December'15
Tax Newsletter

Dear Friend

Welcome to the final tax newsletter for 2015. With the festive period round the corner, we thank you for reading our publication and for all the kind comments.

If you have not already done so, please take time during the festive period to gather your tax return information so that the filing deadlines can be met. Our office will be open with skeleton staff available to deal with you queries over this festive period.

We wish you all a Merry Christmas and a healthy, peaceful and prosperous New Year.

Best wishes

Godley Tax Team

EU INHERITANCE TAX RULE CHANGE

If you own property in another EU country, then you may want to review your will in the light of a change to EU regulations which took effect in August. These allow you to choose that your overseas property is inherited under the laws applying in your country of 'habitual residence' or nationality, rather than where the property located. This could be important if, for example, you own a property in France which has strict forced heirship rules. However, the new EU rules do not alter the tax rules which apply, so your executors will still face dealing with inheritance tax and its overseas equivalent.

PROPERTY INVESTORS HIT WITH STAMP DUTY LAND TAX INCREASES

In the Summer Budget the Chancellor announced a restriction on the deductibility of interest from rental income for individual landlords of residential property. The latest attack on property investors is a proposed 3% increase in Stamp Duty Land Tax.

To discourage such cash-rich individuals from purchasing multiple properties to let or to hold as second homes, particularly in holiday areas like Cornwall, an additional SLDT charge of 3% will be payable by individual purchasers of residential properties worth over £40,000 from 1 April 2016. This supplemental SDLT charge may not be payable by corporate purchasers (15 properties or more) or by funds such as Real Estate Investment Trust (REITS). We are still waiting for HMRC consultation. The proposed rates are:

Purchase price	SDLT rate,	cumulative
Up to £125,000	3%	£3,750
£125,000 - £250,000	5%	£10,000
£250,000 - £925,000	8%	£64,000
£925,000 - £1,500,000	13%	£138,750
£1,500,001 and over	15%	

Some examples:-

Value of second property/buy-to-let (£)	Current SDLT (£)	SDLT from 1 April 2016 (£)	Increase in tax (£)
150,000	500	5,000	4,500
250,000	2,500	10,000	7,500
350,000	7,500	18,000	10,500
450,000	12,500	26,000	13,500

SDLT is currently payable within 30 days of the completion of the purchase and the SDLT return must be filed within the same period. The Government is proposing to reduce the payment and filing period to just 14 days from the completion date of the sale, sometime in 2017/18.

BENEFICIAL OWNERSHIP – INDIA TO SETUP KYC RECORDS REGISTRY

A central registry of owners, called KYC (Know Your Customer) Records Registry, is to be set up by India’s Reserve Bank. These records are to be made available to any India financial entity which needs them for reporting purposes, including US FATCA and also for the Common Reporting Standard.

TAX RELIEF UNDER THE ENTERPRISE INVESTMENT SCHEME (EIS)

The EIS Scheme allows unconnected investors to obtain 30% tax relief on an investment in a qualifying company each tax year. So a £10,000 investment reduces the investor's income tax liability by £3,000. In addition, provided those shares are held for at least 3 years, the gain on disposal of those shares is tax free.

However, as illustrated in a recent tax case, the capital gains exemption is only available where the investor has made a claim for income tax relief. In Ames v HMRC (2015) the taxpayer, Mr Ames, invested £50,000 in a new company but unfortunately had very little income that year so did not claim EIS income tax relief. When he sold the shares several years later for £333,000, he found that the exemption did not apply and the gain was taxable!

Note that Seed EIS for small start-up companies provides 50% income tax relief and the same CGT exemption when the shares are sold.

The connected persons rule means that existing employees, certain types of directors and their associates are not entitled to these reliefs. Shareholders with more than 30% of the company's shares, together with their associates, are also excluded.

Note that these exclusions do not apply where the investor is merely seeking to defer capital gains tax via their EIS investment.

