



# Spofforths

Chartered Accountants

## news

Inside...

- Have you used your ISA allowance?
- Ringing the right tone
- Who's going to inherit my house?
- As the holiday comes to an end... What gain?
- Look after the pennies...

## On the way out

### Additional tax relief

Many businesses already obtain 100% relief on plant and machinery expenditure but there are situations when the Annual Investment Allowance of £50,000 is simply insufficient. In recognition of this and to encourage investment in the current economic climate, an extra temporary first year allowance (FYA) of 40% is currently available instead of the normal 20% annual allowance.

The temporary FYA can be claimed on qualifying expenditure incurred in the 12 month period ending 31 March 2010 for a company or 5 April 2010 for individuals and partnerships.

The FYA will not apply for expenditure on integral features, cars, long life assets and assets for leasing. However it is available to any size or type of business entity so take advantage before it disappears.

## And on the way in

### PAYE penalties for late payment

Penalties are to be introduced for PAYE from 6 April 2010 where payment is late. The liability to a penalty will be based on a totting up procedure depending on the number of defaults during a tax year. A penalty will not be levied for the first default and may then be charged depending on the number of defaults on a rising scale from 1 to 4%.

Further, any tax which is still unpaid six months after the due date, may incur a further penalty of 5% and a further 5% can be levied after 12 months.

Please contact us if you require further advice on these matters.

## A light at the end of the tunnel

In the current climate there will be a number of individuals faced with a potential loss of capital on private company shares. This may occur because they have had to sell at a low price or, as is more likely, the company is being wound up following cessation of the trade. So what relief is available?

A loss on a disposal of shares is generally an allowable capital loss for tax purposes. Whilst this is reassuring to know, this often means that there is no immediate relief if an individual currently has no chargeable gains. This is because a capital loss can normally only be relieved against current or future gains.

### Relief against income

However, certain losses on shares can be relieved against general income rather than capital. This alternative treatment may provide tax relief more immediately and is also likely to generate a more substantial tax saving. This is because in 2009/10 both the income tax basic rate of 20% and the higher rate of 40% exceed the 18% capital gains tax rate. Further if the loss is triggered in 2010/11, it could even save 50% income tax.

The taxpayer has the choice to relieve any such qualifying loss against income in either the same tax year (for when the loss is established) or the preceding tax year or both.

The conditions which must apply for the shares to qualify in such circumstances are:

- the individual must have subscribed for the shares when issued and

- the shares must be in an unquoted qualifying trading company.

Certain trades are excluded and include leasing, legal or accountancy services, property development, farming and operating or managing hotels or nursing homes.

### What about irrecoverable loans?

Provisions also apply so that an individual lender can make a claim for a capital loss where:

- an individual lends money (not between spouses/civil partners) and
- the borrower is UK resident and
- the borrower uses the monies wholly for the purposes of a trade and
- that loan subsequently becomes irrecoverable.

Similar rules apply to payments made under a guarantee.

The loss relief is not as advantageous because it can only qualify as a capital loss. This means that once established, it may only be set off against capital gains realised by the individual or carried forward until such time as gains are realised in the future.

Please contact us to review your position if you consider such claims may be available to you.



# Have you used your ISA allowance?

Every tax year you have the opportunity to invest in stocks & shares or cash through an Individual Savings Account (ISA).

An ISA remains one of the few investments that you do not pay income or capital gains tax on any growth. Remember, tax treatment depends on your individual circumstances and may change in the future.

## Under 50s

You'll need to act quickly to take advantage of this year's allowance of £7,200 because it runs out on 5 April 2010. Next year your allowance will increase to £10,200, of which £5,100 could be deposited in a Cash ISA.

## Over 50s

You'll need to act quickly to take advantage of this year's allowance of £10,200 because it runs out on 5 April 2010. If you don't have the money to invest in this tax year, the good news is that you will have a new £10,200 allowance next year of which £5,100 could be deposited in a Cash ISA.

## Finding the right investment for you

It is important that you invest your ISA in line with your financial objectives and personal views of risk as one ISA investment does not suit all. At Spofforths Financial Planning Ltd we provide unbiased independent advice, tailored to meet your views and objectives.

## Take a fresh look

If you have existing ISAs with other providers then it is a great time to review your investments. It is easy to consolidate your existing ISA contracts if your old investments no longer suit you.

## Want to know more?

The end of the tax year is approaching and we would welcome the opportunity to tell you more about the benefits of investing in a stocks and shares ISA.

If you wish to know more please contact one of our Chartered Financial Planners on 01903 743856. Our initial client meetings are carried out at our expense.

Emma Chettle  
Chartered Financial  
Planner  
Spofforths Financial  
Planning Limited



# Ringling the right tone

## The provision of a phone for business use is an essential modern tool but it is important to avoid the tax traps...

For a number of years Mr Enterprise was employed in a management position and had always been provided with a mobile phone by his employer for personal and business use which he understood was a tax free benefit. When he set up his own company he entered into a new one year mobile phone contract early in April 2009. The contract was taken out personally but as 85% of his usage would involve business calls, he simply put the monthly bills through the company. Over the tax year 2009/10 the total payments made by the company amounted to £1,200.

