George Hay & Company

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Chartered Accountants
Statutory Auditors

Editorial


Norman Christy

Welcome to this new edition of the George Hay and Company newsletter.

In this edition, you will find the usual articles and in particular the new tax developments that we believe will affect our clients. Issues such as the new HMRC powers, new ways to plan your taxes if you are a one person company and the changes in Capital Gains will be covered. We also include as an attachment to this newsletter an article covering the new Pension Auto Enrolment and how this will affect employers.

As ever, we hope you enjoy reading this newsletter and if you require further information on any of the subjects covered here or indeed you have a general question, we would love to hear from you.

Ed

General

Flexible Working

Readers may be interested to know that from the 30th June, 2014 any employee who has at least 26 weeks continuous employment with an employer will be able to apply for flexible working regardless of their personal circumstances provided that they have not made an application within the past twelve months.

Taxation

General

As many of our clients have been aware, the Tax Department has recently been concentrating their efforts on preparation of the employer Return form P11D, relating to the provision of benefits in kind of payment and expenses to employees. These Returns had to be submitted by 6th July.

Now that we have dealt with these forms, we will be focussing on personal Tax Returns. As clients will know, these Returns for 2013/2014 must be filed by 31st January 2015. However, it would be of great assistance to the Tax Department if clients could let us have the relevant information as soon as possible to avoid the usual January "rush". Providing the relevant information early also means that clients can know their tax position well before the deadline which in turn helps with planning for tax payments, if any.

HMRC Powers

There has been a great deal in the press recently about the Revenue and its increased powers to attack what it deems to be abuse and to collect taxes in general.

1. Employers who pay their workers less than the National Minimum Wage (NMW) will now face an increased penalty of up to £20,000.

Such employers must not only pay the unpaid wages, but also a financial penalty now calculated as 100% of the unpaid wages owed to workers up to a maximum of £20,000.

2. Clients will be aware of the increased penalties for failure to submit Personal Tax Returns on time, introduced a few years ago.

This seems to have had the desired effect. Latest figures show that some 93.4% of all the 2013 Tax Returns issued, were submitted on time. This is the highest percentage so far recorded for Returns filed on time.

3. The Revenue plan to introduce a new strict liability criminal offence of failing to declare taxable offshore income

The intention is that criminal prosecutions can be brought against anyone with undeclared foreign income, even if they did not intend to evade taxes.

Currently, the Revenue has to demonstrate that the individual intended to evade tax, if the offshore income had not previously been declared.

Under the proposed changes, the Revenue will only need to show the income was taxable and undeclared. As a result, we would expect to see more successful prosecutions of offshore tax evaders, but the concern is that the genuinely innocent person will also be caught.

4. The Revenue have also launched a recent "income campaign".

This initiative gives employees who are resident in the UK and have additional individual earnings from a self-employment, the opportunity to bring their tax affairs up to date on preferential terms.

The Revenue have suggested various sources of self-employment income e.g. consultancy fees for the provision of training, organising parties and events, providing services e.g. taxi driving, hairdressing etc., making and selling craft items, buying and selling goods at market stalls/car boot sales etc.

There is no "end date" for the campaign. Those affected need to complete a notification form, then submit a disclosure form and then pay the tax/NIC within 4 months of receiving the Revenue's acknowledgement.

Any client, who believes he/she may be affected by this, should contact us immediately.

5. The amount of taxes paid by non-domiciled tax payers has also increased substantially as a result of the recent charges in the form of assessment for such individuals.

Recent figures indicate that in 2011/2012, the amount of the income tax paid by such individuals increased to £6.8billion up from £5.7billion in 2008/2009. This represents a 19% increase.

Interestingly, only some 2.6% of the total paid was the non-domiciliary annual charges where the individual had elected for the remittance basis of assessment. This would seem to indicate that the majority of non-domiciled taxpayers choose to pay tax on their overseas income/gain instead.

6. A consultation paper has recently been released proposing the creation of new powers to enable the Revenue to collect unpaid taxes. Apparently, the Revenue state that around £50 billion tax per annum goes unpaid and has to be collected as debt.

