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Emergency Budget 2010

Practical tax planning strategies

financial support you can count on...

BUDGET UPDATE 2010

Welcome

Some labelled the coalition government's Emergency Budget 2010 as the most important budget for decades.

Critchleys Tax, VAT and financial planning experts have summarised the key changes and planning strategies to help you reduce your tax liabilities and protect your wealth.

TAX

Personal Tax

Income tax issues for individuals and trusts

The key changes announced by the emergency budget were limited but even so are significant.

- The personal allowance for 2011-12 for persons aged 65 years and under is to be increased from £6,475 to £7,475. There was no equivalent increase for persons aged 65 years or over.
- The threshold income level at which higher rate tax becomes payable will be slightly reduced from 6 April 2011 from the current level of £37,400 and the objective of this is to prevent higher rate taxpayers from benefiting from the increase in the basic personal allowance.
- There will be changes to the level of pension contributions that can be made tax free. We anticipate that the complicated rules that were introduced to limit tax relief on contributions earned by persons earning £130,000 per year or more will be disbanded, but at the cost of an annual contribution level for each year that may be capped at somewhere between £30,000 and £45,000.

Given the current economic climate and the desire of the Coalition Government to bear down heavily on public finances, whilst giving some leniency in Corporation Tax rates, there will be a shift in favour of persons in business using companies, either to incorporate their activities entirely into a company, or to use a company as a member of a partnership or limited liability partnership (LLP).

The planning implications of all of these measures can be summarised below:

- If you have a company car, consider if it is still fiscally advantageous. The taxation of company cars has risen steadily over recent years, and coupled to tax rates of 40% or even 50% may no longer be attractive. Consider in particular the provision of free private fuel, which may well be worth sacrificing in return for accepting the fuel charge as part of ordinary personal expenditure.
- Shifting income to a spouse or partner who is liable to tax at only basic rate still remains a simple planning strategy. Be aware that this requires care, because although the idea is simple, and may work easily for investment assets, it may be fraught with problems if for example shares in a family business are given away to divert dividend income to a lower income spouse, unless the strategy is carefully thought through. We shall be pleased to advise in individual cases and this is an area in which there is no 'one size fits all' solution.
- Tax efficient investment planning is still a realistic option. Consider the use of venture capital trusts (VCTs) and enterprise investment schemes (EIS). Both are arrangements that are written into tax law and which provide Income Tax relief on investments made, in the case of VCTs, at 30%, and in the case of EIS investments, at 20% with scope to invest up to £500,000 per year into EIS products.
- EIS investments can also offer Capital Gains Tax exemption and deferral. Both VCTs and EIS products are offered by our colleagues in Critchleys Financial Planning (CFP) who will be pleased to advise you further.
- More generally, anyone fortunate enough to have investments that generate an income that is not required for immediate use would do well to consider investment 'wrappers' that offer a tax free roll up until income is actually required. Offshore roll-up funds, and life insurance wrappers (which can be onshore or offshore) offer interesting opportunities and again CFP will be pleased to advise further.

Want to know more?

Call Tim Keeley on 01865 261100 or email tkeeley@critchleys.co.uk



Personal Tax continued...

- There were no immediate changes announced to the taxation of non-UK domiciled individuals in the emergency Budget but, the new Coalition Government has made it clear that the taxation of non-domiciliaries is likely to undergo further review. With some non-UK domiciled taxpayers already affected by the tightening in remittance rules announced in 2008, now may be a good time to explore tax efficient planning which is less dependent upon foreign domicile status.
- If frustration drives you away from the UK, becoming non-UK resident can reduce your exposure to UK taxation. Be aware however that H M Revenue & Customs (HMRC) are taking a much more critical review of the circumstances in which an individual is to be treated as non-UK resident even if he has moved to live abroad. We shall be pleased to advise in this area and also to put you in contact with overseas advisers who can help you to plan for the tax regime to which you may be choosing to reside. Bear in mind that there are good opportunities, especially as some overseas jurisdictions have benign regimes for taxing pensions. Some also have limited or no Capital Gains Tax, or Inheritance Tax, but may have legal systems which differ from our own, and of course, their own versions of anti-avoidance legislation, a characteristic which exists on both sides of the English Channel!

