Spring 2010

Private Client

Maximising and protecting your wealth

Welcome to the spring edition of *Private Client*.

With the prospect of the General Election just around the corner – probably on 6 May 2010, if rumour is to be believed – *Private Client* has approached the three main political parties to hear their plans for the personal tax landscape and how they intend to encourage investment and boost UK business, with a view to bringing sustained growth and economic recovery.

This is not an opportunity for the parties to wheel out their usual election rhetoric, but a chance for them to provide some clear answers on how they plan to make 'UK plc' a more attractive concern, for investors, family businesses and high earners across the board.

We hope that these articles will answer some of the questions you may have regarding the future of the economy, but we would welcome your comments and thoughts on any of the issues raised. You can email us at private.client@uk.pwc.com.

Regards

Clive Mackintosh

Clive Mackintosh

The latest on pensions – our top planning points

Much has been written on the subject of registered pensions in the press over the last 12 months, stemming from both the Government's restrictions on pension contribution tax relief for 'high earners' and the difficulties in the wider economy. Taken together, these have added a further layer of complexity onto the registered pension regime that was only introduced back in 2006.

Steve Etherington highlights below some of the main issues that should appear on your pension agenda for 2010.

Contribution changes

The April 2009 Budget introduced anti-forestalling measures for the 2009/10 and 2010/11 tax years that immediately sought to restrict the tax relief on certain pension contributions for 'high earners'. The measures were subsequently amended in the Pre-Budget Report in December 2009. In broad outline, the latest position is that you will be affected by these rules if your total annual taxable income, from all sources, is in excess of £130,000 for the current or previous two tax years. If you are affected, then the outcome is that you will receive tax relief at full rates on the greater of:

- your ongoing regular contributions in place before the April 2009 Budget (regular being at least quarterly); or
- £20,000; or
- up to £30,000 as an average of non-regular contributions over the three tax years to 5 April 2009.

All contributions by you and your employer (if applicable) are taken into account.

If you have total income over £130,000, then you should seek advice before amending or making any further contributions into your pension arrangements. If you are caught and contributions are made that exceed the limits above, then you will need to notify HM Revenue & Customs (HMRC) via your tax return. Excess contributions from your employer can generate a tax bill of up to 20% this tax year and up to 30% in the next tax year, whilst excess personal contributions will attract basic rate tax relief only.

Alongside the immediate measures, HMRC has issued a consultation document on the proposed pension contribution tax regime from 6 April 2011. In short, it would appear that all contributions for you (if you are a 'high earner') will generate, at best, basic rate income tax relief and, at worst, a 30% benefit in kind tax charge on all employer contributions. Conventional pension saving is therefore unlikely to be attractive in these circumstances from April 2011.

Contribution planning

So the key question is; am I affected?

If no; then you need to consider maximising pension contributions (here planning can see substantial personal contributions being made up to 100% of employment earnings and/or an ability for an employer to contribute up to the maximum lifetime allowance figure, currently £1.75m and £1.8m from 6 April 2010 to 5 April 2016).

One particular point to note is if you are expecting to have total income just over the limit of £130,000. Here some judicious use of the new contribution rules, and perhaps gift aid payments, can see assessed income managed below £130,000 to bring pensions to back onto your planning agenda.

continued

If yes; then take advice on any changes to your pension contributions and consider alternative savings vehicles. One area which is receiving interest for senior executives is the use of a non-registered pension savings vehicle as a replacement and/or top-up for those affected by the changes.

Non-registered plans

These are called 'employer-financed retirement benefit schemes' (EFRBS) and are designed as a replacement pension saving vehicle if you are affected by the changes outlined above and/or if you have already utilised your pension allowances via a registered pension plan. They are also of use if you wish to defer income from the new highest rate of 50% income tax from 6 April 2010 and particularly if you are planning to retire overseas or are non-domiciled.

The aim of an EFRBS is for an employer to contribute to a trust, which is generally sited and invested offshore to provide benefits for you on retirement. The main advantages of an EFRBS, if properly structured, are broadly:

- no income tax or national insurance on the contribution payments;
- potentially no UK taxes applied on the roll up of the offshore sited fund;
- the employer receives a deduction for corporation tax when benefits are paid;
- benefits are subject to income tax at the rate applying when benefits are taken;
- no national insurance applies on the benefit payments if they are in a format akin to that applying to a registered scheme (up to 25% of the fund as a taxed lump sum, with the balance providing a taxed regular income).

