the Finance Act 2009 and will be replaced from 2011/12.

For the tax years 2009/10 and 2010/11, people with incomes of at least £150,000 can still benefit from full tax relief on limited levels of contributions. The rules are complicated. Quarterly or more frequent contributions started before 22 April 2009 are basically unaffected and there is a special annual allowance of at least £20,000, which can be higher in certain circumstances. Ask us for details if you think you might be affected now or in the future.

From 2011/12, the restrictions on tax relief are due to be generally tighter. For incomes of at least £180,000, the tax relief for all pension contributions will be at basic rate only. For incomes between £150,000 and £180,000, tax relief will be tapered down from the higher rate to the basic rate. Full higher rate relief will still be available for all pension contributions if your income is less than £150,000.

So does it make sense to contribute to a pension if your tax relief will be limited to the basic rate? If you are likely to be a higher rate taxpayer after retirement, the relief on contributions may be at a lower rate than the tax rate you will be paying on your pension.

Despite this, other factors could still weigh in favour of pensions. Ultimately, a decision about the relative benefits of 20% tax-relieved pension contributions will depend upon your personal circumstances and retirement planning objectives. Of course the rules could well change again. Even if you are not directly affected by the new rules now, you should bear them in mind. It might be worth taking advantage of the full tax relief on pension contributions while you can.

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This newsletter is for general information only and is not intended to be advice to any specific person. You are recommended to seek competent professional advice before taking or refraining from taking any action on the basis of the contents of this publication. The newsletter represents our understanding of law and HM Revenue & Customs practice as at August 2009.

Opening the books on offshore income

HM Revenue & Customs' (HMRC) second tax amnesty, known as the 'new disclosure opportunity' (NDO), will offer an 'amnesty' on undeclared offshore income. Taxpayers will be charged reduced penalties for previously undisclosed and unpaid tax connected with their offshore bank accounts.

The previous tax amnesty focused primarily on customers of the five largest high street banks, but everyone with unpaid taxes linked to offshore accounts or assets can take advantage of this chance to settle their liabilities on favourable terms. If you have an offshore account and/or asset, such as an overseas property or business, and an address in the UK, you should review your tax arrangements before HMRC opens an enquiry.

The NDO means that, instead of penalties of up to 100% of the tax owed, most people making a full disclosure by 12 March 2010 will pay a penalty of just 10%. A higher penalty of 20% will be charged on people who received a letter from HMRC in 2007 but failed to make a disclosure. If the tax owed is less than £1,000, HMRC will waive penalties, although interest will be charged in all cases.

If you think you need to make a disclosure, you must get a 'disclosure reference number' (DRN) by registering with HMRC, which you can do between 1 September 2009 (1 October if done online) and 30 November 2009.

Requesting a DRN does not oblige you to make a disclosure report if you subsequently establish that you do not have any unpaid tax. Provided it has the necessary resources, HMRC will eventually check for discrepancies between its own information and the NDO disclosure forms, or the usual tax returns.

It is time to review any offshore accounts and assets you may have and avoid being classed with real tax evaders. If you think you will have problems paying the liability in full, then you should contact us to discuss possible alternative payment arrangements as soon as possible.

Whether you have complicated tax arrangements or are not sure if you have undeclared overseas income, please come and see us. Not only might this limited period make it difficult for you to comply, but this is also likely to be the last amnesty of its kind.

Did you know that HMRC's advisory fuel rates are reviewed twice a year, largely to reflect changes in fuel prices?

The rates indicate the amounts an employer can pay to an employee who is provided with a company car for business mileage, without income tax and national insurance contributions arising. Changes take effect on 1 January and 1 July.

The revised rates from 1 July 2009 are:

Engine size	Petrol	Diesel	LPG
1400cc or less	10p	10p	7p
1401cc to 2000cc	12p	10p	8p
Over 2000cc	18p	13p	12p

Tax planning for company owners

A new 50% income tax rate will be charged from 6 April 2010 on taxable income above £150,000. The top rate of tax on dividends will correspondingly increase from 32.5% to 42.5%.

The personal allowance will also be clawed back for people whose income exceeds £100,000. The amount of the allowance will be reduced by £1 for every £2 above the £100,000 limit. The effective marginal rate on income that falls in the band between £100,000 and £113,600 will be 60% (higher rate of 40% plus an additional 20% from losing the personal allowance). The rate for dividend income will be 48.75%. Some straightforward tax planning may save you tax in the run-up to these changes.

Paying dividends now or later?

