


client briefing

Autumn 2010

The
KELVIN
Partnership
CHARTERED ACCOUNTANTS



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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 2010.

The Emergency Budget

The new Chancellor delivered the promised post-election pain.

In the fortnight before the Emergency Budget in June, there were plenty of warnings about the period of austerity and the pain that the country faced. In retrospect, the warnings of gloom and doom were not overdone, at least when a long-term view of the measures is taken. There was some immediate tax pain, but much of it was deferred:

VAT The standard rate of VAT will rise to 20% from 4 January 2011, the first working day of the new year.

Capital gains tax (CGT) The CGT regime became more complicated following the Budget. Now, for gains made after 22 June 2010, only basic rate taxpayers will pay CGT at 18%. Everyone else will pay 28%, although a 10% rate will still apply where the disposal qualifies for entrepreneurs' relief.

Business tax The main corporation tax rate will fall by 1% to 27% from 1 April 2011, further reducing to a 24% rate in April 2014. The small profits rate (formerly small companies' rate) will be cut by 1% to 20% from 1 April 2011. However, the annual investment allowance will fall from £100,000 to £25,000 from 1 April 2012.

Personal allowance and tax bands The personal allowance will rise by £1,000 in 2011/12 to £7,475, but higher rate taxpayers will not benefit because the starting point for 40% tax will be reduced by about £1,500 to claw back the potential tax saving. The starting point for higher rate tax will remain frozen for 2012/13 and then the basic rate band will be frozen for 2013/14.

National insurance contributions (NICs)

The planned 1% rise to all the main NICs rates will go ahead for 2011/12. However, the secondary (employer) Class 1 threshold will rise by £21 a week above indexation. The impact of the rise on employees will be limited by increasing the primary threshold by about £25 a week above indexation. The upper earnings/profits limit, above which the NICs rate will be 2%, will fall by about £1,500, matching the drop in the higher rate tax starting point.

Pension contribution tax relief The good news is that the Chancellor abandoned the much-criticised 'high income excess relief charge' provisions, which were due to be introduced from 6 April 2011. The bad news is that there will be new restrictions on the amount of pension contribution tax relief.

These are set to take the form of a reduction in the annual allowance limit from £255,000 to £30,000–£45,000.

As a result of this proposal, 2010/11 may be the last tax year in which you could benefit from full tax relief on a substantial pension contribution.

Pension annuitisation The effective requirement to buy an annuity by age 75 is to be scrapped from 6 April 2011, with interim measures in place now for those who reach age 75 on or after 22 June 2010. The Treasury has made it clear that the changes 'should not incur Exchequer cost and should not create any opportunities for tax avoidance'.



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VAT inspections and the penalty risk

The news that a value added tax (VAT) inspection is due still strikes fear into the hearts of many business owners and managers. If you have been accounting for VAT correctly and kept the necessary records, there should be no cause for worry. Even if you haven't, there may still be time for us to help put things in order before the VAT officers arrive. Some answers to frequently asked questions follow.



Why and how often?

Inspections are made regularly. The size and complexity of the business or a past record of non-compliance will prompt more frequent visits.

What will VAT officers do?

The VAT officer will begin by discussing your business before asking to examine your

business records. Sometimes, they may ask to view business premises and any goods stored there. Occasionally, the officer may take details of supplies made by or to you to check their treatment in your customers' or suppliers' records.

And when it's over?

A visit may result in no further action at all. However, if the VAT officer considers that you have failed to keep correct or adequate records, or discovers a mistake, this should be explained to you clearly, as should the reason for and the amount of any adjustment to your VAT payable. Your right to disagree with or appeal the adjustment should also be made clear.

How can we help?

If you advise us in good time of a forthcoming visit, we can arrange a quick health-check of your records and systems (this is something we advise you to have regularly, in any case). If you would like us to attend during the visit, and/or answer questions on your behalf, we can do so.

If, despite everything, the officer finds a default, the potential penalties depend on the nature of that default. No penalty will be charged if you have a 'reasonable' excuse, although what is 'reasonable' is quite narrowly defined.

With our help, penalties should not arise. If they do, we shall seek to have them mitigated to the greatest extent possible in the circumstances.

Choosing how to own business property

It can be difficult to decide whether to buy a business property in your own name or within your company, which will use the property for its trade. If the cash for a purchase is available for either route, the decision will turn on the tax implications.

Personal purchase

If you buy the property, you can receive commercial rent for leasing it to your company without a national insurance contribution (NIC) charge. You can extract funds in a number of ways but rent saves NIC charges. The rent is free of NICs, so represents a tax-efficient way of extracting funds from your company. The rent paid should be fully tax deductible for the company.

If your spouse or civil partner pays tax at a lower rate than you, holding the property in your joint names can reduce your family's total tax bill. Your partner's portion of the rent becomes taxable at a lower rate. The property need not be held on an equal basis. You need to inform HM Revenue & Customs of each person's holding using form 17, and declare the relevant proportion of the rents on your own tax returns.

Any gain on the sale of the property after deduction of the annual exemption (£10,100 in 2010/11) may be taxed at 18% or 28% in your hands. Companies pay tax on gains at 21% or 28%, reducing to 20% and 27% from April 2011. The company cannot deduct the annual exemption, but it can claim indexation allowance, which reduces the gain by the effect of inflation. If the company sells the property the proceeds will be trapped within



the company, and may incur another tax charge when you extract them.

