tlp - news

Year End Tax Planning Special

March 2010 **The monthly newsletter of The Long Partnership — www.thelongpartnership.co.uk**

Let's Get Real or Let's Not Play.

We want you to succeed. We know our products and services have helped clients' success in the past. Our intent is always to find a solution that exactly meets your needs. This helps to ensure a good fit between what we do and what you need. If there is a good fit, let's work together.

Call us right now!

01856 878600
01847 890304
01463 732575

Quotes

"You read a book from beginning to end. You run a business the opposite way. You start with the end, and then you do everything you must to reach it." -- Harold Geneen, industrialist

Dates in March

1 Caithness Chamber of Commerce Presentation.

4/5 Alan in Aberdeen

March is upon us and 2009 is becoming a distant memory, unless you still have the tax to pay for that year!

I write this while I sit on a ferry marvelling at the utter rubbish that appears on daytime television ...... Am I showing my age? Maybe, there's a few more grey hairs every year.

Now, as I sit here on this ferry I am reminded of a cross channel ferry called the "Spirit of Free Enterprise". You may remember it.

If any ferry should have that name, it is the one on which I am travelling. A no frills service but it doesn't cost the UK taxpayer £33M a year in subsidies. The crew are all busy and no-one seems to have time to stand and watch the cargo being loaded. What a contrast to another ferry over the same stretch of water (which shall remain nameless).

March has traditionally been a time when people start to plan. It is a time when we are busy with business plans, financial plans and projections and meetings to discuss potential new ventures or expansion plans for existing ones. This year is no exception. I seem to have spent most of my time recently putting together complex financial models on Excel so that businesses can present them to their banks (yes, they do still exist and are starting to lend again). I think the standard line from everyone at RBS is that they never stopped but, while this may be true, they did slow down a little.

March this year is going to be a time for serious tax planning. Especially if you might be liable to higher rates of tax in 2009/10 because this is less than a month away. So, much of this newsletter is devoted to how you can mitigate your tax liabilities in 2009/10. Hey, we did not write the rules. We always play the game by the rules we are given but, no-one should have to pay any more tax than they have to within those rules, no matter what Brown, Darling and the media think or say.

So, if there is anything you want to implement in this issue just get in touch. That's what we are here for.

Now, you may think that I spend all my time on my feet giving presentations but not so. It is indeed true that I am travelling back after giving a couple of presentations for the Caithness Chamber of Commerce in Wick, but that will probably be it for a while. These events are always very interesting for us as they allow us to meet up with people who are generally scheming and planning new ventures and who have their own set of challenges some of which we have not come across before in that particular context. It is a real learning opportunity for us and we always enjoy these events. Did you think that accountants should just sit in a stuffy office and prepare accounts. That's not what we do. We prepare accounts but we also discuss, advise and help build businesses and profits. That is what makes us a useful part of the business community, rather than just filling in tax returns and feeding the endless Government appetite for forms and information. To people that don't know what we do, we may seem like the stereotypical accountants but scratch the surface and you will see something different.

Have you noticed how people speak on mobile phones in public places (the ferry) and think no-one can hear them. I have just been listening (could not avoid it) to how a building project in one of the Islands of Orkney is progressing. Timetabling, building specs, transport arrangements, names....... Do you want an update! Not only that but someone has been having physiotherapy, "is she still in hospital?" and so it goes on.

Anyway, back to business. 5 April is not far away and you need to be making plans, as best you can.

The summer is going to bring new measures so that the Government can recoup the deficit it has generated and you and I are going to be paying for it. If you are going to survive these measures you need to be planning now, as once 6 April comes, it will probably be too late.

By the way, he's off the mobile phone at last, thank goodness. I feel like I could write a soap!

Alan, Helen and the teams at TLP in Kirkwall, Thurso & Inverness.

Tax planning checklist

There are a number of issues that may produce tax savings for you. Here is a short check list. Whilst this list is not comprehensive it flags up some of the more pressing issues. If you answer "yes" to any of the points highlighted please call so that we can discuss the implications for you and your business.

1. Are you concerned about the impact of the 50% income tax rate next year and would like to discuss strategies to mitigate these effects?

2. Is your income currently in excess of £130,000 and would you like to quantify how this will affect the tax relief on your pension contributions?

3. Are you presently aged between 50 and 55 and have a pension fund from which you have still not drawn your tax free lump sum?

4. Have you made, or do you intend to make, any disposals that would be chargeable to Capital Gains Tax. Both prior to and after 5 April 2010? Particularly a disposal of a business.

