



CORPORATE TAXES IN EUROPE
SIMPLIFYING PENSIONS TAXATION
STAMP DUTY LAND TAX
EMPLOYEE SHARE SCHEMES
NEW SMART AWARDS
BRIDGING THE FINANCE GAP
TAXMAN GIVES AWAY MONEY!

DANGEROUS TIMES

For further information, please contact one of the AGN Shipleys offices:

LONDON

10 Orange Street
Haymarket
London WC2H 7DQ

Tel: +44 (0)20 7312 0000
Fax: +44 (0)20 7312 0022

E-mail: advice@agnshipleys.com

GODALMING

3 Godalming Business Centre
Woolsack Way
Godalming
Surrey GU7 1XW

Tel: +44 (0)1483 423607
Fax: +44 (0)1483 426079

E-mail: godalming@agnshipleys.com

SAFFRON WALDEN

10 Market Walk
Saffron Walden
Essex CB10 1JZ

Tel: +44 (0)1799 521301
Fax: +44 (0)1799 523854

E-mail: saffron@agnshipleys.com

Partners:

John McCuin,
Guy Fisher, Jane Henman,
Ken Roberts, James Vassiliou,
Steven Jeffcott, Shane Moloney,
Gary Haselton, Simon Robinson,
Mike Lockett, Terry Moore,
Sanchia Norris, Steve Joberns,
Alastair Mein, Paul Taylor.



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Managing partner John McCuin examines some of the implications and dangers of delaying a decision on the euro.



Dangerous times

Is a decision to join the Eurozone to be an economic one with a political dimension, or the other way around? It's not clear. However, it does seem that the UK will keep the pound sterling for the foreseeable future, as the 'Famous Five' economic tests have not yet been met, and opinion polls show that a referendum at present would result in a 'No' vote.

Our contacts with other AGN members highlight how well the UK economy is doing in comparison with most countries in continental Europe. Of course this is not just because the pound is strong; there are many other factors. But it is notable how many members comment on economic difficulties which might not have been so severe if their governments still had control of domestic economic management.

Uncertainty

The main difficulty for our clients in the UK now is likely to be a period of dangerous uncertainty. It is not just the question of 'will we, won't we?' but also the changes that the Chancellor is planning in the interim.

One of the most fundamental of these is the adoption of a new measure of inflation, HICP (Harmonised Index of Consumer Prices). There is nothing inherently wrong with HICP; it is used by most of the G7 countries. But, measured by HICP, UK inflation is currently 1.5% instead of 3%. If the Chancellor uses this new measure for the annual indexing of tax allowances it will provide a series of stealthy tax rises. The Treasury has promised that the new rate will not apply to the indexation of pensions or benefits, but has not given the same assurance on taxation.

The HICP measure of inflation, to be adopted from November, is likely to give the Bank of England immediate scope to reduce interest rates, and if or when we do join the Eurozone

interest rates would probably fall further.

One notable aspect of HICP is that it contains no element of housing costs which, for a nation as obsessed as we are by this subject, is perhaps a little unrealistic. But the Chancellor has plans to 'reform' the housing market.

Introducing capital gains tax on the sale of houses does not, on the face of it, sound like a vote winner. And if the Chancellor does give himself the power to change the rates of Stamp Duty at will, between Budgets, to control volatility in the housing market, another element of uncertainty will be added to the property market, both domestic and commercial.

Business costs

All businesses, whatever their size, want stability and certainty. That is currently not on offer in the UK. Apart from the fundamental uncertainty of whether we shall adopt the Euro, the Chancellor intends to revive almost-forgotten powers to change the rates of VAT and excise duties (on petrol, for example) whenever he pleases.

This would put an intolerable strain on business planning. Commercial budgets and pricing strategies cannot be changed overnight, and the costs to business would be high. An obvious example is the cost to retailers when the rate of VAT changes, either up or down.

Uncertainty will probably do more to deter inward investment than the fact that the UK is still outside the Eurozone. As the AGN survey on the facing page demonstrates, the UK is an attractive location from a fiscal point of view, and it is certainly not our experience in AGN that the UK's retention of the pound has damaged inward investment in recent years, despite the sound and fury from some major multinationals.