If your company has surplus cash, it could make sense to pay an interim dividend before the new top rate is introduced. Cash can always be lent back to the company afterwards.

Companies can only pay dividends out of accumulated profits. Therefore, if your company is currently making losses, it will only be able to pay dividends if it has accumulated reserves which cover the losses. Ask us for details.

Pensions

Tax relief on pension contributions has effectively been restricted to basic rate for those with high incomes. People with incomes under £150,000 are not currently affected and should consider making the most of the opportunities to benefit from full tax relief while it is still available. If you are near this threshold, it may be worth trying to stay below it in some circumstances, for example by income shifting.

Income shifting

If you are a company owner and you are able to split your dividend income with your spouse, partner or any other adult member of your family, it may be worthwhile considering transferring some of your shares into their names. You can then distribute your company's profits as dividends to take advantage of their lower tax bands, if available.

Family shares and PAYE and NICs

There should not be Pay As You Earn (PAYE) implications on transferring some of your shares to your family. However, if you have family members who are employees, it is normally not a good idea to create new classes of share for each family member. Following a recent court decision, it is possible that their future dividend income will be viewed as earnings and so could attract NICs.

Inheriting a nil-rate band: making the process easier

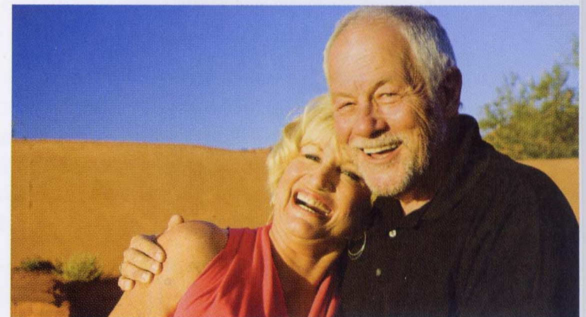
Many people have not caught up with the change in the inheritance tax (IHT) rules, allowing people to inherit their deceased spouses' nil-rate bands (NRB). It is common for people to leave all their assets to their spouse or civil partner when they die. This used to mean that any unused part of their NRB was lost. The NRB allows the first part of an estate, currently £325,000, to be free of IHT.

Since the law changed in October 2007, any part of the NRB not used at the first spouse's death can be added to the surviving spouse's own NRB (even if they died before October 2007). When the surviving spouse dies, it is up to their executors to claim any unused portion of the NRB from the first spouse, plus the full NRB of the second one.

HM Revenue & Customs (HMRC) has recently stated that up to 80% of estates fail to provide the evidence needed to support their claim. It has also said that it will not process a claim until it receives the necessary documents. The Probate Office will not issue a grant of probate until clearance from HMRC is received, so this too can be held up.

Anyone whose spouse has died and is not sure whether their spouse had any unused NRB to transfer may wish to take action now to avoid important information and documents being lost.

The transferable NRB can work in unexpected ways. For example, if Mukesh dies leaving all his estate to his wife Sunita, his NRB for IHT remains unused. Sunita remarries and on her death her new (surviving) spouse can claim both her unused NRB and that of her previous spouse, Mukesh. Be aware of the need for professional advice if a member of your



family has remarried after the death of their first spouse.

An unused NRB may be transferred to a surviving spouse to save on IHT. To ensure that this is achieved without any problems, let us help you calculate the proportion of NRB unused by the first spouse. It is also a good idea for the relevant IHT form to be kept with your will and to have extra copies for your family and executor.

Is your business partly exempt from VAT and do you use the standard method (based on income) when working out how much VAT you can claim on your returns? If the answer to both questions is Yes, you could benefit from three optional new rules introduced by HMRC. You can base the amount of VAT you claim throughout the year on the percentage you claimed in the previous tax year, declare your annual adjustment calculation one quarter earlier than normal – good news if a rebate is due – and, in certain circumstances, you can claim VAT based on 'use' rather than income.

Rules benefit UK non-domiciles

The remittance basis for taxing overseas income has been modified for low income overseas workers coming to the UK. These changes only apply to individuals who are resident but not domiciled in the UK, and they apply from 6 April 2008.

Choice of remittance or arising basis

UK residents are taxed on their worldwide income and capital gains as they arise in each tax year. However, if you are not domiciled in the UK or not ordinarily resident in the UK in any tax year, you can make a claim to be taxed only on the amount of foreign income and gains that you actually bring in or remit to the UK. This is called the 'remittance basis' of tax.