In addition to the existing powers e.g. distraint orders it is proposed that the Revenue will have the power to collect unpaid tax direct from the taxpayers bank account without independent supervision.

They propose a number of safeguards to ensure that only the "truly non-compliant" are targeted before the money is taken out. These are that the taxpayer will have been contacted a minimum of four times about the debt, the measure will only be available where the tax due is in excess of £1,000 and the powers will never be used in such a way to leave the taxpayer with less than £5,000 in their account.

There are also a number of proposed safeguards after the money has been taken out.

However, the proposal has caused a great deal of concern because of the danger of 'innocent' individuals suffering, as a result of errors on the Revenue's part.

Over the last few years, various policies have been introduced with serious operational failures by the Revenue, causing unnecessary distress. There are not many who believe that the Revenue will be able to introduce such a major policy as this without similar serious operational failures.

Has "Big Brother" finally arrived, 30 years later than anticipated by George Orwell!

Indeed, some recent decisions by the Revenue to pursue litigation, does add to the general concerns.

We have heard of a taxpayer who submitted her 2010 Tax Return on 27th January 2011 (in time) but had a liability of £58,600. Unfortunately she did not pay this tax until 7th March and hence the Revenue issued the usual late payment surcharge (i.e. relating to the tax unpaid at the end of February).

The taxpayer had undergone major surgery to remove a cancerous tumour in the autumn of 2010, with chemotherapy treatment afterwards.

Unfortunately, she then developed a life threatening infection and was critically ill in hospital in December 2010 and January 2011. She continued the radiation treatment until May 2011.

As a result, the taxpayer appealed against the surcharge on the basis that she had a reasonable excuse for making the payment late, which was still only 5 weeks late.

I suspect most, if not all of our clients, who would agree with the taxpayer but not the Revenue. They pursued her all the way to a Tribunal hearing where fortunately good sense prevailed and the Tribunal agreed that the taxpayer's serious illness did indeed constitute a reasonable excuse.

Hence the concern as to how the Revenue will undertake all their proposed new powers, even with "safeguards".

Company Car Advisory Fuel Rates from 1st June 2014

These rates apply to all journeys on or after 1st June 2014 until further notice. For one month from the date of change, employers may use either the previous or new current rates, as they choose.

Engine size	Petrol	LPG
1400cc or less	14p	9p
1401cc to 2000cc	16p	11p
Over 2000cc	24p	16p

Engine size	Diesel
1600cc or less	12p
1601cc to 2000cc	14p
Over 2000cc	17p

Hybrid cars are treated as either petrol or diesel cars for this purpose.

Rogues Gallery.

Three men who conned several UK Companies by pretending that they had entered into a £15 million contract with Dubai Department of Tourism to promote tourism in that country have recently been jailed.

The fraud consisted of a reclaim of VAT charged on invoices issued by the businesses targeted for the sale of advertising space, but which the three men involved had no intention of paying. Instead, the invoices were used to support fraudulent VAT reclaims amounting to some £1.9 million.

The three men were found guilty and jailed for terms ranging from 31/2 years to 6 years.

In a separate story, the Serious Fraud Office (SFO), the body that investigates and prosecutes serious or complex fraud and corruption has ironically itself been fined by the HMRC for incorrect VAT claims made. The fine was for more than half a million pounds for owing the Revenue £4 million in VAT.

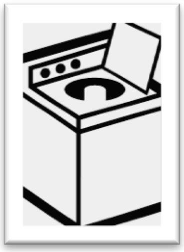
The SFO frequently comes under fire for ineptitude and is castigated by *Private Eye* as the 'Serious Farce Office'. However, we fail to understand the point in collecting fines by the HMRC in this case as it effectively means that taxpayer's money is transferred from one government department to another.

Property Taxes

Many of our clients do receive income from rental properties.

Up until April 2013, those who let unfurnished property were able to claim tax relief for replacing "white goods" e.g. fridges on the renewal basis.

