

# Tax Tips

Taking stock of changing tax rules and how these could influence your personal and business tax planning.

# Business Tax

## SOLE TRADERS

Some sole traders might benefit from including their wife as a partner in order to reduce their overall family tax bill.

## FAMILY BUSINESS

If you run a family business you might consider profit-sharing ratios to assure the overall tax burden is minimised.

## PARTNERSHIPS

If you are trading as a traditional partnership, you may wish to consider LLP (Limited Liability Partnership) status in order to secure liability protection.

## RESTRUCTURING BORROWING

Have you considered the tax benefits of restructuring borrowing? If the business has cash in the bank and you've already paid your tax, you can draw cash out to repay your mortgage on which you don't get any tax relief. You can then subsequently borrow to reintroduce the funds to the partnership, if the partnership needs funds as working capital, and you will achieve tax relief on the interest. If however the partnership owes you money, it could pay you interest on the amount it owes after your yearly interest allowance.

## CORPORATE TAX

You might require guidance on the following:

- Considering **profit extraction**—salary vs dividends.
- Making sure enough salary is paid to accrue entitlement for **state pension**.
- The best way to structure **benefits in kind**, such as efficient company cars.
- How to deal correctly with **school fees**.
- **Income expenditure**—the most efficient way of dealing with expenditure incurred by a company that really is private.
- **Pension planning**—being able to take advantage of the company paying into an employer sponsored private pension, so that the company gets corporation tax relief on the payment. The cost to the company is 80% of the value of the payment but the money that goes into the pension pot is the full 100% and many people have unused pension allowances. You might consider developing the pension scheme so that it is mature enough to buy the company trading property. The company can then pay rent to the pension scheme on which it then gets a tax deduction and the pension scheme doesn't pay any tax on the rent it receives. If the property is then sold by the pension fund there's no capital gains tax on the sale, so it can be a very efficient way for a company to hold its trading property.

## COMPANY CARS

There are now some fantastic company cars that give rise to very modest tax charges on benefits in kind such as Teslas, the BMW i3 and Mercedes B-class. There are rules in place for both capital allowances and for the benefit in kind and we're increasingly looking at advising clients that would have spent less money on a company car, to spend more in order to qualify for the tax breaks it permits both from a business and personal benefit in kind perspective.

## VAT

### Schemes

Consider the use of a variety of VAT schemes that are available, such as the Annual Accounting scheme. We've advised many clients to take part in the above schemes where we can identify they will benefit on a financial and administrative basis.

As a result of changes recently made, the Flat Rate scheme has become far less attractive and therefore if you currently use it you should be reviewing your affairs to see if you should continue to do so.

### Mileage Claims

Please be aware that many people get the VAT on mileage claims wrong. They assume that because they don't have a company car and they claim forty-five pence per mile that they can't claim back the VAT on their petrol, which is an incorrect assumption.

### Property

VAT on property is very complex and needs professional advice for instance when items are zero rated and exempt, the penalties for getting it wrong can be draconian.

## SHARE SCHEMES

We have advised a number of clients on share schemes including the Enterprise Management Initiative, known as EMI scheme for a management buy-out.

With this scheme the management effectively increases their share holding to then buy out the current owner over a period of time. We have also advised on using the EMI scheme to incentivise existing employees, whereby if they reach certain sales and gross profit targets they are given a percentage ownership in the business. Or to use the scheme simply to incentivise employees to stay because the business owner has a five-year plan to sell and he wishes the key employees to benefit in the eventual share sale. The EMI scheme is a wonderfully tax efficient tool for the employee and a fairly low set up cost and a great staff retention tool for the employer.

