

IHT Planning is not just about Tax

Estate planning remains as essential as ever despite last year's announcement that a surviving spouse or civil partner can inherit their deceased spouse's or partner's inheritance tax (IHT) nil rate band.

That change is certainly welcome, but couples may still be able to save more IHT by passing on assets at the time of the first death. While lifetime gifts continue to be important, there are also vital non-tax-related issues to consider. In fact, the starting point of any estate planning is not tax, but to

consider your family circumstances and what you wish to achieve. What is best for you will depend on your financial position and that of your potential heirs, and also what might happen during your lifetime and during theirs.

For example, many people want to provide for a surviving spouse while making sure their children inherit eventually. Passing all assets to a spouse or partner on the first death will now not necessarily waste a nil rate band, but the family's wealth may never reach the intended beneficiaries.

Despite the tax changes in March 2006 that ended the favourable tax treatment of some types of trust, a trust is still a useful tool for ensuring the required succession and can help protect assets against unforeseen risks, such as a spendthrift heir, divorce and bankruptcy.

Passing on assets on the first death can also save IHT. The value of the assets may increase faster than the value of the nil rate band. And remarriage would limit the amount of nil



rate band that can be inherited.

Above all, flexibility is important. Circumstances change, as do tax rules. We can help you to formulate your wishes and make sure that your estate planning will achieve them in the most tax-efficient way.

Planning your Capital Expenditure

Businesses must carefully plan their capital expenditure programmes if they are to make best use of the new £50,000 annual investment allowance (AIA).

Expenditure on most business plant and machinery can qualify for the allowance, which gives 100% tax relief in the year of purchase. It applies to expenditure from 1 April 2008 for companies, and from 6 April 2008 for sole traders and partnerships.

Not surprisingly, cars do not qualify. However, there is a separate 100% allowance for the cost of new cars with carbon dioxide emissions of not more than 110g/km. The 100% first year allowance for designated energy-saving or environmentally beneficial plant or machinery also continues alongside the AIA, as does the 100% allowance for capital expenditure on research

and development. Expenditure on long-life assets and assets for leasing qualifies for the AIA.

If you spend more than £50,000 in a year, the excess expenditure will only attract a writing-down allowance, which has now been reduced to 20% from 25%. It may therefore be worth bringing forward or delaying expenditure to avoid exceeding the £50,000 AIA limit in any one year.

The allowance is proportionately increased or reduced for accounting periods that are longer or shorter than 12 months. There is also a restriction where a period spans the introduction date. So if, for example, your company makes up accounts for the year to 31 December 2008, the maximum entitlement to AIA for that year is £37,500 based on the period 1 April to 31 December 2008.

Further aspects of the AIA that require care include the rules on related businesses.

Companies that form a group are entitled to only one AIA between them. Companies that do not form a group, but are controlled by the same person or persons, will also share just one AIA if they are 'related', eg sharing business premises.

The same goes for unincorporated businesses under common control. However, if a sole trader also controls a limited company, both businesses will be entitled to their own AIA, regardless of whether they are 'related'.

Please get in touch so that we can help you get to grips with the new rules. We can calculate your maximum entitlement to AIA, so you can plan your purchases to make best use of the new allowance.

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Qualifying for Entrepreneurs' Relief

Entrepreneurs' relief has replaced business assets taper relief as a way of reducing capital gains tax (CGT) on certain business disposals.

But the two reliefs are very different in a number of important respects. In particular, the qualifying conditions for entrepreneurs' relief are much more restrictive, so you will need to take care to make sure a disposal qualifies.

Entrepreneurs' relief reduces up to £1 million of gains by 4/9ths. Since the CGT rate is now 18%, this results in qualifying gains being taxed at an effective rate of 10%. Relief is available only on material disposals. For a sole

trader or partner, this is the disposal of all or part of their interest in the business, or of business assets within three years after the business has ended.

A shareholder can qualify for relief on the disposal of shares in their personal company. This is a company in which, for at least a year ending with the date of the disposal, the shareholder has been a director or employee, and has owned at least 5% of the ordinary share capital carrying at least 5% of the voting rights. The company must be a trading company or the holding company of a trading group.

Once you have made a material disposal, you may be able to claim relief on an associated disposal as



well. This is a disposal of assets, such as premises, that you owned personally but were used for the business for at least a year ending with the material disposal.

