

SHIPSHAPE



Full steam ahead

Is the economy back on track?

News and Views

The banks get their right to reply over recent criticism that they're not lending

Shipleys News

Birmingham corporate recovery and our involvement with Oscar-winning film *Slumdog Millionaire*

Client Profile

How the Swanage Railway Trust has been making the news with a train service from London

Money Matters

Tax planning schemes are worth exploring in the right circumstances, but be cautious

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Front cover photo of Swanage Railway courtesy of Andrew P M Wright

Behind the headlines

Dealing with the realities of Budgets, bluster and banks



Lots has happened in the economy over the past few months and since the last *Shipshape*. The G20 summit in London came and went with loud fanfare and grand plans for how the world's largest economies are going to tackle this economic crisis together. Whether these were empty promises it's probably still too early to say. Whilst the international banking system appears to have stabilised somewhat, its problems are surely far from over.

Budgeting for the future?

Since then of course we have had a Budget which revealed the most catastrophic state of public finances in living memory. Alistair Darling's Budget day assertion that the economy will improve at the end of the year was almost immediately contradicted by a revised prediction that the UK economy will now shrink by 3.5% this year – the worst return in modern times.

The speed and extent of the changes to the tax proposals since the Pre-Budget Report last November give a disturbing picture of uncertainty. The Chancellor originally announced a new higher income tax rate of 45% to apply from April 2011. Barely five months later he tells us that it will have to be 50% and will come a year earlier. Can even that be relied on?

The higher taxes and reductions in tax relief on pension contributions are set to hit 'higher earners' hard, but can the economic woes of the nation be solved by this alone? It's difficult to have faith in the Government's management of the economy at present, to say the least. With a general election looming, these measures may in any case be pie in the sky as the Government may not be around to see them through.

Irrespective of whether or not they will be enough to plug the gap in Government finances, these changes raise important planning questions for taxpayers. And there are several other measures taking more immediate effect, such as changes to capital allowances, loss relief and fuel duty. In this issue we take a look at some of the most important details of the Budget now that the dust has settled.

Right to reply

In the last edition of *Shipshape* we spoke to a selection of our clients to find out whether their relationships with their banks had changed in recent months. Overall, we found a perceptible cooling of relationships, with some instances of overdraft facilities being withdrawn or restricted, a less personal approach from branch managers and requests for more security and in some cases personal guarantees.

So we thought it sensible to speak to some high street banks to hear their side of the story and to find out if the Government's help is working. In particular, we look at the £1.3bn Enterprise Finance Guarantee scheme to see if it's living up to expectations as the solution for small businesses.

Corporate recovery

With some firms set to struggle in the coming months, we examine the insolvency 'pre-pack' to see if it deserves its bad reputation and whether it can sometimes be the right course of action for everyone involved. We also celebrate the expansion of our Birmingham office and promotion of insolvency specialist Conrad Beighton to principal in that office.

Clients in the news

Finally, we look at the work Shipleys did on the production of the Oscar-winning feature film *Slumdog Millionaire*, and our involvement with the Swanage Railway Trust, which in April realised its dream of a through train service between London and the Dorset seaside resort for the first time in 37 years.

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Testing the appetite for lending

Banks have their say

Banks have been much maligned in recent months for allegedly not doing enough to help businesses through the recession. The perception among many of our clients, and indeed in wider business circles, is that banks are not lending. There have also been widespread grumbles about higher charges and failure to pass on interest rate cuts.

So we spoke to Barclays, HSBC and Lloyds TSB to get the bankers' side of the story and to ask them about the Government's Enterprise Finance Guarantee scheme. And, on the opposite page, we look in more detail at how this scheme is working.

Attitude to risk

Carol Bagnald, London region commercial director at HSBC says, unsurprisingly, that the bank is committed to helping customers through good and bad times. "We treat each of our customers on an individual basis and make lending decisions based on specific criteria and according to risk – this is only sensible and what any reputable lender should do as a matter of course."

According to HSBC's own research, 75% of UK businesses are satisfied with the availability of finance from their bank and 63% of businesses think their bank will agree to a new lending request. "HSBC has been continuing to lend to businesses in the UK at similar levels over the last 18 months," Bagnald adds.

