

UK Year-End Tax Planning 2010

What changes are coming in and what action should I be taking before 5 April 2010 to help reduce my tax bill?

With the introduction of the 50% tax rate only weeks away, this special UK year-end bulletin aims to set out some ideas for reducing your UK tax liability which can be implemented before 6 April 2010.

Investment Portfolios

There is an increased need for individuals to ensure they are making the best of the basic rate tax bands available to both parties in a relationship, as this can lead to significant tax savings. This could be as easy as considering whether investment accounts should be moved into joint names.

For those with offshore portfolios it is also important to take time to review your holdings as not all overseas fund investments qualify for Capital Gains Tax (CGT) treatment. If the fund does not qualify for CGT treatment then any gain on disposal will be treated as an 'offshore income gain' attracting income tax rates, likely to be 50% from 6 April 2010, instead of the current CGT rate of 18%.

If you recently realised a substantial gain, or have extensive unrealised gains, which may be affected by these rules, then it may be possible to apply to HM Revenue & Customs (HMRC) for CGT treatment.

Pension Contributions

The generous UK income tax relief on pension contributions (available since April 2006) will be restricted significantly for those with incomes of at least £150,000 per annum, from 6 April 2011.

While the exact form of these rules remains unclear, interim or 'anti-forestalling' provisions were introduced with effect from 22 April 2009. Under these rules, individuals with at least £150,000 of income (or £130,000 for contributions after 9 December 2009), who had not been contributing to their pensions at least quarterly at 22 April 2009 will only receive full tax relief on the first £20,000 - £30,000 of their contributions. Relief on contributions in excess of this will be limited to 20% even after the introduction of the 50% rate.

This has led to an increased demand for deferral mechanisms such as Employee Benefit Trusts (EBTs) and Employer Funded Retirement Benefit Plans (EFRBs) which are the most common alternatives to traditional pension arrangements. Contributions into such plans allow the charge to income tax and NIC on, for example bonus income, to be pushed back to a future point in time when the tax rates may have returned to a lower level. It should still be kept in mind, however, that the Inheritance Tax (IHT) position of both arrangements is currently unclear, especially when established by small businesses, and contributions may have adverse US income tax consequences so should be carefully considered.

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Gift Aid Contributions and Capital Expenditure

The biggest silver lining to be found in the new pension relief rules may be for charities. The £30,000 remittance basis charge has been confirmed as franking tax reclaimed on charitable contributions and this may represent a great use of foreign income for such taxpayers where the charity has an offshore account to which donations can be made. Perhaps more importantly, gift aid contributions also reduce an individual's taxable income for the purposes of the pension anti-forestalling provisions outlined above.

Self-employed taxpayers may also wish to consider deferring capital expenditure qualifying for capital allowances into the new tax year to secure relief at the higher rate. This should be balanced with the use of the annual investment allowance which guarantees 100% relief on the first £50,000 of expenditure each year.

Trust Issues

For those who have established, or benefit from a trust arrangement, these should also be reviewed before 6 April 2010 as the new 50% tax rate will also apply to trust distributions and to any UK income which the trust may receive regardless of whether distributed. It will also be more important to ensure that the trust does not become UK resident when all income may become subject to these higher rates.

Enterprise Investment Schemes (EIS) and Venture Capital Trust (VCT) Investments

EIS investments continue to attract income tax relief at 20% (maximum investment £500,000), and VCT investments at 30% (maximum investment £200,000). For US nationals it is worth taking specific advice from your usual Frank Hirth contact about the potential benefits in your specific circumstances.

Remittance Planning

If you are likely to file on the remittance basis going forward then you have the opportunity to make remittances to the UK before 6 April to ensure that your potential needs for the next few years are satisfied. Particularly where that income has already been subject to tax in another jurisdiction, the UK savings that can be achieved through remitting amounts before 6 April can be substantial.

The issues involved may be complex due in no small part to the introduction of the mixed fund rules with effect from 6 April 2008, which specifies the order in which amounts are deemed to be remitted where they come from an account that contains more than one type of income and gains. This type of year-end planning therefore needs to be addressed as soon as possible. If you wish to consider making remittances then please obtain detailed advice from your usual Frank Hirth contact.

Capital Loss Election

Finance Act 2008 introduced a one-off lifetime election which can be made by remittance basis users to unlock the availability of non-UK losses which have previously been unable to be claimed. The deadline for making this election is 31 January 2011.

This election needs to be carefully considered as once it is made it will apply for the rest of the individual's life, whether taxed on a remittance or an arising basis. There are also specific rules regarding the use of the losses and reporting of transactions which need to be considered.

Nominated Account

If you are likely to be paying the £30,000 charge for the 2009/10 tax year you should consider setting up a specific offshore nominated account before 5 April 2010. This will allow complete flexibility in preparing your 2009/10 tax return given that the Internal Revenue Service (IRS) have not yet advised whether they will accept the £30,000 as a foreign tax for credit purposes.

Capital Gains Tax (CGT)

With the gap between UK income tax and CGT rates widening further to 32% with effect from 6 April 2010, it is thought that the next Budget (due March/April 2010) will include a rise in the CGT rate to 25%. If you are intending to make any significant disposals then it may be beneficial to do this before 5 April 2010 to secure the current 18% rate.

Becoming Non-UK Resident

Much has been written about individuals taking the ultimate step of making plans to leave the UK altogether to avoid the full effects of these measures. As has become increasingly apparent, especially in the light of the recent decision in favour of HMRC in the case of Robert Gaines-Cooper, even steps to become non-resident have in themselves become more difficult. HMRC appear set on the need for there to be a 'clean break' in the individual's life in the UK and this would appear to include the relocation of immediate family which is not always practical or possible.

Summary

While it may seem that there are difficult times ahead in terms of the tax burden on individuals, there are still a number of opportunities to be considered and actively explored which should help to at least soften the blow.

Each of the options outlined above could form the basis of an article in themselves and are aimed at UK tax liabilities only, so please discuss with your usual Frank Hirth advisor the applicability of any prospective ideas or solutions to your particular circumstances.