Drawing from your registered pension plans

If you have large accumulated savings in registered plans then you should be assessing whether or not to commence drawing benefits. Benefits can normally be accessed either via an annuity with an insurer or via drawing from the pension scheme directly – known as unsecured pension prior to age 75 and alternatively secured pension after the age of 75 (both of these are often generally referred to as 'income drawdown') – or indeed by a mixture of these options. Careful consideration is needed on when and how you access your pension capital to ensure that it meets you and your family's objectives as an integral part of your overall financial plan.

The minimum access age for benefits for those in good health changes from age 50 to 55 on 6 April 2010 – a key point if you were born between 1955 and 1960, as you will generally have to wait until your 55th birthday to be able to draw benefits after 5 April 2010.

If you are already drawing benefits from your pension fund, you may also wish to explore whether you can draw your full yearly pension entitlement before 6 April 2010; particularly useful if you would be subject to 50% income tax on the payments which would otherwise fall into the coming tax year.

Another area which is often overlooked is the ability for you, if you are drawing an income from your pension fund after age 75, to leave any residual fund to charity. This is allowable if there is no spouse or dependants who can receive a pension and the payment to the registered charity is tax free if made within six months of your death.

In summary, there are pension opportunities irrespective of whether you are accumulating your pension fund, looking for alternative ways to save (if registered pensions are no longer attractive) or if you already have large pension funds and wish to ensure that you and your family get good value from that accumulated asset.

Contact

Steve Etherington
020 7212 4977
stephen.g.etherington@uk.pwc.com

back

We asked the three main political parties for their views on UK tax and investment. The following three articles lay out their plans, without editing by us, to give you the clearest possible overview of their thoughts on the future of tax and investment in the UK.

Investing in the future

Ian Pearson MP, Economic Secretary to the Treasury, explains the Labour Party's vision for UK investment and an improved tax system.

Encouraging entrepreneurship during the recovery is important for our future prosperity as a nation. We should not sell ourselves short as to how we compare now with other countries. Globally, the UK is ranked fifth in the world on the ease of doing business. The World Bank's study *Doing Business 2010* has voted the UK 1st in Europe and 2nd in the G7 for ease of doing business. Across the OECD, we have the lowest barriers to entrepreneurship overall and lowest administrative burdens on start-ups.

The Government recognises that this requires a supportive tax and regulatory framework. We've ensured it is a simple process to take on new employees and pay your taxes. Online filing is delivering a quicker, efficient and more reliable service to submit business tax returns, such as PAYE and corporation tax.

I know that access to finance is crucial for businesses that want to grow and succeed in the UK, and we've taken action to increase the options for businesses seeking finance, from seed finance, venture capital, bank financing, right through to share issuance and corporate bond issuance.

We are committed to ensuring that the finance flows to where it is needed most, in many cases these are the small and medium-sized firms with the potential to grow into the next Google. New measures to ensure continued access to finance have been or are being introduced, including the Enterprise Finance Guarantee Scheme, the Growth Capital Fund, and the UK Innovation Investment Fund.

The UK tax system can support this.

It has attracted a lot of attention, but our simplification reforms made capital gains tax (CGT) more straightforward, both for taxpayers and for investors. The single, simple to understand tax rate of 18% for any future gains is amongst the lowest rates available internationally.

At the same time we introduced entrepreneurs' relief. This provides further incentives for small business owners and employees to reinvest for the future success of their own businesses. The relief offers a 10% tax rate on the first £1million of gains should the business be sold in the future. These targeted tax relief measures for businesses and enterprise, are allowing the Government to deliver on its objectives of a sustainable and straightforward system.

There is a range of other enterprise reliefs that are in place to aid entrepreneurs and investors in the UK.

