Deloitte.

Deloitte Tax LLP
Global Employer Services

In this issue:

Summary

Basic housekeeping for all

Mitigating the impact of the 50% rate

Deloitte's View

People to Contact

GES NewsFlash
United Kingdom – Year End Solutions

March 30, 2010

Summary

The last few weeks of the tax year provide a window of opportunity for individuals to arrange their affairs to ensure they are maximizing all of the reliefs available to them. In this GES NewsFlash, we consider some simple year-end planning that can be undertaken to save tax, both for those likely to be paying income tax at the new 50% tax rate from 6 April 2010, and those unaffected by these changes. This is often just a case of considering some sensible steps, although in other cases further advice may be required.

This NewsFlash is not intended to provide any sort of investment advice, and where there are investment aspects to consider, it is important to take appropriate advice.

The NewsFlash is aimed primarily at employers, and their employees, and is not exhaustive. In particular, planning for trusts and the self-employed, inheritance tax planning and furnished holiday lets are not covered. You should contact your Deloitte advisor if you have any queries in these areas.

Basic housekeeping for all

Remittance basis users: managing foreign bank accounts

Despite the tougher rules on identifying taxable remittances from abroad now in force, it can still pay to manage carefully overseas accounts containing foreign income and gains. For those with significant capital left in their overseas account at 5 April it may pay to have next year's income paid into a new overseas account – so that they can access that past capital without triggering a taxable remittance of current year income. Failure to set up a new account from 6 April 2010 means that all 2010/11 income will be treated as remitted to the UK first, before prior year (2009/10) income or capital.

Account planning is also relevant for employees who are resident but not ordinarily resident and with non-UK workdays. Individuals should have their remuneration paid into a separate foreign account, established after arrival in the UK, which

contains just their employment income. In doing this they will not be treated as remitting their overseas workday income until they have remitted all their UK earnings for the year. The employment income account must contain only income from a single employment. It may be in joint names with a spouse, provided the spouse does not make any deposits into the account.

Gifts to spouse

Higher rate taxpayers (whether at 40% or 50% in 2010/11) may consider gifts to a non-working spouse to make use of his or her personal allowance (£6,475) and basic/lower rate band (£37,400) for 2010/11, especially given the impending introduction of the 50% tax rate for income over £150,000 and the graduated removal of the personal allowance for income over £100,000 from 6 April 2010. Gifts must be absolute and unconditional and individuals should also consider the inheritance tax and non-tax consequences of such gifts.

Those using the remittance basis may want to gift sufficient foreign income or assets to their spouse to bring unremitted foreign income and gains below £2,000, enabling them to retain the personal allowance and capital gains annual exempt amount (£10,100). This would also avoid any need to pay the £30,000 charge for those who have been resident in the UK for more than seven years and want to continue claiming the remittance basis. Spouses not working in, or deriving other income from, the UK, and who do not remit foreign income or gains to the UK, do not need to file a UK return unless they have been in the UK for more than six tax years.

Children's accounts

If a child's income arising from capital gifted by a parent exceeds £100, the whole of the income will be taxable on the parent. A capital gift from a non-working spouse will lessen the resulting tax liability where that spouse has not made full use of his or her personal allowance and lower rate band. Larger amounts may be sheltered using National Savings Certificates, Children's Bonus Bonds, Friendly Society Policies or Child Trust Funds. Alternatively, consideration could be given to investing the funds in appropriate growth orientated investments.

Individual Savings Accounts (ISAs)

These are available to UK resident and ordinarily resident individuals or Crown employees working overseas, aged 18 or over. Returns from ISAs are free of income tax and capital gains tax. However, dividend tax credits cannot be reclaimed. The subscription limit is £7,200 per annum for under 50s (£10,200 for over 50s). This can be split between stocks and shares, cash (up to £3,600 or £5,100 for over 50s), UK and foreign shares and corporate bonds.

The ISA limit is set to rise to £10,200 pa for all taxpayers from 6 April 2010.

