money matters

TIFFIN GREEN

Winter 2014

Exam Success!

We are delighted to congratulate Jon Mitchell, Maria Angliss and Karen Harding on their successful results.

Jon joined Tiffin Green's accounts team through our merger this summer. He has achieved the Association of Accounting Technicians accreditation after three years of study. Jon enjoys completing challenging jobs. He plans to gain more face-to-face client experience and apply his advancing accounting knowledge to assist clients.

Maria has been part of our accounts team for over 13 years and is ACCA qualified. She specialises in Solicitors' Accounts Rules, Audits and Charities. Determined to add to her professional qualifications Maria has gained a BSc (Hons) in Applied Accounting through Oxford Brookes University. Maria's objectivity when report writing and enhanced analysis skills should certainly benefit clients.

Karen is our Marketing Manager, she also deals with our fee protection insurance to cover tax enquires. She attained a Professional Diploma with the Chartered Institute of Marketing in August. This degree level qualification underpins Karen's 20 years' operational experience in the marketing arena and enriches her skills in marketing strategy and digital communications.

We are now in a position to offer marketing services to our clients – should you need assistance with your marketing please get in touch.

40 years on…

Well done to Steve Heaton as he celebrates 40 years' service at Tiffin Green. Joining the firm straight from school in the early 1970s Steve has grown his expertise through hard work and on job training. He is an integral member of our accounts team and is a stoic support to many clients, some through second generation businesses.

A celebratory lunch was held for Steve and his colleague Malc Godfrey who has notched up 50 years' service! How many accountancy firms can boast such loyal and enduring staff?

Pensions: how flexible is flexibility?

With great fanfare, the Government is introducing the pension changes that from 6 April 2015 will give you complete flexibility when you access your pension savings from a money purchase pension scheme after age 55.

The main change is that people will be able to draw as much or as little as they wish, without having to buy an annuity. Of course the option of annuity purchase will still be available and may well be the answer for many people. Regardless of what you choose, you will be able to receive 25% of your pension savings as a tax-free lump sum.

At present, once you start drawing funds directly from your pension, you cannot make any further pension contributions. But from 6 April 2015, you will have a limited ability to make contributions into a money purchase pension. The limit will be £10,000 a year (in addition to any carried forward unused pension relief from previous years) rather than the full £40,000 that is available to others. And unlike this £40,000 standard annual allowance, you will not be able to carry forward the special annual allowance of £10,000; if you don't use, you will lose.

The reason for this restriction in an otherwise very liberal regime is to stop people of 55 or more from making £40,000 pension contributions and then immediately paying themselves the £40,000 from the pension. That way they would have avoided all national insurance contributions as well as tax on the £40,000.

Even if you are subject to the money purchase annual allowance, the normal £40,000 annual allowance will still be available to cover savings into defined benefit schemes (e.g. those that provide benefits based on the employee's final earnings). For example, if you have £7,000 of pension savings subject to the £10,000 limit, then £33,000 of the normal annual allowance will be available. If you go over the £10,000 limit, then the excess will be subject to an annual allowance charge and your normal allowance will be £30,000.

Already in drawdown?

But you may have already started pension drawdown. If you are in flexible drawdown, you will be treated the same as anyone else from 6 April 2015, subject to the money purchase annual allowance. But if you are in capped drawdown, you will retain the normal

annual allowance assuming your income remains within the capped drawdown limits. One way of protecting your normal annual allowance could be to start capped drawdown now while it is still available, but to do this you must be 55 before 6 April 2015.

You might be tempted to draw all your funds from the pension as quickly as you can. Leaving aside the question of your future income needs, you should always take tax advice before deciding how much to draw from your pension.

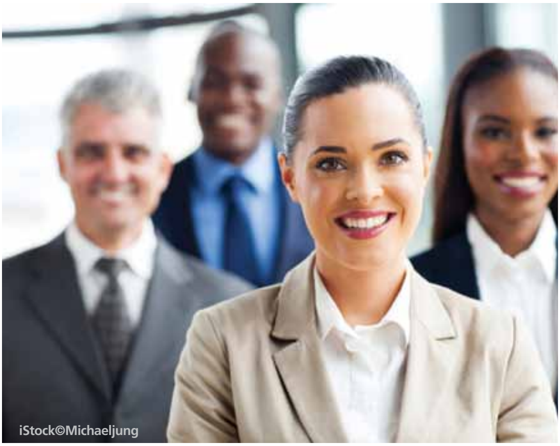
Any drawings above the tax free lump sum will be subject to income tax. Whatever you leave in the pension plan is free of tax on any investment income and capital gains and will only become taxable when you draw it.

And the Chancellor has announced another reason why you should consider not drawing all of your pension funds. They won't be subject to inheritance tax on death, although those who inherit them will have to pay income tax when they draw them out after 5 April 2016 and 45% in 2015/16.

The detailed rules are complicated, so please contact us for advice.

