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Hot off the press

Selling Your Olympic Torch?
Yes, even HM Revenue and Customs (HMRC) have Olympic fever! Why? Because there may be tax to pay! Over the 70 day period the Olympic flame was carried by 8000 torch bearers and some have already sold their Olympic mementoes, achieving large sums of money for them. These proceeds are, potentially, taxable under the Capital Gains Tax (CGT) "Chattels" rules.

Chattels are something that you can touch and move e.g. a piece of furniture, stamps, paintings, non sterling coins and bank notes, antiques, a personalised car number plate or an Olympic torch. Your personal possessions will normally be chattels. If the item sells for less than £6,000 then you do not need to put the item on your Tax Return. However, if the proceeds are more than £6,000 but less than £15,000 then there are special rules which apply to the gain and CGT will be chargeable at either 18% or 28% depending on the level of income.

Even if the money raised from the sale is given to charity, a CGT charge may arise. The most efficient method of ensuring the maximum benefit for the charity is to give the asset itself to the charity thus avoiding any CGT charge.

It is important when selling any personal items that the chattels rules are considered. Please let us know if you have sold or plan to sell any personal items which may achieve greater sale proceeds than £6,000 so that we can correctly advise you.

Amnesty Update:

The latest amnesty has been opened by HM Revenue & Customs (HMRC)
The Tax Return Initiative, launched on 3 July, is aimed specifically at people liable to pay tax at rates of 40% and above who have been asked by HM Revenue and Customs (HMRC) to submit a Self Assessment Tax Return for 2009/10 or earlier, but have not done so. However the campaign is also available to any individual who has Tax Returns to submit to HMRC for these years.

Individuals have until 2 October 2012 to join the initiative, submit completed Tax Returns, and pay the tax and National Insurance Contributions (NIC) that they owe. By coming forward voluntarily through the campaign HMRC have said that better payment terms will be available and any penalty imposed will be more favourable than if it is left to HMRC to pursue the outstanding forms and payments.

If you have a friend or relative who you believe we can help to clear up these outstanding matters in a professional yet understanding manner, please advise them to contact us and let us help them to bring their affairs up to date.

Time to time your dividends?

The additional rate of tax charged for dividends drops by 5% on 6 April 2013 to 37.5% making the timing of dividend payments from your own company more important than ever. It is possible to save tax, as well as delaying by a year the date on which you have to pay the additional tax over.

The correct procedure is for company directors to recommend a final dividend at the Annual General Meeting (AGM) based on the profits made in the full year, and then pass a resolution declaring that a dividend be paid on 6 April 2013. Shareholders will receive the dividend in the tax year 2013/14 and for a higher or additional rate shareholder that will make a huge 5% difference to the amount of additional tax due.

The date on which the tax is due to be paid over to HM Revenue and Customs (HMRC) is delayed by a year to 31 January 2015 which may be a welcome cash flow benefit.

This small change in the dividend payment date can also benefit cash flow further. The additional rate tax on dividends contributes to the individual's requirement to make payments on account. Payments on account are two upfront payments of tax based on the previous year's liability. So by voting low dividends in one tax year, say up to 5 April 2013, and higher dividends from 6 April 2013, the tax liability on the higher dividends is payable in one sum on 31 January 2015 rather than in two instalments in January and July of 2014.

There is a further advantage of not voting dividends if the income is not required. The business owner may wish to build up funds within the company for future expansion or potential purchase of an asset. The profits will have already suffered Corporation Tax and so the reserves of the company await the reinvestment or future pay out as dividends.

Why not discuss your future plans for your company, your remuneration and the company dividend distributions policy so that we can correctly advise you.

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Use Your Annual Exemption

Capital Gains Tax (CGT) is the tax due on the profit or gain made on the disposal of an asset. But don't be confused by the word "disposal" since this does not necessarily mean the sale of the assets, it can also be applied to giving assets away, exchanging one item for another, transferring the item to someone else or if compensation is received for the item e.g. if you receive an insurance pay out. The amount taxed – the gain – is the disposal proceeds or value less the acquisition cost or value and everyone can make a gain of **£10,600** in 2012/13 and not pay CGT.

