

Hobsons : Newsletter March 2010

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We have arrived at the last month of the current tax year. Later this month the Finance Bill 2010 will be announced. In view of the impending General Election, this is likely to be a thin one with a further Finance Bill after the election whoever wins.

This month our newsletter looks at a possible strategy for reducing the effect of the 50% income tax rate in 2010-11, outlines some of the tax disadvantages if you are considered to be connected persons, a tip on utilising capital losses and finally an update on various HMRC issues.

Would readers currently in the age group 50-55 please note that from April 2010 the age at which benefits can be taken from a personal or occupational pension will rise to age 55. Still time to discuss this with your Financial Advisor. After 5 April 2010 you will have to wait until your 55th birthday to draw your tax free lump sum and decide on your other benefits.

Our next newsletter will be published on 9 April 2010.

Bonuses or dividends v higher salary

If you run your own company and are considering an increase in your salary 2010-11 you might like to consider the following points:

- 1.) From 6 April 2010 if your income is in excess of £100,000 you will start to lose your tax personal allowance, initially this can create a marginal tax rate up to 60%.
- 2.) From the same date if your income is over £150,000 you will be subject to the 50% rate of income tax.

Consequently increasing your earnings in 2010-11 may not be a tax effective move if you are a high income earner. Instead you may like to consider paying yourself a bonus in March 2010? You must have a clear and commercially sound reason for a bonus payment. If you were to follow this strategy the bonus would be taxable at the current highest rate, 40% and would have no effect on your current year personal allowance.

There is a timing downside to this arrangement; any tax and NIC due on the bonus would become payable on 19 April 2010 (22 April if you pay electronically) instead of being spread over the year if you settled on a salary increase instead.

Of course, when practical to do so, extra dividends are usually a better option than bonuses. Dividends voted in March 2010 will mean extra higher rate tax due 31 January 2011.

If you are a high income earner and would like to discuss this and other strategies for minimising the impact of the changes coming in the next tax year please get in touch. There are still options we could look at before 6 April 2010.

Connected persons

If you are a connected person for tax purposes you will be required to substitute the market value of any asset you transfer or acquire when working out the gain or loss on disposal - not the amount you have actually agreed, unless of course this is the same as market value.

The most likely connection is that you are married or in a Civil Partnership. Fortunately if you and your spouse or civil partner are living together at any time in a tax year in which you make the transfer or sale, any gains are deferred until your spouse or civil partner sells the asset.

One consequence of being connected is that any company you control, either on your own or with other connected persons may be treated as associated companies and affect the amount of company profits that qualify for the small company's rate.

The full list of connected persons for the purposes of transferring assets is set out below:

- 1.) Your spouse or civil partner.
- 2.) Your brothers and sisters, and those of your spouse or civil partner.
- 3.) Your parents, grandparents or other ancestors, and those of your spouse or civil partner.
- 4.) Your children and other direct descendants, and those of your spouse or civil partner.
- 5.) The spouses or civil partners of any of the above relatives.
- 6.) Your business partners and their spouses or civil partners and relatives (except for genuine commercial acquisitions or disposals of partnership assets.)
- 7.) As mentioned above any company you control, on your own or with any of the people listed above, will be connected for tax purposes.
- 8.) The trustees of any settlement where you or any person connected with you is a settlor.

The definition for the purposes of determining associated companies is more limited.

Clogged Losses

If for any reason you dispose of an asset to a connected person and make a loss on the transaction, the loss can only be used in the same year or carried forward and used against future gains, to the same connected person.

It will also be necessary to demonstrate that on the second or subsequent disposal you were still connected.

HMRC refers to these as Clogged Losses!

Negligible value claims

HMRC define an asset to be of negligible value if "it is worth next to nothing".

If you make a formal negligible value claim, the effect is to treat the asset as sold and immediately reacquired at a nil value, thereby creating a capital loss.

Interestingly you can specify a time in the previous two tax years at which the deemed disposal should be treated. Obviously you will need to prove that negligible value applied at the earlier date.

Accordingly any claim you make in 2009-10 could be treated as made in 2007-08 or 2008-09.

The claim creates a capital loss. However, if the asset is shares that you have subscribed for in a qualifying trading company, it is possible to claim to convert the capital loss into an income loss that can be set against any other income.

This is a useful way to recover some of your investment if a company in which you own subscriber shares becomes dormant for any reason and you have no prospect of recovering the cash you have tied up in share capital.

Subscriber shares are shares you acquire from the company and not shares transferred to you by previous shareholders.

Updates from HMRC

Online filing:

Payroll returns 2009-10

Just a reminder that whatever the scale of your payroll activity you will need to file the 2009-10 P35 and P14s online this year.

VAT returns filed after 1 April 2010

There are two categories of businesses that have no choice about online filing after 1 April 2010:

- newly registered businesses with a registration date of 1 April 2010 or later, and
- any business with annual turnover exceeding £100,000

D1 Tax Codes

The new D1 (50%) tax code will not be introduced until 2011-12. Any additional tax due in 2010-11 on second sources of income as deductions were made at 40% instead of 50%, will be collected through self assessment.

Email scams - phishing

You should never respond to emails purporting to come from H M Revenue & Customs. HMRC's advice on this issue is set out below:

- "HMRC would never contact you asking you to disclose personal information. If you have received an email requesting personal information, payment of tax or suggests you are due a tax rebate, please take the following action:
- do not click on any links included in the email
- check for HMRC related scam examples (<http://www.hmrc.gov.uk/security/examples.htm>)
- send it to phishing@hmrc.gsi.gov.uk then delete it
- if you have anti-virus software on your computer - run it to check for infections
- review the advice featured on Get Safe Online (http://www.getsafeonline.org/nqcontent.cfm?a_id=1171) on rectifying common online security problems".

Tax Diary March/April 2010

1 March 2010 - Due date for corporation tax due for the year ended 31 May 2009.

19 March 2010 - PAYE and NIC deductions due for month ended 5 March 2010. (If you pay your tax electronically the due date is 22 March 2010)

19 March 2010 - Filing deadline for the CIS300 monthly return for the month ended 5 March 2010.

19 March 2010 - CIS tax deducted for the month ended 5 March 2010 is payable by today.

1 April 2010 - Due date for corporation tax due for the year ended 30 June 2009.

19 April 2010 - PAYE and NIC deductions due for month ended 5 April 2010. (If you pay your tax electronically the due date is 22 April 2010)

19 April 2010 - Filing deadline for the CIS300 monthly return for the month ended 5 April 2010.

19 April 2010 - CIS tax deducted for the month ended 5 April 2010 is payable by today.

DISCLAIMER - PLEASE NOTE: The ideas shared with you in this newsletter are intended to inform rather than advise. Taxpayers circumstances do vary and if you feel that tax strategies we have outlined may be beneficial it is important that you contact us before implementation. If you do or do not take action as a result of reading this newsletter, before receiving our written endorsement, we will accept no responsibility for any financial loss incurred.

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