Henderson Black & Co

CHARTERED ACCOUNTANTS AND BUSINESS ADVISERS

AUTUMN STATEMENT

In his Autumn Statement to Parliament at the beginning of December, the Chancellor of the Exchequer said that the law will be changed, so that 'when someone dies, their husband or wife will be able to inherit their ISA and keep its tax free status.' The official briefing papers explained that this will apply where the ISA holder dies on or after 3 December 2014. His or her wife, husband or civil partner will be allocated an additional ISA investment allowance equal to the value of the savings in the deceased's ISA account. This can then be used by the surviving spouse to transfer the inherited investments into an ISA account in his or her own name.

It will not be possible to make the reinvestment in the surviving spouse's ISA until 6 April 2015. Later this year, additional legislation will preserve the tax free status of the original ISA investments during the administration of the estate.

There was also some good news for employers of personal carers. From 6 April 2015, they will qualify for the 'employment allowance', which means they will be exempt from the first £2,000 of employer's National Insurance contributions otherwise payable each year. The carer him- or herself will continue to pay employee's contributions in the normal way.

HMRC have emphasised that the relief applies only to carers employed to look after people requiring care because of disability, frailty, injury or illness. It will not apply, for example, to families employing a nanny to look after healthy children.

The Chancellor also announced 'Government-backed student loans of up to £10,000 [*for*] all young people undertaking postgraduate masters degrees.' These loans will be available from the 2016/17 academic year, for students under 30 undertaking 'a postgraduate taught masters course'. Subject to consultation, they will be repayable (with interest at RPI+3%) at 9% of income over £21,000. These repayments will have to be made in addition to any undergraduate loan repayments – so potentially a total of 18% of gross earnings.

NO MORE MR NICE GUY

Employers with 49 or fewer employees should note that automatic penalties will apply if their PAYE RTI submissions are not up-to-date by Thursday, 5 March 2015 – and thereafter kept up-to-date. (Larger employers became subject to penalties last October, and the first penalty notices will be issued early in February.) Penalties will be imposed:

- Where a Full Payment Submission (FPS) is filed late – that is to say, is not filed by the day the employees are paid or, if the employer qualifies for the concession for some employers with nine or fewer employees, by the last pay day in the tax month; ***and***
- Where an employer fails to file a nil Employer Payment Summary (EPS) – for a month in which no payments to employees were made – by the 19th day of the following month (so by 19 March for the tax month to 5 March).

The first default each tax year will be ignored, but otherwise the penalty will be £100 if the employer has nine or fewer employees or £200 if he has between ten and 49.

Where a submission is three months late, HMRC will additionally be able to impose a 5% surcharge on the tax and National Insurance contributions payable. They say that this will be used 'only for the most serious and persistent failures.'

From April, the screw will be tightened yet further, for all employers, with the existing penalties for late payment of monthly or quarterly PAYE remittances being made automatic and applied in all cases. The penalty will be between 1% and 4% of the tax due, depending on how many times, in the tax year, the employer pays late.

CAPITAL ALLOWANCES

Annual Investment Allowances (AIAs) allow the whole cost of machinery and vehicles (other than cars) to be written off, for tax purposes, in the year of purchase. There is an annual ceiling on the maximum qualifying expenditure, which is currently £500,000, but which is scheduled to fall by 95%, to just £25,000, on 1 January 2016.

The important point to bear in mind is that the allowance is apportioned to accounting years. For example, if a company's accounting date is 30 September, the maximum qualifying expenditure for the year to 30 September 2015 will be £500,000, but that for the year to 30 September 2016 will be only £143,750 (3/12ths of £500,000 plus 9/12ths of £25,000). Thus it is certainly not the case that every company has until 31 December 2015 to make a qualifying £500,000 investment.

There are also some very complicated rules for determining when expenditure is, for capital allowance purposes, 'incurred' – it is not, normally, either the date you place the order or the date you sign the cheque. Accordingly, if you are planning a programme of capital expenditure, or a significant asset purchase, we strongly urge you to contact us for detailed advice at the earliest possible stage.

WITHDRAWALS FROM PENSION PLANS

In his March 2014 Budget, the Chancellor of the Exchequer announced that, from April 2015, people aged 55 or more will be able to withdraw as much as they like, whenever they like, from their Personal Pensions and similar retirement saving plans. That is a simple enough concept, but the new arrangements will be governed by detailed and complex rules, and there have been some 'scare stories' – for example, incorrect reports that the traditional 25% 'tax free lump sum' will no longer be available.