Typical disposals can be the gift of an asset to children, other people or companies but you can transfer or make a gift of assets to your spouse or civil partner free of CGT. Disposals are also made when a couple divorce or dissolve a civil partnership and there are special rules on the transfer of assets in these circumstances, therefore please contact us to assess the amount of potential gain and to allow for planning.

CGT is payable at either 18% or 28% depending on your other income and so utilising the annual CGT exemption can potentially save you **£2,968!**

There is no CGT payable when an asset is inherited, however the inherited asset will have a value – either the Probate value or by having a formal valuation performed. This valuation is vital when the asset is subsequently disposed of, the gain taxable will be the difference between the sale proceeds or disposal valuation and the value when inherited.

If you hold assets whether they are land, property, shares – either in your own personal company or as a share investor – or trading or partnership assets then all of these need to be considered for their potential CGT gain prior to them being disposed of. Please speak to any of the team for a review of your potential CGT liabilities.

Graduate into Employment

It's that time of year again. Graduation looms for many young people and they and their families are looking at the options available to the newly qualified. In the current economic climate many graduates will be looking to their family and family friends for their first employment opportunity.

It is possible to employ a family member in your business or company or even take them into partnership and save the family unit a significant amount of tax. The arrangement needs to be commercial, the young person must also be paid a wage which is appropriate for the duties performed and the National Minimum Wage (NMW) will need to be considered – but it should be remembered that the NMW does not apply to directors without a contract of employment.

The salary paid is an expense for the business or company reducing the tax paid. For example in a business where the owner manager is an additional rate tax payer a salary to a young person of £10,000 would reduce the owner manager's tax bill by £4,500 and the young person would pay just under £400 in tax.

There is no tax to pay on payments made to young people who undertake a government or other work experience scheme provided they have the status of trainee and not employee. It is possible to apply for financial support from the European Union (EU) for some schemes; however this assistance has no bearing on the tax position.

There is also an opportunity for those young people looking to go to university this year.

Scholarship Schemes

A little used planning opportunity is that of the Sponsored Student. A scholarship is a series of regular payments made to the student to retain them throughout their course and hopefully into their long term career. Normally these payments would be treated as income of the student but these payments are in fact exempt from income tax.

The payment can be made to cover lodging, subsistence and travelling allowances but excluded from the exemption are any tuition fees payable by the employee and earnings made for the periods spent working for the employer during holidays or course time.

Payments of up to £15,480 can be made by an employer to an employee for periods of attendance on a full-time educational course at a recognised educational establishment for at least one academic year, including 'sandwich courses'.

The payments cannot be made under a training contract since they must be made to a student holding an office or employment and the limit of £15,480 also applies for National Insurance Contributions (NIC) purposes.

Companies can establish scholarships for the children of employees and where the award is by virtue of the parental employment the awards are taxed as a benefit in kind of that employment. There is no reason why the beneficiary of a scholarship cannot be connected with the sponsoring employer e.g. a parent of the student might be a director or an employee. But a scholarship gives rise to a chargeable benefit in kind if more than 25 per cent of the payments are attributable to an employment of the director or employee.

Personal Service Companies and the Employment Status Checker

It is possible for individuals to form a company and through that to provide their services for a fee, for example a freelance consultant. The consultant, being a shareholder and director of the company, can pay a salary at whatever rate he chooses as he is not subject to the National Minimum Wage (NMW) rules. Some of the taxed profits of the company could be paid out in the form of a dividend and up to the limit for paying tax at the basic rate, no further tax is payable and there is no National Insurance Contribution (NIC) on dividends.

There are some consultants who are running their business through a limited company but are only contracting to one client and HM Revenue and Customs (HMRC) introduced specific intermediaries legislation, commonly referred to as IR35, to ensure the contractor is in fact a legitimate contractor and not an employee of the client he is contracting to.