Tax-based venture capital schemes, namely the Enterprise Investment Scheme (EIS) and the Venture Capital Trusts (VCTs) continue to play an important role in ensuring small companies are able to access finance and taking the leap to the next stage of growth, by incentivising equity investments in small, higher risk companies.

continued

The EIS provides tax relief for individuals making direct investments encouraging them to invest up to £500,000 a year for upfront income tax relief on investments of 20%. Investments in VCTs allow upfront income tax relief of 30% on investments of up to £200,000 a year. A further benefit of these schemes is the exemption from CGT they offer when individuals sell their investment after the qualifying period.

Now well established, these schemes remain a vital element of the Government's strategy to support investment, and encourage entrepreneurs. Since their introduction, they have raised around £10billion, which has been invested in 16,000 small companies.

It's also crucial that businesses make the most of the opportunities that modern technology offers them. We introduced the Annual Investment Allowance in 2008, creating a new £50,000 allowance for businesses' expenditure on most plant and machinery each year.

To support investment through the recession, we went further in Budget 2009 and doubled the capital allowance relief for all new investment, to 40% for one year. We're committed to providing a strong incentive for entrepreneurs to invest in their business during the downturn.

I recognise that it's not just about investing in the latest technologies, it's about investing in developing the products and technologies of tomorrow. We have maintained our commitment to existing innovation-focused tax reliefs, such as the successful research and development (R&D) tax credits regime. Since their introduction in 2000, over 43,000 claims have been made for R&D tax credits with over £3.8 billion of relief claimed, supporting over £40 billion of new R&D activity by companies.

I don't think reducing or abolishing capital allowances and other reliefs, as some are suggesting, is in the interests of entrepreneurs who are investing in the future of their businesses.

To support companies in their development of new intellectual property, the 2009 Pre-Budget Report announced that the Government will introduce a Patent Box. This will strengthen the incentives to invest in innovative industries in the UK and ensure the UK remains an attractive location for innovation. This will benefit all companies that hold patents, by reducing the rate of corporate tax applied to income from patents, such as royalties, from 28% to 10%. It is anticipated that, once the regime is established, it will provide tax support of over £1billion to innovative industries.

I know that some people are concerned about the 50p higher band of income tax that will be implemented from April 2010. The recession was deeper than anyone expected and while through Government action we managed to avoid the most severe outcome, as we exit recession we need to consolidate our finances. We are taking a broad based approach to this and believe that it is right that those who can afford to pay more, should make greater contributions.

These actions mirror similar moves by other advanced economies, which have focused on fiscal tightening for those who can afford to pay more.

Overall, as independent surveys regularly show, the UK continues to be highly rated as a place for high-income individuals and their businesses. Labour in Government is committed to maintaining this edge and to providing the environment in which entrepreneurs and private investors can make good profits.

Contact

Ian Pearson MP
01384 455022
pearsoni@parliament.uk

Disclaimer: The information and opinions contained in this article are those of interviewees and party concerned, and do not necessarily represent those of PricewaterhouseCoopers LLP.

back

Freeing enterprise

In this article **Mark Prisk MP**, Shadow Business Minister, sets out how a Conservative government would free enterprise in the UK to start, grow and prosper.

The first task of an incoming government after the election, regardless of party, will be to rebalance the public books. That's why George Osborne has made it clear that a Conservative government, if elected, would move quickly to set out a robust and credible fiscal plan. The longer the debt is allowed to grow, the harder it will be to reduce it.

However, it will also be vital to enable the UK economy to once again grow and that means freeing enterprise, including private businesses. After all, there are 4.8 million private enterprises and they employ more than half the private sector workforce.

And having run my own business for ten years, I understand that government doesn't create wealth. Business does. Government's role is to create the best environment in which you can start, invest in and grow your enterprise.

That means a clear, long-term framework, not short-term fixes.

So how would a Conservative government help encourage the formation of new businesses? At present, it takes twice as long to form a company here, as it does in the USA. And, having done so, many businesses avoid taking staff on, because of the costs involved.

So, to kick-start business formation we will cut out many of the forms it takes to start a company and move to a one-click registration system. This will make the UK one of the fastest places to start up. And any new business started in the first two years of a Conservative government will pay no employer national insurance on the first ten employees it hires during its first year.

But what would a Conservative government do to help existing businesses? Here are three important areas for change: tax, finance and regulation.

Reforming tax

First, we would reform the tax system to make it simpler, more predictable and cheaper to comply with.