Ian Baldwin, relationship director at Barclays Commercial, says managing risk remains a key area. "We are intensely focused on the exposures that we have in our balance sheet and on the volume risks created by the severe downturn. Understanding those risks and managing them actively was central to our strategy over the past year

overdrafts for the duration of a customer's agreement (typically 12 months) as long as their accounts are maintained within agreed limits, and will only change the limit or the price of an overdraft on renewal if the risks associated with that customer have changed materially.

Carol Bagnald says that HSBC has also passed on the full base rate

"We... make lending decisions based on specific criteria and according to risk – this is only sensible"

and it remains so in 2009. Barclays' intention is to lend an additional £5.5bn to businesses."

In the current environment, it's hardly surprising that the banks' attitude to risk is affecting more customers – conditions have changed and if banks are being responsible and basing their lending decisions on individual business circumstances, there are bound to be more businesses classified as risky and more people affected by the banks' assessment of risk.

Higher charges?

When it comes to the costs of banking all the banks say that rates and charges depend on customers' individual situations and financial circumstances.

Ian Capstick, relationship manager for Lloyds TSB Commercial in Saffron Walden, says its charging structure remains unchanged. The bank won't change the price or availability of

reduction immediately to customers with business accounts that are linked to the bank base rate.

Ian Baldwin at Barclays also says its charges have not changed. "The client may have noticed an increase in their borrowing margins but this merely reflects market forces as the cost of money has increased. When you take into account the increases against the fall in base rate in the majority of cases overall borrowing costs are still down." He cautions that although a lower base rate has been helpful in bringing down overall borrowing costs, "customers need to be mindful that the current situation is unique and that base rate is likely to rise and they should budget accordingly".



Ian Baldwin
Barclays



Ian Capstick
Lloyds TSB



Carol Bagnald
HSBC



Government support

All the banks we talked to support the Government's schemes aimed at increasing the range of funding options for small businesses.

Carol Bagnald says HSBC is actively using the Enterprise Finance Guarantee scheme to help many SMEs through what is undoubtedly a very difficult period. She says HSBC has pledged to make an additional £1bn available to UK SMEs this year to help them with their working capital requirements. The bank also supports the Working Capital Guarantee Scheme announced in January.

Ian Baldwin says, "At Barclays we believe the EFG is an excellent scheme that is making a difference to viable companies to get through the downturn." To the end of April Barclays had offered over £94m in EFG loans.

Likewise, Lloyds TSB says it is committed to providing funding through the EFG scheme, although Ian Capstick says that they have been able to meet most requests from their own funds without having to resort to the scheme. "Even before these schemes were announced, our lending to small businesses was rising," he says. "We increased lending to our customers by almost 20% last year, and we expect to continue increasing through 2009."

Is the Enterprise Finance Guarantee working?

The Government heralded its £1.3bn Enterprise Finance Guarantee scheme as the solution for small businesses struggling to get finance. But how does it work and is it helping so far?

The scheme, launched in January, replaced the Small Firms Loan Guarantee scheme and enables companies with a turnover of up to £25m to borrow between £1,000 and £1m for up to ten years. The Government will pay the banks 75% of the value of the loan if the borrower defaults. It charges borrowers a premium of 1.5% over commercial rates, rising to 2% next year, in addition to other bank charges.

An EFG loan is intended for businesses with a viable proposal that can't get a conventional loan because they are higher risk or lack security. It can be used to support new loans, to refinance existing loans where the loan is at risk due to deteriorating quality of security, or to convert an existing overdraft into a loan to release capacity to meet working capital requirements.

26 lenders have signed up to the scheme, including most high street banks. As of 5 May some £325m of eligible applications from nearly 3,000 small businesses had been assessed, were being processed or had been granted.

The scheme has been criticised by some small firms and business groups who say that the funding is hard to secure, with many complaining that banks are reluctant to lend or that branch managers know little about it.

Many directors say they have been put off applying for the loans as, in many cases, banks are asking for personal guarantees.

The Department for Business, Enterprise and Regulatory Reform (BERR) says the banks' decision to lend rests primarily on their assessment of the borrower's ability to service the loan. "The lender will also take into consideration the level of financial commitment of the individuals controlling the business. This is because it has been shown that the risk of default dramatically decreases when an individual has a material stake in the loan."