Corporate Taxes in Europe

The European Tax Task Force of AGN International has carried out a survey of corporate taxation in Europe. The corporate tax payable in each country is calculated from a model profit and loss account and balance sheet of a trading company making an accounting profit of €1 million before tax. The survey also investigated the amount of after tax dividend that individual shareholders or parent companies would receive out of that same pre-tax profit.

Official Tax Rates

Ireland has the lowest official tax rate of 12.5%, followed by Luxembourg 22.5%, Norway and Sweden 28%, Finland 29%, UK and Portugal 30%. Germany has the highest rate of 40%.

Effective Corporate Tax Rates

Low official tax rates do not necessarily mean a low tax burden. There are different adjustments to the accounting profit required in each country, including bad debt provisions, depreciation charges, entertainment expenses, the costs and running costs of company cars, and interest deductions.

These varying adjustments to calculate the taxable profit mean that the ranking changes when the effective corporate tax rates are compared. On this basis, Ireland leads the league table with an effective tax rate of 16%, followed by Sweden and Finland at 29% and Norway and the UK at 31%.

Individual Shareholders

Of vital interest to the shareholders of a company is the proportion of the company's profit that is available to them after the payment of corporate and withholding taxes.

If the shareholder is resident in the same country as the company he will gain the greatest advantage in Finland, where 71% of the company's profit will be available to him. Other relatively advantageous regimes are Norway and the UK at 69%.

If the individual shareholder is not resident in the same country as the company, but is resident in another EU state, 84% of an Irish company's profit would be available to him, but only 42% from a German company.

Parent Companies

If the parent company is resident in the same, or another, EU country, 84% of an Irish company's profit would be available, but only 49% from a German company.

If the parent company is resident outside the EU, but in a country with a double tax treaty with the country in which the subsidiary is located, 69% of a UK company's profit would be available, but only 43% from an Italian company. If there is no treaty the parent company would still receive 69% of a UK company's profit but only 37% from an Italian company.

"I'm out of the office"



Another peril of new technology has emerged. Criminals are purchasing e-mail lists and sending mass mailings in the hope of receiving automated 'out of the office' replies which specify that the person concerned is on holiday until a certain date. Minimal research (at Companies House, or in the telephone directory for example) then provides them with an address to burgle.

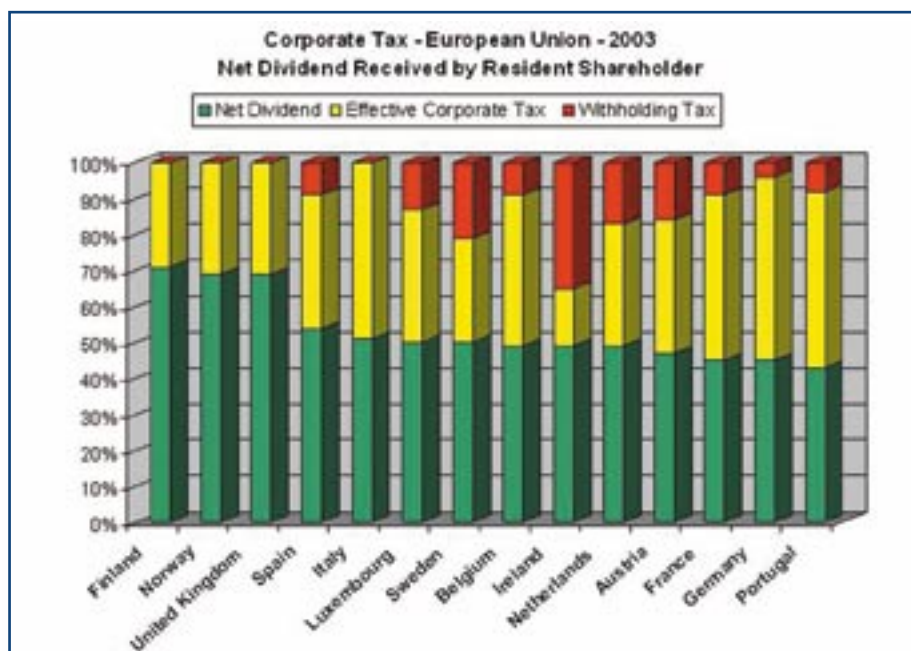
It is advisable to restrict your automated replies to a simple statement that you are out of the office, without giving any dates. Genuine contacts can always call one of your colleagues to find out when you will return.