However, the withdrawal of the relevant extra statutory concession from 6th April 2013 threw into doubt the availability of the relief for the tax years 2013/2014 onwards.



There has been ongoing consultation with the Revenue on the subject and unfortunately they have now confirmed that the withdrawal of the concession does mean landlords can no longer claim tax relief for the free standing white goods in unfurnished residential lettings.

VAT

New place of supply rules come into effect from 1st January 2015 for business to customer (B2C) suppliers of telecommunications, broadcasting and e-services (digital services) in the European Union.

These suppliers will be taxed at the rate applicable in the consumer's member state. Currently, it is determined by the location of the supplier of the service.

Essentially, an electronic service is one that is heavily reliant on the web for its execution

The change will have a major impact for businesses providing services to customers in the European Union.

The logistics of actually dealing with registration and VAT Returns in perhaps several European countries will be nigh on impossible. However, as part of the change, a new service is to be provided to enable businesses to meet their commitments. This is called the Mini One Stop Shop (MOSS) and will enable EU businesses to account for all their B2C digital suppliers to consumers in member states where they are not established by submitting a MOSS return electronically to the member state in which they are registered.

National Insurance

From 6th April 2014, entertainers' earnings will no longer be liable to Class 1 National Insurance Contributions. Instead all such income paid under a contract for services, will be treated as self-employed income and subject to Class 2 and 4 National Insurance Contributions. As such, the "engager" will not be required to operate Class 1 National Insurance Contributions on the entertainers' earnings.

Inheritance Tax

Clients may recall from the last Newsletter the various exemptions from Inheritance Tax available for gifts.

As a follow up, we would also remind clients of the further relief for "gifts out of income".

To obtain the relief, the gift must form part of the normal expenditure of the donor. Normal in this context means what is normal for the donor not the average person. It also means habitual or something which is recurring, so the donor must establish a regular pattern of gifts in order to establish that the expenditure is "normal".

Common methods of establishing a regular pattern of giving includes:

a) Setting up a standing order;
b) Providing funds to pay for grandchildren's school fees;
c) Paying a series of premiums on a life policy.

The requirement for a pattern also indicates that the gift should be reasonably comparable in size or proportionate to each other or to the amount of surplus income for the relevant tax year.

Furnished Holiday Letting

The Courts have recently confirmed that a recent Tribunal decision as to the availability of business property relief for Inheritance Tax still stands. That decision was that the relief is not available unless there are exceptional levels of additional services provided.

Capital Gains Tax

As clients are probably aware, the Government recently announced that it was to consult on the proposed extension of Capital Gains Tax (CGT) to non-residents.

The changes will affect those non-residents who own UK residential property.

The consultation paper has provided some more details on what changes are planned, although these may change in the course of the consultation process.

The proposed new CGT charge will apply to all UK residential properties of any value, whether occupied or rented out, and whether owned by individuals, partners trusts or companies. The new charge will only apply to UK residential property held through an offshore company where they are not already caught by the ATED (Annual Tax on Enveloped Dwellings) regime but the detail of how this will work in practice is not yet clear, especially as the Government did recently announce an extension to the ATED regime. Residential properties with a value of between £1,000,000 and £2,000,000 will be brought within the ATED regime from April 2015 and residential properties of between £500,000 and £1,000,000 from April 2016.

At present, non-resident overseas companies which own let residential properties, which are within the ATED regime because of their value, are exempt from paying both the annual charge and Capital Gains Tax. It is unclear at present whether this exemption from Capital Gains tax will remain the case when the ATED regime is extended and the new charge is introduced. If it does, then this would appear to make it better to own such properties through an offshore company rather than on a personal basis. This somewhat goes against the Government's original intentions when it introduced the ATED regime.

It appears that the new charge will apply only to gains from April 2015 and the tax is likely to be collected by way of a withholding tax, similar to Stamp Duty.

It is also proposed to remove the availability of making an election to treat the UK property as a main residence for Capital Gains Tax purposes (if the property is not actually let) and thus obtain exemption for any gain.