Banks have rejected claims that they are failing to support small business through the EFG scheme. In response to criticism, Steve Cooper, managing director of Barclays Local Business, in a letter to *The Times*, said: "We cannot be cavalier about such lending simply because it is backed by both the taxpayer and the banks. These are funds that can, and should, come with specific restrictions to safeguard the public purse, as well as the banks' investment. Requesting personal guarantees is one very effective way of doing so."

Phoenix businesses rising from the flames?

The facts on pre-packs

The insolvency pre-pack has been under fire recently following the sale of a number of high street retailers.

The pre-pack, which is used by most insolvency firms in the UK, is where a deal to sell the assets of a failed company is agreed prior to insolvency and is then completed immediately after the appointment of administrators. This can make it attractive compared to other forms of insolvency under which it can be difficult for the administrator to keep the business going long enough to organise an orderly sale in the open market.

'Quick deals' criticised

Critics believe that the process does not allow for the business to be fully marketed. Their view is that the directors and insolvency practitioners 'win' by pushing through a quick deal, while shareholders and creditors lose out.

The perception is that one day the business is failing, but by the next it is a new company, minus creditors, and often run by the same people.

Rescue benefits

An insolvency practitioner's principal objective is to avoid the liquidation of a business if at all possible, and to keep it trading until it can be sold for the benefit of its creditors. Pre-packs are a useful tool because they can save jobs and rescue businesses which would otherwise not survive. Some businesses recover very well, and it's important for the economy as a whole to give entrepreneurs the opportunity to keep trading. Statistics also show that creditors do better in pre-packs compared to other arrangements where they would have lost out anyway.

New rules

In response to concerns, new rules were introduced on 1 January 2009 that require administrators to explain to creditors the background to their appointment and the reasons why a pre-pack sale would be the best outcome for creditors. Administrators must reveal the name of the purchaser of the business and the price paid, plus details of any connection that the purchaser had with former directors and shareholders.

To curtail potential abuse of the system the Government's Insolvency Service has said they will "clamp down on any directors who misuse the administration process or disadvantage creditors or seek to gain benefit for themselves". If their conduct leading to the insolvency proceedings is considered to be unfit, directors can be disqualified by the court for between two and 15 years.

Whilst these safeguards are unlikely to satisfy everyone, in the right circumstances pre-pack insolvency has a useful role to play in keeping businesses going – with obvious economic benefits for their staff and suppliers.

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Tough times for charities



Current conditions are certainly proving tough for many charities. Not only do they have to try to survive on lower investment returns and a sharp reduction in donations, but they face the added burden of complying with new requirements under the Charities Act 2006, which come into force for all charities with accounting periods commencing on or after 1 April 2008.

Meeting the 'public benefit' test

All organisations wishing to be recognised as charities must explicitly demonstrate that their aims are for the 'public benefit', according to the new Charities Act. Under these guidelines it is no longer assumed that charities involved in education, religion or relieving poverty are for the 'public benefit' and they must show how they meet the requirements. The interpretation of what is and what is not considered to be of public benefit will evolve over time as there is no actual definition of the term.

Trustees must now report on their charity's public benefit in their annual report, but to different levels of detail according to whether the charity is above or below the audit threshold (see below). For charities above the audit threshold, demonstrating public benefit is now a major part of the annual report. A full explanation of the charity's achievements in relation to the aims and objectives set by trustees is required.

SORP compliance

Many charities also need to put extra effort into their annual reports, following a recent Charities Commission inspection that looked at

whether 2006/07 reports comply with recommended accounting practice (known as SORP). Overall, 23% of annual reports were deemed to be poor, without key information and/or policy notes. Furthermore, 14% of the documents examined were identical to the previous year's apart from a change of dates and relevant figures. The Commission expects to see a dynamic, working document.

Changes to the audit threshold

The Charities Act introduced changes to the audit threshold for unincorporated charities. The previous threshold was for charities with income above £100,000, but this has increased to those with incomes above £500,000. An audit is also required where income exceeds £100,000 and the balance sheet turnover is above £2.8m.