Since 1997, the tax system has become hideously complex, with the length of the tax code of regulations doubling. The result is a system that is difficult to understand, expensive to comply with and nearly impossible to administer.

However, a complex tax system doesn't just cost time and money, it also distorts business investment. For example, when the Labour Government first introduced research & development (R&D) tax credits it did so in such a way as to heavily distort R&D practices and it took three separate Budgets to resolve the problem. That meant the rules were different for four consecutive tax years – just what business doesn't need.

So a Conservative government would reform the system to make it simpler, fairer and more consistent. Thus we would establish an Office of Tax Simplification whose task will be to systematically simplify the entire system, tax by tax, over the coming Parliamentary term.

The benefit to business is twofold. First, it saves both time and money. Second, the headline tax rates will fall, enabling business to invest.

Thus, by simplifying corporation tax and by stripping out the complex range of allowances and reliefs we will cut the headline rate of corporation tax from 28p to 25p, to once again make us competitive. Similarly, we will reform small company corporation tax, enabling us to avoid Labour's planned tax rate rise to 22p and return the rate to 20p in the pound.

Accessing finance

But if tax needs reform, what about improving access to finance?

continued

Despite the claims of the leading banks, there remains a gap between their rhetoric and the financial reality for many businesses. Unfortunately, the current government's response has failed to overcome the problem.

For months now we have argued that the Government's schemes are too complex, and too narrow. Many businesses find they are either too small for one scheme, or too large for another.

That's why we argued that, during the recession, there should have been a single national loan guarantee scheme. Worth £50bn it would have provided the opportunity to underpin conventional bank lending, and be applicable to viable firms of whatever size and in whatever sector.

Now, as we hopefully head towards recovery, other problems are emerging with the current government's schemes. So Conservatives are considering carefully how we can improve access to finance for industry, if we are elected to government. We believe the system can be simpler and clearer and we want to look at both long-term debt finance and equity investment.

It's why we have worked with the Stock Exchange and others to support the establishment of a new Environmental Opportunities Index. By making London the global centre for green tech finance, we believe it would also help many related businesses to flourish in the UK.

But we need to do more. And that's why, over a year ago, we pressed the case for a Future Fund, to help expand the availability of equity investment in this country. Some of you will remember the old Investors in Industry model, or 3i as it became known.

We think this may again have considerable merit and we are already looking at how, in practice, this might be made to work, to the advantage of business, small medium and large.

Reversing the tide of regulation

The third change a Conservative government would bring would be in reversing the tide of over-regulation.

Under Labour, the burden of regulation has risen evermore quickly. Indeed it now stands at the equivalent of 14 new regulations every working day. This has to stop.

That's why we have set out a comprehensive plan to change the machinery and culture of government, which currently sees regulation as the first option, when it should be the last resort. The details of this de-regulation plan can be found on the business page of www.conservatives.com, but here are two examples.

We will start by enforcing a stringent system of One In One Out, where any new law must include a cut in old laws which together produce a net reduction of 5% in the regulatory burden. Civil servants need to understand that it's the overall cost to small business which is so crippling.

Then, we will tackle the regulators. Under Labour the number of regulators has soared, to over 150. They're too large and the cost of compliance is strangling good firms. So we will apply a 'sunset clause' to all regulators. During the first term of a Conservative government we will ask each of them to explain to us why they should exist. At all.

And our aim will be clear and simple. By the end of the next Parliament, we want to have fewer regulators, we want them to be smaller and they must cost you less.

There is no doubt that this country faces serious threats to our economic and social well being. Yet I believe these threats can be overcome. If we change direction.

That means tackling the public sector deficit now. It means reforming the tax and regulatory system to free business from needless red tape and uncertainty. And it means creating the long-term framework in which business is able to create the wealth and the jobs on which this country relies.

It won't be easy. But then, nothing worthwhile ever is.

Contact

Mark Prisk MP
To contact Mark, please write to him at:
The House of Commons, London, SW1A OAA,
or email him on priskm@parliament.uk

Disclaimer: The information and opinions contained in this article are those of interviewees and party concerned, and do not necessarily represent those of PricewaterhouseCoopers LLP.

back

Tax – a fairer system for all

John Thurso MP, Shadow Secretary of State for Business, outlines how a Liberal Democrat government would change the personal tax system.