Conclusion

While tax considerations are important they should not be considered in isolation from more general commercial factors such as transport facilities and the availability and cost of labour and real estate. Factors such as these determine whether a profit is made, and effective tax rates are not important if there is no profit.

In purely tax terms, if the individual shareholders live in the same country as the model company then the greatest proportion of profits is available in Finland. Those resident elsewhere in Europe will maximise the profit available for distribution by doing business through a UK or Irish company. Having read the survey, profitable companies in Portugal, Germany and France may wish they were based elsewhere!

Stuart Dey is AGN Shipleys' representative on AGN International's European Tax Task Force. You can contact him for further information on this survey, telephone 020 7312 6528, or see details on the AGN website at www.agn.org





SIMPLIFYING PENSIONS TAXATION -new start date

In December 2002 the Government announced proposals for changes to the taxation of pensions, with a projected start date of 6 April 2004.

The pensions industry, although not entirely critical of the new regime, stressed the need to give the industry sufficient time to prepare for it.

In the light of that, after further consultation in the Autumn on the details, the new regime will become law in 2004, but will start on 6 April 2005.

This will allow time for people to familiarise themselves with the new rules, and to change their pensions strategies accordingly, and for providers to make the necessary changes to their systems.

The main elements of the proposals would replace all the existing systems with a single set of rules.

A single lifetime limit on an individual's tax-privileged pension fund was suggested at £1.4 million (with pension rights built up before the regime is implemented being respected), and a suggested annual limit on tax-relieved inflows of value at £200,000.

A change in view?

The Inland Revenue is taking a closer – indeed harder – look at husband and wife companies and partnerships, to see whether there could be a ‘settlement’ of income on one spouse by the other.

As is well known, transfers between husband and wife are generally tax-neutral. But there is an exception where “the property given is wholly or substantially a right to income”. If it

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is caught by these words the income remains taxable on the transferor spouse.

You may wonder how this might impact on a husband and wife company or partnership.

One example the Inland Revenue has given is a that of company set up by the husband, who subscribes for all the shares when it is formed but later gives some of the shares to his wife; not an uncommon scenario.

The tangible assets of the company are initially insignificant and the profits are virtually entirely generated by the husband's efforts. Profits earned are extracted usually by a combination of salary and dividends. In this scenario the Inland Revenue argues that the shares themselves had no significant value and were substantially a right to income.

In consequence they suggest that any dividends paid on the wife's shares should be treated as her husband's income for income tax purposes.

This is perhaps an extreme case, and even then not necessarily caught: there is a division of views. There must often be a strong argument that the ordinary shares of any company can have a significant potential value other than the right to dividends.

The shares might become valuable simply because profits are retained and not distributed by way of dividends. Nevertheless, anyone in such a structure should take advice on what, if any, action can and should be taken to improve the position.

Another scenario the Revenue has highlighted is that of a partnership where one spouse has little or no involvement, but shares in the profits. Here, however, the obligation to share in losses too may present a better argument against the attack.

Stamp Duty Land Tax

The Government will continue to consult on aspects of Stamp Duty Land Tax (SDLT), the successor to stamp duty on land and buildings.

Final decisions still to be made affect:

■ Leases, especially surrenders and re-grants (which should be reflected in the final form of the Finance Act 2003 or regulations made under it);

■ Complex transactions such as the treatment of large developments, including the need for sub-sales, sale and leaseback deals, etc (which might not be implemented in time for the planned start date of 1 December and might instead be in the Finance Bill 2004);

■ The transfer of land into and out of partnerships by a partner, and the transfer of interests in partnerships (these measures would be in the Finance Bill 2004); and

■ The form of the regulations to be made before 1 December, covering such matters as the land transaction return, deferred payment of SDLT where the consideration is contingent or uncertain, and the appeals procedure.