Charity Incorporated Organisations – implementation deferred

A new legal form of incorporation has been designed specifically for charities: the Charitable Incorporated Organisation (CIO). This was supposed to be available from 2008, but no documentation has been released and the Charities Commission now says it will happen in 2009. However, the Commission said the same thing last year, so we will have to wait and see what happens.

If you require guidance on these or any other issues currently facing your charity, please contact Simon Robinson on 020 7312 0000 or robinsons@shipleys.com.

More VAT penalties

The new VAT penalty regime that applies from 1 April 2009 is onerous compared to the old one. Some mistakes in returns that were previously taken lightly may now be treated as serious offences.

We've looked below at two of the more common mistakes and compared the potential penalties under the old and new regimes.

Timing errors

These are when VAT is accounted for in a later period than it should be.

Old regime: No penalty or interest if the amount of VAT is less than the VAT error disclosure threshold.

New regime: 30% penalty for being careless and no mitigation for disclosure on the VAT return.

No loss of tax errors

These are where a transaction is omitted from the VAT records of both the seller and the customer. So the failure to account for output VAT is matched by a failure to recover input VAT and there is no loss of tax.

Old regime: Penalties generally not applied because there was no loss of tax.

New regime: 30% penalty for careless omission and 70% penalty for deliberate omission.

Worryingly, HMRC will decide whether you have been careless, made deliberate errors or attempted to conceal your actions.

However, there are some things you can do to protect yourself:

- keep systems under review to ensure they can cope;
- take professional advice, particularly about unusual transactions;
- use appropriately qualified staff to deal with VAT and ensure they report to a senior and capable person;
- deal with VAT problems as they arise rather than letting them fester.

At Shipleys we can assist with all aspects of VAT compliance and advice, including a review of your systems to ensure you are not leaving yourself open to penalties under the new regime. For further information, speak to your usual Shipleys contact or to the VAT Team.

Budget Matters

A look at some of the key Budget changes now that the dust has settled



Pension contributions

In his Budget statement the Chancellor announced that provisions would be introduced to deny higher rate relief for pension contributions made from 6 April 2011 by those with an income of more than £180,000. There will be tapered relief for those whose income is between £150,000 and £180,000.

There are 'forestalling' provisions to prevent more relief being obtained by increasing contributions prior to 6 April 2011. This is to be achieved by a special charge if pension contributions in 2009/10 or 2010/11 exceed the greater of £20,000 and existing regular (monthly or quarterly) contributions by both the taxpayer and his or her employer as well as rights accruing in a final salary scheme ('pension inputs').

Anyone whose relevant income is £150,000 or more in 2009/10 or either of the two preceding tax years will be subject to this charge at 20% of excess pension inputs made after 21 April 2009. A similar charge will apply for 2010/11, but is expected to be at 30%, reflecting the increase in the top rate of tax to 50%.

As drafted, perhaps unintentionally, the proposals could catch someone whose income was more than £150,000 in 2007/08 or 2008/09 but is not even a higher rate taxpayer in 2009/10.

Forestalling the 50% rate

Although the Finance Bill has complicated provisions designed to forestall action taken in the light of the coming restriction to basic rate for pension contributions, there is as yet nothing affecting action designed to reduce the effect of the 50% tax rate. Such action could include moving income into 2009/10 that would otherwise arise in 2010/11, deferring reliefs (such as donations to charity) to 2010/11 which would otherwise fall in 2009/10 or a change in accounting date.

Income shifting

Something that slipped by almost unnoticed at the time of the Budget is that the legislation originally announced in the October 2007 Pre-Budget Report following the taxpayer's success in the landmark *Arctic Systems* case, will again be deferred. Originally intended to apply from 6 April 2008 but then deferred until 6 April 2009, this would have affected those who arrange their affairs to gain a tax advantage by shifting part of their income from dividends or partnership profits, to another person who is subject to a lower rate of tax.

Late tax returns

Currently, provided that all tax due for a particular tax year is paid by the following 31 January, there is no penalty for a late-filed tax return.

But the Finance Bill includes proposals which will mean a £100 penalty for filing a personal tax return late, even if all the tax has been paid, daily penalties at £10 a day if the return is more than three months late (up to a maximum of 90 days), and 5% of tax due if it is over six months late. There is no information available yet on the commencement date.