Very broadly speaking, from April, somebody wishing to draw money from a pension plan will have three choices:

- The traditional package of a 25% tax free lump sum and an annuity for life.
- Taking 25% as an immediate tax free lump sum, and designating the balance as a 'flexi-access drawdown fund'. Withdrawals from this fund can be taken at any time, but will be taxed as income of the year in which they are taken.
- Not taking an immediate tax free lump sum, but taking a series of 'uncrystallised funds pension lump sums' (UFPLS). Each such payment will be treated as 25% tax free and 75% taxable income of the year in which it is taken.

It will also be possible to split total pension savings into separate 'pots', so that (for example) the individual has both an annuity and a 'flexi-access drawdown fund'.

There is no 'right answer for everybody'. For example, some pension plans (especially those taken out in the 1980s or earlier) offer a 'guaranteed annuity rate', which may seem very attractive in today's low interest rate environment, making the traditional annuity still the best option. Watch that the guaranteed rate is usually only available if the annuity begins on the 'normal retirement date' specified by the policy.

The 25% immediate tax free lump sum may be the best choice if the policyholder needs a capital sum – for example, to pay off or reduce a mortgage. Otherwise, the 'uncrystallised funds pension lump sum' route may be preferable, because as the pension fund continues to grow in value, the amount available to be taken as the tax free part of future withdrawals will rise proportionately.

As withdrawals (other than tax free withdrawals) will count as income of the year in which they are taken, there will be an art in timing them, so as not to waste the income tax personal allowance, or incur a higher rate charge. As a rough guide, a higher rate tax charge will be incurred if taxable withdrawals plus any other income (pensions, including the National Insurance Retirement Pension, earnings, interest and dividends, *etc*) exceed £42,385 a year (at 2015/16 rates).

And finally, two words of warning. The first is that these notes are a very brief introduction to a very complex subject and most people, especially if they have substantial pension savings, are likely to need expert professional advice. The second is that the small print on many pension plans states that an annuity will automatically be bought if the plan holder does not give notice to the contrary before his 'normal retirement date'.

YOUR HOME AND CAPITAL GAINS TAX

In the last edition of this newsletter (August 2014) we warned that the Government intended to abolish, with effect from April 2015, a homeowner's right to elect which of two or more properties he owns (or has the use of) is to be treated as his 'principal private residence' and so exempt from capital gains tax.

We are pleased to report that the Government has now withdrawn this proposal. Instead, there is to be a new rule, that a property cannot be treated as the individual's 'principal private residence' for 2015/16 and future years of assessment unless ***either*** he is resident for tax purposes in the country in which that property is situated, ***or*** he is present in the property at midnight on at least 90 days in that year. This means, for example, that a United Kingdom resident could not claim that his holiday home in France was his 'principal private residence' unless he is dual resident (in both France and the United Kingdom) for tax purposes, or meets the 90 midnights test. It would of course be a good excuse for leaving a boring dinner party: 'Sorry, I must be home by midnight, or today won't count!'

The more usual case, however, is the individual who owns (or has the use of) two properties in the United Kingdom. Here the right to elect which is to be treated as his 'principal private residence' will remain. However, it is vital to remember that the election must be made within two years of acquiring the second property. If you have two or more properties, and have not already discussed your capital gains tax position with us, we strongly recommend that you do so without delay.

COMPANY CARS AND VANS

In principle, the usual scale charge for a director's or employee's private use of a company car or van may be reduced by any payment the director, *etc*, is required to make for that private use. In many cases, especially for directors, it has been the practice for the payment to be made after the tax year end.

However, for 2014/15 and future years, there is a strict statutory rule that payments will not be taken into account unless they are made before the end of the tax year to which they relate – and HMRC have put us on notice that this rule will be rigorously enforced. Any company operating such arrangements should, therefore, ensure that payments are now made in good time.

This will not affect the longstanding easement under which no fuel scale benefit is charged where the director or employee fully reimburses the cost of fuel used for private motoring, even if (for example) the mileage-based payment for March is not made until (say) the end of April.

This newsletter deals with a number of topics which, it is hoped, will be of general interest to clients. However, in the space available it is impossible to mention all the points which may be relevant in individual cases, so please contact us for personal advice on your own affairs.