DO IT BY 5 APRIL! YEAR-END TAX PLANNING

What can you do to save tax before 6 April 2009?

Here are some headline items which are covered in more detail below:

- Making the most of tax-efficient saving opportunities – a pension contribution can provide an instant return on your capital of 67%!
- Reducing the tax cost of company cars
- Minimising income tax and National Insurance costs in your family business;
- Buying business assets – use your annual investment allowance
- Saving capital gains tax by: entrepreneurs relief
- Reducing inheritance tax on your estate.

This guide highlights a range of planning opportunities to consider before 6 April 2009. Please contact us to discuss the following:

Tax efficient saving for the future

Pension contributions made on or after 'A-Day' (6 April 2006) are no longer limited to a fraction of earnings. An individual may make unlimited contributions, and tax relief is available on contributions of up to the full amount of his relevant earnings or £235,000 (the annual allowance) if lower. To reduce your 2008/09 income tax liability, individuals must pay pension contributions by 5 April this tax year.

If instead of you paying pension contributions out of post- NI (National Insurance) income, the employer makes the pension contributions, the contributions will be free of NI (with a typical saving of 13.8%).

Employers are able to pay unlimited contributions in respect of employees; however excess 'uncommercial' contributions for 'controlling directors' and their relatives (or even friends according to HM Revenue & Customs!) may not be fully tax deductible. *Additionally, 'over-funding' can lead to penal tax charges, and where funding is being maximised you need to watch 'pension input periods'. So speak to us before any large contributions are made.* Consider paying Stakeholder Pension contributions of up to £2,880 (net of 20% tax) for children, grandchildren, and others with low or no earnings aged under 75.

Employees entitled to bonuses, which have yet to be paid, should consider entering into salary sacrifice arrangements (more details below (see *Employees' benefits*)).

This entails wholly or partly giving up a bonus in return for an *employer* pension contribution. This will save National Insurance. *Advice should be sought to ensure that the salary sacrifice is tax effective.*

Are you saving enough for your retirement? Ask your pension provider for a pension forecast, and put together a forecast of your spending needs based on what you are spending now. Then you will be able to judge if you are saving enough.

Tax efficient investments

The maximum contribution to an ISA for 2008/09 is £7,200 (or £3,600 for cash only ISAs). The investment must be made on or before 5 April 2009.

Consider the annual limits for Venture Capital Trust (£200,000 - 30% income tax relief) and Enterprise Investment Scheme (£400,000 (should increase to £500,000 (pending EU approval)) – 20% income tax relief) investments. The latter can also shelter capital gains (most useful where little or no taper relief was available on pre 6 April 2008 gains).

'Film Partnerships' (and similar arrangements for partnerships involved in green technology, R&D etc) can also be used to shelter exceptional profits or earnings, as well as capital gains.

Employees' benefits

The car fuel benefit charge is based on a car's CO_2 emissions, and the taxable benefit can vary from £1,690 (very low emission cars) to £5,915.

The fuel benefit is based on the fuel rate multiplier and the CO_2 emissions. The fuel rate multiplier has been unchanged since April 2003. It increased from £14,400 to £16,900 in April 2008. The fuel benefit on a diesel car with CO_2 emissions of 240g was £5,040 but is now £5,915. The rise of £875 results in increased tax due of £350 (at 40%) and additional Employer's National Insurance of £112 per annum.

The tax on a diesel car with 240g CO_2 emissions is now £2,366 (£197 a month). At this level of cost, fuel provided for private use in a company car may not be tax efficient. If it is inefficient this year, reimburse the full cost of the fuel to your employer. To prevent the tax charge you must be required to reimburse the fuel costs as well as actually reimbursing in the same year. If paying tax on private fuel is likely to continue to be inefficient, terminate the arrangement before 6 April to avoid having to consider the question of reimbursement next year.

The car benefit of a petrol car with emissions of 120g or less is only 10% of the list price (13% for a diesel car). More cars are being manufactured which meet this target. So a car costing £18,000 with this level of CO_2 emissions will have a taxable benefit of £1,800 per annum, compared to one with CO_2 emissions of 160 having a taxable benefit of £3,600. Owner managers might like to consider 'second cars' with CO_2 emissions below 110g – the scale benefit will be 10% or 13%, but additionally a first year business tax write-off 100% of is available. Salary sacrifice arrangements (see below) may also be suitable for such cars.

Salary sacrifice arrangements - the employee gives up some salary in return for (typically) the employer making pension contributions on his behalf. These payments (employer pension contributions) will be free of National Insurance. Many other benefits (eg childcare vouchers) can be provided under the salary sacrifice arrangements. In this case, instead of the employee paying out of salary (after tax and NI) for the after-school club or holiday club for his child, the employer can provide vouchers, saving tax and NI.

Employers now pay employees £3 a week tax free where they work from home as part of their employment conditions. This can be paid weekly, monthly or even as a lump sum. Employees can claim a higher amount where this can be justified.

Family business

Generally, payments to a spouse or other family member (with no other income) providing services to a business or company will be free of tax and NI provided no more than £5,435 is paid in 2008/09. However, to achieve the full NI savings the earner should be paid monthly, unless they are a director (who could be paid in one lump sum by 5 April 2009).

A salary of £5,435 pa (payable monthly) to the spouse in 2008/09 will provide the usual social security benefits, while saving a total of £2,228 in income tax and NI for a 40% taxpayer (whose business is not operated via a company).

