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NEWSLETTER

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New tax dangers when buying residential property

The Chancellor announced in his Autumn Statement in November 2015 that he would be introducing new rates of Stamp Duty Land Tax (SDLT) on purchases of buy to let properties or second homes. Few perhaps realised how much more complicated property transactions may well be as a result.

At the end of December the government launched a consultation paper which revealed the proposed details of the regime. SDLT does not cover property transactions in Scotland. However, the Scottish government has introduced a bill in the Scottish Parliament at the end of January 2016 which proposes similar changes to the Land and Buildings Transaction Tax (LBTT).

The impact of the additional taxes is potentially wide ranging. If a purchaser falls within the regimes, the SDLT and LBTT additional charges are 3% on the full price and so the charge on a property costing £200,000 increases by £6,000.

It is proposed that the additional charges will potentially apply if, at the end of the day of the purchase transaction, the individual owns two or more residential properties. Married couples are to be treated as one unit. There will be an exemption if the purchaser has sold their main residence and purchased a property which is to be their new main

residence. But there will be some purchasers who will have to pay the additional charge even though the property purchased will not be a buy to let or a second home. Examples include:

- Mr A has bought a property which will be his new main residence but he has been unable to sell his previous main residence. He will be subject to the additional charge! It is proposed that a refund will be available but only if the previous main residence is sold within 18 months.
- Mr and Mrs B own one main residence. Mrs B decides to help her daughter buy her first house and makes a joint purchase of the property with her daughter. The higher rates will apply to the total price paid.

The measures are expected to come into effect for completions on or after 1 April 2016 so make sure you consider the proposals before entering into purchase contracts.



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Personal Tax Accounts

In December 2015, HMRC launched the Personal Tax Account (PTA). This is an early step in the long path the government has embarked upon in its Making Tax Digital project.

A PTA will, by 2020, allow taxpayers to 'see their complete financial picture in their digital account, just like they do in their online banking'. One of HMRC's more controversial ideas in getting to this objective will be the requirement for most businesses and landlords to submit quarterly data to HMRC through their PTAs. We are a long way from that development. What is currently being trialled is the creation of an overview of an individual's taxable income and tax liabilities which is populated from information HMRC already has obtained from the individual and other sources (such as their employer). The expectation is that all personal taxpayers will have a PTA by April 2016, along with five million small businesses.

The PTA currently allows certain changes to be made by the individual so that HMRC can make changes to the amount of tax collected. The type of changes that can be made will be developed over time. Examples of changes that can be made currently include:

- Employees being able to provide information about changes to a company car or to medical insurance benefits.
- Individuals stopping Child Benefit payments if they or their partners are affected by the High Income Child Benefit Charge.

In the first example, employers do provide this information to HMRC but in arrears of the changes. The PTA therefore provides an opportunity for the employee to effect quicker changes to tax liabilities.

In the latter example, an individual can currently provide information via a secure form on the HMRC website. The expectation is that individuals will be required, in due course, to use the PTA.

If you are interested in seeing your PTA, you will initially need to establish your identity. There are various ways in which you can do this and the methods will be amended over time. A government gateway account can be used if you have one. Alternatively the GOV.UK Verify service can be used.

Please note that, at the moment, you do not have to access your PTA and, if we are tax agents, we cannot currently access the account on your behalf. We will continue to manage your tax affairs and will keep you informed of developments in the Making Tax Digital project.



Property income and interest relief

The surprise announcement in the Summer Budget 2015 restricting income tax relief for interest costs incurred by landlords of residential properties became law in November 2015. Any hopes that the Chancellor would change his mind were dashed in the Autumn Statement in December when additional charges to Stamp Duty Land Tax on purchases and acceleration of capital gains tax on sale were announced.

From April 2017, income tax relief will start to be restricted to the basic rate of tax. The restriction will be phased in over four years and therefore be fully in place by 2020/21. In the first year the restriction will apply to 25% of the interest, then 50% the year after and 75% in the third.

The new rules only apply to residential properties and do not apply to companies or furnished holiday lettings. The restrictions apply to any interest and finance costs and so would also limit mortgage application fees and interest costs on loans to buy fixtures or furniture.

When thinking of investing in a new residential property, careful consideration should be given to the amount of tax relief to decide on the viability of taking on a new loan.

How much extra tax will this mean?

The additional amounts of tax arising will depend on the marginal rate of tax for the taxpayer. Basic rate taxpayers should not be substantively affected by the proposals. A higher rate taxpayer will, in principle, get 20% less relief for finance costs.

However the calculation method may mean that some taxpayers move into higher rate tax brackets. The following example illustrates this situation.

Example

Consider the 2020/21 tax year when the transitional period is over. Let's assume that the personal allowance is £12,000 and the basic rate band is £38,000 meaning that the higher rate band starts at £50,000. Toni has a salary of £35,000, rental income before interest of £23,000 and interest on the property mortgage of £8,000.