5. Would you like information about your entitlement to pay into ISA's, venture capital investments or securities that qualify for the Enterprise Investment Scheme?

6. Would you like information on the changes in the tax status of Furnished Holiday Let property on 6 April 2010?

7. Are you planning the purchase of new or second hand plant and equipment, including vehicles, before or shortly after the 5 April 2010?

8. Finally would you like an update and/or review of tax efficient benefits in kind, including private use of vehicles?

The clock is most definitely ticking so get in touch as soon as possible please so we can make the most of opportunities available before the end of the tax year, the 5 April 2010.

INCOME TAX – 40%, 50% AND 60% INCOME TAX RATES

From 6 April 2010 the 50% rate applies to income over £150,000 and 60% applies to that band of income between £100,000 and £112,950 and is brought about by the phased withdrawal of personal allowances above £100,000.

Therefore consider accelerating income into 2009/10 (maximum rate if income tax is only 40%) and consider delaying expenditure to get tax relief at the higher rates after 5 April 2010.

Accelerate income from 2010/11 to 2009/10.

The tax and NIC if applicable will be payable one year earlier but the tax savings will make this worthwhile, and the following strategies should be considered:

- Declare and pay dividends before 6 April 2010 to remove distributable profits from a company. This avoids the need to draw these amounts as income in later years when they may be subject to higher rates of tax.
- Bonuses which can be paid before 6 April 2010 will be taxed in the current year.
- The self employed may be able to accelerate income, but the right to recognise profits in the current tax year will be governed by accounting standards, not least UITF 40 for service businesses.
- Similarly, deferring capital expenditure may have a beneficial effect as the allowances may be given at 50% rather than 40% tax rates. Here, the operative date is the end of the accounting period taxed in 2009/10, so businesses may already be in the 2010/11 accounting period and thus no deferral would be appropriate. The loss of the first year allowance on businesses spending in excess of £50,000 (or the available AIA amount) should not be overlooked (where expenditure is deferred until after 5 April 2010).
- Deferring revenue spend until the accounting period which falls to be taxed in 2010/11.
- Change your year end to 31 March 2009 so profits fall into 2009/10.

You need to consider the potential impact of the pensions anti forestalling rules because if the rules are triggered you could lose tax relief on pension contributions.

GENERAL PLANNING POINTS

Incorporate

Forming a limited company would allow a self employed taxpayer with significant income to retain the profits within the company, thus saving tax as the retained profits would only be taxed at corporation tax rates, up to a maximum of 29.75% next year and potentially at a much lower figure.

If all profits are withdrawn by way of dividend with a salary equal to the Earnings Threshold then the comparative tax burdens of a limited company versus a sole trade are :

Profit	Sole trader	Company	Saving
£125,000	47,029	41,779	5,250
£150,000	57,279	52,251	5,028
£200,000	82,779	75,252	7,527
£250,000	108,279	100,015	8,263
£300,000	133,779	124,779	9,000

Significant tax savings are available through a limited company and these savings are even more significant when profits are retained in the company. The effect of retaining profits in company:

Profit	Retain £25,000		Retain £50,000		Retain £75,000	
	Tax	Saving	Tax `	Saving	Tax	Saving
£150,000	45,060	12,219	38,294	18,985	32,044	25,235
£200,000	66,376	16,403	60,126	22,653	52,419	30,360
£250,000	90,988	17,291	81,960	26,319	74,251	34,028
£300,000	115,751	18,027	106,724	27,055	97,696	36,083

Any size of company will potentially benefit from incorporation and remember that the Conservative party have committed to reducing the rate of small company tax to 20% if elected.

Warning : The effectiveness of this step in saving tax relies upon no action being taken in Budget 2010 to prevent the benefit from accruing. There are simple changes in tax which, if made, would undermine the benefits, including some sort of apportionment of profits as a deemed dividend.

Income shifting

The decision in the House of Lords in the case of Jones v Garnett leaves the way open to reduce income by passing income producing assets (including shares) to a spouse or civil partner to reduce the tax rate applying to the income arising on the assets.

Although the original legislation that HMRC tried to use in that case remains in force, married couples and civil partners have the benefit of the "spousal exemption", which was the deciding factor in the Jones v Garnett case.

The Jones v Garnett approach:

An outright gift of an asset such as ordinary shares between spouses, which is not wholly or mainly a right to income will benefit from the "Spouse exemption". Thus the Jones v Garnett case was successful when ordinary shares were issued to the spouse, unlike previous cases, when shares with restricted rights were used to try and retain some of the control and value. An outright will have practical implications.