This will however, as a "side effect", also hit UK residents owning more than one residence. Hence it is important for our UK resident clients owning and occupying more than one residence to review the Capital Gains Tax position as soon as possible. Those who believe that they may be impacted by these proposed changes should contact our Tax Department.

New ISA (NISA)

From 1st July 2014, the New ISA and all existing ISAs will become NISA.

The overall annual subscription limit for these accounts will be increased to £15,000 for 2014/2015, and for the first time, ISA savers will also be able to subscribe the full amount to a cash account (recently only 50% of the ISA limit could be saved in cash).

Articles

Employer National Insurance Contributions – £2,000 "Employment Allowance"

From 6th April 2014, an employer will generally be able to claim a £2,000 annual employment allowance, reducing the employer national insurance contribution (normally chargeable at 13.8% on wages and salaries of employees/directors).

The following points are mentioned:
Only one employment allowance can be claimed by "associated businesses" such as businesses owned by the same individual or group of individuals and/or owned by relatives but sharing premises.

The employment allowance is claimable from the outset so that, for instance, if the monthly employer NIC bill is £1,000 then this would be reduced to zero for each of the first two months of tax year 2014/2015.

Over the next few weeks, our Tax Department will be contacting the clients we think may benefit from this. If any client has not heard from us by the end of August and thinks they also benefit from the new allowance, please contact John Flanagan.

Tax Planning - Level of Salary for Directors of One Person Companies

In the past, the typical one person consultancy company, where the Director has no other income would operate most tax efficiently by paying a salary of the NIC threshold (£7,956 per annum for 2014/2015).

Any additional drawings from the company would be financed out of dividends, since dividends do not attract National Insurance contributions.
The reason for this was that any salary paid to the Director in excess of £7,956 per annum would attract 12% employer NIC plus 13.8% employee NIC, being 25.8% in total.

This did mean that part of the personal income tax allowance (currently £10,000) would not be utilised, since the NIC cost would be likely to exceed the corporation tax relief in the company (generally at 20% for a small company).

New Strategy for 2014/2015 – One Person Companies – Mixture of Salary and Dividend

The most tax efficient strategy for a one person company, where the individual shareholder/director has no other income would now generally be as follows:

1. A salary equivalent to the income tax personal allowance (£10,000 for 2014/2015) would be paid.

2. Whilst there would be employee NIC of 12% charged on the salary between £7,996 and £10,000, there would be no employer NIC, because of the employment allowance.

3. From the corporation tax point of view, the company would now get tax relief on £10,000 at 20%, rather than £7,956 at 20%.

4. Thus, by paying an additional £2,044 salary, the individual's employee NIC bill will increase by 12% only but the company's corporation tax bill would reduce by 20%.

5. Any balance of drawings above £10,000 per annum would, as before, be financed by dividends.

Self Employed Travel Expenses – Tax Allowability

Self Employed clients can generally claim business travel expenses as a deduction against profits.

However, the precise definition of what is tax allowable business travel has always been a source of argument with HMRC.

Upper Tribunal Decision – Samadian

An Upper Appeals Tribunal has recently heard an appeal against the HMRC decision to disallow certain travel expenses claims by the taxpayer Dr Samadian.

The broad facts are that Dr Samadian did work full time as an NHS employee at two London hospitals and also looked after private patients as a self-employed Consultant.

He held weekly outpatient appointments to assess his private patients at two private hospitals and prepared treatment plans for them at the home office, where he also carried out other administrative tasks. Although the tribunal accepted that Dr Samadian had a place of business at home necessary for his professional practice, they found that because of a "pattern of regular and predictable attendance" at the two private hospitals which were also "places of business", the travel costs between Dr Samadian's home and the two private hospitals were tax disallowable, effectively being treated as commuting costs.

The Upper Tribunal provided a summary of categories for treating travel expenses as deductible or non-deductible which, in its view would attract broad public acceptance.