The rules for EIS and Seed EIS are very complex so please get in touch with Yogesh Patel or your Godley contact to discuss the tax implications if you are considering making such an EIS/SEIS investment.

COLLECTION OF UNPAID TAX THROUGH YOUR TAX CODE

Remember that HM Revenue and Customs can collect tax debts by adjusting your Pay As You Earn (PAYE) tax code. HMRC refers to this as 'coding out'. The effect of this is to recover the tax debt from your pay or pension, by increasing the amount deducted during the tax year. This applies if you have a debt with HMRC and:

- are an employee paying tax through (PAYE); and/or
- receive a taxable UK-based private pension.

This facility is available if your annual earnings are £30,000 or more. To do this, HMRC apply a sliding scale to your main PAYE income. The maximum amount that can be coded out is £17,000 where your earnings exceed £90,000 a year. These changes will only apply to underpaid Self-Assessment and Class 2 National Insurance debts and Tax Credit overpayments. Changes will then be reflected in your 2016/17 tax code.

Coding out the unpaid 2014/15 tax is only possible if you submitted your paper tax return by 31 October 2015 or file your tax return online by 30 December 2015. If you would like your outstanding tax collected through PAYE please ensure that we receive your tax information in good time to meet the 30 December deadline!

LARGER EMPLOYERS WILL PAY A NEW APPRENTICESHIPS LEVY FROM 2017

A new apprenticeship levy will be introduced from 6 April 2017. Although all employers will be required to pay this new levy, set at 0.5% of their annual payroll cost, each employer will also have an annual credit equivalent to £15,000 to set against the levy, which means only the largest employers with payrolls of £3 million or more will actually pay the levy. Based on an average salary, this means that only employers with more than around 100 to 120 employees will be affected. It is not clear at this stage as to what is meant by payroll.

Employers who take on apprentices will receive vouchers funded by the apprenticeship levy to set against the cost of those apprentices.

TRANSFER OF TAX LOSSES

Where a company makes a trading loss that cannot be relieved against other profits that year, or the previous year, the unrelieved loss can be carried forward against future profits from the same trade that incurred the losses. This carry forward also applies where the trade is transferred to another company under common control (basically 75% common ownership before and after the transfer).

A recent case before the First Tier Tribunal has held that where the trade is transferred to another company under common control carrying on the same trade, the brought forward losses may be set against the future profits of the merged trade as it was successfully argued that the loss making trade was subsumed into the profitable trade. The two companies concerned were both trading as department stores and the similarity of the two trades and rebranding of the stores into the same trading name was seen to be critical. In the particular case (Leekes Ltd v HMRC) the loss making trade was hived up following the acquisition of a competitor and merged with a profitable trade.

HMRC may yet appeal the court's decision but it may be something to take into consideration if you are considering an acquisition or reorganising your group structure. Feel free to contact us for further advice.

NO CHANGE IN ISA LIMITS FOR 2016/17

The annual limit for savings in an ISA has been frozen at £15,240 for 2016/17. The Junior ISAs limit has been frozen at £4,080.

If you have not used your or your children's ISA allowance for 2015/16, please speak to Ajit Shah from our sister company, Duke Godley Financial Services LTD.

TAX DIARY OF MAIN EVENTS FOR DECEMBER 2015/JANUARY 2016

- 19 December - PAYE & NIC deductions, and CIS return and tax, for month to 5/12/15 (due 22 December if you pay electronically)
- 30 December - Deadline to file 14/15 SA tax return online if unpaid tax up to £3000 is to be collected via 15/16 PAYE code
- 1 January - Corporation tax for year to 31/3/15

- 19 January - PAYE & NIC deductions, and CIS return and tax, for month to 5/1/16 (due 22 January if you pay electronically)
- 31 January - Deadline to file 2015 SA tax return online
- 31 January - Income tax balancing payment for 2014/15, plus CGT for 2014/15
- 31 January - Income tax 1st payment on account for 2015/16

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