Employee share schemes

The Finance Bill 2003 proposes extensive changes to the tax and NIC treatment of awards to employees of shares and securities with initial restrictions. The new rules will apply from an Appointed Day – expected to be 22 days after the Finance Bill receives Royal Assent this summer – and only to securities awarded after 15 April 2003.

The proposals include scope for elections to be made jointly by the employee and his employer affecting the initial and subsequent tax and NIC liabilities. As presently proposed any such election will have to be made within 14 days of the event!

Giving away your home

Inheritance tax, which generally only bites on death – and in the case of a married couple only on the death of the survivor – is often described as a voluntary tax. In other words the tax can be avoided by lifetime gifts (and surviving seven years). With a

tax liability at 40% on the excess over £255,000 this is obviously worth considering. But, for many the most valuable asset they own is their home. For them there seems only very limited scope for significant lifetime gifts; especially because, to be effective, the donor must - normally - retain no interest or enjoyment of the asset after it is given.

The recent Court of Appeal decision in Eversden seemed to offer a simple way to give one's home away and yet continue to live there. Unfortunately this particular loophole has been closed. As announced on 20 June, the current Finance Bill will contain provisions denying its use for transfers made from that date. But if you are interested in pursuing alternative ideas please get in touch with your usual AGN Shipleys contact partner.

Inheritance tax planning is also covered on the back page of this newsletter.

A reminder for the non-domiciled

For someone not domiciled in the UK for inheritance tax purposes, that tax does not bite on assets situated outside the UK. This privileged status also applies to certain British government securities.

With effect from 16 October 2002 an unobtrusive provision in the Finance Bill 2003 will extend that to non-domiciliaries' holdings in authorised unit trusts and open-ended investment companies (OEICs). This will enable those not domiciled in the UK to invest in UK companies indirectly without exposing such investments to UK inheritance tax.

The status of unit trusts and OEICs is unchanged for the purposes of income tax and capital gains tax.

Another way

There is another way to avoid inheritance tax, which is completely legal and much more fun than tax planning. Under this scheme, which can be totally self-administered, you just spend your money before the taxman can get hold of it.

Nancy Cruickshanks is one of AGN Shipleys' specialist VAT advisers.



VAT

Property

In the May issue of *Shipshape* we commented on the Finance Bill proposal which, if enacted, would restrict recovery of VAT charged on land or buildings bought to be used partly for non-business purposes. The recent European Court of Justice decision in *Woolfgang Seeling* arguably makes that clause illegal.

Carousel fraud

The VAT Tribunal's decision in *Bond House Systems Ltd v. CCE*, unless reversed on appeal, should concern all traders. This trader unwittingly dealt in computer chips which had been involved in a series of circular transactions where output VAT had not been accounted for. The trader was denied repayment of the VAT charged on the purchases, even though the Tribunal found as a fact that the company was not aware of the wrongdoing of others.

The analysis seems to be that, because the whole cycle had as its only intention that of gaining VAT fraudulently, there were no economic activities, so no VAT as such could have been properly charged to *Bond House Systems Ltd*. If correct and consistently applied, this decision goes rather further than the clause in the Finance Bill described in the May issue of *Shipshape* regarding the joint and several liability that

traders might have thrust on them. That at least is confined to supplies of telecommunication or computer equipment, and only applies where the trader has reasonable grounds to suspect that VAT might go unpaid on a supply to him of such goods.

Retailers' credit card charges

The Tribunal has found against the trader in *Debenhams v. CCE*. This concerned the charge that a number of traders have identified as part of the consideration for goods paid for with a credit card. The trader sought to argue that this was exempt from VAT, leaving VAT only to be accounted for on perhaps 97% of the total paid. There are such huge amounts at stake that this case will no doubt go to the European Court of Justice.

Local authorities

The Tribunal's decision in *City of London Corporation v. CCE* seems to indicate that the UK legislation is 'softer' on local authorities than Customs have believed (and differs from the EC Directive). In consequence local authorities might be entitled to substantial repayments of VAT incorrectly borne.

