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Newsletter . Summer 2008

Entrepreneurs' Relief: do you stand to benefit?

Following some intense lobbying and debate, the controversial reforms to the capital gains tax (CGT) regime finally came into force on 6 April 2008. As originally announced in the Chancellor's 2007 Pre- Budget Report, indexation and taper relief have been abolished and a single rate of 18% is now applicable. A new Entrepreneurs' Relief – a supplementary measure intended to appease the concerns of the business community – is also in operation.

Under the previous rules, which applied to 5 April 2008, many assets qualified for Business Assets Taper Relief. That was a capital gains tax relief which could, in effect, reduce the tax rate on the sale of qualifying assets from a maximum of 40% to less than 10% after as little as two complete years of ownership. The new Entrepreneurs' Relief is available on the disposal of qualifying assets which, in the right circumstances, will see the effective rate of capital gains tax again reduced to 10%.

The new relief works by reducing the first £1 million of lifetime gains by 4/9. So, for example, on £1 million of gains the tax would be:

$£1,000,000 \times 5/9 \times \text{the flat rate of } 18\% = £100,000.$

The £1 million may be made up of any number of disposals and, unlike the former retirement relief (upon which the rules are based), there is no minimum age qualification.

Generally, the relief will be available to individuals on the disposal (after at least one complete qualifying year) of:

- all or part of a trading business carried on alone or in partnership
- the assets of a trading business after cessation
- shares in the individual's 'personal' trading company
- assets owned by the individual used by the individual's personal trading company or trading partnership.

Where shares are exchanged for qualifying corporate

bonds (QCBs) on the sale of a company, the deferred gain will be taken as the gain after Entrepreneurs' Relief. This will likewise apply to deferrals made under the Enterprise Investment Scheme (EIS). Transitional relief will also be available for gains deferred via QCBs, EIS investment or Venture Capital Trust investment, providing the deferred gain would have qualified for Entrepreneurs' Relief if it had been in force at the time of the disposal.

It is also worth noting that not all of the assets which scored for the maximum Business Assets Taper Relief will qualify for Entrepreneurs' Relief. For example, on the disposal of shares the company must have been a trading company in which the individual was an officer or employee of the company and owned at least 5% of the ordinary share capital (and was thereby entitled to exercise at least 5% of the voting rights).

We can help you plan for a successful and profitable business exit. Contact us to ensure you can count on the most favourable CGT rate when you come to sell your business.



Keeping you on the right track

We can help your business and your personal finances to stay on the right track. Call us now and we'll arrange a meeting to discuss:

- Strategies to help your business improve its efficiency and profitability
- Reducing the burden of taxes on your business
- The tax issues that affect you and your family
- Maximising your wealth
- Retirement planning strategies for you and other family members

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Let property tax campaign launched

HM Revenue and Customs (HMRC) has launched a new campaign to collect unpaid tax on let property profits. HMRC is writing to all those landlords it can identify whose tax return does not include an entry for property income.

Officers at HMRC can access a significant amount of information about properties that may be let. Property owners may be traced through the Land Registry and Stamp Duty Land Tax returns, while officials can also ask letting agents to list the properties on their books. By combining this information HMRC can match property owners to their self assessment tax returns and observe any discrepancies.

Under current legislation landlords are required to include all of their rental income on the property pages of the self assessment tax return, including income that is cancelled out by expenses such as mortgage interest and repairs. The resulting loss or profit must be reported in every case.

The HMRC letter includes a form that requires details of any property income and expenses received in the last six tax years,

together with some guidance notes. If you receive this correspondence it does not mean that you are under investigation by HMRC. Rather, this is a more informal way of broaching the subject of undeclared income and, as such, you are not obliged to respond. However, failure to provide a satisfactory response may lead HMRC to open a formal tax enquiry.

If you receive a property declaration letter do take it seriously. It is possible that the Revenue's information contains errors; names do get confused and typing errors can occur. Ask us for advice before you respond to HMRC, but do not delay even if



you think you have declared all of your income and capital gains correctly.

The Government drive to clampdown on undeclared property income has started slowly, with just a few hundred letters sent out in the first batch. However, HMRC intends to expand the campaign to include landlords who have not submitted a tax return, and those who have no tax records at all.

If you have friends or relatives who are letting property but have not declared the income on their tax returns, recommend that they seek advice to avoid being subject to further action by HMRC.

New tax treatment for non domiciles

Despite much speculation that they would be deferred for a year, new rules affecting the way people not domiciled in the UK will be taxed became effective from 6 April 2008.

What is domicile?

Domicile is a simple subject to describe in one word, but the legal definitions and tax legislation are very complex. Perhaps that is because the one word is so simple: 'home'. Your domicile is not the place you happen to be living, but 'home' – perhaps, though not necessarily, the place you were born, the place you grew up, or the place you want to be buried when you die.

