TAX MATTERS

friend

Now that the dust has settled following George Osborne's most recent Budget Statement it is perhaps appropriate to look at a few of the announcements in a little more detail.

Whilst a lot of the measures announced in the Budget have been viewed as positive, the pension reforms, the initiatives for savers and the personal allowance changes, to name but three, there are a number of measures which are not so welcome.

In this newsletter I will give a brief overview but suffice it to say as with all Budgets further detail, and potential planning opportunities, may emerge over time. As always please do not hesitate to call me if you have any particular issues you would like to discuss with me.

Simon Littlejohns – Tax Partner

partnerships

In the lead up to the Budget, HMRC published a consultation document in connection with partnerships. The proposals put forward in that document were a reaction to HMRC's belief that partnerships, particularly Limited Liability Partnerships ('LLPs'), are being used in a number of business structures simply to avoid tax or create a structure with a lower overall rate of tax on total profits. Notwithstanding the howls of protest from many interested parties the proposals put forward remain largely intact.

So what are the issues?

- The most material point is that members (partners) with a fixed profit share will be taxed as employees. They will not be treated as employees for other purposes such as employment law. This will have implications for both the business and the individual. In order for individuals not to fall foul of the rules the member will need to avoid meeting at least one of the following three tests:
    - Disguised salary - the '80% test';
    - Significant influence; and
    - Capital at risk - the '25% test'.
- If a LLP has a corporate member care will need to be taken to ensure that the company's profit share is not at an advantageous level when compared with that of the individual members. If it is there may be a redistribution of that profit share, in total or in part, to the individual members; and
- There are a number of more esoteric points to consider with regard to potential manipulation of LLP profits.

If you have a business structure which you believe may be affected by the rules please get in touch so that we can help guide you so as to eliminate or lessen the impact of the new rules.

capital allowances

One very positive move for businesses was the announcement of an increase in the Annual Investment Allowance to £500,000 for the period from 1st April 2014 until 31st December 2015. This means that just about every business should get 100% relief for their capital expenditure. There are though issues to consider:

- The transitional calculations can yield some anomalous results if the financial year for the business is not in line with the tax financial year which starts 1st/6th April. You may need to do the calculations;
- Timing of expenditure - delaying or advancing as appropriate. If a large capital expenditure project is planned, whilst 31st December 2015 may seem a long way off, the potential deadline should be borne in mind;
- How might the change affect the acquisition decision: i.e. outright purchase v lease purchase v hire purchase v rental;
- Ensuring that where there is a capital expenditure project which has a mix of qualifying and non-qualifying expenditure care is taken to ensure that all expenditure qualifying for AIA is identified;
- The AIA does not extend to capital expenditure on private cars; and
- Remember too that energy efficient plant and equipment is already covered by its own rules which give a 100% allowance.

As with a number of tax breaks a little planning in advance should ensure that the available tax reliefs are maximised.

Contact : 0121 633 2000 | simon.littlejohns@friendllp.com
Friend Partnership Ltd | Eleven Brindleyplace | 2 Brunswick Square | Birmingham | B1 2LP
22 Long Acre | Covent Garden | London | WC2E 9LY | www.friendllp.com

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anti-avoidance - yet more

One would have had to have been living on Mars for the past 12-24 months to have missed the recent publicity with regard to 'aggressive' tax planning and HMRC's anti-avoidance initiatives. Seemingly not a week has gone by without the topic appearing in the press. Now HMRC are increasing the pressure with legislation to deal with the promoters of tax avoidance schemes. In summary the proposals will require the promoters of such planning to meet certain conditions and if not face hefty fines.

In addition taxpayers using marketed tax avoidance schemes will be required to pay the tax up front which they hope to save with the planning. The tax paid would only be repaid to the taxpayer when HMRC are 'happy' that the planning works. This means that there is no pressure on HMRC to conclude matters quickly and could mean taxpayers are out of pocket for a considerable period of time.

The background to this move is HMRC's belief that many taxpayers indulging in such planning have done so simply to secure the cash flow benefit of not having to pay the tax until HMRC's enquires have been concluded.

I do think that this initiative will put off many taxpayers who may baulk at having to pay the tax, and the fee for the planning, without any security that the planning will work such that they get their tax refunded.

As an added weapon HMRC have put forward proposals that would enable them to directly access a taxpayer's bank account to recover tax in excess of £1,000 which remains unpaid after a number of reminders from HMRC. There will be consultation on the proposals in the coming weeks.

"If any of the items in this newsletter has sparked any thoughts or questions please do not hesitate to pick up the telephone and discuss the matters with me. If not, I look forward to bringing further taxation matters to your attention in the months and years to come."

Simon Littlejohns – Tax Partner

tax reminders

- If you are an employer have you remembered to claim the £2,000 employment allowance in respect of your employees? In practice it is a simple box ticking approach with your electronic filing which wipes £2,000 off the employer's NIC liability as soon as possible.
- A Form 42 needs to be completed in respect of share transactions, including the exercise of non-EMI options, which took place in the year ended 5th April 2014. The form needs to be submitted by 6 July 2014.
- The new statutory residence tests are creating misunderstandings for a number of our clients. If you, or a member of your workforce, is coming to or leaving the UK care is needed, and planning possibly required, to ensure that the UK tax position is properly understood.
- When considering your wills do not forget to consider lasting powers of attorney. These are vital so as to avoid problems for your family and friends should you become mentally or physically incapacitated.
- In light of the Budget changes to the pension rules you may need to reconsider your approach to pension planning. There are some very material changes which will have a far reaching effect for a lot of taxpayers whether retired or not.

As with all the issues raised in this edition of Tax Matters please do not hesitate to contact me, or your usual contact at Friend, if you have any questions or wish to discuss a particular item in more detail. No action should be taken in respect of any of the points detailed in this newsletter without first taking proper advice.