There has been no change in the filing deadlines for tax returns – paper returns need to be filed by 31 October, but electronic returns need not be files until 31 January. We file most of our clients' returns electronically, but please (especially if your tax affairs are complex) bear in mind that the earlier that we can process your tax returns, the more rapid will be our service!

Want to know more?

Call Tim Keeley on 01865 261100 or email tkeeley@critchleys.co.uk



Capital Gains Tax

The main changes were:

- To increase the rate of tax on gains arising from disposals made on or after 23 June to 28% for higher rate taxpayers
- To extend the gains that can be covered by entrepreneurs relief, and taxed at 10% only, from £2 million to £5 million from 23 June.

The main planning points that emerge from these changes are as follows:

- To consider inter spousal gifts to take advantage of gains being taxed at 18% rather than 28%, the annual Capital Gains Tax (CGT) exemption of £10,100 still remains as before.
- To incorporate businesses by selling goodwill across at open market value. We shall be pleased to assist in such planning but please be aware that unless professional advice is taken, this strategy can lead to unwelcome tax costs – so plan only if the necessary guidance has been taken beforehand.
- To arrange sales of assets owned by partnerships and sole traders to maximise the value of entrepreneurs relief going forward. This again provides enormous opportunities, but also risks, especially if the assets to be disposed of belong to an individual member of a partnership. Getting your strategy right is essential to success, and our tax consultancy team will be delighted to help you.

Other planning points that remain valid, though which did not arise out of the contents of the emergency budget, are as follows:

- To use enterprise investment scheme investments to eliminate or in some cases defer capital gains
- Using the private residence relief exemption carefully, especially if for example you wish to sell some garden land whilst retaining the main residence, and/or if you have more than one residence and wish to know how to deploy your private residence relief to best effect. Please note that this is an area which has come under some adverse criticism in the press, and therefore proper professional advice should be taken to avoid some of the more obvious pitfalls.
- Annual disposals to use up personal CGT exemptions of £10,100 per individual remain perfectly valid.
- Inter-spousal transactions can still be made free of CGT. However, if a couple has separated or divorced, or is about to separate, different rules can apply and it is important to ensure that the timing of any disposals in such circumstances is carefully thought through. We shall be pleased to help in such situations.
- Giving assets away to individuals other than a spouse or civil partner or to a trust, results in disposals being valued for capital gains purposes at open market value. In some cases it is possible to delay the gain by making a claim for hold over relief. Advice should be taken in each case to determine the most advantageous planning options open to you.

Want to know more?

Call Tim Keeley on 01865 261100 or email tkeeley@critchleys.co.uk



Business Tax

Is your business run through a company, or is it unincorporated (i.e. a partnership or sole trader)?

Getting the structure right can save quite large amounts of tax. As company tax rates are now set to go down from 2011/12, using companies is becoming more attractive, but it isn't always that simple. Talk to your usual Critchleys contact for advice.

If you have a **pension scheme for employees**, and the employees are contributing, you are missing a chance to save some National Insurance. It may be better to restructure the employees' remuneration so that you pay their contributions instead, and pay them less accordingly. It doesn't save any tax, but it saves National Insurance Contributions (NIC) on the amount of the contributions.

If you're going to **buy equipment** for your business, getting it just before your year-end, rather than just after means you have the tax allowances a whole year earlier. Most businesses can write off the first £100,000 of expenditure straight away in 2010/11, although this figure will drop to £25,000 for 2011/12.

Companies that carry out **research & development** qualify for special allowances. Small and medium-sized businesses can claim 175% of what they spend against their profits, while large businesses can claim 130%. And small or medium-sized businesses (but not large ones) can set any losses created by R&D against their payroll tax bills and get a cash refund.

Splitting income between family members (making family members shareholders in the family company or partners in the family business) has worked as a way of moving income from higher-rate taxpayers to non-taxpayers. It still seems to work.