For many years those domiciled outside the UK have become 'deemed domiciled' for inheritance tax once they have been resident here for at least 17 out of the previous 20 years. The worldwide estates of 'deemed domiciliaries' are taxable just as they would be for someone domiciled in the UK. There was, and still is, no such rule for income tax or capital gains tax. Instead, anyone resident but not domiciled in the UK has basically paid tax on income earned in the UK and gains on the disposal of UK assets, but only paid tax on non-UK income

or gains as and when they were brought into ('remitted to') the UK. So, if the income/gains are left offshore, the result is no UK tax.

The new rules

From 6 April a new set of rules apply. Once a person (over 18) has been resident in the UK in at least seven of the last ten tax years they will have to choose whether to accept a UK tax charge on their worldwide income and gains, or to pay a £30,000 'tax-in-advance' each year and also lose their entitlement to allowances. The £30,000 will be attributable to unremitted foreign income or gains as the person chooses, and it is expected that it will qualify for credit against any foreign tax payable on the same income or gains. The credit should be available to offset the UK tax liability which arises if and when the income or gains are finally remitted to the UK. There will be a de minimis: the £30,000 payment will only be required if unremitted foreign income and gains exceed £2,000 in the year.

New rules have also been introduced which make it more likely that money or assets bought out of untaxed foreign income or gains will be caught for UK tax – please

contact us for further information.

The decision to opt for tax on the remittance basis or the normal 'arising' basis will need to be made each year – and, fortunately, can be made after the year ends (it will be a part of the tax return preparation process, so we will discuss your position with you each year that you are affected).

Finally, there has been a tightening of the rule on what counts as a 'day' spent in the UK for the residence test (you are 'resident' in the UK for tax if you spend more than 182 'days' in the country in the tax year or your visits average more than 90 'days' per year over 4 years). From 6 April, you are present in the UK if you are here at midnight. Rules allow presence to be ignored if you are 'in transit' but not if, for example, you break your journey to have a business meeting.

New rules can often seem to complicate matters and the latest reforms are no exception. However, steps can be taken to minimise your exposure to UK tax. If these issues affect you, you should seek advice to review your current position and your offshore financial arrangements.

Keep the customer satisfied...

Satisfied customers who pass on referrals are effectively an extension of your sales force, so devoting time and attention to keeping them happy will always pay dividends.

Maintaining a good personal relationship with customers might be relatively easy for very small businesses with only a few customers, but as you grow it becomes increasingly important to systematise customer relationships. Here are some points to consider:

Maintain contact

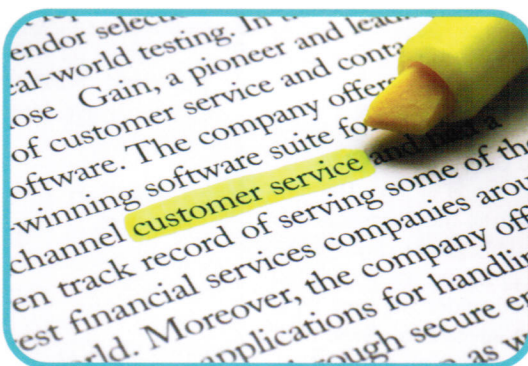
If you have regular contact with your customers, record details of relevant conversations and written correspondence. You might want to invest in a proper customer relationship management (CRM) system, which can help you track and schedule phone calls, e-mails and other communications.

Keep it personal

Customers prefer dealing with people rather than faceless organisations. If you can divide your database so that each customer has a regular 'account manager', there is a much greater chance of staff and customers establishing a personal rapport.

Monitor feedback

Develop a feedback system to monitor customers' perception of the service you provide. Inevitably customer grievances will arise from time to time – how you deal with such incidents can determine the future of business-client relations. In fact, managing



errors efficiently and with the appropriate tone of apology and recompense can often mean increased customer loyalty.

Reward customer loyalty

Retaining existing customers – and cross-selling different products or services to them – is usually more profitable than sourcing new ones. Is it possible to introduce some kind of loyalty scheme with exclusive discounts or offers?

Give away 'freebies'

In general, customers like it when they feel you have given them something for nothing, and are not just trying to squeeze every possible penny out of them. If you can budget for it, consider giving away freebies, whether it is a promotional gift such as a calendar, a branded coffee mug, or even a firm newsletter.

Remember, once a customer has lost faith in your service, it can be very difficult to restore it. Conversely, happy customers will boost your profitability through repeat business, cross-sales and referrals. Taking customer relations seriously and treating it like a proper business process will always reap financial rewards.

Corporate manslaughter: the new rules for business

Ensuring that you are protected against potential health and safety litigation is a necessary part of managing your business. However, this obligation now carries even greater significance following the recent changes to the law on corporate manslaughter.

Under the new Corporate Manslaughter and Corporate Homicide Act, which came into force on 6 April 2008, business owners and company directors can now be held responsible for fatal accidents that occur as a result of defective management practices. Businesses deemed liable may incur an unlimited fine, along with a possible publicity order which can force a company to publicise details of the offence to the wider public. A court may also instruct an organisation to make changes to remedy the failures behind the death.