LLP employment status options

The tax rules for limited liability partnerships (LLPs) were tightened from 6 April 2014, and since then it has been much more difficult for fixed salary members to retain their self-employed status.


iStock©Michaeljung

Making a cash call has proved to be by far the most popular route to retaining such status. The basic idea is that a member can avoid being taxed as an employee if they have made a sufficient "capital contribution" to the partnership, so that there is a real risk resting on the success or failure of the LLP. The amount required is the equivalent of at least 25% of the member's expected "disguised salary" for a particular tax year.

Capital contribution – This is what members have contributed in accordance with the LLP agreement, and it must be of a permanent nature. The contribution cannot include a current account balance, any amounts that are not payable until a future date, undrawn profits (unless converted into capital), amounts held in a tax reserve, or any other amounts where there is no intention that the investment will be of a permanent nature. However, a long-term loan held on terms comparable to capital will count, because the only real difference is in the description used.

Disguised salary – This is the element of the member's pay that is not profit-related. It includes fixed sums such as salary, and variable sums which are not based on the profits of the LLP as a whole – such as payments based on personal or team success. Drawings paid on account of a genuine share of overall profits are not included provided the drawings are subject to clawback if the expected profits do not materialise.

For existing LLP members, the 25% test must be considered at the start of each tax year and also if there is any change in circumstances.

New members have a two-month grace period in which to meet the 25% test; this is so that they have enough time in which to arrange any necessary loan finance. Their disguised salary is scaled up to the whole year for the purposes of the calculation.

But be warned – even if an LLP has sorted everything out for the current year, funding arrangements will still need reviewing in advance of 5 April 2015 if payments to members are set to increase.

We can offer advice on this potentially tricky area should you need it.

A tax-efficient exit strategy

A company's ability to buy back its own shares can be a very useful, if sometimes overlooked, facility.


iStock©Lorado

Such a strategy means that the remaining shareholders do not have to find the purchase funds. The normal tax treatment is that the shareholder is treated as receiving a distribution which is subject to income tax. However, where an unquoted trading company is involved, there is the possibility of having the share buy-back instead treated as a capital transaction subject to capital gains tax (CGT). If the disposal qualifies for entrepreneurs' relief, then the tax rate will be only 10%. Of course the company and the transaction must meet various conditions, in particular:

- The person disposing of the shares must normally have owned them for at least five years.

- The shareholder must either sell all of their shareholding or the shareholding must be substantially reduced. In this context, 'substantially' means their holding after the purchase is not more than 75% of what it was before. Any shares held by associates are included in the calculations.

- The shareholder must not be connected with the company after the buy back. 'Connected' here means having a shareholding of more than 30%, and again the inclusion of associates complicates things.

- The share purchase must be for the purpose of benefiting the company's trade. Despite the other shareholding conditions, HM Revenue & Customs (HMRC) may only agree that this condition has been met if the entire shareholding is bought back. Common examples are where shareholders disagree about the company's management or where an unwilling shareholder wishes to end their association with the company. HMRC might allow an exception where the company does not have the resources for a complete buy back at the time of purchase. The trade benefit condition will also not be met if the shareholder remains as a director or is subsequently appointed as a consultant.

Where the company cannot afford to buy back shares in a single transaction, a solution might be a contract with multiple completion dates. If the deal is properly structured, it should meet the CGT treatment conditions and the whole disposal can then qualify for entrepreneurs' relief. However, the payments for the shares will then be staggered. In some cases, CGT treatment is not always beneficial, especially for small amounts where shareholders are basic rate taxpayers. However, CGT treatment is mandatory if the conditions are met, so get in touch with us if you need advice.

Tightening the net on tax evasion

In a further crackdown on offshore tax evasion, HM Revenue & Customs (HMRC) has been consulting on a new criminal offence and tougher civil sanctions.

The proposed powers will complement HMRC's existing offshore evasion strategy. This provides incentives for taxpayers to disclose their liabilities voluntarily, and it is coupled with tough penalties where taxpayers fail to comply. It is backed up by a wide and increasing range of international information exchange agreements between many of the world's tax authorities.

The Government has already recovered £1.5 billion from offshore evaders over the past two years and it has signed agreements with 44 jurisdictions to automatically share information on financial accounts. However, there are many jurisdictions from where HMRC finds it difficult to obtain information. To compensate, HMRC wants to increase the costs of being caught.

Tax evaders can already be prosecuted but HMRC has to prove that the taxpayer intended to act fraudulently – and that is a high bar. The proposal is for a strict summary liability offence, under which the act of evading tax itself is criminal, regardless of the reasons why the taxpayer failed to comply.

This offence would be limited to individuals' conduct in relation to their personal tax affairs and where it causes 'significant revenue loss.' For example the consultation asks whether it should be restricted to failure to declare income and gains from savings and investments or cover the non-declaration of all offshore income and gains. Another question is whether conviction should carry a custodial sentence of up to six months in the most serious cases.