There are other share schemes available such as growth shares or freezer shares. You might wish to introduce these to your management team to keep them incentivised without actually giving away any of the current value of your business. By way of example, let's assume your year end finishes 31st March 2017 you would arrive at a mechanism for valuing the company at 31st December 2017 and then create a new class of shares that only had rights to growth in value after that date. This means you're preserving the current value of your share holding in the company. You're protecting the employee that you're introducing from an income tax charge on the value of the shares that are being issued to them because they don't have a current value. At the same time you're incentivising the employee therefore helping the business to grow and flourish as they will understand that once there's any increase in the value of the

company over and above the frozen based costs in the shares, they're entitled to a percentage.

We also advise on share incentive plans whereby you can allow the shares to have a maximum value, which for 2015/16 is £3,600. These shares are free of tax and National Insurance if they're held in the plan for five years and the dividends are tax free if they're reinvested in shares. Any shares withdrawn from the plan at any time are also exempt from Capital Gains Tax, so they're quite an attractive way of getting small numbers of shares to employees.

There's a Save As You Earn share option scheme, where the scheme is linked to a type of savings arrangement on which bonuses are exempt from tax. This provides funds for the acquisition of shares when the option is exercised at the end of the three or five year contract. The maximum monthly contribution to a Save As You Earn Scheme is £500 per a month.

You might consider a Company Share Option Plan, where a company's employees can acquire shares by first being granted options to acquire shares. Tax relief means that the employees do not pay income tax or National Insurance (NI) on their gains. There's limits to the values of shares that can be held by any employee at any one time, however this is quite an attractive way of making your employees feel part of your business.

We can also advise on Phantom Share Option Schemes, which don't involve the issue of any actual shares to the employee, but in effect are complicated bonus schemes. In this scheme the employee receives a cash bonus payment, which reflects either dividends paid to the real shareholders, or sale proceeds, or maybe an increase in value of those shares. As this is essentially a cash bonus it is not tax efficient but is sometimes a good solution for business owners who feel completely uncomfortable with giving away any part of their business.

## TAX INVESTIGATIONS

We've dealt with a number of tax investigations over the years; many are purely random for which there are very few findings, if any. We encourage our clients to take out Tax Protection Investigation Insurance as in the event of an investigation; it covers their fees being paid by the insurance underwriter. We work with Abbey Tax to provide this support.

Some investigations that we have dealt with have lasted up to seven or eight years but typical investigations can last up to two to three years. Recently a stationery supplier client was investigated by HMRC, they issued him with a £35,000 tax bill plus penalties of 10%, plus interest. In this instance we managed to negotiate the settlement down to less than £500.

We have also dealt with some very complex tax investigations where HMRC's tax avoidance and fraud office have been involved, looking into the affairs of both private individuals and companies. HMRC are staffed by qualified accountants and solicitors and they are the only ones that can send a tax payer to prison, as Ken Dodd and Lester Piggott found out! Typically an investigation could come about where a business owner has not declared all of their income or has taken cash out of their business when they shouldn't have. We have experience in dealing with the Revenue to arrange settlements and to do the calculations of the tax that would be due. The onus is on the taxpayer to come up with his undeclared income and we can assist with the forensic work required.

Other tax investigations that we've dealt with have been where the Inland Revenue have simply got things wrong and they've assessed people's income on assets they don't have, for instance properties they don't own etc. It is also quite common for a taxpayer to completely miss a bank account from their annual tax return income, quite innocently forgetting to tell us about it. Inevitably they will receive a letter from HMRC stating that there's been an omission from their tax return without revealing what the omission might be. It's then up to the taxpayer to find the missing link, which can cause quite significant fees so again it's important to safeguard against the fees incurred during a tax investigation.

Abbey Tax fee protection cover is available at £62 for individuals, £134 for sole traders and £165 for limited companies.

## R&D TAX CREDITS

We have significant experience in the area of R&D Tax Credits and have been involved in making numerous R&D claims for clients where we have completed the tax calculations for the tax computation and then negotiated with the Revenue on their behalf.