Furnished holiday lettings

Landlords with income from furnished holiday lettings (FHL) in the UK satisfying certain tests are currently treated as if they are trading. This can have a number of tax advantages. Furnished holiday accommodation overseas has not been eligible in the past, even if elsewhere in the European Economic Area (EEA). Because this difference may not be compliant with European law, the Government has decided, somewhat illogically, to repeal the FHL rules from 6 April 2010. Until then, HMRC will regard the rules as applying to furnished holiday accommodation elsewhere in the EEA, probably as if this had always applied.

Personal allowances reduction

A further change in 2010 will be the clawback of personal allowances for anyone with income exceeding £100,000 – at the rate of £1 for every £2 over that figure. This threshold will have its own special calculation.

Online filing

From next year, HM Revenue & Customs is phasing out paper VAT returns and cheque payments in favour of online filing and electronic payment.

The use of online filing and electronic payment will be compulsory from 1 April 2010 for:

- existing businesses with a turnover of more than £100,000; and
- all new VAT registrations effective on or after 1 April 2010.

At the moment, if your VAT return shows net VAT due to HMRC and you want to submit the paper return and pay electronically (BACS or CHAPS) you are entitled to an extra seven calendar days after the normal due date within which to file and pay.

If you file online you can pay by direct debit instead of using BACS or CHAPS. The advantage of direct debit is that the money is collected from your account on the 10th day after the normal due date which is marginally more advantageous, although the return itself must still be filed within seven days of the due date.

Reclaim opportunity

Most readers will be aware that VAT incurred on business entertaining is not recoverable. However, some of you with very long memories may recall that VAT incurred on the provision of hospitality to foreign customers used to be recoverable.

A recent European Court case suggests that HMRC had no right to change the law, so affected businesses should submit protective VAT recovery claims while HMRC reconsiders. As usual, any such claims – which must be for entertaining foreign customers, not suppliers – will be subject to the three-year capping regulations.

As HMRC has not yet confirmed the outcome of its deliberations we recommend the submission of separate claims for recovery rather than claiming via the VAT return.

Flat rate scheme update

The joining and leaving tests for the flat rate scheme for small businesses have been simplified with effect from 1 April 2009.

Under the old rules the joining test took account of both turnover from taxable supplies (£150,000 ceiling) and total business income (£187,500 ceiling). From 1 April only taxable turnover is relevant. So if you believe that your taxable turnover in the next 12 months will be less than £150,000 (and you are not associated with other businesses) it's worth considering whether the flat rate scheme will be beneficial.

If you are already using the flat rate scheme you are obliged to check eligibility to remain in the scheme every year on the anniversary of joining. From 1 April, if total business income (as opposed to taxable turnover) was more than £225,000 for the previous 12 months or there are reasonable grounds for believing that it will exceed £225,000 in the next 30 days alone, you must leave the scheme.

Please note that the joining test now only looks at taxable turnover whereas the leaving test looks at total business income i.e. including exempt income.

For further information about any of the above topics, please speak to your usual Shipleys contact or the VAT team.

Inheritance tax – agricultural property & woodlands

Agricultural property and woodlands in other countries in the EEA are to attract inheritance tax relief like that in the UK with retrospective effect, applying to payments since 21 April 2003. Those who may be affected should contact us to make the appropriate claim.



Tax Facts and Budget Summary

Enclosed with this issue of *Shipshape* is our new Tax Facts booklet setting out the new rates and other useful information for the current tax year.

Our fuller Budget Summary, produced on Budget night, has been revised and contains some important updates. It is now available on our website.

An Oscar-winning partnership

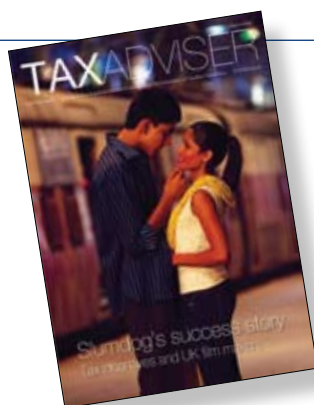
Shipleys' involvement in box office blockbuster, Slumdog Millionaire

You don't need to be a dedicated film buff to have noticed the plaudits for *Slumdog Millionaire* at this year's season of film awards, with no less than eight Oscars, four Golden Globes and seven BAFTAs. The film's uplifting story line offered an especially welcome escape from current economic doldrums. No-one was more pleased with *Slumdog's* success than Shipleys principal Steve Joberns, who acted as adviser and auditor to the film.

