

Hobsons : Newsletter December 2009

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This is our last newsletter for 2009. Next week Alistair Darling will unveil his Pre-Budget report and we will have a clearer idea of New Labour's fiscal plans before the General Election next year.

This newsletter has a number of reminders; the end of the tax advantages for furnished holiday let property on the 5 April 2010, the introduction of the 50% band of income tax and certain restriction of personal allowances on the same date, and a planning feature regarding capital gains tax. Finally we have summarised the various tax concessions should you be in the mood to party this Christmas!

Our next newsletter will be published on Tuesday 12th January 2010 so may we take this opportunity to wish all our readers an enjoyable Christmas break and a happy and prosperous New Year.

Furnished Holiday Lets (FHL)

The tax year 2009-10 is the last year the present tax advantages that apply to the letting of furnished holiday let property will be available. From the 6 April 2010 FHL's will be treated for tax purposes the same as other let property.

Owners of FHL property are currently treated as traders and the income, losses and gains on sale are potentially available for a number of tax advantages compared to non-FHL property owners. These advantages include:

- Profits are deemed to be trading income and are taken into account for pension purposes
- Certain capital expenditure will qualify for the Annual Investment Allowance. (100% tax deduction)
- Losses are deemed to be trading losses and available to set off against any other income of the owner(s).
- Gains on sale may qualify for rollover relief and entrepreneurs' relief.

For 2009-10 and certain earlier years, property owned in the EEA (European Economic Area) was included as FHL property as long as the usual qualifying conditions were met. This was announced in the 2009 Budget.

It is also worth mentioning that FHL is not treated as trading for all tax purposes. For example, there is no special treatment for business property relief for inheritance tax purposes. Generally speaking FHL will not qualify for business property relief unless part of an enterprise incorporating other facilities.

What to do?

If you are contemplating the sale of FHL property it may make sense to complete the transaction before the present capital gains tax concessions expire on the 5 April 2010. Potentially the gain on the sale may qualify for Entrepreneurs' Relief. This could reduce your tax on any gain to just 10%, as long as the sale meets the required criteria.

If you are a long term investor and have no intention of selling, you could consider bringing forward any capital expenditure that may qualify as part of your Annual Investment Allowance. For 2009-10 you are allowed to claim a 100% deduction for expenditure up to £50,000. If this claim either created or enhanced an overall loss, you could set off the loss against your other earnings and reduce your liability for 2009-10. (You may also be able to carry losses back if this is more advantageous.)

Planning pointer.

If you own FHL property, now would be a good time to take a hard look at the tax planning advantages that are still in date. As soon as we cross the 5 April 2010 threshold all the present options are lost! Please call if you would like more information on this topic.

50% income tax rate 2010-11

On the 6 April 2010 the 50% income tax rate comes into being - those with income over £150,000 beware.

There are options. If you are concerned about the impact of this new tax band on your taxed income do call there may be planning opportunities we could discuss with you prior to the end of the current tax year.

High income earners are also facing two further, adverse tax changes.

- If your income exceeds £100,000 the basic personal allowance will be withdrawn at the rate of £1 for each £2 your income exceeds £100,000. If personal allowances stay at the present level £6,475, you will lose your allowance completely when your income exceeds £112,950. As you will be taxed at 40% on your income between £100,000 and £112,950, whilst progressively losing your personal allowance, the marginal tax rate in this banding can be up to 60%.

Planning note:

If you have a legitimate strategy to keep your taxable income below £100,000 in 2010-11 and so potentially save 60% tax this would be an opportunity not to miss. Call us if you are affected.

- From 6 April 2011 higher rate pension relief is being withdrawn from individuals who earn in excess of £150,000 a year.

Capital Gains Tax rates

Unless you qualify for Entrepreneurs' Relief, all taxable capital gains in excess of the annual exemption, presently £10,100, would be taxable at 18%.