Late registration amnesty

In addition to their efforts to combat VAT fraud and VAT avoidance, Customs & Excise are also trying to encourage non-compliant businesses to register for VAT. To that end an amnesty is currently in operation enabling non VAT registered businesses to register late without incurring penalties.

It should be pointed out, however, that the amnesty only provides relief from penalties, not VAT. So the net VAT that should have been due for the period of non registration will still be payable to Customs & Excise. It will also be necessary to ensure that all returns and payments are made on time for the next 12 months.

A recent letter to *The Times* described how a lady in her late eighties was enjoying her 43rd (very expensive) cruise. She explained to fellow passengers that she was paying for it out of her 'VIP'. This was her 'Vanishing Inheritance Plan'!

Options you could consider for your own scheme include STAR (Spending To Annoy Relatives), TAPs (Tax-Avoiding Pleasures), or KITBAG (Kids' Inheritance Tax Bill Amuses Granny - or Granddad). Well, it is the silly season!

New SMART awards

On 1 June, without a fanfare, the DTI re-launched the SMART awards with a new grant scheme.

AGN Shipleys has been helping clients to access these funds, which have been set aside by the DTI to support businesses by helping them fund the research and development of technologically innovative ideas that can deliver significant benefits for industrial productivity or the wider quality of life.

Whether you are considering a start up or have been trading for some time in England, the grants are for:

- Research and development
- Investigating an innovative idea.

Projects that have benefited from the DTI grants so far include:

- A micro project to develop a personal paging system for deaf and blind people using radio signals and vibration patterns
- A research project that led to the development of a range of on-line instruments that can detect parasites in water
- A project to develop a device to store used or discarded fishing line for safe disposal.

One of the main benefits of these SMART awards is that they can be combined with other sources of funding in a structured finance package including loans, equity and research and development tax credits, which could mean the difference between success and failure for your project.

Also, the grants can be used to develop your idea or process as it develops from micro- project, using a research and development grant, to exceptional development project using a grant for investigating an innovative idea (though the latter grant is discretionary).

So if you are a company, partnership or sole trader with fewer than 250



Microsoft – where are they going?

Recently Microsoft launched their consultants' programme, and naturally Orange Consulting was selected to be present and involved. There were three key themes to the launch programme, and as I imagine the majority of you run businesses classified as SMEs (Small and Medium Sized Enterprises) and also run Microsoft software I thought you should be aware:

■ **Microsoft tells you to use Orange Consulting for advice!** 15% of IT and finance directors in UK SMEs do not feel that any suppliers will give them reliable, independent advice, when it comes to making decisions about business software. In first place for reliability and independence came IT consultancies, such as Orange Consulting, with 57%, whilst software vendors were cited by 21% of respondents. Resellers and systems integrators fell well below the 20% mark.

Source: The Connected SME – a survey of more than 800 SME companies in the UK

■ **Microsoft Business Solutions outlined their strategic roadmap** While the 1990s were the PC decade, the 2000s are the digital decade driven by computing power, connectivity and emerging Internet standards. Microsoft is committed over the next three to five years to providing a single worldwide product suite with CRM (Customer Relationship Management) the starting point for this new generation of applications. This new generation will be based on web



Paul
Druckman

services* (or .NET in Microsoft jargon). The new Microsoft slogan is "software for the agile business"! The CEO of Microsoft, Steve Balmer, is quoted as saying "Office is what drove adoption of the Windows platform ... Business Solutions will drive the adoption of the .NET platform."

**See Orange Consulting column in Shipshape, May 2003*

■ **Web portals from Microsoft** A portal is a web site that gives the user an entry point to a wide variety of relevant material. Microsoft has developed and continues to push huge resources into two key portals, one for the SME sector of business specifically (bcentral) and one for the individual (msn). They are excellent and in our opinion can give you both competitive advantage and efficiencies. Try them out – make one of them your home page for a few weeks?

www.bcentral.co.uk
www.money.msn.co.uk

We can help you make the best use of your Microsoft products and also give you advice on the direction of your Microsoft platform. We do of course charge for our services. We are independent consultants and the most trusted source of advice for business solutions, according to Microsoft.