Shareholder/directors of companies can save NI by taking dividends instead of a bonus. Payments of dividends must comply with company law, so companies will need to ensure they have sufficient reserves to pay them and also be prepared for a decline in trading results in the latter part of an accounting period.

You may need to make a loan to the company. You can charge commercial rate interest for the loan. The interest cost is an allowable expense in the company. This is a very tax efficient way of extracting profits.

Buying business assets

A purchase of an asset just prior to the end of the current accounting year will usually mean that the allowance is available a year earlier than would have been the case, had the purchase had been made just after the year end.

The capital allowance rules changed in April 2008. Your business has an annual investment allowance of £50,000. If your year end straddled 5 April 2008 you will have received a proportion of this allowance. This allowance is shared between associated businesses but you can decide how much of the allowance each business receives.

There are also allowances available at 100% of cost for energy saving plant and machinery. So if you are buying a new boiler or air conditioning unit for the business premises, you should check the list at www.eca.gov.uk to see if it qualifies.

Low emission cars, as well as benefiting employees through a lower benefit charge, also benefit the business as those with CO_2 emissions of no more than 110g/km have 100% first year allowance.

For cars acquired by the business from 1 April 2009 the capital allowances available will depend on the emissions. If the emissions are no greater than 110 g/km it will attract an immediate 100% tax write down; if the emissions exceed 110g/km but not 160 g/km the car attracts 20% written down allowance in the general pool. Cars with emissions exceeding 160 g/km are dealt with in a special pool attracting written down allowances at 10% per annum. No balancing adjustment will be available on the disposal of the car.

Cars already owned by the business will continue to be subject to the existing “expensive” car rules for five years.

If you are considering buying new cars in the business, it may be better to buy them before the 1 April 2009 depending on the CO_2 emissions.

Capital gains tax

Business asset taper relief ceased to be available after 5 April 2008.

Entrepreneurs relief is available on material disposals of business assets. The maximum gain to which the relief can apply is £1 million per qualifying shareholder. This is a lifetime limit (starting on 6 April 2008), you can make several disposals during you lifetime, and as long as the lifetime limit is not exceeded, each will benefit from the relief. The relief produces a net tax rate of 10% on disposal.

The rules for qualifying for this relief differ to those for business asset taper relief. If you are thinking or disposing of your business do contact us.

There is a restriction in the relief available for a property let to the business, where rent is being paid. If your business is in this situation contact us for further advice.

Capital losses on the disposal of shares in an unquoted (or AIM listed) trading company, where the you *subscribed* for the shares, can be treated as a loss which reduces you income tax liability.

Other husband and wife planning

Consider transferring income-producing assets to a spouse not currently utilising their personal allowance, and/or lower rates of tax.

Consider transferring assets prior to sale to utilise each spouse’s annual capital gains tax (£9,600) exemption. *See below re bed-and-breakfasting*.

Timing of income

To make the most of tax-free allowances (and lower rate tax bands) take steps to defer or accelerate income. Consider the impact on Children’s Tax Credit. Possible actions include:

- closing a bank account in order to crystallise the receipt of interest;
- advancing or deferring a salary payment or a dividend from a family company (but paying a dividend before 6 April, is likely to advance the tax payments by a year);
- make a distribution from a discretionary trust;
- realising life insurance gains (it may be possible to avoid paying any tax by making a much smaller pension contribution in the same tax year).

Giving

It is no longer necessary to make cash donations under the Gift Aid scheme by 5 April in order to obtain higher rate relief in 2008/09. You can elect that later donations made before filing your 2008/09 tax return, are treated as paid in 2008/09, provided you file your tax return by 31 January 2010.

Gifts of quoted shares, units in unit trusts, and real property should be made by 5 April 2009 in order to obtain income tax relief this year (there is no carry back facility). For a gift to be fully effective everything necessary to transfer ownership/title must have been done.

Capital Gains Tax

Realise gains and losses (on shares and unit trusts) to take advantage of the annual exemption of £9,600 for 2008/09. If retaining the shares is a sound investment strategy, consider reacquiring them in a different capacity e.g. in an ISA, a pension scheme or by a spouse. Remember it is no longer tax-effective to sell on one day and buy back the next (*‘bed-and-breakfasting’*) – but it is possible for the other spouse to repurchase on the same day, or to repurchase within an ISA, thereby minimising exposure to fluctuations in values. Otherwise, you must not repurchase until after the following thirty-day period has expired. *Care is now required, when bed and breakfasting shares to create **losses**, due to general anti-avoidance legislation – you may wish to seek advice before taking this route.*

Inheritance tax

Consider making use of the £3,000 annual exemption, together with the same amount brought forward from last year if not already used. Remember that each spouse has an exempt amount of £3,000 per annum.

Consider making use of the exemption for normal gifts out of income.

Consider the use of the IHT 'nil rate band' (currently £312,000) by making gifts now. You will be able to see the benefit of these gifts to your family members and they will escape IHT if you survive seven years.

It is now possible to transfer the unused "nil-rate band" between spouses. This eliminates the need for nil rate discretionary trusts for many individuals. Wills containing arrangements to utilise the nil rate band on the first death should be reviewed.

There are a number of investment arrangements which can assist in reducing IHT. Some of these will achieve reductions within as little as two years – ask us for further details.

Finally WILLS – if you don't have will or your existing will is very out of date, you really ought to take some action now. Dying without a will can lead to delays in dealing with your estate and your wealth may not go to the people who you think deserve it.

NB. References to husband, wife, spouse etc include members of Civil Partnerships.

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