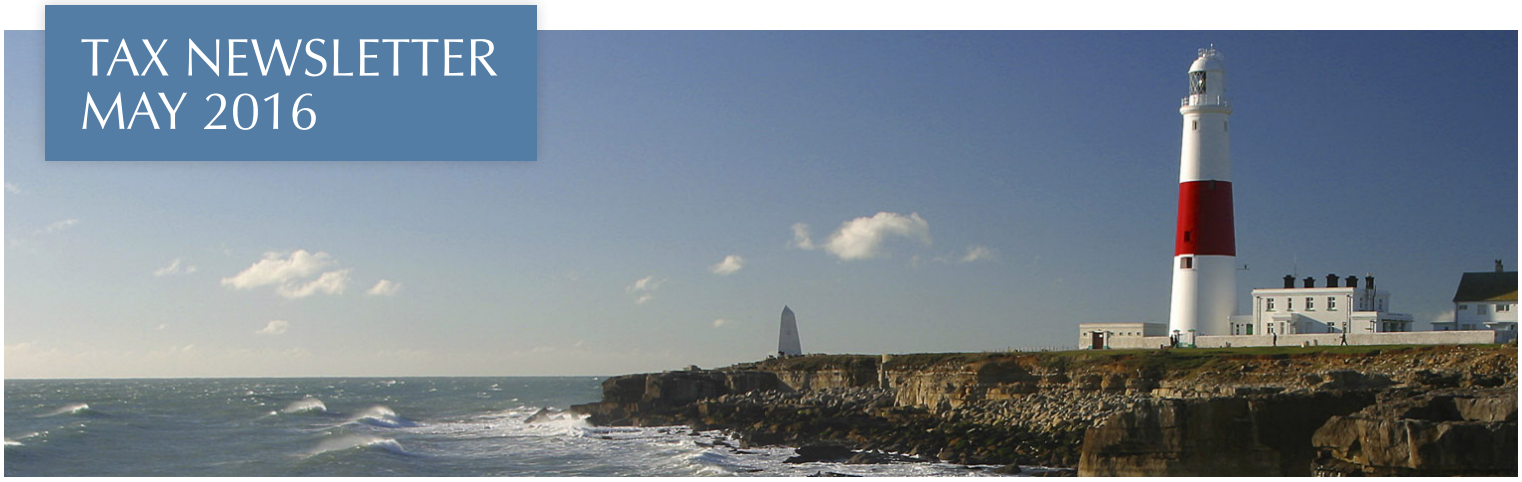
ALBERT GOODMAN

TAX NEWSLETTER MAY 2016



Welcome to this month's eNews where we take a closer look at the new Investor's Relief announced in Budget 2016. In this article, we consider the benefits, but also the potential pitfalls of the new relief.

We also discuss the family home and new 'Residence Nil Rate Band' which will apply from April 2017. Again, the new rules are complex and may not result in the headlined £1million exemption quoted by Mr Osborne.

As usual, please do get in touch if you would like further guidance on any of the areas covered.

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INVESTOR'S RELIEF

Investor's relief is a new relief, announced in budget 2016, aimed at encouraging individuals to invest long term in unquoted trading companies, and to be able to benefit from a 10% tax charge on exit. However, the rules are more complex than first expected, and investors could easily lose this new relief during the time they hold the shares.

The investment

First, the investment has to be in new ordinary shares in a trading company or holding company of a trading group. However, surprisingly, the restrictions of property backed companies set out under the enterprise investment scheme (EIS) do not apply here, and so the new shares could be in a nursing home, hotel or farm, for example, or even in a property development company.

The company has to be unlisted at the time of investment, which includes shares quoted on the alternative investment market, and it does not matter if the company becomes listed at a later date.

The subscription has to be made at arm's length and in respect of fully paid up shares for cash, with the shares being issued for genuine commercial reasons.

Timing

The shares have to be subscribed for after 17 March 2016 and the subscription date is generally the date the shares are entered into the statutory books. The shares then have to be held for at least three years from the later of the date of subscription or from 6 April 2016 before they are sold to a third party or back to the company in order to benefit from the relief.

Anti avoidance

However, during the qualifying holding period (and for one year before) restrictions on value received from the company will apply, which are similar to the EIS rules. These broadly mean only dividends and interest at a reasonable rate can be received from the company, together with the market value only for any supply of goods made by the investor to the company.

Employment

During the qualifying holding period, the investor cannot be an officer or employee of the company, and nor can anyone connected with him, otherwise the relief will be lost. This means that if an investor or his wife, for example, work in the company, the relief will be lost. This applies at any time in the three year holding period and could easily trap the unwary as connected persons include spouses, brothers and sisters, their spouses, and other family members, and so please do seek advice here.

If it is the investor himself who becomes employed by the company, he should carefully consider how long he is employed for as if you can extend this to at least one year before the disposal, then although he might not qualify for the new investor's relief, he might qualify for entrepreneur's relief instead, subject to holding at least a 5% interest in the company's ordinary share capital and voting rights.