You can contact Paul Druckman at Orange Consulting Limited on 020 7312 6514 or at orangeconsulting@agnshipleys.com

staff, and have a technologically innovative idea that you are looking to develop, you could be eligible for grants of between £2,500 and £500,000.

The amount advanced depends on the:

- Size of the company

- Duration of the project

- Total budget, as grants are limited to a percentage of overall costs.

For further information please ask your usual AGN Shipleys contact or call Paul Taylor at our Godalming office, telephone 01483 423607, or e-mail taylorp@agnshipleys.com

Bridging the Finance Gap

The Treasury has issued a consultation paper, 'Bridging the Finance Gap', on ways to improve the availability of funding for start-ups and small businesses, fine-tuning EIS and VCTs, and perhaps introducing a variant on the US Small Business Investment Company (SBIC) programme.

SBICs are companies that combine privately raised capital with government-guaranteed loans and invest the funds in small US companies. As the investments grow, and the SBIC makes a profit, the SBIC repays the loans and interest, then repays the private investors' capital, before sharing any remaining profits between the Government and the investors. The Government's profit share is designed to offset losses on SBICs that do not recoup enough to repay the Government-backed loans.

Comments on the proposals are invited by 25 July. The 66 page consultation paper is available on www.hm-treasury.gov.uk, or from HM Treasury Public Enquiry Unit, telephone 020 7270 4558. Further information on SBICs is available from www.cfda.gov by entering 'SBIC' in the keyword search box.

AGN Shipleys and Orange Corporate Finance will of course be watching these consultations closely.

Proceeds of Crime

The Proceeds of Crime Act, and the new money laundering regulations expected to come into force in September, are designed to strengthen the Government's campaign against money laundering in the UK. They will affect accountants, lawyers and estate agents, and their relationships with their clients, to a much greater degree than the current regime.

Clients will also need to be aware of the implications. In the next issue of *Shipshape*, when the timing and regulations have been clarified, there will be an article explaining the most important aspects of these changes.

CLIENT NEWS



Hillman Saunders



Dennis Saunders Peter Hillman

When Peter Hillman and Dennis Saunders first became friends, in primary school in 1964, no-one could have foreseen the successful business partnership they would later make to become the leading recruitment consultants to the UK Insurance and Financial Services markets.

After school both Dennis and Peter joined the Insurance market, and then moved into more specialised fields. For Dennis it was IT insurance; for Peter it was insurance recruitment. Their technical background and experience led them to form Hillman Saunders in 1989, and then weather the worst recession for 35 years.

But they had reason to be confident. IBM had developed a system to settle insurance claims electronically: using their unique combination of skills they devised a system to link with this a facility for HR specialists to make remote searches of their database for potential employees. It was an innovation ahead of its time (before the internet facilities that we take for granted today), and it was free.

Strategy

Supported by state-of-the-art computerised recruitment systems, Dennis and Peter were able to provide an exemplary service to clients, 'blending innovation with tradition'. They understood their market well, and both had first-hand experience of the failings of other recruitment firms. From the outset they were determined to deliver a personal, professional

service, underpinned by their sector knowledge and the latest technology, and this remains the ethos of Hillman Saunders to this day. A measure of its success is that many of their first clients have continued to use their services ever since.

Expansion

Hillman Saunders now employs 50 people, with offices in London, Manchester, Croydon and Leeds, and a database of 40,000 qualified people.

The company has diversified, and now also provides recruitment services to the financial services sector and secretarial and HR recruitment. A key to their success has been their continued insistence that their recruitment consultants should be industry experts, and have a proper understanding of clients' needs.

They still have ambitious expansion plans. "We are already the best in our chosen fields", says Dennis, "and now we want to go on expanding until we serve every major client in these sectors."

Most of Hillman Saunders' business is conducted on a contingency basis, with recruitment fees payable only when they have found a successful candidate. Positions may be advertised, or an executive search undertaken, and the company also has an extensive database of suitably qualified temporary and contract staff.

Long term relationships

Dennis and Peter know the value of long term relationships. They live close together, see each other socially as well as in the office, and work hard to maintain long term relationships with their clients.