Client profiles have ranged from Formula 1 teams to traditional old-fashioned manufacturing companies. We have helped these businesses identify what is classified as Research and Development, where the main criteria is that the research carried out results in an appreciable improvement to an existing process material, device, product or service which is made through scientific or technological change. We have very good working relationships and contacts with the HMRC R&D unit and have negotiated reasonable settlements when they have questioned the validity of some of the expenditure.

The current rate of relief is 230%, so for a £1,000 qualifying expenditure on R&D you could achieve a tax relief on £2,300. If however the company is in loss and the R&D claim makes the company go over into a loss, that loss can be surrendered to HMRC for a cash tax credit, which they pay to you in cash. So for start-up businesses who could apply for R&D Tax Credits where they are working on developing a product from scratch, with long lead in times to making profit and where cash-flow is absolutely critical, this credit can be the difference between being able to get to market or not. So you can claim the cash refund, hang onto it for a couple of years as a relatively low interest rate loan from HMRC, but then if you see yourself heading towards profits or the losses are going to be more valuable than the cash then you can amend your Corporation Tax Return, repay the Tax Credit and reinstate your losses to use it against your profits going forwards.

## PATENT BOX

Patent Box is a tax relief for clients who produce products, which contain a patented item, which offers the potential to reduce the Corporation Tax rate applied from 20% to 10%. The European Court is trying to get the Government to restrict this generous relief so it ought to be taken advantage of while it's still there. The whole of the product doesn't need to be patented, by way of example if you had a car and a component in the wing mirror was patented, potentially the profits of the whole car would be opened to a Patent Box claim, potentially halving the Corporation Tax rate payable.

## EMPLOYMENT TAX

We offer a Payroll Bureau Service for clients who wish for us to operate their payroll for them. We can also advise clients on the best way to remunerate their employees with a number of schemes including: Cycle To Work and Nursery Vouchers. There are also a number of perfectly legal ways in which you can structure an individual's pay so that the business pays less Employers National Insurance.

Many people are not aware that if an employee takes a passenger on a business related trip, they are allowed to make a claim on their tax return at the agreed rate, which will usually result in a tax refund. If the employer pays 25p a mile and you've been entitled to 45p a mile, the employee would be able to claim the number of miles you've done, times 20p for the first 10,000 miles and offset that against their employment income on their personal tax return and thereby receive a credit.

With auto-enrolment being a reality for every employer from January 2018 at the latest, this is again an area where we are able to support and assist our clients who run payrolls.

## INTERNATIONAL TAX

We provide advice on companies setting up in the EU. We consider the effective tax rates of the various companies within a group to try to do the best possible administration to ensure the group as a whole pays the minimal tax. We've advised on transfer pricing issues where purchases, goods or services have been sold between companies within the group, to ensure the transfer pricing is correct. We've also advised on the structuring of borrowings in local currency to English pounds in conjunction with the purchase of assets, both in the UK and overseas.

If you're dipping your toes into overseas markets, be aware we provide valued advice on the most appropriate structure for setting up the business. We can advise on setting up trading overseas as a branch and if you have losses in the early days, we can advise on how to achieve "relief" against the rest of your profits in the UK as these can be incorporated into the overall results.

Another option is to set up as a separate company. Loss relief would not be applicable but this structure would allow the business to establish some substance overseas before forming an entity in that country. This would allow more planning scope with regards to the timing of re-patronisation of profits etc.

# Land and Property Tax

## AGRICULTURAL ADVICE

We are currently involved in advising farmers how to structure the sales of their land for development, particularly with the on going expansion of Bicester. There are a number of issues to consider including how they structure the transactions in such a way as to achieve Entrepreneurs Relief. There's a potential to pay 10% Capital Gains Tax, failing that 28% Capital Gains Tax is still a better rate than Income Tax. Many of these development deals come with what is known as an Overage (claw back), which means that you can claim a share in the developers' profit. There is potential for the overage to be taxed to Income Tax rather than Capital Gains Tax which means swapping 28% for 40 or probably 45% Income Tax. So it's very important we work with the farmer at a very early stage in order to maximise 10%, failing that 28% and avoiding, if possible, the 40 to 45%.