Income tax was introduced in 1799, as a temporary tax to pay for the war against the French forces under Napoleon. It was initially applied at a rate of 2d in the pound on income above £60, increasing to 10% on income over £200. Viewed through today's eyes, those initial proposals which taxed only the richest in society benefited from both simplicity and fairness.

Tax rates have varied over the intervening years, reaching punitive proportions in the late sixties. Higher taxes do not necessarily increase government revenues, as the Laffer Curve shows. The 1980s and 1990s were characterised by lower rates of taxation for those on the highest incomes. Whilst this was necessary to encourage enterprise it went too far and has resulted in an unfair distribution of tax rates between rich and poor.

The time has come to rebalance the system and restore fairness.

Liberal Democrat proposals for the personal tax system

The Liberal Democrats would rebalance the tax system by cutting taxes for people on low and middle incomes, which we will pay for by cutting reliefs and closing loopholes at the higher rates.

We propose to raise the threshold at which people start paying income tax from current levels to £10,000, cutting the average working age person's income tax bill by £700 and cutting pensioner's income tax bills by £100. These plans will mean that almost four million people on low incomes will no longer have to pay any income tax at all.

We would not change the top rate of income tax, but will remove a number of loopholes that typically benefit the very wealthiest and increase the complexity of the system.

The impact on the entrepreneur

Under our plans, income and capital gains will be taxed at the same rate, dramatically simplifying the tax system. This means that individuals can focus on generating wealth, rather than wasting energy creating artificial structures to take advantage of anomalies in the tax system. Whilst the UK has become accustomed to capital gains being taxed at a lower rate than income, there is no fundamental reason why this should be the case.

We would retain incentives to invest, such as the Enterprise Investment Schemes and Venture Capital Trusts. Furthermore, we would encourage greater private investment to support entrepreneurship by connecting private investors with local businesses through the creation of Local Enterprise Funds; tax efficient investment vehicles to provide seed capital to start-up/early stage businesses as they commercialise their ideas.

A fairer system

No responsible political party can promise an overall reduction in taxation, given the condition of the public finances. But we can make the system work more fairly.

Liberal Democrat tax policies are based on six key principles:

- Fairness – tax policies should be equitable and ensure that the payment of taxes is linked proportionately to people's ability to pay.
- Simplicity – tax policies should be clear to taxpayers and new policy should aim to eliminate complexity in existing legislation.
- Certainty – tax policies should not be retrospective and should provide the taxpayer with certainty over the correct treatment.
- Efficiency – tax policies should provide revenue to the government on an efficient basis and minimise tax leakage.

continued

- Transparency – the reasons behind the introduction of new tax policy and the intention of spending of revenue raised should be clearly stated to the taxpayer.
- Competitiveness – UK tax policies should be internationally competitive.

We want to move away from using the tax system as a political football. We would not use gimmicks like the VAT cut, which cost the Treasury £12bn with little measurable benefit. Businesses need to have the certainty of a stable platform, allowing them to plan, manage their cashflow and make investment decisions.

The choices available to entrepreneurs

Entrepreneurs are faced with a choice of structure when setting up a business, with a limited company being an alternative to having trading profits taxed as income.

The Liberal Democrats would apply the same five key principles to corporation tax. We would reduce the small companies' tax rate, funded through the abolition of complex reliefs. The Government continues to threaten an increase in the rate of corporation tax on small businesses, having deferred it twice so far. This is not the time to increase the burden on the small businesses needed to pull the country out of recession.

We would also reform business rates to a fairer system, where rates are based on site values rather than rental values, encouraging businesses to invest in their premises rather than penalising them. We would ensure that the burden of business rates is spread more equitably between small and large retailers and that small company relief is given automatically so that all businesses receive what they are entitled to.

A simpler system

Our policies would simplify the tax system so that the costs of compliance are minimised.

Four million people will be removed from the personal tax system altogether, freeing up resources at HM Revenue & Customs (HMRC) to focus more staff time to cracking down on evasion, ensuring that everyone pays their fair share.

Compliance costs for business would be reduced by simpler corporation and business taxes.

