TAX MATTERS

friend

As we head in to Autumn tax starts coming back in to focus as companies prepare for their year ends and individuals contemplate the next round of income tax returns.

Over the coming months it will be interesting to see what the main parties are planning for tax when the detailed manifestos are published. There will be one more Budget from the existing administration which might contain some vote winning surprises.

My simple, and perhaps naïve, hope is that the politicians recognise that the UK tax code is getting more and more unwieldy despite the protestations to the contrary – there is a pressing need for simplification in many areas. Naïve but ever hopeful.

Simon Littlejohns – Tax Partner

capital allowances & property

Since April 2012 there have been new rules in place for taxpayers who are claiming capital allowances on fixtures in property. Buyers and sellers of property need to be aware of the new rules in order to avoid delays and optimise the tax position for a buyer going forward.

A company can claim capital allowances at a rate of 8 per cent on a prescribed list of integral features (e.g. lifts, escalators, electrical systems). Expenditure on integral features must be 'pooled' in a special rate pool. Allowances are claimed on the balance of the tax written down value in the pool each year.

When a seller disposes of a property with fixtures on which it has claimed capital allowances it must bring a disposal value into account. The seller must deduct an amount from the tax written down value of the pool equal to the purchase price attributable to the fixtures. In such situations buyers and sellers often agree and sign a 'Section 198' election to confirm the value to be used.

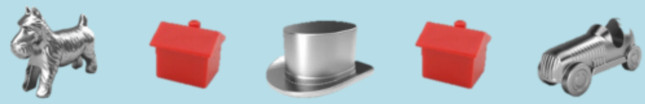
If a buyer wishes to claim capital allowances on fixtures in a property the following points need to be addressed:

- **The pooling requirement** - the past owner must have allocated its expenditure on the fixtures to a capital allowance pool prior to its sale of the property; and
- **The fixed value requirement -** a Section 198 election must have been signed within two years of the buyer's acquisition of the interest in the property or, if not either party can ask the First Tier Tax Tribunal to determine the proportion of the purchase price to be allocated to fixtures.

Many sellers and buyers will be aware of the standard questions asked by their lawyers when undertaking property transactions. In the past many capital allowance questions were simply answered with 'N/A'. This will no longer be appropriate and much more detailed answers will be needed.

The rules create a number of material issues for those involved with the disposal and acquisition of commercial property. If buyers wish to claim capital allowances the pooling and fixed value requirements may cause complications and delays in the purchase process.

Sellers and buyers will need to make sure that they are familiar with the rules and brace themselves for the additional work and cost which may now be relevant for even simple property transactions.



There is much more detail on these issues in the Briefing Note on our website.

income tax and NIC merger

For many years there has been talk of a merger of Income Tax and National Insurance as one way of bringing much needed simplification to the tax regime. A cynical view could be that the separation gives some political 'wriggle room' when looking at raising revenue from employees. The more realistic and perhaps practical view is that there are a host of issues which would need to be addressed not least of which would be the IT problems associated with bringing together the two IT leviathans.

George Osborne came close to pushing on with this in his most recent Budget. It is not clear whether this will feature in any party's manifesto in the lead up to next May's election. One can but hope!

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taxing the home

Many taxpayers are confused as to whether or not the disposal of their home would land them with an unexpected tax bill. In the vast majority of situations tax is not an issue with the disposal of one's Principal Private Residence ("PPR").

There are a few limited situations when a tax liability might arise on the sale of a PPR such as when:

- The house has been used in part for business purposes such as a home office or workshop; or
- The grounds are extensive and more than HMRC consider is appropriate for the house in question; or
- The house may not have been occupied throughout the period of the seller's ownership as a PPR because, for instance, it was let out whilst the owners were living elsewhere.

It is perhaps an obvious point but the sale of a second home, such as a holiday home, will always give rise to a potential charge to tax. The calculation of the quantum of the liability which arises is always the tricky bit.

Sellers should also be careful with selling their PPR in a piecemeal fashion especially if they have 'surplus' land with development potential. Detailed tax planning input is vital in situations such as this so as to mitigate the tax liabilities which might arise.

In addition to the foregoing, taxpayers should always keep detailed records of the expenditure on the purchase and improvement of their PPR just in case tax becomes an issue as a result of changed circumstances. A note of any change in the use or occupation of the PPR should also be recorded.

There is a Briefing Note on our website with more detail.

Working from home

An increasing number of taxpayers are working from home for a variety of reasons. When doing so they should pay heed to certain tax issues:

- Will the taxman accept that the home is the place of work such that any travel to and from to meet clients / customers is business, and not private, travel which is deductible when calculating tax bills;
- Are appropriate claims against tax made for the 'use of home' costs; and
- Consider the impact on PPR as above.

"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."

Simon Littlejohns – Tax Partner

inheritance tax

Many commentators have suggested that Inheritance Tax ("IHT") is a voluntary tax that with suitable planning most families can avoid. Most taxpayers dislike IHT as it is a second level of tax on assets which have been acquired with funds which have already been taxed.

There is more detail in the Briefing Note on our website but some of the key points are:

- With spouses and civil partners it is the second death which is important;
- If a gift is survived by 7 years there is no IHT on that gift;
- Gifts of business and agricultural property can attract full relief from IHT if certain conditions are met;
- Careful drafting of wills can ensure that the IHT exposure is limited on death;
- Insurance can feature as part of IHT planning;
- The best IHT planning is that carried out at an early stage; and
- IHT planning should be reviewed on a regular basis as personal circumstances and the legislation change.

tax reminders

From 5 April 2014 employers will need to submit certain forms in connection with employment related securities (Form 42, EMI Annual Return etc.), and deal with certain related issues, online. They will need to register with HMRC in order to enable them to do this. Employers should not leave registration until the last minute as the process can be long-winded.

It may seem a long way off but now is a good time to collate all the information in respect of the tax year ended 5 April 2014 for those who have to file personal tax returns. This will help reduce the 31 January 'panic' and ensure that the tax liabilities which are due are known well in advance.

Remember also that paper returns need to be submitted to HMRC by 31 October.