## RESIDENTIAL PROPERTY ADVICE

We advise many clients on their residential property tax issues and there are increasingly common situations that arise with mobile work forces in today's business environment. We have been involved with a number of clients where they've bought a house to live in which they occupy for a while before getting posted elsewhere for business and whilst away they let the property before reoccupying. A common assumption is that because it is their main residence that when they sell it, it will be Capital Gains Tax free, which is not necessarily the case. We are progressively involved in cases where there's been mixed use of a property where we examine the very complicated Private Residence Relief Laws in order to maximise the amount of the gain, which is exempt. Similarly and as highlighted with the MPs so-called "flipping" was the issue of acquiring second properties. When you acquire a second property that is occupied as your residence, and it doesn't have to be your "main" residence, but provided it is somewhere where you live at least some of the time, you can make an election as to which property is treated as your main residence. Now it's very important to make an election because you only have two years in which to make it, but once you've made the election you can vary it at any time. Making sure a valid election is in place is critical because it means you can then vary it.

By way of example, let's say I went to work in London for a few years, so I bought a flat there and retained my house in Banbury. I might elect for my house in Banbury to remain my main residence but my flat in London might go up by 50% in say three years. If I knew I was coming up to the three years and intended to sell the property but would face a huge Capital Gain as it had doubled in value, I could elect for it to be my main residence for a month. I could then elect back to Banbury, but the fact that the London property had at some point been my main residence would mean I'd get the last 18 months of it treated as my main residence, which would therefore be tax-free. If I had owned the property for 36 months then half of the gain would fall out of charge because it would be treated as exempt. This is what the MPs were doing with "flipping" their properties, journalists could get excited but it's actually perfectly legal. HM Revenue and Customs manuals actually explain to you how you can do it!

## BUY TO LET

It's now becoming much easier to borrow money for a buy-to-let property purchase through a limited company. There are a number of advantages to this including the ability to claim the mortgage interest and the Stamp Duty implications, which mean that for many people, buying a property through a limited company is a better option. Previous barriers for purchasing a buy-to-let property as a commercial company was the lack of Building Society lending but as they are now willing to lend and we work with a large mortgage funder that has millions of pounds worth of lending facilities, we can even help arrange for finance.

## VAT ON PROPERTIES

We advise on dilapidations to one of the largest UK surveying firms and have given VAT advice to a number of clients relating to land and property for Option to Tax on properties. This is a highly complicated, irrevocable election and needs very careful consideration. Each case is specifically unique but the impact of getting it wrong can be substantial.

## STRUCTURING BORROWINGS

Gift non-qualifying borrowings into qualifying borrowings is another consideration. If you are aware there is going to be a reduction in the rate of tax relief on the interest, some tax relief is better than none at all.



# Personal Tax

## CAPITAL GAINS TAX

### Entrepreneurs Relief

We advise on Entrepreneurs Relief, how to maximise client's own cash as well as minimising tax liabilities on the sale of their business. We also advise on shareholders exiting from the business, where that person is not the only shareholder. It's very important to structure the exit correctly so that they can pay 10% Capital Gains Tax with Entrepreneurs Relief, rather than having the payment taxed as a distribution and being taxed at 37.5%.

### Advising Couples

We've advised couples where one is the higher earner and the other barely uses up their basic rate personal tax band. Considerations here might be how they hold their investments including any rental income property, so that when they do sell investments and in order to crystallise Capital Gains, that they pay the tax at the most efficient rate. We frequently ask clients to consider having investment properties in joint names or share portfolios in joint names, which means they can use up their Capital Gains Tax Exemption Allowance in the most efficient way.