Imagine his surprise to learn that there is a taxable benefit which should be included on his form P11D. As a higher rate tax payer this would result in an initial income tax charge of £480, before a claim is made to offset the business expense element. In addition both he and his company as his employer will also have to pay Class 1 National Insurance as it is the settlement of a personal bill.

## What went wrong?

When directors and employees take out contracts with suppliers in their own name and then the employer settles the liabilities arising - this is treated as taxable irrespective of the nature of the expense. The taxable amount should then be recorded on form P11D. However, for NIC purposes, it is treated as cash earnings and not as a benefit. This means that Class 1 NIC is due by both the employee and employer rather than Class 1A NIC by the employer only.

In the alternative situation, where the employee settles the bill initially but is then reimbursed by the employer, the payment should be included on the payroll, and will therefore be subject to PAYE and Class 1 NIC.

These rules apply in any situation where the employee/director pays personal bills and is reimbursed by the employer or where the employer settles the personal bills direct and not just in relation to mobile phones. Other examples could be home phone costs, internet or private medical cover.

## Putting it right

In relation to the mobile phone provision Mr Enterprise should arrange his next contract so that it is between his company and the supplier to ensure that for 2010/11 there are no tax or NIC charges. This is because the provision of a mobile phone by an employer in this way is a tax free (and NIC free) benefit. Only one such contract is tax free for each employee.

## What about employer provided home phones?

Where a home phone is provided and the employer is the subscriber, the provision of any private benefit is generally taxable (unlike a mobile phone). In this case the whole cost incurred should be treated as a chargeable benefit (this includes line rental) less any costs made good by the employee. The individual can then make a tax claim for any business calls necessarily incurred to reduce the amount actually taxable.

For NIC however, unless all private costs are made good then Class 1A is due on the whole cost incurred by the employer even if the individual subsequently claims a deduction for the business element. This is clearly wasteful and should be avoided. This can easily be done by ensuring that directors and employees pay their own home phone costs and are reimbursed for business calls only. This may be achieved by posting the expense to a directors' current account where in credit.

As you can see this is an area where tax and NIC can be unintentionally incurred so please contact us to review your position on these areas.



# Who's going to inherit my house?

It all depends. Will I have sold it in later life? Might I use it to raise capital or income using an Equity Release Scheme? Will it be surplus to the requirements of my nearest and dearest or would someone wish to remain in residence? Will there be sufficient funds in my Estate to clear the balance of the mortgage on it? Last but not least, if I own the property jointly with someone else, will my share pass to the other owner or owners when I die or be dealt with according to the terms of my Will?

For most people their home is the single largest asset of their Estate and some thought needs to be given as to who is to inherit it. If you own a property outright, or a share of a property under a Tenancy in Common arrangement, then you should make a gift of your property or share in it in your Will. If you own a share in a property as a Beneficial Joint Tenant, the position is quite different. When a Beneficial Joint Tenant dies, his or her share automatically passes to the other owner or owners, completely bypassing the terms of any provisions set out in a Will.

For those who want to leave their share in a jointly-owned property by Will, any Beneficial Joint Tenancy should be converted into a Tenancy in Common, preferably at the same time as the Will is written.

Any balance owing under a mortgage passes with the property to the new owner, unless a Will states for the mortgage is to be discharged using other assets, say a life insurance policy perhaps.

And then there is the vexed question of how to allow your second spouse right of residence for their life whilst, at the same time, ensuring the property will ultimately pass to the children of your first marriage. Will Trusts need to be employed in such circumstances to ensure that everybody's interests are fully protected.

Finally, one must never forget that for another year the Inheritance Tax Threshold remains frozen at £325,000. So, there may be some tax, at 40%, to be paid on the value of your property. Do you have sufficient other liquid

assets to meet that tax bill or will the property need to be sold? The good news about Inheritance Tax, if there is any, is that the tax on an unsold property can be spread over a 10 year period. However, one should note that the Inland Revenue do charge interest at 3% on inheritance tax if it is not paid within six months of your death.

So, what's the answer to the question? Well, it all depends what you want to happen doesn't it?

Philip Lansberry  
Director of Spofforths  
Private Client  
Services



## As the holiday comes to an end... What gain?

The tax treatment of Furnished Holiday Lettings (FHL) has been advantageous for many years but the rules are set to end in April 2010.

### What are FHL?

The FHL rules essentially cover the commercial short term letting of residential holiday accommodation in both the UK and the European Economic Area. Until now, a FHL business has broadly qualified as a trade (providing qualifying conditions are met). This is generally more beneficial for tax purposes compared to the tax treatment of an ordinary property investment business. This will not apply from 6 April 2010 for individuals (1 April 2010 for companies).

The changes will impact in two key areas:

- the calculation of the taxable income from the continuing property letting business and
- the treatment of any capital gains arising on the disposal of the FHL business.

This article only considers the main capital gains tax aspects but please do contact us if you need further information or wish to discuss the impact on taxable income.

