

Hobsons : Newsletter November 2007

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Quite a lot has happened in the world of UK tax since we issued our last newsletter in October. On 9 October our new Chancellor Alistair Darling delivered his first Pre Budget Report. There were a few surprises! We have included articles this month that take a look at the changes proposed to capital gains tax and inheritance tax.

The new "simplified" capital gains tax commentary is split into two articles, one for owners of business assets and one for owners of non-business assets.

We have also added a reminder for claimants of tax credits to keep the Revenue informed of changes in their circumstances.

Our next newsletter will be published on Wednesday 5th December.

STOP PRESS! On 31 October 2007 The Times published an article suggesting that the Government was considering the introduction of a limited form of retirement relief. This would allow persons retiring from business to make a tax free gain on the sale of their chargeable business assets. The amount of tax free gain mentioned in the Times article was £100,000. We are still awaiting confirmation of the detail from Government sources and will include more information on this breaking news next month.

CGT - selling business assets after 5 April 2008

The present position.

If you sell a business asset before 6 April 2008, that you have owned for more than 2 years and which qualified as a business asset throughout your ownership, the maximum tax you would pay on the sale as a higher rate tax payer is 10% of the chargeable gain.

The changed position from 6 April 2008

Under proposed changes to CGT if you sold the same asset after 5 April 2008 you would pay tax at a flat rate of 18%. (This flat rate will apply to all taxpayers whatever your earnings position for income tax.) The previous relief given for indexation of gains to 5 April 1998 and taper relief from that date, will cease to apply as from 6 April 2008. Thus, on the face of it, the increase in tax is 80%

The loss of indexation (inflation relief) which is still available on assets owned prior to 5 April 1998, will mean that the effective increase will be more than 80% and in some cases a lot more - particularly where assets were held at 31 March 1982 or before. See comments on non-business assets below.

You may have noticed in the national press the active lobbying by the CBI and other employer organisations to challenge this increase in tax, particularly to support the owners of small businesses who are now faced with a potential 80% increase in the tax they pay. When these organisations met with the Chancellor last month, he reaffirmed his intention to follow through with the changes to CGT. (See STOP PRESS announcement in the introduction for news about possible retirement relief provisions which may take some of the CGT sting out of "retirement" business sales after 5 April 2008, particularly for small business owners.)

For the sake of clarity we have listed below assets that are presently defined as business assets, the list is not exhaustive but covers the main items:

- Shareholdings in privately owned trading companies (including shares listed on AIM).
- The goodwill associated with a businesses run by a sole trader or partnership.
- Residential property let on a "furnished holiday lets" basis.
- Commercial property let to, or otherwise used by, privately owned trading organisations, including your own business.

We would strongly recommend that all clients holding business assets, especially those considering a disposal, contact us immediately to discuss the possibility of a formal review of their CGT position. It is likely that you will pay additional tax if you dispose of your business assets after 5 April 2008. There are a number of strategies that we can discuss. We only have until the end of the current tax year to implement appropriate changes - the window of opportunity will almost definitely close at midnight on 5 April 2008.

We should also stress that our comments, made in both the CGT articles today, are based on "proposed" changes to the legislation announced on 9 October. Until we see the published, and enacted legislation any advice that we give to clients at this point will need to be varied as, and if, the situation changes.

CGT - selling non-business assets after 5 April 2008

The position for owners of non-business assets is quite different.

The present position.

If you sell an asset classified as a non-business asset, that you have owned for more than 10 years, before 6 April 2008, the maximum tax you would pay on the sale as a higher rate tax payer is 24% of the chargeable gain.

The changed position from 6 April 2008

If you dispose of the same asset after 6 April 2008 you will pay tax at the flat rate of 18% of the chargeable gain. On the face of it this is a saving of 25% on your tax bill - but is it?

For certain tax payers who have owned non-business assets for a short time this may well be true. Unfortunately the way in which the gain is calculated is to be radically changed - in some circumstances this may disadvantage taxpayers.

After 5 April 2008, the base cost of the asset will be its value at 31 March 1982 (if purchased prior to this date), or, its actual cost if purchased after 31 March 1982. This base cost will be deducted from the net proceeds of sale. The difference will be the chargeable gain subject to the flat rate of 18%.

An investment worth £750 in 1982 would now need to be worth £2,000 just to maintain its underlying purchasing power. Under the new CGT rules these inflationary gains will be taxed at 18%. Under the present rules the inflationary gain was largely protected by indexation relief to 5 April 1998 and taper relief thereafter.

Accordingly holders of non-business assets, or indeed business assets, may need to take a careful look at the options available to them prior to 5 April 2008, if they have owned the assets for some time.

Non-business assets include:

- Most holdings of stocks and shares held in quoted companies.
- Residential property either let or used as a second home.

Again clients who find themselves in this position should call to see if a proper review of their CGT position would be productive.

Inheritance tax boost for certain couples

If you are a widow, a married couple, or have entered into a Civil Partnership, you may benefit from the change to IHT rules on 9 October 2007.

Essentially when the first partner/spouse dies the percentage of any unused nil rate band allowance can be transferred to the surviving partner/spouse to be applied to the second estate.

If on the first death there was no chargeable estate (perhaps because the whole estate was left to the surviving spouse), all of the deceased person's nil rate band (currently £300,000) would become available to the survivor on their death. On the survivor's death this would essentially double the amount of their estate that would be exempt from IHT.

Alternatively, if on the first death the estate was valued at £150,000, currently 50% (£150,000/£300,000) of the unused nil rate band would be available to transfer to the surviving spouse. If the nil rate band at the time of the second death was £400,000, then an extra £200,000 (£400,000 x 50%) would be available to offset against the estate on the second death.

Reminder for claimants of Tax Credits

The Revenue are currently engaging in a public relations campaign to encourage claimants to notify them when their personal circumstances change. Particularly that you should contact HMRC as soon as you believe your circumstances have changed.

This will help to avoid the situation where tax credits are overpaid causing obvious financial distress when repayments have to be made.

We endorse this approach. If any clients receiving tax credits have recently experienced a change in their circumstances, including a pay increase or a pay decrease, this information should be communicated to the tax credit office as soon as possible.

Tax Diary November/December 2007

1 November 2007 - Due date for corporation tax due for the year ended 31 January 2007.

19 November 2007 - PAYE and NIC deductions due for month ended 5 November 2007. (If you pay your tax electronically the due date is 22 November 2007)

19 November 2007 - Filing deadline for the CIS300 monthly return for the month ended 5 November 2007.

19 November 2007 - CIS tax deducted for the month ended 5 November 2007 is payable by today.

1 December 2007 - Due date for corporation tax due for the year ended 28 February 2007.

19 December 2007 - PAYE and NIC deductions due for month ended 5 December 2007. (If you pay your tax electronically the due date is 22 December 2007)

19 December 2007 - Filing deadline for the CIS300 monthly return for the month ended 5 December 2007.

19 December 2007 - CIS tax deducted for the month ended 5 December 2007 is payable by today.

DISCLAIMER - PLEASE NOTE: The ideas shared with you in this document 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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