National Savings (www.nsandi.com)

Various issues of Savings Certificates are currently available offering tax-free returns over a fixed period of between two and five years. The maximum new investment in each issue is £15,000, plus an additional amount if arising from reinvestment of mature certificates, up to their value. The maximum holding in Premium Bonds is £30,000 per person. A sum equivalent to interest at 1.50% pa funds monthly tax-free prizes of £25 to £1 million.

Child Trust Fund (CTF)

Child Trust Fund (CTF) vouchers are issued (for a minimum of £250) for the benefit of children living in the UK, born on or after 1 September 2002 where there is an entitlement to child benefit and certain other conditions are met. Family and friends can contribute to the child's CTF account, with a maximum contribution of £1,200 in any year (starting on the child's birthday). The account may take the form of savings, shares or a stakeholder account. All income and growth is tax-free. All children eligible will receive a further CTF payment at age seven (minimum £250).

Pension contributions

Now may also be a good time to consider making a pension contribution. However, with the many changes to pension tax legislation over the last few years, great care should be taken, as higher rate tax relief may not be available.

Where UK taxable annual income in each of 2007/08, 2008/09 and 2009/10 is less than £130,000 (excluding employer contributions, other than those resulting from a salary or bonus sacrifice after 22 April 2009) individuals can contribute up to £245,000 in 2009/10 to UK registered or overseas pension schemes without tax penalty.

Where income exceeds this limit, individuals may lose higher rate tax relief, facing a "recovery charge" of 20% on the amounts contributed. This is because, from 6 April 2011, higher rate tax relief on pension contributions will be phased out for individuals with gross incomes (including employer contributions) of at least £150,000. For those with incomes of more than £180,000, tax relief will be restricted to basic rate relief only. To prevent individuals from making additional contributions to their pensions in the period before these changes commence, anti-forestalling measures were introduced with immediate effect from 22 April 2009.

The anti-forestalling rules apply to individuals with annual income of more than £130,000 in the current or previous two years and with annual pension contributions in excess of £20,000. Broadly, these measures claw back higher rate relief on contributions in excess of the individual's normal pattern of contributions. They do this by imposing a "special annual allowance charge" in 2009/10 and 2010/11 on annual contributions which exceed the greater of £20,000 or the individual's normal ongoing savings pattern. A normal ongoing pattern of contributions includes only those made quarterly or more frequently. For some individuals, the special annual

allowance may be higher than £20,000, up to a maximum of £30,000. Each individual's facts and circumstances will determine what actions (if any) they should take. Please note that the level of relevant income (£130,000) was reduced from £150,000 in the Pre Budget Report in December 2009 for contributions on or after 9 December 2009. Therefore, individuals unaffected by the restrictions before the Pre-Budget Report may find that these new measures now apply to them.

If you are considering making pension contributions we would suggest talking to your Deloitte contact in the first instance.

Capital Gains Tax

Unless they are claiming the remittance basis, individuals should make use of the annual exemption for 2009/10 of £10,100 for each individual, including children. If already used, they should consider delaying the disposal until 2010/11. If disposing of chargeable assets, individuals may consider a prior gift to their spouse. If the spouse wishes to sell the asset, an additional annual exemption may be gained if the asset is sold jointly and the gain split. It is worth considering whether losses can be generated to reduce gains to the exemption limit. In all but very straightforward cases you should speak to your Deloitte contact to discuss whether anti avoidance legislation may affect such planning, and whether such a transfer could result in the loss of other reliefs (for example Entrepreneurs' Relief).

Mitigating the impact of the 50% rate

It is clear that the 50% tax rate will mean an additional burden to many high earners, and, where they are tax equalised, to their employers. There are, though, some simple ways of mitigating the impact.