### Capital gains tax reliefs for the individual

When an individual disposes of a qualifying FHL business, the gain may be eligible for Entrepreneurs' Relief (ER). Where the conditions for ER are met, the relief reduces gains up to £1 million, per individual, per

lifetime, so that only 5/9th of the gain is chargeable to tax. This relief does not apply to disposals made by companies but may apply to shares in companies.

The FHL business will be treated as ceasing on 5 April 2010 and will be treated as a property business. This means that generally from 6 April 2010 a FHL business will no longer qualify for ER. However, the relief will still be available on the sale of any assets comprised in the business provided:

- the asset was used in a FHL business in the 12 months to 5 April 2010 and
- the disposal (for example by sale) occurs before 6 April 2013.

#### Example

In June 2009 Edward sold a FHL business which consisted of a Welsh holiday cottage for a gain of £72,000. He has not previously used any of his ER entitlement so the gain is reduced by 4/9th to £40,000.

If instead, the property was not sold until June 2011, but continued to be let after 5 April 2010 as furnished rental accommodation, the subsequent gain would still be eligible for ER.

### What about deferring any gains?

Another CGT relief which applies to trading assets is replacement of business assets, known as rollover relief. This is available to companies and individuals. This allows a gain to be postponed, where on the disposal of a trading asset such as a property,

the proceeds are reinvested in certain replacement trading assets. The relief is available whether the replacement asset is for use in the same trade or a different trade, provided the person carrying on the trade is the same. It is particularly useful for company disposals which do not qualify for ER.

When FHL cease to be a trade on 5 April 2010 (31 March 2010 for companies) then subsequent acquisitions and disposals of properties used in such businesses will no longer generally qualify for this relief. However, as the assets are trading assets until that time, any gains on disposals from the 6 April 2010 (or 1 April for companies) may be partly eligible for relief.

#### Example

Bounce Ltd sells a property which had always been fully used in a FHL business on 1 September 2010. It had been owned for 10 years. All the proceeds are reinvested in a property for its main catering trade. The gain is £50,000. The asset is treated as non trading for the last 6 months of the 10 year ownership which represents 5% of the gain but the remaining 95% may still be eligible for relief.

To ensure that any reliefs still available can be maximised, it will be essential to consider the timing of disposals and that all other qualifying conditions are met. Therefore please contact us to discuss how we can assist you on these business changes.

# Look after the pennies...

In these austere times and with tax rises on the way, any tax or national insurance contribution (NIC) saving is a good one. One particularly useful way of mitigating tax and/or NIC is by using what is called a 'salary sacrifice' arrangement.

## What is salary sacrifice?

Salary sacrifice arrangements involve a contractual right to cash pay being reduced. For that to happen two conditions have to be met:

- the potential future remuneration must be given up and
- the true construction of the revised contractual arrangements between employer and employee must be that the employee is entitled to lower cash remuneration and a benefit instead.

If that benefit happens to be tax and/or NIC efficient, then both employer and employee are happy!

## When is salary sacrifice not effective?

A salary sacrifice is not effective if, in practice, the arrangement enables the employee to continue to be entitled to the higher level of cash remuneration, for example, they have merely asked the employer to apply part of that cash remuneration on their behalf.

## What information does an employer need to provide to HMRC?

Whilst employers do not need to confirm anything with HMRC, some businesses might like the comfort of knowing that HMRC agree the new position. In order for HMRC to decide whether a salary sacrifice is effective or not, the employer should provide full details of the scheme and of the new contractual arrangements and satisfy HMRC that:

- the employee's entitlement to cash pay has been reduced and
- a non-cash benefit has been provided by the employer and
- the employer is not simply meeting the employee's own financial commitments.

## What sorts of benefits are tax and/or NI efficient?

The list is long and varied but some more mainstream options are included below.

### Qualifying beneficial loans

Certain low interest/interest free loans where all the interest is eligible for tax relief are fully exempt from any income tax charges. In addition a loan for any purpose is tax free, provided the total does not exceed £5,000 at any time during the tax year. In such qualifying situations the employer does not have to report the loans on form P11D and employees do not have to claim the corresponding tax relief.

### Car parking spaces

The provision of a car parking space at or near the employee's normal place of work - this often includes 'park and ride' schemes.

### Bicycles

The provision of bicycles and associated safety equipment for mainly home to work travel.

### Employer pension contributions

Contributions to HMRC registered pension schemes.

### Mobile phones

One private use tax free phone per employee which could be used to provide a phone to a member of the employee's family or household.

### Childcare costs

Employer contracted childcare and employer provided childcare vouchers of £55 per (tax) week.

### Training costs

Employer provided training costs.

## What do employees need to consider?

When entering a salary sacrifice arrangement to replace part of cash pay with a benefit that is tax and/or NI free, it is essential that employees understand what the sacrifice will mean in practical terms and consider carefully the effect, or potential effect, that a reduction in their pay may have on:

- their future right to the original (higher) cash salary
- any pension scheme being contributed to
- entitlement to Working Tax Credit (WTC) or Child Tax Credit (CTC)
- entitlement to State Pension or other benefits such as Statutory Maternity Pay (SMP)
- proof of earnings for mortgage purposes.

If you have an interest in salary sacrifice, please get in touch so that we can discuss matters further.

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