There has been speculation that this rate will increase to discourage schemes to have income treated as capital gains. Next year, 2010-11, the top rate of income tax will be 50%, with some marginal rates up to 60% (see previous article in this newsletter). With capital gains tax rates at 18% and in some cases 10% (if a gain qualifies for Entrepreneurs' relief) and an annual exemption for individuals currently up to £10,100 a year, the temptation to steer earnings towards capital gains and take advantage of legitimate planning devices, seems inevitable.

The Pre-Budget report will no doubt clarify these expected changes and as soon as we have up-to-date information you will be the first to know.

In the meantime a quick reminder of the types of gain that qualify for Entrepreneurs' Relief.

The relief has been available since the 6 April 2008 when indexation relief and taper relief were withdrawn for individuals.

Basically the relief is available in respect of:

- gains made on the disposal of all or part of a business (this includes a sale of shares in a qualifying company)
- gains made on disposals of assets following the cessation of a business, and
- gains made by certain individuals who were involved in running the business

The first £1 million of gains that qualify for relief will be charged tax at an effective rate of 10 per cent. Gains in excess of £1 million will be charged at the normal 18 per cent rate.

An individual will be able to make claims for relief on more than one occasion, up to a lifetime total of £1 million of gains qualifying for Entrepreneurs' Relief.

If you are interested in receiving more information regarding current tax planning in this area please call.

The Christmas Party

For those of you who are organising a well deserved works party this Christmas we have sketched out below the current reliefs available:

The cost of a staff party or other annual entertainment is allowed as a deduction for tax purposes. Also as long as the criteria below are followed, there will be no taxable benefit charged to employees:

1. The event must be open to all employees at a particular location.
2. The cost is only tax deductible for employees and their partners (which would include directors in the case of a company) but not sole traders and business partners in the case of unincorporated organisations.
3. An annual Christmas party or other annual event offered to staff generally is not taxable on those attending provided that the average cost per head of the function does not exceed £150. Partners and spouses of staff attending are included in the head count when computing the cost per head attending.
4. All costs must be taken into account, including the costs of transport to and from the event or accommodation provided, and VAT. The total cost of the event is merely divided by the number attending to find the average cost. If the limit is exceeded then individual members of staff will be taxable on their average cost, plus the cost for any guests they were permitted to bring. No deduction will be allowed for the £150 exemption.
5. VAT input tax can be recovered on staff entertaining expenditure. If staff partners/spouses are also invited to the event the input tax has to be apportioned, as the VAT applicable to non-staff is not recoverable. However, if non-staff attendees pay a reasonable contribution to the event, all the VAT can be reclaimed and of course output tax should be accounted for on the amount of the contribution.

A final note on gifts for employees.

Trivial seasonal gifts for employees!

Employers may find the following Revenue concession useful - we have copied the note directly from the HMRC handbook:

"An employer may provide employees with a seasonal gift, such as a turkey, an ordinary bottle of wine or a box of chocolates at Christmas. All of these gifts are considered to be trivial and as such are not taxable. For an employer with a large number of employees the total cost of providing a gift to each employee may be considerable, but where the gift to each employee is a trivial benefit, this principle applies regardless of the total cost to the employer and the number of employees concerned."

One final caution regarding VAT and staff gifts. VAT is chargeable by the employer when an employee receives gifts totalling more than £50 in a year. Turkeys however are zero rated for VAT purposes!

Merry Christmas!

Tax Diary December 2009/January 2009

1 December 2009 - Due date for corporation tax due for the year ended 28 February 2009.

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

19 December 2009 - Filing deadline for the CIS300 monthly return for the month ended 5 December 2009

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

1 January 2010 - Due date for corporation tax payable for the year ended 31 March 2009.

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

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

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

31 January 2010 - Last day for electronic filing of Self Assessment returns for 2009

31 January 2010 - Due date for payment of any balance of self assessment liability for the tax year ending 5 April 2009, plus any payment on account due for the tax year ending 5 April 2010.

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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