1. Travel expenses are treated as deductible in relation to itinerant work (such as Dr Samadian's home visits to patients).

2. Travel expenses for journeys between places of business for purely business purposes are treated as tax deductible.

3. Travel expenses for journeys between home (even where the home is used as a place of business) and places of business are treated as non-deductible (although allowable in very exceptional circumstances such as if Dr Samadian is at one of the private hospitals preparing to see a patient, he realises he needs his notes on the patient which are located in his office at home so he makes a special trip to go home and collect the notes, and immediately returns to the hospital to see the patient).

4. Travel expenses for journeys between a location which is not a place of business and a location which is a place of business are not deductible, e.g. the costs of travel between an NHS hospital and a private hospital.

Implications for Clients

Clearly HMRC will now be fully updated on the above decision and can be expected to look carefully at self-employed travel expense claims with a view to disallowing such claims for journeys between home (even if the home is a place of business) and other places of business where there is a pattern of regular and predictable attendance, which could be categorised as commuting.

Important Changes to Intestacy Rules from 1st October 2014

The Inheritance and Trustees Powers Act 2014 has received Royal Assent and the Government has announced that it intends to bring the Act into force on 1st October 2014.

Amongst the points which are likely to be of interest to clients are changes to the intestacy rules.

In particular, where a couple is married or in a civil partnership, the whole Estate passes on intestacy to the surviving spouse in all cases where there are no children or descendants.

Where there are children or descendants, the surviving spouse takes the personal chattels and a statutory legacy of £250,000 plus half of any balance of the Estate outright (rather than being subject to a statutory trust under the old rules). The surviving children or other descendants take the remaining half (statutory trusts apply to minor beneficiaries).

Making a Will

One point which should be stressed here is that it is now even more important that all clients should make a will.

For instance, it is very common for a married couple in London to own a family home worth, say, £1m in the name of one spouse, and relatively small assets.

If the spouse owning the family home dies intestate and there are children, then the surviving spouse will only inherit part of the family home (around 62.5% in this example) with the balance going to the children and this balance becoming subject to Inheritance Tax if it exceeds £325,000.

Clients wishing to discuss this matter further should contact Paul Craik or John Flanagan in the Tax Department or their normal contact Partner.

New Pension Fund Rules

As clients will be aware the Chancellor, in his Spring 2014 Budget, did announce that the pension fund rules were to be radically reformed.

HMRC have now clarified the new rules as outlined below:

Flexible Access to Pensions From Age 55

From 6th April 2015, pension investors aged at least 55 will have total freedom over how they take an income from their pension fund.

The general rule will be that 25% will be tax free, with the rest being subject to income tax at the highest marginal income tax rate.

It is mentioned that it will be possible to take the 25% tax free cash immediately and leave the balance of 75% within the pension fund.

This would mean that any further withdrawals from the 75% remaining within the pension fund would be taxable in full as and when drawn out of the fund.

Defined Contribution Pension Funds

It is important to appreciate that these flexibilities are generally only available to defined contribution pension funds leaving the rules largely unchanged for defined benefit (e.g. final salary schemes) pension schemes.

Pension Income (Drawdown) Restrictions To Be Abolished

Following on from the above, it follows that the current pension income drawdown restrictions will be

abolished from 6th April 2015, for defined contribution pension schemes.
This does mean that investors already in income drawdown prior to 6th April 2015 will be able to move to the new unlimited regime (i.e. draw more income than the current maximum amount).

New Restriction On Pension Contributions Once Income Has Been Taken From a Pension Fund

Unsurprisingly, the Government has been concerned that individuals would arrange to pay the annual allowance of £40,000 a year by way of pension contributions, tax relievable at the highest marginal rate and would then, shortly afterwards, draw the monies out, with only 75% of the monies drawn being taxable.

Accordingly, there is a new general rule that, after 6th April 2015, if an individual draws any income out of the pension fund, then the annual allowance for making pension contributions will be reduced to £10,000 a year (from the current figure of £40,000 a year).