HMRC expects that it will continue to investigate most cases, which will still be settled through civil means. The consultation on tougher civil sanctions looks at extending the scope of the existing penalty regime for offshore non-compliance. For example inheritance tax could be included. Other proposals would aim to deter taxpayers from deliberately moving offshore assets between jurisdictions to continue evading tax. Under consideration are a penal offshore surcharge, extension of the 20-year assessing time limit, and increasing the levels of offshore penalties to reflect the number of times a person has deliberately moved offshore assets to continue evading tax.

Individual protection for your pension

The reduction in the pension lifetime allowance from £1.5 million to £1.25 million from 6 April 2014 was accompanied by some complicated transitional arrangements.

Before 5 April 2014, you had the option of protecting your pension savings by applying for fixed protection 2014. This allowed you to fix your lifetime allowance at £1.5 million, but you would lose the benefit of this protection if you were to make any future contributions to a money purchase pension scheme, or if you were to build up new benefits in a defined benefits scheme above a restricted set amount, or if you joined a new pension scheme. However, you can now apply for a new facility called individual protection 2014.

You can only use individual protection 2014 if your pension savings on 5 April 2014 were valued at over £1.25 million. Your allowance will then be fixed at the value of your pension savings on 5 April 2014 – subject to a maximum of £1.5 million. The good news is that you can continue to make future contributions and accrue further pension benefits without losing protection.

The value of any further pension savings above that level will then be subject to the lifetime allowance charge that applies when pension savings exceed the lifetime allowance. The charge is at the rate of 55% if pension benefits are taken as a lump sum, and 25% if taken as pension income – and the income will also be taxed. There is no downside to applying for individual protection 2014 if you qualify, because it can be held alongside fixed protection 2014.

You can have individual protection 2014 alongside enhanced protection (this was available when the lifetime allowance was first introduced) and fixed protection 2012 (available when the allowance was previously reduced). But you cannot have it if you have primary protection, which was also available when the lifetime allowance was first brought in. You can lose enhanced protection and fixed protection 2012 in the same way as fixed protection 2014 – for example, if you are not careful in opting out of automatic enrolment into a workplace pension scheme.

Individual protection 2014 is a very useful back-up. And you have until 5 April 2017 to make an application. This is an extremely complicated area, so please contact us for advice.

Auto enrolment – Your staging date

You can find your staging date by entering your PAYE reference number on the link below, just tap it into your browser:

http://www.thepensionsregulator.gov.uk/employers/tools/staging-date.aspx

We would recommend that you address your staging arrangements as early as possible to guarantee that you will be prepared for automatic enrolment. There is a huge spike in the number of companies staging in late 2015 through to 2017, it makes sense to register with us for support sooner rather than later to ensure you get the relevant guidance. Tiffin Green can provide a solution to reduce the administrative burden and avoid fines. We will keep you informed of changes and developments with regular communications. In addition, we will put you in touch with our financial advisers to answer any questions to provide a smooth auto enrolment process. Contact us today.

TAX CALENDAR

Every month

1 Annual corporation tax due for companies (other than large companies) with year ending nine months and a day previously, e.g. tax due 1 July 2014 for year ending 30 September 2013.

14 Quarterly instalment of corporation tax due for large companies (month depends on accounting year end).

19 Pay PAYE/NIC and CIS deductions for period ending 5th of the month if not paying electronically. Submit CIS contractors' monthly return.

22 PAYE/NIC and CIS deductions paid electronically should have cleared into HMRC bank account.

30/31 Submit CT600 for year ending 12 months previously. Last day to amend CT600 for year ending 24 months previously.
File accounts with Companies House for private companies with year ending nine months previously and for public companies with year ending six months previously.

If the due date for payment falls on a weekend or bank holiday, payment must be made by the previous working day.

NOVEMBER 2014

2 Submit employer forms P46(car) for quarter to 5 October 2014.

DECEMBER 2015

30 Last day to submit 2013/14 tax return online to have unpaid tax of under £3,000 collected through the 2015/16 PAYE code.

JANUARY 2015

14 Due date for CT61 return for quarter to 31 December 2014.

31 Submit 2013/14 self-assessment return online. Pay balance of 2013/14 income tax and CGT plus first payment on account for 2014/15.

FEBRUARY 2015

1 Initial £100 penalty imposed where the 2013/14 return has not been filed or has been filed on paper after 31 October 2014. Further £300 penalty or 5% of the tax due if higher where the 2012/13 return has not yet been filed.

2 Submit employer forms P46 (car) for quarter to 5 January 2015.

3 Third 5% penalty imposed on tax still unpaid for 2012/13.

Tiffin Green Ltd
Chartered Accountants
11 Queens Road
Brentwood
Essex
CM14 4HE
Tel: 01277-224422
Fax: 01277-262863
enquiries@tiffingreen.co.uk
www.tiffingreen.co.uk

Directors
Nigel Tidbury FCA
Lee Elsworth ACA FCCA
Stephen Mitchell FCA
Paula Haden ACA FCCA
Robin Brown ACA FCCA