In its initial pre-production stage Steve helped to ensure that the film would qualify as 'culturally British' from a tax perspective and receive the tax incentives available. During production he helped the production accountant with areas such as VAT, double tax treaties, withholding tax and national insurance, liaised with the film's financiers throughout and, lastly, completed the audit of the final production.

Establishing British links

There are a number of hurdles to jump to get a film classified as culturally British in order to qualify for tax incentives. *Slumdog Millionaire's* connection with the UK isn't immediately obvious and some may be surprised that it qualified as British – it was shot in India and has a largely Indian cast. But on closer inspection the links are there. It was primarily financed by two British media companies – Celador Films and Film 4 – along with its producer tax credit from HM Revenue & Customs. Director Danny Boyle is British, it was written by British writer Simon Beaufoy and the post-production work was carried out in the UK.



Shipleys' work on Slumdog Millionaire makes headlines in a recent issue of Tax Adviser magazine.

Although the film's qualification as culturally British wasn't a borderline case in the end, it's fair to say that without advance planning and careful monitoring of expenditure, the decision might have gone the other way. At least 25% of core expenditure must be used and consumed in the UK to qualify for film tax relief.

The British cultural test and film tax credit is opening up new avenues for collaboration with other countries. The test has been broadly drafted (as can be seen from the *Slumdog Millionaire* case) to enable as many films as possible to benefit from being labelled 'British'. As a result, many films that would perhaps have previously gone elsewhere are now coming to the UK for at least part of their production work.

Also in the press

Steve Foster is now a regular columnist in the RICS members' magazine *RICS Business* and has so far penned articles on a range of business issues of relevance to property professionals, including debt recovery, selling a practice, collecting debts and tax efficient cars.



New principal in Birmingham as corporate recovery expands

Congratulations to Conrad Beighton of our Birmingham office, who has become a Shipleys principal. As a licensed insolvency practitioner Conrad's work covers all aspects of personal and corporate insolvency.

Conrad trained at Deloitte and worked at BDO Stoy Hayward in Birmingham before relocating to Sydney, Australia, for two years where he joined a leading national accountancy practice, fellow AGN associate firm Hall Chadwick. He moved back to the UK to a well-known insolvency specialist in Birmingham before joining us in December 2007.

Since his arrival, Conrad has used his local knowledge and wide network of contacts to develop our services and reputation in the Midlands corporate recovery market. He has provided advice and solutions for numerous businesses and recent appointments include administrations of a high profile travel company and a well-known glazing business.

Conrad has benefited from his excellent relationships with financiers, local accountants and solicitors, while ensuring the firm is compliant with the ever-changing requirements that face the profession.

Our Birmingham office expanded at the start of the year with the addition of administrator Francesca Rowan, who provides invaluable support in the management of insolvency cases on a day-to-day basis, dealing with directors, creditors and other stakeholders.

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All aboard

Shipseape speaks to the Swanage Railway Trust to find out why trains to the Dorset resort have been making the news headlines.



Thanks to the determination of thousands of volunteers, railway history was made in April when the first passenger trains for 37 years ran from London to the seaside resort of Swanage.

The last time such a journey was made was on 1 January 1972, when Swanage was cut off from the main network. Since then, commuters have had to drive or take a nine-mile bus ride between Swanage and Wareham train station, which can be a major headache in the busy summer months.

In 1975 a small group of volunteers formed the Swanage Railway Trust in a bid to rebuild the line between Swanage, Corfe Castle and Wareham and run their own steam train service. The first piece of track was laid a year later and in 1979 they began running tourist trains along a one-mile section of line. Despite numerous setbacks over the years, campaigners kept on fighting for the line to be rebuilt and have watched it grow mile by mile.

Finally, with tickets selling out hours after going on sale, on 1 April this year 400 passengers piled on

board the first 'Purbeck Pioneer' for a special complete through service from London.

