

October Newsletter



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Welcome to the latest edition of our new regular newsletter for tax professionals. I hope you find it of interest.

Using gift aid to reduce relevant income



The new special annual allowance tax charge will significantly reduce the attraction of pension funding for individuals with relevant income of £150,000 or more.

But the relevant income of those potentially affected by the change can be brought below the threshold by Gift Aid donations.

These can be used to reduce relevant income for this tax year and it is also possible to carry back gift aid payments made during 2009/10 to reduce relevant income for 2008/9.

This means that, in some cases, the payment of even a relatively small Gift Aid donation can be used to reduce relevant income below £150,000 and so enable the payment of a larger pension contribution without incurring the special annual allowance charge.

A donation of £10 using Gift Aid is worth £12.50 to the client (£12.82 until 5TH April 2011 to the charity) and higher rate tax payers can claim the difference between the higher rate of tax (40%) and the basic rate of tax (20%) on the total gross value of all donations to charities.

There is an appropriate section on the self assessment return (SA100), entitled "Charitable Giving" under the "Tax Relief" heading and a section where the individual can elect for all, or part of a donation made in the current year, to be treated as paid in the previous tax year.

The interaction of Gift Aid and pension planning is best explained by way of example. In the following case, the individual has calculated their relevant income for 2007/08 and 2008/09 and has estimated their relevant income for 2009/10.

They are looking to make significant additional pension contributions and to gain full tax relief on these, must have relevant income of less than £150,000.

Tax Year	Income
2007/08	£140,000
2008/09	£149,950
2009/10	£152,200

In this case, a Gift Aid payment of at least £1,761 can be made during the 2009/10 tax year. This will be grossed up to £2,201.25 which will have the effect of reducing the relevant income for 2009/10 to £149,999.

In addition to this, there will be a benefit from additional higher rate income tax relief amounting to £440.25, reducing the net cost to her to £1,320.75.

This will result in the relevant income being:

Tax Year	Income
2007/08	£140,000
2008/09	£149,950
2009/10	£149,999

If an additional pension contribution of £100,000 gross was now made, by making the Gift Aid donation of £1,320.75 net, and ensuring that the special pensions annual allowance charge would not apply, **additional tax relief of £20,000 has been obtained.**

Corporate cash



Successful private companies sometimes have funds on deposit that are not required as working capital and have not been set aside for a specific purpose.

Many owners of private businesses are risk-averse with their business funds and sometimes have substantial funds held on deposit.

But there could be a more tax effective way of holding the funds than just leaving them in a bank deposit account, where corporation tax is paid on the gross interest year-on-year.

If it was moved into the tax wrapper of an offshore bond, the interest would be taxed under the loan relationship rules.

Whilst this is of no advantage for large companies, if the business is taxed under the “historic cost accounting” rules a

benefit can occur.

This is because a charge to corporation tax on the interest would not arise until full encashment or part encashment of the investment took place.

Investment bond gains are taxed at the appropriate rate of corporation tax, but under the loan relationship rules and not the chargeable event rules, as applied to individuals and trustees.

A "fair value" basis will lead to year-on-year taxation and a "historic cost" basis can deliver tax deferment if a cash deposit is held within an investment bond.

So for the appropriate corporate clients, tax can be deferred and there can be a gross roll up of interest, boosting the returns.

In the credit crunch, corporate clients needs greater protection



The credit crunch climate has made it more difficult for businesses to borrow money and banks are keen to secure repayment of their loans in the event of problems arising.

This issue may be particularly relevant when cash is needed by a private business to make a payment to the family of a deceased owner or shareholder or to continue functioning after the loss of key personnel.

If the business does not have such cash readily available, borrowing the requisite funds from a bank may prove difficult with a consequent financial squeeze on the business. This may result in that business having its own "mini-recession".

Appropriate life assurance could substantially alleviate this problem and can provide a lump sum payment at a time needed most, such as when a key member of staff dies, to provide a financial cushion.

The presence of key person cover can demonstrate to potential investors the long term viability of the company's key assets.

It can also provide the cash needed by surviving business partners to buy a deceased's share of the business.

A key feature of a protection life assurance policy is its ability to pay a substantial lump sum at the time when it is needed most.

It can help businesses cope with their own businesses recession that could occur if a partner, director or major shareholder dies suddenly.

HMRC issues guidance on the residence status of overseas trust companies



From 6 April 2007, the test of whether a trust is UK resident or non-UK resident for income tax and capital gains tax purposes is as follows:-

- If all the trustees are either resident in the UK or not resident in the UK, the residence status of the body of trustees follows that outcome.
- If at any time some trustees are resident in the UK and others are not, the body of trustees is resident in the UK only if any settlor of the trust was resident, ordinarily resident or domiciled in the UK at any time when he or she introduced property into the trust.

The rules include the provision* that a trustee will be treated as UK resident (and therefore, if he is the sole trustee, the trust will be taxed as a UK trust) when the trustee acts as a trustee in the course of a business which he carries on through a 'branch, agency or permanent establishment' in the UK.

HMRC accepts that for trustees the 'branch' and 'agency' tests apply to non-corporate trustees and the 'permanent establishment' test to corporate trustees.

Non-UK resident companies that are trustees therefore need only be concerned about being treated as UK resident if they carry on a business through a permanent establishment in the UK.

The guidance is comprised of detailed background notes and a number of examples and scenarios. It can be found on HMRC web site here: <http://www.hmrc.gov.uk/cnr/trustee-res-guidance.pdf>

- Section 69(2D) TCGA 1992 for capital gains tax and section 475(6) ITA for income tax
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