The relief

The relief means gains of up to £1 million could be charged at 10% only on qualifying investments, which is in addition to the £10 million taxable at only 10% under entrepreneur's relief. The relief only applies to sole share holdings and so joint spousal holdings will be excluded, as will share holdings by trusts, although this may change before the Bill receives royal assent.

Conclusion

The relief is welcomed but is more complicated than suggested in the Budget, and may well see further changes before the Bill receives royal assent. As with entrepreneur's relief, investors should always seek professional advice well before they exit to see if either relief will apply, or if there is any planning necessary to get the relief to apply.

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FAMILY HOME & IHT

When George Osborne announced that the family home would be removed from the charge to inheritance tax (IHT) back in 2015, no one expected the complexities that have followed in the Finance Act (No 2) 2015, or the consultation document on downsizing, which has now been followed by draft legislation in the Finance Bill 2016, and the headline statement has served only to confuse many taxpayers: we have already had a number of conversations with clients who think their family home is now simply outside of the charge to IHT, whatever its value, which is incorrect.

Normal nil rate band

An individual will already benefit from a normal nil rate band (normal NRB) of £325,000, which means that an estate of up to this amount, taken together with any chargeable gifts made in the previous seven years, will not pay any IHT on death.

Residence nil rate band

This normal NRB will be extended by the residence nil rate band (RNRB) for any deaths post 6 April 2017 where the estate includes the transfer of a family home to children, grandchildren or remoter descendants, which will include natural, adopted or foster children, or to an interest in possession trust for their benefit.

The new RNRB will be phased in, with full entitlement not being due until 2020, at £175,000. When taken together with the normal NRB (£325,000 plus £175,000 = £500,000), and assuming any pre deceased spousal bands remain unused, this gives the headline figure of £1 million referred to by Mr Osborne in his budget speech.

RNRB Rates

2017/18	£100,000 (so maximum relief per person = £425,000)
2018/19	£125,000
2019/20	£150,000
2020/21	£175,000 (so maximum relief per person = £500,000)

Downsizing

Downsizing relief will work to retain part of the RNRB even where you have sold your family home before death and have downsized for any reason, such as moving to cheaper accommodation or into a care home, meaning that some cash and other assets derived from your sale proceeds but still retained by you could also be covered by the RNRB on your death, provided these assets are left to your close descendants.

The relief works in a slightly unusual way in that, broadly, the sooner you downsize post April 2017, and the later you die after that, the higher your relief will be.

For example, Joe sells his Bristol home for £500,000 in July 2017 and buys a new home in Taunton for £325,000, before dying in June 2020. His total estate is worth just over £2 million. He is a widower and his wife's RNRB has not been used.

If he had died in July 2017, he would have used his full (100%) RNRB of £200,000 (i.e. his own £100K plus his wife's £100K), leaving £300,000 of his home as being chargeable to IHT, assuming his normal NRB is used against the rest of his estate.

In June 2020, his home would only use £325,000 of his band, i.e. 93% (£325K/£350K). The difference of 7% (100% - 93%), i.e. £35K can be used to cover gifts of either cash or other assets left to his children.

Whilst the extended relief does not apply until post April 2017, it does apply to any downsizing that takes place after 8 July 2015 and you can nominate which property the rules apply to where you make multiple downsizes between that date and death. It is therefore important to keep a full record of all property disposals from 8 July 2015 and make sure your adviser is aware of these.

The rules are complex and do not always give the results you might expect, and are certainly not as straightforward as 'the family home is now outside of the charge to IHT', and so do speak to us if you are thinking about downsizing, whatever your age.

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LANDLORDS & TAX RELIEF ON INTEREST PAYMENTS

Tax relief for individuals on interest payments on buy to let properties will be restricted to 20% only from 2021, with the restrictions being phased in from April 2017. The restrictions do not apply to residential property let by companies but it should also be noted that a company will only get relief at 20% anyway (reducing to 19% from April 2017 and to only 17% from April 2020).

It is also worth noting that interest rates are likely to be higher in a company as well and so incorporation might only be attractive where the landlord does not need to take all of his rental profits out of the business, although there are other factors that need to be considered.

For further advice on property portfolio ownership, please do get in touch.

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CAR LEASING – IS IT A BENEFIT?

A change to the car benefit in kind rules will mean that more arrangements will give a taxable benefit on employees from 6 April 2016, following HMRC's defeat in the Apollo Fuels Limited case.

The changes will mean that the benefit in kind rules will apply to all provisions of cars, accommodation or loans from 6 April 2016 regardless of whether the employee pays a "fair price" to the employer (arm's length) for the benefit. This will end employees not suffering a car benefit in kind charge where they reimburse the full lease charge for arrangements made by the employer, who leases cars from a third party on more favourable terms.

If this might affect you, please do get in touch.