The current tax regime encourages rewarding employees (especially of quickly growing businesses) with **share options** in the company they work for. For start-ups short of cash, offering some sort of stake in the business (and in future proceeds when the company is sold) helps recruit key staff.

Trading companies can **sell shares in subsidiary companies** and won't have to pay any tax on the gains at all, as long as they remain trading after the sale. That usually means that the proceeds of the sale need to be reinvested in the business.

Want to know more?

Call Gerry Jackson on 01865 261100 or email gjackson@critchleys.co.uk



VAT

As we predicted, the Chancellor announced that the **standard rate of VAT will rise to 20%**. We now know that the rise takes effect on 4 January 2011.

The 6 month advance notice gives taxpayers the option of bringing forward expenditure to before the rate rise. However, there are "anti-forestalling" rules to prevent, for example, artificial pre-payments securing the 17.5% VAT for vast amounts of goods and services actually supplied after 4 January 2011. This still gives **scope for some buying at the 17.5% rate**, but this needs to be done with care.

Although the choice of the 4th rather than the 1st of January avoids the issue of introducing a change in rate on the one day many pubs and restaurants are open well after midnight, it does raise other matters.

Some apportionments, e.g. where a **business accounts** for road fuel scale charges; uses the flat rate scheme, etc. will be necessary due to the rise happening mid-month. There will still need to be an action plan to adjust accounting systems; prices; etc. with the rate rise occurring on what for many will be the first working day after the Christmas holidays. We therefore suggest clients have an implementation plan in place, considering:-

- will I have to absorb the VAT hike or can I **increase prices**?
- have I scheduled changes to accounting systems/price lists/catalogues?
- can I (or my customers) bring forward expenditure to secure the lower rate of VAT?
- how do I deal with deposits/invoices deliveries spanning the change or rate?

And more generally, since an increase in the **VAT rate will increase** the amount of VAT passing through the books; taxpayers should review:-

- what can I do to **manage cashflow**?
- am I charging the right rate of VAT?
- what can charities and partly exempt businesses do to mitigate irrecoverable VAT?
- do I control risk in my VAT Accounting? (HMRC Penalties are charged as a percentage of the tax misdeclared.)

4 January 2011 also sees a rise in Insurance Premium Tax. The higher rate, charged on some contracts relating to electrical appliances; motor vehicles and travel, will rise to 20% to match VAT. The standard rate of IPT will increase from 5% to 6%.

The General Election meant that some measures announced in the March Budget were not implemented, but have now been reinstated. These include changes to:-

- the exemption for certain postal services - 31/1/11;
- Lennartz accounting for assets used for mixed business/non-business purposes-1/1/11; and
- the zero-rating of certain aircraft 1/1/11.

For further information, or for commercial and practical advice on any aspect of VAT, contact Steve Chamberlain or Julian Borley of our VAT team. Call Steve Chamberlain on 01865 261100 or email schamberlain@critchleys.co.uk



Financial Planning

Individual Savings Accounts - from 6th April 2011 the annual ISA allowance will increase each year from the current £10,200 limit in line with the Retail Price Index (RPI). The maximum that can be invested into the cash element remains at £5,100 for the current tax year.

Pension age 75 rule - the Government has announced that it will end the effective requirement to use a pension fund to buy an annuity by age 75 with effect from 2011/12 tax year. In the interim, the Finance Bill 2010 will increase the age at which a pension scheme member has to secure a retirement income to 77 from 23 June 2010, but it appears that individuals will still have to take a pension commencement lump sum on or before age 75.

Pensions tax relief - the Government is committed to restricting the amount of tax relief applied to pensions. The complex High Income Excess Relief charge scheduled for 6th April 2011 may be replaced by a significantly reduced Annual Allowance. The suggestion is that to deliver the necessary savings, the Annual Allowance would be in the range of £30,000-£45,000 (currently £255,000). The Government will consult relevant parties in the first instance before implementing final legislation. Current Anti-forestalling measures will however continue for the time being.

Basic State Pension - from 6 April 2011 the basic state pension will be increased by the higher of prices, inflation and 2.5%.

Want to know more?

Call Ian Brookes on 01865 261100 or email ibrookes@critchleys-fp.co.uk