Their decision to change their accountants after thirteen years, and to retain AGN Shipleys, was not taken lightly. But they are pleased with their choice. Dennis explains, "One of the guiding principles for our own business is 'professional dynamism', and this is exactly the way that the partners have approached our financial affairs and resolved issues for us."

To contact Hillman Saunders telephone 07000 475475, or visit their website at www.hillmansaunders.com

Julian Hawkes is a Director of Tor Consulting Limited, an Independent Financial Adviser, which is a joint venture with AGN Shipleys.

Tor Consulting Limited is regulated by the Financial Services Authority.



Farewell to 'Eversden'

Regular readers will be aware of our fondness for inheritance tax planning. The high profile schemes such as Eversden tended to involve planning with the family home, but there are a number of other inheritance tax strategies that can be applied not only to property but also most other investments and assets. Now that the Inland Revenue has closed the door on Eversden type schemes (from 20 June 2003), we are pleased to see that the anti-avoidance measures announced will have little impact on other areas of estate planning.

Objectives

Estate planning tends to revolve around two basic objectives. The first is to be able to give away capital but keep hold of the 'income stream', to maintain a standard of living for example. The second is to give away future income and capital growth, ie to cap the value in the estate for inheritance tax purposes, but retain the right to the original capital at any time in the future, normally as an emergency fund.

A number of trust-based schemes and other arrangements are still available to achieve either of these objectives.

It is widely assumed that these kinds of planning schemes are expensive, and suitable only for large sums. In fact there are cost-effective planning opportunities available to protect sums as small as £50,000 (with a potential tax saving of £20,000), and assets suitable for planning arrangements include cash, existing investments, shares, rented property - in fact, almost anything!

Forward planning

With great insight, more than 200 years ago, the American politician Benjamin Franklin famously said "In this world nothing can be said to be certain, except death and taxes." Where no estate planning is undertaken there is now a very close correlation between the two. But, with a degree of forward planning, the main threats of inheritance tax to passing on wealth may be by-passed.

It is widely said that you can't have your cake and eat it too.

We tend to disagree, but with the caveat that all planning opportunities are subject to anti-avoidance measures by the Inland Revenue or Treasury.

Most inheritance tax planning involves a number of interrelated arrangements, and rarely does one plan offer the total solution. Without wishing to be melodramatic, delay in inheritance tax planning can be fatal, and the closure of the Eversden opportunity is a salutary lesson to us all - there is now one weapon fewer in the armoury of the inheritance tax planner.

The Inland Revenue has sent another clear signal that it is intent on attacking inheritance tax avoidance arrangements. If you are concerned about the tax that may be payable on your estate, we suggest an early review with your usual AGN Shipleys contact.

You can contact Julian Hawkes on 020 7306 0026, or e-mail hawkesj@tor.uk.com

"In this world nothing can be said to be certain, except death and taxes."

TAXMAN GIVES AWAY MONEY!

Small businesses which choose to file their employees' tax and NIC returns electronically from next year will be able to claim up to £850 in 'incentive payments' from the Inland Revenue.

Eventually the Revenue intends to make all employers 'File by Internet' (FBI).

For the year 2004/05 this will apply to employers with 250 or more employees, and in 2005/06 this will be extended to businesses with between 50 and 249 employees.

Employers with fewer than 50 employees will not be obliged to File by Internet until 2009/10, but there will be financial incentives to encourage them to do this earlier.

In each year they use FBI they will be able to claim the following:

- for the year 2004/05 - £250
- for the year 2005/06 - £250
- for the year 2006/07 - £150
- for the year 2007/08 - £100
- for the year 2008/09 - £75

To use FBI employers will have to register with the Inland Revenue and will need appropriate payroll software.

Our specialist Payroll Division can advise you on this, or can undertake FBI on your behalf; you will still receive the incentive payments from the Inland Revenue.

This may be a particularly cost-effective solution for employers who currently operate a manual payroll system.

For further information please contact Sandra Key, our Client Payroll Manager, telephone 01799 521301, e-mail keys@agnshipleys.com

Detailed advice should be obtained before taking action, or refraining from taking action, as a result of information in this newsletter.

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