

## Hobsons : Newsletter May 2009

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A few surprises in Mr Darling's Budget announcements last week. We have expanded on two issues in this newsletter; the changes to the Furnished Holiday Lets rules and the inclusion of business tax losses in tax payment arrangement agreed with the Business Payment Support Service.

We have also included an article that examines the tax position of unmarried couples and changes to the interest charges made by HMRC on tax paid late.

The next newsletter will be published 4 June 2009.

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### Furnished Holiday Let (FHL) property

The EU seem to have caused a bit of an earthquake! As a direct result of EU rulings the UK have been compelled to extend the various tax advantages of FHL status to properties located within the European Economic Area (EEA) - as long as they meet the required qualifying criteria.

It would appear that this did not sit well with the UK Treasury as they have announced that the entire FHL tax legislation is to be repealed, withdrawn, from 6 April 2010.

#### What difference will this make?

Obviously if you presently rent out accommodation as a qualifying holiday let in the UK it will make a big difference. From the 6 April 2010 FHL property income will revert to being taxed as non-FHL property income. In a nut shell the downside tax effects after 5 April 2010 are:

- you can no longer set off FHL losses against other income
- you can no longer claim capital allowances for the purchases of furniture and equipment, and
- you will lose significant capital gains tax reliefs including roll-over and entrepreneurs' relief if you dispose of FHL properties after 5 April 2010.

#### What are the opportunities?

As always change has upside effects. We have listed two below:

- if you own a let property in the EEA, that would have qualified as a FHL property under the present rules, it may be possible to back date changes to your tax returns for 2007 and 2008. This would include set off of surplus FHL losses against other income.
- if you have sold a property in the EEA that would have qualified for more favourable capital gains tax treatment, computations can be revised for the years ending 5 April 2007 and 5 April 2008.

#### What's next?

If you feel that you may be affected by these changes we should meet and discuss as soon as possible. The most immediate deadline is to apply for a late change to your 2007 self assessment tax return if it needs to be changed; this has to be done by 31 July 2009. (If you have operated your FHL trade through a company, amendments to tax computations for accounting periods ending on or after 31 December 2006 have to be submitted by the same date, 31 July 2009.)

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## Business Payment Support Service

This service continues to offer tax payers deferred terms for settlement of their tax liabilities. Nationally the feedback from businesses and individuals who have made applications has been promising - HMRC have been sympathetic and supportive in most cases.

However there is a circumstance where the Support Service staff have been unable to assist and that is when businesses are making losses in the current tax year.

Under recent concessions from HMRC it is now possible to carry back some tax losses for 3 years. Of course it is not possible to quantify the tax effects of these losses until accounts are finally submitted with the relevant claims.

The Budget announcement last week now includes powers that will allow the Business Payment Support Service to take these losses into account when negotiating deferred payment arrangements.

We recommend that you call us if you need to quantify the effects of possible loss relief in the current year, and carry backs to previous years.

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## Tax position of unmarried couples

UK tax legislation relating to capital gains tax (CGT) and inheritance tax (IHT) is biased in favour of marriage or Civil Partnership. The recent Budget has done nothing to change this.

If you are committed to a long term life partnership with another individual, and you are not married or in Civil Partnership, the opportunities to mitigate CGT and or IHT are limited. This article discusses these limited options.

**\* Assets owned when relationship started.** Generally speaking it has been difficult to transfer assets between partners that were owned prior to the commencement of their relationship. For IHT purposes the transfer would be treated as a Potentially Exempt Transfer (PET) - any potential liability would only disappear after a seven year period. The IHT risk could be insured against by taking out a seven year life policy, but of course you would have to pay the premiums!

If assets are transferred between partners, and the asset in question is subject to CGT on disposal, any such transfer will create a CGT liability. The only exception is if the market value of the assets at the date of the gift or transfer is the same as, or lower than the original cost. With most share portfolios now in a loss position this may open up opportunities to equalise estates by gifting across securities. This may also crystallise CGT losses for the donor which he or she could put to good use.

Depending on the type of asset, transfers may trigger Stamp Duty Land Tax charges.

And finally, gains on gifts of certain business assets can be rolled over.

**\* Assets purchased after the relationship started.** Assets purchased together after the relationship has commenced opens up the possibility of equalising estates by owning such assets jointly.

If there are concerns about unequal financial contributions made by partners to purchase the asset, these can be reflected in the percentage share.

In certain circumstances it may also be effective to use a trust to accommodate certain aspects of the transaction.

**\* Insurance.** If IHT planning is ignored a partner surviving a first death may be obliged to sell assets, if the couple's assets were significantly above their nil rate bands. (Currently £325,000)

This may involve the survivor selling the family home, or taking out a mortgage, to pay IHT.

This risk can be covered by a first death life policy written in trust for the benefit of the survivor.

## Conclusion

Most unmarried couples are disadvantaged in the UK tax system. Ultimately the only way to redress this is for our Government to legislate and remove this bias, or for affected couples to actually get

married or enter into a Civil Partnership. Obviously there are many important non-tax reasons why this may be an inappropriate course of action to take.

If you have tax planning concerns as a result of reading this article please call.

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## **HMRC - interest rate changes**

Due to the recent reduction in bank rate from 1% to 0.5%, on 6 March 2009, HMRC have made the following changes to its interest rate charges and supplements.

### **Interest rates from 6 March 2009**

- 1.5% on unpaid corporation tax paid by instalments
- 0.25% on overpaid corporation tax

### **From 24 March 2009**

- 2.5% on unpaid income tax, capital gains tax, National Insurance contributions and stamp duties
- 0% on similar overpaid taxes
- 0% on inheritance tax payable or refundable
- 2.5% on corporation tax not due by instalments
- 0% on overpaid corporation tax not due by instalment
- 2.5% on unpaid VAT

Readers may be intrigued to notice that no interest is now payable on late paid inheritance tax.

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## **Tax Diary May/June 2009**

**1 May 2009** - Due date for corporation tax due for the year ended 31 July 2008.

**19 May 2009** - PAYE and NIC deductions due for month ended 5 May 2009. (If you pay your tax electronically the due date is 22 May 2009)

**19 May 2009** - Filing deadline for the CIS300 monthly return for the month ended 5 May 2009.

**19 May 2009** - CIS tax deducted for the month ended 5 May 2009 is payable by today.

**19 May 2009** - The payroll forms P35 and P14s must be filed by this date - employers late in filing these forms may receive a penalty.

**31 May 2009** - Ensure all employees have been given their P60s.

**1 June 2009** - Due date for corporation tax due for the year ended 31 August 2008.

**19 June 2009** - PAYE and NIC deductions due for month ended 5 June 2009. (If you pay your tax electronically the due date is 22 June 2009)

**19 June 2009** - Filing deadline for the CIS300 monthly return for the month ended 5 June 2009.

**19 June 2009** - CIS tax deducted for the month ended 5 June 2009 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.

Hobsons,  
Alexandra House  
43 Alexandra Street,  
Nottingham  
NG5 1AY

AND

International House  
Brunel Drive  
Newark  
NG24 2EG

Tel: 0115 962 1590.  
Web: [www.hobsons.biz](http://www.hobsons.biz)

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