Consider a partnership but bear in mind that the arrangement does not benefit from the decision in Jones v Garnett. So, a spouse who is taken into partnership should have a role to play.

It would be possible to give shares in a company prior to the 6 April and pay a dividend on them, thus both accelerating income into 2009/10 and potentially sheltering it from higher rates of tax.

Gifting a share in, or the total of, other assets can be advantageous too – it is possible to gift a 10% share in an income producing asset such as a let property and then for the income to be taxed 50% on each spouse or partner. This technique is only possible in the case of married couples and civil partners, as there is an assumption that income is shared 50/50. Should the owners wish to split the income in any other proportion, it **must** be split in the proportion in which the underlying capital is owned. An election must be made to implement this.

Where unmarried couples jointly own a let property, the income is taxed in whatever proportion it is paid to the owners. It is possible to elect that the income from a property be awarded to one of the owners and not the other. This makes no statement about the underlying ownership of the asset but allows the income to be taxed on whoever is entitled to it.

Swapping income to capital

Any schemes will risk anti avoidance legislation being triggered. It would be unwise to proceed until after Budget 2010, and even then with extreme caution. Any change in the rate of CGT is likely to undermine the effectiveness of such a step.

Charitable donations in tax planning

The payment of a gift aid payment will reduce higher rate tax and is especially effective if you are likely to suffer 50% / 60% tax or pension anti forestalling. This makes a donation potentially extremely tax efficient, as it allows the taxpayer to escape two punitive tax regimes. The use of payments made after the end and the election to carry payments back by a year can be particularly effective, as it allows retrospective tax planning.

BUSINESS TAXES

Capital allowances

First year allowances of 40% are available on equipment purchased up to 5 April 2010, but are not available on such items as cars. Annual Investment Allowance (AIA) of up to £50,000 is available on any assets you purchase during your accounting period (not the tax year unless your period of account coincides). So, which year do you want the allowances?

Planning your business car purchase

Cars purchased by the self employed will attract the business element of the capital allowance. If you are willing to drive a double cab pickup with a payload of more than a metric tonne you qualify for higher allowances just like other items of equipment.

Company cars with high emission can be expensive in tax terms, as the new system of capital allowances will defer allowances significantly, and the benefit in kind rules are tightening every year.

The most tax efficient vehicles are currently those emitting no more than 100g/km, or electric cars. These attract 100% first year allowances in the company. The benefit in kind rate is 10% of the list price unless the car is diesel fuelled, in which case the benefit is 13%. Electric cars will attract a zero benefit in kind for five years from 2010/11. Electric vans will similarly be taxed at £0 for five years from 2010/11.

Fuel benefits continue to be expensive in company cars. The rise for the company van is £50 to £550 from 6 April 2010. Changes come in on 6 April 2010, so drivers may wish to consider their position now. It is also possible for drivers to "make good" the cost of fuel for private motoring for the tax year just ending to remove the benefit in kind in relation to 2009/10.

SAVINGS / INVESTMENTS

ISA allowances. For those aged 50 or over on 6 October 2009 the allowance is £10,200 including £5,100 in cash otherwise £7,200 (with up to £3,600 in cash) for the current year. Increased limits apply after 5 April.

Venture capital investments need to be made within the tax year to provide tax relief on the investment against the current year's tax liability.

Enterprise investment scheme investments are time sensitive to the extent that you wish to carry the investment back to 2008/09. There is no longer a restriction on how much you can carry back to the preceding year, provided the amount of relief claimed in respect of any year does not exceed £500,000.

Tax efficient benefits in kind

A single mobile phone where the contract is in the name of the company will not be taxed as a benefit in kind on the recipient. Excludes members of the employee's or director's family.

A company can pay for one health check or screening visit per year . Excludes members of the employee's (or director's) family.

Childcare vouchers of up to £55 per week can be provided to an employee tax free. There are detailed conditions associated with this scheme, so check with us before you use do anything.

A van which is not used privately with the exception of home to work travel is not taxed on the recipient. Absence of private use must be demonstrable.

Aged between 50 and 55?

With effect from 6 April 2010 the age at which the benefits of a personal or occupational pension scheme can be taken will rise to 55 years. So if you are currently aged between 50 and 55 then you are in the position of being able to vest your benefits up to 5 April – including drawing a tax free lump sum. After 5 April you will have to wait until your 55th birthday to draw your benefits.