### Enterprise Investment Scheme

If you have a start up business and are looking to attract external investment, you can make sure the shares qualify for Enterprise Investment Scheme tax relief and get a clearance to that effect. The advantage to this is that it makes it tax efficient for your external investors because they get 30% income tax relief thereby reducing the cost of their £10,000 investment to £7,000. If this doesn't work then they can potentially achieve Income Tax Relief on the net cost of their investments, which was £7,000. So if they are a 40% tax payer, they would achieve a further £2,800 worth of tax relief so that's actually reduced their net exposure on their £10,000 investment to £4,200. So although it's a risky investment, it's a more attractive investment and is a very attractive relief if it can be picked up.

### Family Owned Companies

For family owned companies we've given advice for shares that have been transferred often from parents to their children and the various elections, such as hold-over relief, that can be made in respect of the gifts of business assets. We provide advice to clients on disposing of their businesses as to whether they should qualify for corporate bonds or non-qualifying corporate bonds, as well as advising on how to structure the sale of their business, so that they pay the least tax.

### Rollover Relief

We've provided advice to a number of businesses when selling assets as to how they can reinvest those assets within a certain period of time. Reinvest the proceeds from the sale of those assets over a period of time and gain a rollover relief, something that many people forget about. If you sell a hotel for example, which is held in your company and you go and reinvest the proceeds of that within a certain period of time, the gain from the sale of the hotel is rolled over into the cost price of the new venture that you're entering into. It doesn't have to be a hotel, it just has to be a qualifying asset.

### Spousal use of Annual Exemption

In order to use your Capital Gains Tax annual exemption, which is £11,100 for 2016/17, you would sell gains realising a Capital Gain of £11,100 today and then buy them back the other side of 5th April, at pretty much the same price if you owned the same asset but had soaked up your £11,100 Capital Gain. The rules were changed a number of years ago to prevent people doing just that, so now the alternative which is used is known as "Spouse and Breakfasting". As an example, if I sold my shares to realise my £11,100 Capital Gain today and used up my annual exemption, then gave the money to my spouse. She then buys the same shares back tomorrow, so we haven't lost out in terms of future growth in the investment but I've soaked up my £11,100 Capital Gains Tax annual allowance.

## SALARY SACRIFICES

Individuals can use a number of schemes to reduce their personal tax known as Seed Enterprise Investment Schemes (SEIS), which we advise on and that can help to achieve a tax break. In basic terms, Salary Sacrifices are where individuals can be awarded things other than cash.

In these situations, where some of our clients' employees earn £50,000 per year but actually due to the employee's circumstances, such as they've either inherited money or as their spouse earns a substantial sum on their own account, they've opted to pay a chunk of their money into pensions. This therefore means they pay much less tax and National Insurance and the Employer pays less National Insurance.

Employers can also make sure employees make use of the ISA limits, which we can advise on as well as forecasting their tax liabilities. If they make certain types of investments in order to reduce their tax as an individual, but also as a couple, even where we only act for the main earner, we can look at the situation of the couple. The other item to review with investments is if any are standing at a negligible value. As some of our clients are serial entrepreneurs they may invest £50 or £1,000 in companies that attract their interest. So if the value of that investment has become negligible, you can claim a Capital Loss on it and if it's a quoted UK trading company there is a special tax relief which allows you to set that Capital Loss off against your income, and therefore potentially achieving 40% or 45% Income Tax Relief on it.

We have seen a number of cases with couples where the spouse has completely wasted their personal allowance and their use of using up the basic rate band. We can advise on shifting investments and shares, if it makes sense to do so. For example if one of the couple is a high rate tax payer and the other is paying no tax at all, it makes sense to shift investments across to the lower earning spouse to use up their basic rate band and their personal allowance. There are a number of people where the investments held by the main earner and they're simply wasting about 40% of the investment income they receive and where in fact many cases there would be no tax at all because the spouse is not working and is not using up their £10,000 Personal Allowance.