Accelerating income

Accelerating income to the 2009/10 tax year will mean that it is taxed at 40% rather than 50%, albeit with a cash flow disadvantage of having to pay tax one year earlier. Whilst not all income can be accelerated in this way, the following examples illustrate that this can be achieved in certain situations:

- Closing a bank account in 2009/10 will mean that interest becomes payable in that year.
- Exercising unapproved share options before 6 April 2010 will trigger an income tax charge in 2009/10, although the overall effect of such an action will need to be thought through carefully, as the market value of the shares at the date of exercise will determine the amount subject to income tax. Any future growth in the share value would though be taxed at the 18% capital gains rate instead of the 50% income tax rate.
- The acceleration of a dividend into 2009/10 would mean it is taxed at an effective rate of 25% rather than 36.1% in 2010/11.
- Similarly, the acceleration of a bonus payment into 2009/10 would mean it

is taxed at 40%, rather than 50%.

- Where life assurance bonds are held, a full or partial surrender in the 2009/10 tax year could trigger an income tax charge in the current tax year at 40%. However, care should be taken in respect of partial surrenders, where the anniversary date, rather than the date of withdrawal from the bond, determines the tax point.
- Non-UK domiciled individuals taxed on the remittance basis may consider accelerating planned remittances to the current tax year (rather than 2010/11).

Independent investment advice should always be sought where individuals are considering making changes to investments in order to accelerate income.

Deferring deductions

Deferring deductions to 2010/11 will have the same effect so that, if gift aid or pension contributions are being considered (assuming there are no unexpected changes in the Budget on 24 March), making these in 2010/11 may be beneficial. However, this may not be effective in reducing the 2010/11 “relevant income” of individuals affected by the pension anti-forestalling provisions described above. Individuals may also consider deferring other expenditure which qualifies for tax relief, for example non urgent repairs to a let property. Those with income in 2010/11 of between £100,000 and approximately £113,000 will have a marginal rate of 60% due to the tapered withdrawal of the personal allowance, so deductions of this nature are particularly beneficial.

Capital v income

Investments should also be considered carefully in the light of the increased income tax rate. Many investors are focusing on investments where growth is chargeable to capital gains tax at 18%, rather than income tax.

Investment wrappers

Wrappers such as investment bonds are also useful, as 5% withdrawals can be made annually without triggering a charge to income tax, and the bond can be cashed at a later date when you are no longer a 50% taxpayer. However, it is very important to take into account the risk and investment profiles concerned, and expert advice should always be taken.

Emigrating, or finishing the UK assignment early

Some individuals are considering breaking UK residence before the forthcoming 50% tax rate takes effect. This can be difficult to achieve for individuals who are not going to work full-time abroad. There have been a number of recent tax cases concerning whether the individual had “left” the UK and successfully become non-resident for UK tax purposes. We can advise on the current position and pitfalls and have a network of offices around the world who can advise on local tax issues. It

should, however, be borne in mind that even for non-UK residents, UK sourced income is still subject to UK tax, subject to certain exclusions.

People to Contact

If you have any questions concerning the issues in this GES NewsFlash, please contact one of the tax professionals as follows:

Robert Hodkinson
Tel: 020 7007 1832

Philip Paur
Tel: 020 7007 1666

Louise Brocklebank
Tel: 020 7007 0951

This NewsFlash information is also included in our bi-weekly GES newsletter, *Global InSight*, which you will receive directly if you are on the central distribution list.

If you are not on the central distribution list and received this communication by some other means, you can follow these few simple steps to be added to the central distribution list.

- Go to the Deloitte Subscriptions Page on Deloitte.com
- Make sure that under Step 1 you select “Tax” and “Global Employer Services”
- Under Step 2, select “Global Insight”
- Under Step 3, fill out your contact information and click “Save my profile”

Be sure to visit us at our Web site: www.deloitte.com/tax

If you require information about doing business in a specific country, including individual tax considerations, please log on to www.deloittetaxguides.com and select the countries of interest. In addition to detailed guides, there are at-a-glance summaries contained in the Snapshot series section.

Back to Top

1633 Broadway
New York, NY 10019 – 6754
United States

© 2010 Deloitte Touche Tohmatsu.

Deloitte refers to one or more Deloitte Touche Tohmatsu, a Swiss Verein, and its network of member firms, each of which is a legally separate and independent entity. Please see **www.deloitte.com/about** for a detailed description of the legal structure of Deloitte Touche Tohmatsu and its member firms.