But there are some extra conditions for associated disposals. The one most likely to cause difficulty is that relief is restricted where the owner received rent from the company or partnership for use of the asset. The relief is reduced by reference to the proportion of market rent charged over the whole period of ownership of the property. For business taper

relief, it did not matter if rent was charged. The problem is that if you have a mortgage on the property it is generally tax-efficient to charge rent so that you can claim tax relief for the interest. You must also be withdrawing from involvement in the business. So, for example, you cannot claim entrepreneurs' relief on the sale of a property used by your company if you remain a director or employee.

There are other conditions that operate over the whole period of ownership, so you need to put the optimum arrangements in place now.

The Age Allowance Trap

Pensioners have benefited from a large rise in their tax-free personal allowances. The rise of nearly £1,500 for people aged 65 and over was intended as compensation for the loss of the 10% tax

band. People aged 65 to 74 with income up to £21,800 now pay no tax on the first £9,030 of income, and those aged 75 or more pay tax only on income over £9,180.

The age-related part of the personal allowance is reduced by £1 for every £2 of income over £21,800. This rule now results in a band of income between £21,800 and £27,790 being taxed in effect at 30% for a person aged 65 to 74. The extra 10% on top of the 20% basic rate of tax results from the withdrawal of the

age allowance. For people aged 75 and over, this 30% band goes up to £28,090.

However, the beginning of a tax year is an ideal time to plan to make sure your income stays below £21,800. If you are married or in a civil partnership, and one of you has income below £21,800, you could transfer income-producing investments from the higher income partner to the other to maximise your combined entitlement to the age allowance.

If that still leaves one of you with income above £21,800, you could consider switching to investments that produce capital gains instead of income. Capital gains are now taxed at 18% and the first £9,600 of gains in the current tax year is

free of tax. Ideally you should make the switch soon and before a lot of taxable income has accrued, although you must always consider whether what you plan to buy is a good investment as well as being tax-efficient.

Some investments are tax-free, such as National Savings Certificates, though again you should compare net investment returns. You should certainly use your ISA allowance and there is no need to wait until the end of the year to do this.

If you are under 75 years old, you might even consider paying money into a pension scheme. The payment, grossed up by 20% for basic rate tax, is deducted from your income in the age allowance calculation.



Money from Abroad

The Budget announcements in March included several welcome modifications to the government's reforms to the taxation of non-domiciliaries, which took effect on 6 April 2008.

People with unremitted overseas income and gains of less than £2,000 in a tax year will now not lose the benefit of the remittance basis, personal allowances and capital gains tax annual exemption after seven years of UK residence. The original proposals specified a £1,000 limit. The higher limit will make it easier to retain the remittance basis by switching to investments that produce little or no income, to keep your unremitted overseas income below £2,000.

People with large amounts of overseas income will still have to pay an annual tax charge of £30,000 if they have been resident in the UK for at least seven of the previous nine tax years and want to avoid being taxed on their overseas income and gains as they arise.

However, the £30,000 will now not be a stand-alone charge but a tax charge on unremitted amounts. Individuals will be able to choose the unremitted income or gains on which the £30,000 is paid. Those sums will then not be taxed when they are

eventually remitted to the UK. It is also likely that the £30,000 charge will count as income tax or capital gains tax under double taxation agreements. Another concession is that individuals under the age of 18 will not have to pay the charge.

The new capital gains tax rules for non-resident trusts have also been modified. In particular, trustees can opt to exclude unrealised trust gains that accrued up to 5 April 2008 from being taxed on non-UK domiciled beneficiaries under the new rules.

Changes to the way the remittance basis works will make it harder for people to avoid tax. For example, in the past there was no tax on income brought into the UK in a tax year in which the source of that income, such as a bank account, no longer existed. Now, if you have claimed the remittance basis for a year, the income of that year will be taxed whenever it is remitted. There are also tighter rules for income and gains remitted in the form of assets.

If you are non UK-domiciled, you should take advice now so that you can arrange your affairs to minimise your UK tax and try to avoid some of the complications of applying the new remittance basis rules.

VAT Time-Travel Opportunity



Businesses that under-claimed input VAT for accounting periods ending between 1 April 1973 and 1 May 1997 can now claim it back. The Finance Bill has brought in transitional rules allowing businesses to make VAT repayment claims for periods up to the date the present three-year time limit for claims was introduced.