This could be a considerable pitfall because the annual allowance is applied not only to employee contributions but also to employer contributions and to pension benefits being built up in a final salary scheme (these latter benefits can be surprisingly large).

There are exceptions for "small pots" and for individuals already in "capped drawdown" before April 2015 who do not increase their income withdrawals.

Access to Impartial Guidance

It has now been confirmed that impartial guidance will be provided by organisations such as the Pensions Advisory Service (TPAS) or the Money Advice Service (MAS).

Transferring a Defined Benefit Pension (e.g. Final Salary)

As mentioned above, the new rules generally only apply to defined contribution pension schemes.

A new rule has been introduced to make it mandatory for an individual to obtain independent financial advice from an FCA registered advisor, before benefits can be transferred into a defined contribution pension (e.g. a SIPP).

Possible Fall In The Tax Paid When A Pension Fund Beneficiary Dies

At the moment, the pension fund of an individual who has not started drawing income therefrom, can pass under age 75, tax free to beneficiaries such as the surviving spouse/children etc.

However, if an individual is drawing pension, then a surviving spouse/child under 23 can effectively inherit the pension fund and draw monies therefrom either as income or as a lump sum. There will be an income tax charge (in much the same way as if the individual beneficiary was drawing down from their own pension fund) on the recipient.

By contrast, if there is no surviving spouse or child under 23, the monies remaining within the pension fund will bear a tax charge of 55%.

HMRC have, to date, merely announced that this tax charge is being reviewed (hopefully this will be reduced from the current 55% rate).

In summary, whilst not all of the rules concerning pension funds have been fully finalised, it is clear that there will be considerably more flexibility after April 2015, in drawing pension fund benefits.

Clients wishing to discuss matters further should get in touch with their normal contact Partner or John Flanagan or Paul Craik in the Tax Department.

Staff News

We, from the firm, would like to congratulate Neetiay and his wife Thalia for their wedding on 30th June 2014.

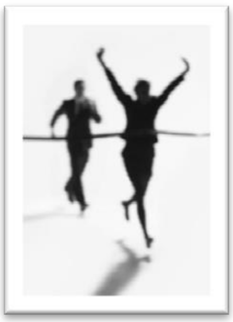
Although the actual wedding took place in Australia, most of the staff from the firm attended a wedding reception on 12th July 2014.

We wish them all the best for the future.

We are pleased to welcome Sadin Pokharel to our team.

Sadin qualified as a Chartered Certified Accountant (ACCA) in 2012 and has been working in accountancy practice for the last six years. He played cricket for Bexleyheath Second XI Cricket team whilst studying in London. He currently cycles to work and he also undertakes long distance cycling. His other interests include inline skating, international politics and spirituality.

Competition



Congratulations to the two readers who supplied the answer to the Competition in our Winter Competition and have now received a bottle of champagne.

The answer to our Competition was as follows:

3 £1 coins, 2 50p coins, 1 10p coin, 3 5p coins and 1 1p coin.

I now return to our Summer Competition and this is as follows;

One of our staff was waiting at the bus stop when they saw two buses go by. Each had a 3-digit number where each subsequent digit was bigger than the previous digit. The digits of the first bus totalled 10 and included a 5. The digits on the 2nd bus totalled 15. The 1st digit of the 1st bus was half of the 1st digit of the 2nd bus. No digit was repeated. What were the numbers of the two buses.

Conclusion

We hope you have enjoyed reading this newsletter. We look forward to your answers to the competition above and to hearing from you if you feel any of the articles covered do affect you.

As the economy continues to recover, it is believed that interest rates will rise. This of course means that mortgages and loans repayment will rise accordingly. Therefore it is prudent for clients with mortgages and loans to plan ahead.

This time of the year however, thoughts drift to a well-earned holiday and whether you are staying in the UK or going abroad for your holiday, we wish you a safe, relaxing and enjoyable summer holidays.

Ed

The George Hay & Company Newsletter is published six monthly and is for private circulation only to clients of George Hay & Company. Further copies are available on request to the Editor.

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