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HMRC GUIDANCE FOR EMPLOYERS

The April Employer Bulletin includes articles on:

- reporting expenses and benefits in kind for 2015/16 using form P11D
- Scottish Rate of Income Tax coding notice issues (see below)
- Class 1 National Insurance contributions for apprentices under the age of 25
- changes to Student Loans Deductions including the introduction of type 1 and type 2 loans and the reminders which HMRC will issue to employers who fail to make deductions.

The Bulletin also includes links to HMRC's guidance on the restriction to Employment Allowance for Single Director Companies.

If you would like any help with payroll or P11D completion issues please contact us.

Internet link: Employer Bulletin

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ACTION NEEDED BY SCOTTISH TAXPAYERS

From 6 April 2016 Scottish residents now pay the Scottish rate of income tax. If you are a Scottish taxpayer and are in receipt of employment or pension income, you need to ensure that your 2016/17 PAYE code starts with the letter 'S'. You may have been issued with a copy of your new code from HMRC in February or March 2016. Alternatively you can check the code being used by looking at your latest payslip or payment advice.

If you do not have any PAYE source income but complete a self assessment tax return, you will need to indicate that

you are a Scottish taxpayer by ticking the relevant box on the return.

If you are not sure whether your code is correct or need help in understanding it then please get in touch.

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PARKING FINES RULED NOT DEDUCTIBLE

A tribunal has ruled that security firm G4S cannot reduce its profits for tax purposes by deducting parking fines.

The company, G4S Cash Solutions, tried to reduce their corporation tax bill by approximately £580,000 but the first-tier tribunal has ruled in HMRC's favour in rejecting the claim for the deduction of the fines.

The company G4S incurred a substantial amount of parking fines usually while delivering consignments of cash over the pavement. The business tried to claim these were a business expense and so could be used to reduce the company's profits for tax purposes.

The tribunal ruled G4S staff consciously and deliberately decided to break parking restrictions for commercial gain.

The ruling upholds HMRC's long standing view that fines for breaking the law cannot be used to reduce a tax bill.

If you would like advice on calculating your taxable profits and the deductibility of any expenditure please get in touch.

Internet links: Press release | Tribunal decision

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PENSIONS FREEDOM UPDATE

According to HMRC figures over 230,000 people have used the new pension freedoms introduced one year ago and accessed over £4.3 million in pensions saving.

In April 2015, the government introduced significant pension reforms giving people the ability to access their pensions savings how and when they want. The statistics show that in the first year of these new rules being available, more than 232,000 people have accessed £4.3 billion flexibly from their pension pots.

Since the pension flexibility rules took effect from 6 April 2015:

- 232,000 individuals have accessed their money flexibly
- People have flexibly accessed over £4.3 billion of their own money through 516,000 payments.
- In the most recent quarter, 74,000 individuals withdrew £820 million. In the previous quarter, 67,000 individuals withdrew £800 million.
- Figures are taken from information voluntarily reported to HMRC by pension scheme administrators from 6 April 2015 to 31 March 2016. It is not mandatory for scheme administrators to flag these up as pension flexibility payments until April 2016.
- HMRC statistics cover 'flexible payments', which means partial or full withdrawal of the pension pot, taking money from a flexible drawdown account, or buying a flexible annuity.

If you would like advice on the tax implications of pensions freedom please contact us.

Internet links: Gov.uk Pensions flexibility | Gov.uk News

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AUTO ENROLMENT

Did you know that an employer's liability under auto enrolment is based only on qualifying earnings lying between the lower and upper earnings limit for national insurance. Whilst you can agree a different basis for the calculation, this can never be lower than the amount due under the normal basis.

It is also important to bear in mind that the statutory minimum will increase to 5% for employers from April 2019, and for employees to 3% from the same date. As well as the increases to the national living wage, these increases will need to be kept in mind when projecting forward future payroll costs.

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VAT FUEL SCALE CHARGES

HMRC have issued details of the updated VAT fuel scale charges which apply from the beginning of the next prescribed VAT accounting period starting on or after 1 May 2016.

VAT registered businesses use the fuel scale charges to account for VAT on private use of road fuel purchased by the business.

Please do get in touch for further advice this or other VAT matters.

Internet link: Gov.uk Fuel scale charges

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TIME FOR TAX CREDITS

Tax credit renewal packs are currently being issued by HMRC. The renewal deadline is 31 July 2016.

It is possible to renew your claim online and HMRC are urging people to deal with their renewals in this way.

If you need any advice regarding your tax credit entitlement or renewing your claim then please get in touch.

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USING YOUR CREDIT CARD TO PAY YOUR TAX

From 1 April 2016, the 1.5% credit card charges applied to payments of tax to HMRC will change to variable rates, depending on who you bank with and whether your card is personal or corporate. The new rates will now vary from 0.374% to 2.406%, depending on your card.

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LARGE BUSINESS TAX PLANS

Large businesses will soon have to disclose their tax strategies, including their approach to planning where its accounting period starts after royal assent has been given to Finance Bill 2016.

This will affect standalone companies and groups with a turnover of more than £200 million or balance sheet of more than £2 billion. Draft legislation has already been published.

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