The change follows a ruling by the Lords in January 2008 that the three-year limit does not have effect for any right to claim input tax for periods before 1 May 1997 because no transitional period was provided at the time. The new transitional period, which rectifies this, runs up to 31 March 2009.

Claims for repayment because a trader accounted for more output tax than was due became subject to a three-year time limit on 4 December 1996. The transitional rules will allow claims for periods up to that date.

Correcting more recent errors in VAT returns is about to become easier as well. At present, if you find you have made mistakes in a VAT return,

you can correct them in the return for the period in which you discover them, provided the net amount involved is not more than £2,000. From 1 July 2008, that limit will increase to £10,000 or 1% of turnover, whichever is the greater, subject to a maximum of £50,000.

You can only correct errors that occurred in accounting periods that ended within the previous three years. If you discover errors amounting to more than the new limit you cannot correct them in a VAT return but must disclose them in writing to your local VAT Business Advice Centre. You will need to give full details of the amount of each error and when and how it arose.

Making a voluntary disclosure of errors will avoid the misdeclaration penalty that HM Revenue & Customs (HMRC) may charge if it discovers errors during an enquiry. However, HMRC may charge interest on underpaid VAT, depending on the circumstances of the error.

Like all taxes, the VAT rules change constantly. If you need help with your VAT returns, or have questions about any aspect of VAT, please get in touch.



Employment and Migration Review

Employers now have to make annual checks on employees with a limited leave to remain in the UK to make sure they are still entitled to work in the UK.

The new requirement applies only to employees taken on from 29 February 2008 and is part of a package of measures to prevent illegal working. Since 1997, employers have had to check documents from one of

two lists before taking on a new employee, and this requirement continues.

If the checks are undertaken correctly and evidence retained, normally in the form of photocopies, the employer cannot be prosecuted if the employee turns out not to have the right to work in the UK. For employees on time-limited visas who start after 28 February 2008, this statutory defence will



only last 12 months until they can show that they have an indefinite right to work.

Employers who fail to check entitlement to work can be fined up to £10,000 for each illegal worker and can face criminal prosecution for knowingly employing someone

who is not allowed to work in the UK. The requirement to check documents applies to all new starters. Employers must avoid any racial discrimination in their policies for status checks. The lists of acceptable documents are maintained by the Border and Immigration Agency.

Websites that Work

Most businesses have a web presence, but by not providing the right information on your company's website, you can have an adverse impact on customers and other users.

According to recent consumer research commissioned by webhosting company I&I Internet, a surprising 83% of Britons have been negatively affected by being unable to find contact details from a business's website. The problem made over half feel angry and stressed, with one in five feeling powerless and desperate.

Alarming, the research found the inability to find a way to contact a business from its website to be the biggest customer service bugbear for 77.2% of people – beating both

being held in a telephone queue (77.1%), and being forced to listen to bad on-hold music (42%).

The survey also found that 90% of consumers want real-time live dialogue with a business online, using live-chat, forums or call-me-back facilities. A third actually want them from the UK businesses they currently use. By contrast, however, further recent I&I Internet research among small and medium-sized enterprises found that nearly all businesses did not offer such facilities and almost half had no plans to introduce them.

But making your business easier to contact and offering sophisticated online dialogue facilities are only part of the solution. Customers have to find your website first. Many

consumers nowadays use a search engine to track down the services they require, and if your website does not come up quickly you could lose potential income.

While there is no quick fix to occupying a top spot or high ranking with any search engine, you should be using search engine optimisation techniques (SEO) to make the most of your website. The costs for doing this can vary, but you can do much of the initial work internally with minimum expense, other than time, before deciding on what, if any, outside assistance you might need.

Start by understanding what ranking you currently have, the keywords and phrases customers are using to find you and how you can capitalise on this knowledge. There are various free web tools which can also

show you what the competition is like for each search.

You should bear in mind other factors that can affect rankings. Search engines pick up and penalise websites that contain duplicate or similar content but 'promote' those which are regularly updated and have links from external websites. Initial analysis should indicate how important your website is and help you decide how much money you are therefore prepared to commit to improving communication and deploying SEO techniques.