Under the current tax rules, taxable rental income is £15,000. He will not pay higher rate tax as his total income is £50,000 - the point from which higher rate tax is payable.

With the new rules, taxable rental income is £23,000. So £8,000 is taxable at 40% - £3,200. Interest relief is given after having computed the tax liability on his income. The relief is £8,000 at 20% - £1,600. So an extra £1,600 tax is payable.

Can it get worse than this?

Yes it can. Other things to watch for include:

- The amount of the interest relief is restricted where either total property income or total taxable income (excluding savings and dividend income) of the landlord is lower than the finance costs incurred. For example, if net property income is £4,500 before interest of £6,000, the landlord is making a £1,500 loss. Despite this £4,500 is taxable. Also the interest relief is restricted to £4,500 at 20% rather than £6,000 at 20%. The unrelieved interest (£1,500 at 20%) is carried forward and may get tax relief in a later year.
- Child benefit is clawed back if 'adjusted net income' of a couple with children is above £50,000. Interest will not be deductible in the calculation of 'adjusted net income'.
- The personal allowance is reduced if 'adjusted net income' is above £100,000.

If you require any assistance or further information about the deduction of interest by residential landlords please do not hesitate to contact us.

Attention director-shareholders - profit extraction issues

A key advantage of trading as a company is that the owners, who are generally both shareholders and directors, only suffer tax and NIC on any profits extracted from the company, so any profits retained in the company are sheltered from personal tax rates. If funds are required to reinvest into the business or to repay debt, the only immediate tax hit is the corporation tax charge of 20%.

However we all need funds for our personal outgoings so there will be another level of taxation when the profits are extracted won't there? This is where planning comes into play. Dividends are often used in combination with remuneration to obtain the most tax effective extraction of profits when the business is carried on through a company. For many years it has been attractive to pay a small salary to allow the tax efficient use of the personal allowance, to provide a corporation tax deduction for the company but not to pay NIC. This means a salary of £8,060 in 2015/16, corresponding to the primary NIC threshold (and 2016/17 as the threshold has not changed). The payment of this level of salary also provides a qualifying year entitlement to the state pension.

When the new tax regime for dividends is introduced on 6 April 2016 many director-shareholders will find that the tax bill on the dividends will be higher than is the case for the 2015/16 tax year. So does this change the strategy of low salary and the balance as dividends?

We now have draft legislation for the new regime which explains the finer points of the proposals and how the new £5,000 Dividend Allowance interacts with other tax rates. The Dividend Allowance does not change the amount of income that is brought into the income tax computation. Instead it charges the first £5,000 of dividend income at 0% tax - the dividend nil rate. This means that:

- the payment of low salary below the personal allowance will allow some dividends to escape tax as they are covered by the personal allowance
- the £5,000 allowance effectively reduces the available basic rate band for the rest of the dividend.

The practical effect of the new regime is that a strategy of low salary and the balance of income requirements taken as dividends will still be a tax efficient route for profit extraction for many director-shareholders. However many will be paying more income tax.

What if the director-shareholder has savings income?

The main category of savings income is interest received. We now know how the receipt of savings income interacts with dividend



income. Unfortunately the interaction is potentially very complicated. Savings and dividend income are treated as the highest part of an individual's income. Where an individual has both savings and dividend income, the dividend income is treated as the top slice.

There are two tax breaks which can apply to savings income. One is new for 2016/17 – the Personal Savings Allowance (PSA). The practical effect of the PSA is to provide a potential £200 tax saving for basic rate and higher rate taxpayers. As this is a fairly small amount the PSA does not fundamentally change the approach to profit extraction.

The other tax break on savings income – the 0% starting rate of tax on savings income up to £5,000 – has survived the changes being made to the taxation of dividends and the PSA. This tax break is potentially worth £1,000 as it taxes the income at 0% rather than 20%. These rates are not available if 'taxable non-savings income' (broadly earnings, pensions, trading profits and property income) exceeds the starting rate limit. But dividends are taxed *after* savings income and thus are not included in the individual's 'taxable non-savings income'.

So if a director-shareholder only takes a salary of £8,060, any interest would first be allocated against the balance of the personal allowance (which is £11,000 for 2016/17) and then will be taxed at 0% up to the starting rate limit. The PSA may then give a further tax saving depending upon the total income of the director-shareholder.

Where does the interest come from? The director-shareholder may have interest from savings accounts, retail bonds quoted on the London Stock Exchange or loans made via 'peer to peer' sites. Or they may have provided loans to their company. Many have not charged interest on such loans but there is now an added incentive to do so.

Please do talk to us about the best strategy for director-shareholders in the new era of the taxation of dividends.