PENSION PLANNING – MAXIMISING TAX BENEFITS FOR HIGH EARNERS

Pension contributions – basic points to consider
The payment of pension contributions by an individual who has or is likely to have income in excess of £130,000 in either **2009/10, 2008/09 or 2007/08** is a highly complex subject. For other taxpayers, the issue of payment of pension contributions either personally or through their company should be considered with the appropriate financial advisor. Payment of contributions by a company gain tax relief when paid in the accounting period (not accrued). For payments made personally and by the self employed, the contributions must be made in the tax year to benefit from relief.

Pensions anti forestalling – Income over £130,000
The rules are intended to prevent those affected by the restriction of pension tax relief in 2011/12 from accelerating pension contributions into the period before the new rules take effect. The anti forestalling legislation was introduced in Finance Act 2009 and revised by announcements made at the Pre Budget rep effectively reducing the income limit to £130,000.

Steps in the calculation
1st Calculate your relevant income for the tax year 2009/10. Broadly, this is:

- total income for the year
- add any deductions made from employment income
- deduct reliefs other than for pension contributions such as losses
- deduct any relevant pension contributions up to a maximum of £20,000 (gross amount);
- deduct gift aid deductions (gross amount)

2nd Calculate your total pension input amount which is the amount invested by or on your behalf in the tax year. Where you have a mixture of defined benefit and money purchase arrangements you should seek specialist help. However, where the payments are made either by you or your company to a money purchase arrangement, it will be the contributions made.

3rd Determine value of your Protected Pensions. This is broadly your existing pension. In fact it is the annual amount of total contributions (including any employer contributions) to your pension arrangement providing that the contributions are payable under an agreement dated before 22 April 2009 (or 9 December 2009) under which payments are to be made **at least quarterly**, plus any increase in contributions that were agreed before 22 April 2009 (or 9 December 2009).The payment of annual contributions cannot be deducted in this way.

4th Deduct 3 from 2 above. The residue of your pension input amount is then compared to the Special Annual Allowance and any excess is subject to a 20% tax charge.

5th Compare residue in 4 with Special Annual Allowance. The special annual allowance starting point depends on whether you have a history of regular contributions. If so, then the special annual allowance is broadly £20,000 less any amounts deducted as protected pensions i.e. existing pension arrangements. The allowance is taken as zero if the result is negative. If you have not been making regular contributions then the special annual allowance is arrived at by computing the average annual contributions (capped at the annual allowance) for the preceding three tax years (2006/07, 2007/08 and 2008/09). If this is less than £20,000 then the starting point is still £20,000. If the average contribution exceeds £20,000 then the special annual allowance is the lower of the mean contribution so calculated, and £30,000 and once again, this is adjusted for protected pension inputs.

Mitigation
If your contributions have been caught by these rules, you can attempt to reduce the income, or to elect for a refund of contributions. Note that this would not be possible if the problem contribution had been made by the employer. At this late stage reducing income for 2009/10 may be a challenge, but consider making donations to charity to reduce your relevant income for the year and remember this can be done retrospectively.
Warning – these are complex rules which we have summarised above. So, if you think you have a problem, speak to us and we can advise you on your specific circumstances.

CAPITAL GAINS TAX

General considerations
If disposals are planned in the near future, ensure that the best use of annual exemptions is made, and where possible plan to use exemptions for spouses and civil partners, and also across two tax years provided the nature of the disposal permits.
Remember that the effective date of disposal for CGT purposes is the date on which an unconditional contract is entered into. This will fix a disposal into the current year if that is the desired outcome.

Increase in the rate of CGT?
It is widely anticipated that there will be a rise in the rate of Capital Gains Tax in the near future. This may or may not have a knock on effect into gains which are subject to Entrepreneurs' Relief (ER). The ER fraction may be adjusted to leave a residual rate of 10%, or it is possible that no adjustment will be made.

Where you have a disposal lined up, for which a final contract is almost certain, but you are not in a position to complete negotiations before 6 April 2010, it may be possible to enter into a contract which is binding to secure the disposal in the current tax year, but to allow more time for the detailed arrangements of the disposal to be finalised. If this course of action is contemplated, it is essential that the contract entered into is unconditional, but provides for completion at some later date. It is also worth noting that the tax due on the disposal will become payable on 31 January 2011, so you will need to have sufficient funds available to pay the tax at that point. It is worth noting that CGT is effective on a tax year basis and it is very unlikely indeed that the rate would change mid tax year.