## TRUSTS

Trusts are a very old planning tool, originally introduced into English Law to protect the assets of the crusaders when they went off to fight. That is why they were originally created and actually gives a good hint as to their primary function on going. This primary function on going is to protect assets, but this doesn't mean that they don't have some attractive tax planning opportunities associated.

There's the ability for parents to put property in to a trust for their children. If their children go off to university for example and the parents wish to purchase a property in the town for where the child is at university, there are some clever ways in which a Trust can purchase a property. If this is structured correctly, if say the child at university occupies the property owned by the Trust as their only or main residence, then potentially Private Residence Relief may be available to shelter any Capital Gain.

Similarly, grandparents might wish to use a Trust to give money for the benefit of their grandchildren without losing control of it while extracting money out of their estate for Inheritance Tax purposes. Trusts are generally now chargeable to Inheritance Tax every ten years, but that's a maximum 6%, which is still considerably better than the death rate of 40%. People are often put off Trusts because they have a high income tax rate of 40% applied to them generally, however if the income is paid out to the beneficiaries of the Trust and those beneficiaries aren't liable at 40%, they will get a Tax Credit for the 40% the Trust's paid. They can also make a claim for the refund of the difference, so this is a very efficient tool in terms of getting property down from one generation to the next, or indeed skipping a generation, without losing control of it. So if for instance a grandchild made an unfortunate marriage decision and their spouse runs off, the assets are protected from any claim because it's not the grandchild's money, it's money held in Trust.

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## WILLS AND INHERITANCE

Whilst we don't provide financial planning advice, we often work with independent financial advisors on Inheritance Tax Issues. The financial advisors identify the product that suits the client and we assist the financial advisor with dealing with how to best plan for the inevitable death of an individual.

If the individual has a family there are ways that they can start to gift assets and properties to their sons and daughters and also, to skip a generation to go to the grandchildren. We carry out substantial planning to ensure that the tax that they pay is minimised.

We also work with financial advisors to make sure the correct product is put in place for our clients when considering life assurance issues. We have come across the situation where two shareholders are in dispute and one of them is forced to buy the other one out. We can look at ways through financial planning this can be affected. There are other instances where a shareholder might die and there might be automatic triggers for the remaining shareholder to buy out the person who has died. We can look at the most efficient way of doing that through life assurance and critical illness as well.

## PENSION CHANGES

Prior to last year's budget, if you died and left your pension pot to other people there was an extremely punitive tax charge on it of 55%. The new rules introduced in 2015 say that if you die before the age of 75 your entire pension pot can be passed on to your beneficiaries entirely tax free. If you die after 75, your beneficiaries will only pay at their marginal rate when they draw the funds out of the pension pot. So suddenly, in last year's budget, pensions became an incredibly attractive Inheritance Tax planning vehicle.

## CAPITAL ALLOWANCE REVIEWS

If you've bought a property it may well be worth reviewing the purchase price to see if there are any integral features within that on which Capital Allowances have not been previously been claimed and which you may be able to pick up a Tax Allowance on.

## WHAT MAKES US DIFFERENT

Whitley Stimpson is one of the country's leading independent accountancy firms, with offices in Banbury, Bicester, High Wycombe and Witney, which gives us a reach in the M40 corridor from the Cotswolds to the powerhouse of business in London.

We are in the top 100 practices in the country, and have been finalists at the British Accountancy Awards for the last 3 years. This is down to our expertise and experience in accountancy, tax and business advice and our strength in a number of sector specialities.

We have over 85 years of experience of working with and advising local and national businesses. With specialities such as education, agriculture and service charge accounting, we also provide leading edge, sector specific advice.

We listen to you. We support you in the long term. We deliver our services on time. We look for innovative solutions. We communicate politely and in plain English. We are flexible.

And above all we put you first and work in partnership with you as your lead professional advisor, not only to help you to be successful, but to take away the day to day burden of all things financial and regulatory while letting you focus on what you are passionate about.

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