Changes in reporting benefits

There are a number of welcome changes being made to the taxation of benefits on employees and directors with effect from 6 April 2016. The changes have largely arisen from the work of the Office of Tax Simplification. One in particular will provide much more certainty in the taxation of benefits – a new statutory exemption for 'trivial benefits'. In practice HMRC have accepted that non-cash trivial benefits that are more related to staff welfare, rather than being a reward for services, did not have to be reported on form P11D. But, under tax law any small benefit could have been taxable.

With effect from 6 April 2016 there will be a statutory exemption for certain non-cash benefits up to £50. There is an annual cap of £300 which applies to some people - office holders (eg directors) of close companies (typically family companies) and employees who are family members of those office holders.

Those affected by this cap will be able to receive a maximum of £300 worth of trivial benefits each year exempt from tax. So trivial benefits are not so trivial.

Are you tracking your website statistics?

Reviewing is an essential part of day-to-day business management. You review your team with appraisals and your finances with balance sheets, so why not review your website performance? Google Analytics is a free and easy to use online service that allows you to access information about the visitors on your website. The insight is powerful and gives you access to a wide range of behavioural and technical detail about your website users. Having the awareness of how people use your site is increasingly important in the digital age as it has become second nature to search online to find out about a business or solve a problem.

Which pages are popular?

Google Analytics allows you to find out what the most and least popular pages of your website are. This gives an indication of what your visitors primarily require and services or information they are most interested

in. There are also statistics that indicate how long users spend on each page. These are especially useful for finding out whether your visitors are engaged with your pages, or if they leave your site quickly, which may show that your content is not relevant or not useful.



Who are your visitors?

You can also view detailed data about who your website visitors are. The starting place is location – attributable to countries and cities all over the world and viewable on a heat map or itemised. For businesses, having knowledge of this information can help identify where your audience is based or where you need to focus your marketing efforts. Detailed information on audience demographics is also available. This includes their age, interests (such as 'business professionals' and 'sports') and gender. The information gathered here is automatically collected using website 'cookies' and is sorted by Google so you don't have to categorise any visitors.

Where do your visitors come from?

How people find your website is one of the most important indicators of how well you are marketing your site, and a breakdown of this is included within Google Analytics. Primarily, your website should be receiving visitors from search engines and organic traffic (individuals simply entering your website address). Data from search traffic allows you to trace the search terms that were used to find your website. If you are running campaigns, you can also see a breakdown of social media, email, and paid advertising (for example Google AdWords) and their impact on your visitor statistics.

Using Google Analytics for your reporting doesn't necessarily mean daunting numbers or committing hours to data analysis. With no professional training required, it's accessible and useful to all. For those that prefer a visual representation, graphs and charts depict the data for quick and simple access to the information. Data can also be easily compared to specific time periods to allow you to monitor the impact that marketing and seasonality has on your website visitors.

For more information and to sign up to this free service, visit www.google.com/analytics

Charities - ensuring tax exemptions are available

There can be generous tax relief for charities but only if the charity is correctly set up and run. HMRC have recently updated their guidance on the tax treatment of charities so it's timely to review the current tax position.

Qualifying conditions

To be a charity for tax purposes a charity must meet four qualifying conditions, of which the main one is the requirement to be established for charitable purposes only.

This condition means that the charity is restricted to using all its income and assets for its stated charitable purposes.

Trading profits

A charity's trading profits are exempt from tax as long as the activities contribute directly to the furtherance of the charity's charitable objectives. This is known as 'primary purpose' trading. In addition any profit from ancillary services which contribute indirectly to the purposes of the charity are exempted

from tax. This could include the sale of food and drink by a charitable theatre.

The overriding condition for tax exemption is that the profits from these activities are only applied for charitable purposes.

Any income received by the charity from the sale of goods that have been donated is not regarded as trading profit and so will be not taxable.

Activities which do not further the charity's objectives will be treated as 'non-primary purpose' trading and the profits will be taxable. This is the case even if the activities raise funds for the charity. A common example of this would be a charity letting out premises and facilities when the charity is not using them eg sports facilities hired out by a school which is a charity. Where a charity has both primary and non-primary activities it will need to apportion income and expenses between the two types of activities. There is however a small scale exemption for non-primary purpose trading.

Subject to certain restrictions, other activities which are exempt from tax are fund raising

events such as discos or fairs and also lotteries.

Other profits

The profits of a property business carried on by a charity will be exempt from tax although the exemption does not apply to the profits of a trade which is buying and selling land or property. If a charity sells land that has been held as an asset there is an exemption from capital gains tax as long as the gain is applied for charitable purposes.

In addition all interest, dividends and Gift Aid donations are also exempted from tax.

Trading subsidiaries

One way of dealing with the tax charge on non-primary trading profit is to set up a trading subsidiary of the charity which carries out the non-primary activities. This subsidiary then donates its profits to the charity under Gift Aid, thereby reducing taxable profits.

Further details of HMRC guidance can be found here - goo.gl/a8bjH7