Mike Whitwam, chairman of the Swanage Railway Trust who has been involved for 30 years, says: "It was the biggest day in our history. The first through trains to Swanage since 1972 are an achievement of a long-held and treasured dream. The railway has been

service to and from London, it is hoped there will be more of these services in the future and perhaps from further afield.

Shipleys has acted for the Swanage Railway Trust for the past six years, assisting with their statutory accounts, audit, financial advice as required and guidance on implementing the new Charities Act legislation. When

"The first through trains to Swanage since 1972 are an achievement of a long-held and treasured dream"

rebuilt from nothing since 1976. It took British Rail seven weeks to lift the seven miles of track and it has taken us 30 years to re-lay them bit-by-bit, bolt-by-bolt."

The Swanage Railway Company is now exploring the possibility of linking the railway to the national railway network as part of the Purbeck Rail Partnership, allowing a permanent train service to be run from Wareham. And following the success of a charter through steam

Shipleys' principal Simon Robinson visited last month for a weekend board meeting, he took his family with him.

The Trust always welcomes help from enthusiasts, either in the form of financial donations or as volunteers. Please let us know if you are interested in getting involved and we can put you in touch with the relevant people.

For further information, visit www.swanagerailway.co.uk

Tax planning schemes

A word of caution



Benjamin Franklin's famous adage that "in this world nothing can be said to be certain, except death and taxes" is as true today as ever, or is it? The promoters of tax avoidance schemes might have you believe otherwise. And sometimes they're absolutely right: certain schemes can be very attractive in sidestepping tax in the right circumstances – after all, not many people like paying tax.

In the course of our tax compliance work we always try to draw our clients' attention to planning opportunities to save tax and we recommend that clients ask us to undertake more detailed reviews of their affairs periodically or when planning a major transaction. We can recommend schemes that fit your circumstances or devise a bespoke arrangement for you.

Tax planning schemes can relate to the full range of taxes – corporation tax, income tax, CGT, IHT, VAT, stamp duty, NI, etc. Some readers may recall the fad a few years ago for paying bonuses in gold bars or fine wine – never actually delivered to the recipient but sold for cash – which was an effective way to avoid NI and defer PAYE.

It's important to remember though, that not all schemes will work in all circumstances. And there's an important distinction between those schemes marketed under Disclosure of Tax Avoidance regulations (DOTAS); and anything else.

DOTAS schemes

Under DOTAS, a tax planning scheme is registered with HM Revenue & Customs by the promoter. Participants put this number on their tax return. HMRC can therefore see which arrangements are popular and easily identify taxpayers who have participated in those they want to challenge.

Schemes falling under the DOTAS rules, which can apply to individuals and companies, are often aggressively marketed and usually expensive because the anticipated tax saving is frequently shared with the promoter. Part of the promoter's fee sometimes goes into a fighting fund in anticipation of disputes with HMRC because the scheme is either untested or known to be contentious.

Action is not automatically taken against all DOTAS schemes and participation does not therefore mean that HMRC will automatically feel your collar. But the element of uncertainty means that the anticipated tax saving, taking account of the promoter's fee, needs to be weighed against the risk of spending time dealing with HMRC and the additional professional fees this would involve.

In summary, these tax planning schemes have their place, but if you're considering one you need to be wary. Above all, think hard about whether a promoter who takes a slice of your tax saving in the form of a fee is the right person to offer you impartial advice. We would strongly advise that you speak to us first for an impartial assessment if you are approached about one of these arrangements.

Bespoke arrangements

An alternative to DOTAS schemes is a bespoke arrangement tailored to an individual's specific circumstances. While these non-DOTAS schemes do not usually involve a conditional fee, they can still be quite expensive, reflecting the complexity and the time required to devise and implement them. As with all tax planning schemes, success cannot be guaranteed. As with DOTAS schemes, even with bespoke planning, in our experience, the failure of tax mitigation arrangements is often down to poor implementation.

If you are interested in a tax planning review please speak to your usual Shipleys contact. If you are interested in a specific scheme or planning for a particular event or objective, please let us know as early as possible – i.e. before the relevant transaction or accounting period end.

E-Shipshape – a reminder

If you would like an e-mail version of *Shipshape* to be sent direct to your inbox in future, please contact Stuart Dey at deys@shipleys.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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