If you do not charge a full market rent for the property, you may be able to claim entrepreneurs' relief on any gain made on disposal. This reduces the rate of CGT to 10% on a gain of up to £5 million per taxpayer, but it only applies if the property is sold in association with your withdrawal from the business and the disposal of some of your company's shares.

Corporate purchase

Holding the property in the company allows the full value of the property to be sheltered from inheritance tax (IHT). If you hold the property personally, only 50% of the value escapes IHT. If you're faced with this choice let us know and we will be able to help.



Did you know that the Government has announced that it will bring in regulations to remove the tax charge imposed where a person aged between 50 and 55 transfers his or her pension to another pension provider?

From 6 April 2010 the general rule is that only people who are 55 and over can draw their pension without facing an unauthorised payment charge. Those between 50 and 55 are also exempt from the charge if they started drawing their pension before 6 April 2010. However, if they transfer their pension to another provider, they must currently pay the charge. It is this charge that the Government wishes to remove, and the change will be backdated to 6 April 2010.

Offsetting property losses

Where an individual lets property, the profit or loss is calculated just like for any other trade (there are different rules for companies). All expenses, including interest paid on loans used to fund the property business, are deducted from the rental income. If the expenses exceed the income the result is a loss.



This loss can generally only be set against future profits from property. However, where some of the loss relates to capital allowances, that part of the loss may be set against the taxpayer's other income in the same or the next tax year.

All the loss may be deducted from other income if the property is commercially let as furnished holiday accommodation (FHL).

Using capital allowances

Capital allowances can be claimed for expenditure on equipment and certain fixtures used in the property business, but not where the equipment is used within, or attached to, residential property that does not qualify as FHL.

Capital allowances are normally given at 20% of the cost each year, or 10% for fixtures that qualify as 'integral features'.

However, where expenditure (excluding cars) falls within the annual investment allowance (AIA), 100% of the cost is deducted in the year of purchase. The AIA is capped at £100,000 per year.

Integral features

Landlords of commercial properties often spend large amounts on refurbishing their buildings. Where that expenditure is incurred after 5 April 2008 in the following categories, it qualifies as integral features, and may fall under the AIA cap:

- Electrical systems, including lighting;
- Cold water systems;
- Space or water heating systems;
- Powered ventilation and air-conditioning systems;
- Lifts, escalators and moving walkways; and
- External solar shading.

A 100% cost deduction under the AIA can create a significant loss, which is available to set against the landlord's other income.

However, where the loss is generated by using the AIA after 23 March 2010, and there was a plan to avoid tax deliberately through the use of the loss, the taxpayer may be barred from setting-off the loss against their other income. In this case the loss will only be available to set against future profits from property.

If you're wondering what the right decision is for you and your business, please get in touch with us.

The importance of back-up

We are now used to conducting so much of our lives online that we tend to forget electronic information can be easily lost due to an error, computer malfunction or theft of a laptop. Is everything on your computer system securely backed up?



A secure back-up should be a full copy of your live data which is then kept at a different physical location from your computer system. Have you thought about how you would recover from a fire or flood at your office? If your back-up media are kept on the same site as your computer system, you may not be able to recover your data quickly and your business might not then survive.

Are you sure the method of recovering data from your back-up media will work? IT professionals tend to use a three-stage back-up system: grandfather/father/son, with 'son' being the live data. You back-up to 'father' if that media fails you, and there is the still earlier back-up 'grandfather' copy to reinstall if all else fails. You might decide to have a monthly, weekly or daily system of back-up at different repositories.

Records requirements

Keeping a secure back-up of your records is not only a good insurance policy for your

business: it is also necessary for tax purposes. You are legally required to keep all the business records used for your accounts and tax returns for at least six years. PAYE or CIS records need to be kept for three years in addition to the current year. Non-business records used for your personal tax return must be retained for 22 months after the end of the tax year (six years for sole traders, partnerships and those with property income). All records can be kept in electronic format, so you don't have to retain the paper originals. However, your electronic records must be easily accessible.

Do not assume that your bank or utility company will keep your online statements, bills and payments indefinitely. Most online records disappear without trace after a few months. For example, BT telephone bills are only available online for about six months after the issue date, so you need to ensure you keep your own secure copy of all relevant online statements.

Free review with an IFA

The Kelvin Partnership works very closely with Premier Financial Advisers, a medium sized firm of independent financial advisers based here in Glasgow. During this very difficult economic period sound financial advice is essential and an understanding of where you are financially is very important. With this in mind, we have therefore agreed that for all of our clients Premier Financial Advisers will offer an **ABSOLUTELY FREE** review of your financial situation, no matter how large or small.

Areas that you may wish to discuss could be any of the following:

- Wills
- Inheritance tax
- Capital gains tax
- Potential personal and business tax issues
- Savings
- ISAs
- Investments
- Miscellaneous issues such as retirement or pensions
- National Insurance and State pensions

If you would like to take us up on this great offer please contact your Partner within the Kelvin Partnership and they will set up a review for you as soon as possible.

One of our **HOT** topics right now is succession planning and business protection

covering the unforeseen outcome if a business partner or key individual becomes ill or dies.

A recent survey revealed:

- Only 4% of business owners questioned had shareholder protection and
- four out of five sole traders have a key person in their business not covered by a protection policy.

As an example, where a shareholder or key individual dies, under succession planning with Shareholder Protection, this protects:

- the employees
- the families
- the business
- and the other shareholders.

Again, if you wish to discuss this matter, please do not hesitate to contact your partner.

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