If your unremitted foreign income or gains are less than £2,000 in a tax year, the remittance basis applies by default and you do not lose any entitlement to UK personal allowances or your capital gains tax annual exemption. In other cases, you do lose these allowances unless you choose to be taxed on an arising bases instead.

When you have been long-term resident in the UK (ie, here for seven out of the preceding nine tax years) and are aged 18 or over, you have to pay a remittance basis charge of £30,000 each tax year in order to continue using the remittance basis.

Low UK income – no self-assessment tax return

If you have no UK income or gains other than up to £100 of income taxed at source, and you make no remittances of any foreign income into the UK in that tax year, there is no requirement for you to file a UK tax return.

New income tax exemption

A new income tax exemption applies if you are resident, but not domiciled, in the UK in a tax year, with foreign earnings of £10,000 or less and foreign bank interest of not more than £100 – as long as these amounts are fully taxed abroad. Providing that you are not liable to higher rate tax in the UK, or already required to file a UK tax return, your foreign income will not be subject to any additional tax in the UK.

Ready for 17.5% VAT return

The rate of VAT will return to 17.5% from 1 January 2010, after being 15% since 1 December 2008. This may be a good time to maximise the benefit of the lower rate before it is too late – here are a couple of suggestions:

- Any goods invoiced or paid for by 31 December 2009 will still be subject to 15% VAT, even if the goods are delivered on or after 1 January 2010. However, there are anti-avoidance rules that may apply an additional 2.5% charge, if the value of the goods exceeds £100,000 or the invoice is payable more than six months after it is raised. These situations are limited.
- If you or your clients supply services on a continuous basis, then VAT is normally due according to the rate in force when you raise an invoice or receive money from a customer. However, if an invoice raised or payment received on or after 1 January 2010 includes work done before that date, then the 15% VAT can still be charged on the value of that work. The 17.5% VAT rate will only be charged for work carried out on or after 1 January 2010.

New rules on tax return penalties

There are penalties if you do not make full and accurate tax returns. The government has taken steps to formalise the basis on which penalties are applied.

In broad terms, the new rules for returns filed on or after 1 April 2009 provide for a moderate penalty of up to 30% for failure to take reasonable care, higher penalties of up to 70% for deliberate understatement and still higher penalties of up to 100% for deliberate understatement with concealment. Taxpayers found to have made a genuine mistake will not be penalised. The deadlines for the filing of 2008/09 self-assessment tax returns are summarised below:

	Notice to complete sent on or before 31 July 2009	Notice to complete sent after 31 July 2009
File paper return (tax owed of less than £2,000 can be collected via PAYE)	31 October 2009*	31 October 2009 or three months after the issue of the notice if later.
File online (tax owed of less than £2,000 can be collected via PAYE)	30 December 2009	30 December 2009.
File online (no facility for collection of tax owed via PAYE)	31 January 2010*	31 January 2010 or three months after the issue of the notice if later.*

**Automatic £100 penalty if a return is filed after this date.*

KEY TAX DATES

Every month

1 Annual corporation tax due for companies with year ending nine months and a day previously, eg tax due 1 May 2009 for year ending 31 July 2008.

14 Quarterly instalment of corporation tax due for large companies (depending on accounting year end).

19 Pay PAYE/NIC and CIS deductions for period ending 5th of the month if not paying electronically. Submit CIS contractors' monthly return.

22 PAYE/NIC and CIS deductions paid electronically should have cleared into HMRC bank account.

30/31 Submit CT600 for year ending 12 months previously. Last day to amend CT600 for year ending 24 months previously.

If the due date for payment falls on a weekend or bank holiday, payment must be made by the previous working day.

September 2009

28 File accounts at Companies House for public companies with year ended 28 February 2009.

30 File accounts at Companies House for private companies with year ended 30 November 2008.

October 2009

5 Deadline to notify HMRC of chargeability to income tax or CGT for 2008/09.

14 Due date for CT61 return and payment for quarter to 30 September 2009.

19 Due date for tax and NICs payable under 2008/09 PSA.

31 Deadline to submit 2008/09 self-assessment tax return if filed on paper (up to £100 penalty if late).

File accounts at Companies House for private companies with year ended 31 December 2008 and public companies with year ended 31 March 2009 and year ended 30 April 2009 (shorter filing period for accounts starting after 5 April 2008).

November 2009

2 Submit forms P46 (car) for quarter to 5 October 2009.

30 File accounts at Companies House for private companies with year ended 31 January 2009 and public companies with year ended 31 May 2009.

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