If an individual supplies services to a client through an intermediary, more often than not this will be a company. If that company didn't exist, the individual would be classed as an employee of the client and PAYE and NIC should be deducted as if the individual was an employee.

Of course this leaves the contractor uncertain about his status and whether he could fall foul of the IR35 and have to pay the further amounts over to HMRC. Therefore HMRC have recently put in place the "Business Entity Tests".

If you would like to discuss the structure of your business arrangements or feel you need more information about IR35 and the intermediaries legislation, then please talk to any member of the team.

Moving the Goal Posts

Many of us know or in fact are one of the unfortunate pensioners who were hit by the HM Revenue and Customs (HMRC) mix up of PAYE tax codes in 2010 which resulted in significant underpayments of tax going back several years. These underpayments were unexpected and caused many taxpayers great distress.

Some comfort was gained for the clients of tax advisors who used a concession which gives taxpayers a reduction in tax liability, to which they would not be entitled under the strict letter of the law. This concession is available when HMRC fail to use information at their disposal within a timely manner or where the taxpayer could have reasonably believed their tax affairs were in order.

If HMRC has all of the information necessary to ensure a taxpayers PAYE code is correct and they have failed to act on that information in reasonable time, then the tax underpaid will not be pursued. The concession also includes allowances for "exceptional circumstances" within 12 months of the tax year end if HMRC failed more than once to use facts presented, or allowed arrears to build up over two consecutive tax years.

This concession will be reviewed in the autumn with the intention of making it "more user friendly and objective" which will mean that it will probably be less effective for taxpayers, and so we urge anyone who believes they have an underpayment to contact their client manager as soon as possible.

State Retirement Age and Class 2 National Insurance

Class 2 National Insurance Contributions (NIC) are payable by the self-employed with earnings above the annual threshold, until they reach state retirement age. For the tax year 2012/13 the threshold is £5,595.

In an attempt to simplify the payment procedure, HM Revenue and Customs (HMRC) ceased to offer the option to purchase a "stamp" from the Post Office and made payment by direct debit a more favourable method. However, the option still remains for the self employed to make a six monthly payment following a payment request – simple? As with most simplification the answer to this is not a resounding "yes", especially for individuals who are approaching the state retirement age and even more so for women, whose retirement date can vary as the policy of achieving parity between male and female retirement ages is implemented.

Class 2 NIC is payable in 6 monthly tranches and if it is paid half yearly then the procedure is fairly straight forward – the contributions for the six months between April and October 2012 is payable on 31 January 2013 and for the months of October 2012 to April 2013 the contributions are payable on 31 July 2013 in line with the self-assessment payment dates. The issue arises when the payments are made in monthly instalments over a 6 month period. The six monthly instalments for the contributions due between October 2012 and April 2013 would commence on 1 February 2013 and end on 1 July 2013. So if the official State Retirement date fell on 1 May 2013 for example then the monthly payments would be necessary right through until August 2013 to ensure that the contributions were fully up to date.

We review the potential for claiming exception from class 2 NIC annually, however please speak to a member of the team should you wish us to review your contributions position at any time during your working life. We can advise you on the date payments should cease and the potential for making voluntary payments should your contributions record not provide you with full benefits at your retirement date.

Sleeping Partner

A partnership is a relationship which exists between persons carrying on a business together with a view to profit. Whether a partner's share of the profits is treated as earned income depends on the position the partner holds within the partnership.

In the case of a non-active or sleeping partner, although they have the ability to share in the profits or losses of the partnership, their role is restricted. A sleeping partner does not spend personally 10 hours per week on average on activities connected with the partnership trade.

The income of a sleeping partner is considered to be unearned self employed income and this does not count towards the earned income calculation for making pension contributions but more interestingly it does not count towards income for National Insurance Contributions (NIC) purposes.

This fact may be of interest to partners who are inactive in a business but have been taxed and suffered class 4 NIC as if this income was earned income. A claim for the repayment of the Class 4 NIC can be made for those inactive in a business under certain circumstances and we shall be pleased to discuss this with you if you feel you or your business partner are inactive in the business.