Businesses have now been advised to reassess their indemnity to ensure they have sufficient cover, particularly as the legislation encompasses areas where liability may not have previously been considered. For example, a company may be liable if it fails to ensure its employees' cars are kept in a roadworthy condition when being used in the course of their employment, even in cases where

an individual is using their own vehicle. Consider the following actions:

Revisit health and safety policies

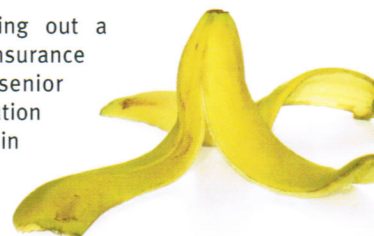
Prevention is better than cure, and conducting a review of existing policies and procedures will help minimise your risk of litigation. For further help and advice on creating and operating a health and safety policy, visit www.hse.gov.uk/business.

Seek professional guidance on the new Act

Consult your legal advisers on the details of the Act, and brief key staff on the new regulations.

Review your firm's existing insurance cover

You might want to consider taking out a Directors' and Officers' (D&O) insurance policy to provide cover for a senior member of the team facing prosecution for a management failure resulting in a fatality.



If you are concerned about the new corporate manslaughter regulations, contact your legal adviser. You should always seek professional advice before acting.

Business Round-up

Changes to sex discrimination regulations come into force

On 6 April 2008 changes to the law governing sex discrimination came into force. Whilst the amendments do not constitute a radical overhaul of the existing regulations, they widen the net to incorporate discriminatory behaviour formerly outside the Act's jurisdiction.

One of the key changes relates to the test developed to define harassment. This now becomes unwanted conduct 'related to his/her sex' rather than the historic 'on the grounds of sex'. The new definition covers a wider range of conduct as the harassment is only required to be associated to the victim's gender, not caused by it. Many seemingly light-hearted jokes based on sex-related generalisations may now be encompassed under the new legal definition. Employers have therefore been advised to review their current discriminatory policies and procedures to ensure they reflect the recent changes.

Furthermore, employers can now be held liable for the sexual harassment of employees by third parties. This will apply where the employer is aware that an employee has been subject to harassment on at least two occasions by a third party and failed to take reasonably practicable steps to prevent the event occurring.

Provisions set out in the statute will also facilitate discrimination claims relating to eligibility for bonus payments from women on compulsory maternity leave. The new rules, which apply to childbirths on or after 5 October 2008, are available to view at www.opsi.gov.uk.

Learning skills council to be disbanded

The public body charged with providing and improving the skills needed in the current business and economic climate is to close within the next two years.

The Government has announced that the Learning Skills Council will be disbanded by 2010 and the majority of its funds transferred to local authorities. The plans were outlined in a White Paper which proposes raising the school leaving age to 18. From 2013 local authorities will also be responsible for ensuring that young people have access to apprenticeship places.

Reminders for your Summer diary

July 2008

- 6 Deadline for submission of Form 42 (transactions in shares and securities).
File Taxed Award Scheme Returns, file P11Ds, P11D(b)s and P9Ds. Issue copies of P11Ds or P9Ds to employees.
- 14 Due date for income tax for the CT61 period to 30 June 2008.
- 19/22 Quarter 1 2008/09 PAYE remittance due.
Final date for payment of 2007/08 Class 1A NICs.
- 31 Second self assessment payment on account for 2007/08.
Annual adjustment for VAT partial exemption calculations (April VAT year end).
Liability to 2nd £100 penalty arises for 2007 Tax Return still not filed.

Web Watch

Essential Sites For Business Owners

Business Safety www.businesssafety.co.uk

Provides essential information to help businesses comply with health and safety legislation.

Business Startups www.startups.co.uk

Contains news, information and resources to help budding entrepreneurs.

Information and Commissioner's Office

www.ico.gov.uk

Offering information and advice on data protection and other related issues.

London 2012 www.london2012.com/business

Small businesses can register here to compete for contracts to carry out work in connection with the Olympic Games.

A new Skills Funding Agency for adults will receive £4 billion to oversee the distribution of funds to the sector and manage the performance of further education colleges. It will also house the new National Apprenticeship Service.

New enterprise strategy is launched

The Government has outlined its intentions for the future of British enterprise in a White Paper that purports to 'unlock the nation's talents'. The ten year strategy aims to enhance enterprise skills and knowledge, and includes measures intended to ease the red tape burden for small firms and help existing businesses secure funding to expand.

Proposed changes include allocating a 20% increase to the Small Firms Loan Guarantee Scheme, extending eligibility to growing businesses that are over five years old and increasing the funding available to female entrepreneurs. The document also includes a proposed consultation on the introduction of regulatory budgets, which might cap the new annually recurring cost of regulation for business.

Business and personal planning need not be left until the end of the tax year – talk to us now about tax and financial strategies for you and your business

July 2008 cont...

- 5/1 5% surcharge on any tax unpaid for 2006/07.
Deadline for tax credit Annual Declaration (if estimated, final figures required by 31 January 2009).

August 2008

- 2 Last day for notifying car changes in quarter to 5 July - P46 (Car).
- 31 Annual adjustment for VAT partial exemption calculations (May VAT year end).