Universal Credit

Universal Credit is the flagship of the Welfare reform bill first discussed in November 2010 – it is payable to individuals on low incomes and is designed to top up their earnings. It will be rolled out in four areas next April – Tameside, Oldham, Wigan and Warrington – with the remainder of the country going live in October 2013.

The Universal Credit will be accessible through the Government Gateway website and all claims will be managed online with payments for one month being made on the basis of the earnings from the previous month – and for the employed this process does appear to be in line with the governments objectives of making the system simpler. Salaries will be recorded monthly through Pay As You Earn (PAYE) and HM Revenue and Customs (HMRC) will pass on the information to the individuals' Universal Credit account. In turn the individual will retain more of their earnings rather than have a deduction for tax.

But what about the self-employed? The new start up businesses who want to take themselves out of unemployment, or potentially the entrepreneur who has a business idea he wishes to pursue? These individuals will have little or no earnings in the first few months or possibly a year. It is likely that they will initially set up as a self-employed sole trader with no salary/ earnings and they will have no employer to pass on the Universal Credit payment to which they are due.

As the workings of the Universal Credit are finalised it is becoming clear that the lower earning self-employed worker will have more administrative burdens placed upon him. The self-employed worker will need to report his monthly income from self-employment to the Department for Work and Pensions (DWP) but it will need to be in a different format to that required by HMRC's new cash accounting basis, introduced in the last budget. It also will need to be in a different format to that used for producing official accounts. A third set of information will be required and there will be a window of only 7 days to provide this or the payments stop.

There is also the uncertainty for workers who do not know if their earnings are reported through the system by those they do work for. This would result in the potential loss of much needed support during the period of uncertainty.

Small businesses, where the family currently obtain Tax Credits, and new start-up businesses may want to consider Incorporation in order to have a salary paid on a monthly basis. The salary can be operated through the PAYE system, removing the necessity to undertake the burden of monthly accounting to the DWP via HMRC. Broadly, the overall tax burden is less when a limited company is used and it may be worthwhile to review this option before the Universal Credit commences. It is also worthwhile having a transition plan in place if you have a Tax Credits overpayment which is being repaid to HMRC on a monthly basis. Please speak to a member of the team if you wish to review your position.

In the past it has been seen as a difficult procedure to remove a limited company structure once it was no longer required, however a new disincorporation relief looks set to be introduced next year which should ease that worry for those looking to simplify their affairs going forward.

Training Expenses

Where an employer incurs expenditure on work related training for employees, whether the employer incurs the expenditure or the employees expenditure is reimbursed, there is no tax or National Insurance Contribution (NIC) charge. This applies to all genuine work related training activities that are funded by the employer. There is no restriction on the way the training is delivered, in house or external, full-time or part-time. It only has to be shown that the training is designed to impart, instil, improve or reinforce any knowledge, skills or personal qualities which are likely to prove useful to the employee in performing his duties or to better qualify the employee to undertake his role. The training must relate to the employees current employment or to a related employment.

Provided the training can be connected to the employment in some way then the expenditure is generally allowed, for example a 'safe driver' course for all employees with a company car is likely to be allowed, however an evening out go-karting would probably not be allowed. The exclusion from tax should be a genuine training need rather than an inducement – and should not been seen to be a reward.

The tax free amount also extends to the reimbursement of the employees travel and subsistence costs and the payment of incidental overnight expenses.

Incidental overnight expenses

Employees who stay away from home may incur incidental expenditure which under normal circumstances would not be available for tax relief.

Employers can pay tax free amounts of up to £5 per night for overnight stays away from home in the UK and up to £10 per night for overseas overnight stays. This tax free amount is to cover the cost of laundry, telephone calls home, buying a newspaper, etc. If the employer pays more than this limit then the whole amount becomes taxable on the employee. It is important to ensure that the payments are for genuine trips in connection with employment and if the payment is made not for the purposes of covering incidental costs then the payment will not be exempt.

The employer can deduct the reimbursement as an expense thus saving tax on the costs.

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