Creating the climate for business to thrive

The tax system is only one element of the overall business environment. Businesses are also hamstrung by an ever-growing tide of 'red tape', a lack of access to finance and unfocused business support.

Cutting red tape is an easy mantra to adopt, but what is really needed is better management of new regulations as they are introduced. We will end the gold-plating of European directives, adopt a 'one in one out' policy for new regulations, use sunset clauses and introduce independent checks on the costs of regulations.

The lack of access to finance has not been resolved by the various temporary schemes introduced by Labour. The Liberal Democrats are the only party that has committed to splitting low risk retail banking from high risk investment banking so that the UK once again has a banking industry that is focused on lending to businesses. This will provide proper access to debt finance, alongside our plans to increase access to equity

finance for smaller businesses through the creation of Local Enterprise Funds and Regional Stock Exchanges.

Finally, we would reform business support by rationalising the activities currently undertaken by Regional Development Agencies (RDAs) to focus solely on those that directly support economic development. Over time, RDAs have been charged with delivering an increasing array of policies and have lost focus. We will ensure focus on a single objective – growth.

Contact

John Thurso MP
020 7219 1752
john@johnthurso.org.uk

Disclaimer: The information and opinions contained in this article are those of interviewees and party concerned, and do not necessarily represent those of PricewaterhouseCoopers LLP.

back

A Budget for growth, Darling?

On Wednesday 9 December, Alistair Darling delivered his third Pre-Budget Report (PBR), with the clear intention of focusing his attentions on the state of the economy, the green agenda, support for business and certain revenue-generating measures aimed at those whom he described as having "broad-shoulders". So, which of these measures may impact on you?

National insurance contributions (NICs)

The 2008 PBR had already proposed that from the 2011/12 tax year, a whole raft of NICs rates would be increased by 0.5%. The 2009 PBR proposed that many of those rates will actually be increased by 1%. As currently proposed, the main rate of Class 1 NICs will be 12% with a 2% additional rate; the main rate of Class 4 NICs will be 9% with a 2% additional rate; the Class 1 employer rate will be 13.8%. An increase of £570 to the primary threshold and lower profits limit mitigates the increase for the lower paid, but the majority will see significantly increased charges in a year's time.

Pensions

In Budget 2009, it was announced that tax relief for pension contributions would be restricted from 6 April 2011 for those with incomes of at least £150,000 per annum (pa). The special annual allowance charge (SAAC) was also introduced to restrict the tax relief potentially available on certain contributions to registered pension plans from 22 April 2009 as an anti-forestalling measure.

This anti-forestalling regime discourages individuals with income (as defined) above a certain level and their employers from increasing their contributions to registered pension plans beyond the regular pattern of contributions being made as at 22 April 2009. Budget 2009 proposed an income threshold of £150,000.

With effect from 9 December 2009, further changes are being made to the anti-forestalling measures that will bring more taxpayers within the regime:

- The income threshold from which it potentially applies falls from £150,000 pa to £130,000 pa.

continued

- This revised threshold applies for 2009/10 and the subsequent year. The threshold is reached if income in the tax year in question, or either of the two previous tax years, is at least £130,000.
- Taxpayers who exceed the £130,000 limit in any of those years will be within the SAAC regime.
- You can read about the forthcoming pensions changes in more detail in the *The latest on pensions* – our top planning points article on page 3 of this issue.

Tax on bonuses in financial services

A new 50% ‘bank payroll tax’ was introduced with immediate effect until 5 April 2010, much to the dismay of the finance sector. This tax, on any bonus over £25,000, will be payable by the employer rather than the employee. Therefore, it is payable in addition to the employee’s income tax liability.

This tax is not deductible when calculating the bank’s taxable profits so the effective rate is much higher. Each bonus payment of £100,000 before 9 December 2010 would typically have cost £81,200 after national insurance contributions (NICs) and corporation tax deductions (assuming these were available), whereas, once the £25,000 threshold has been exceeded, the equivalent payment subject to the new tax will cost £131,200 – an increase in post-tax cost of 60%.

Exactly which institutions and individuals this will affect is still unclear. Following representations on the original draft legislation, HMRC announced changes which removed many of the ‘non-banking’ companies which had originally seemed to be caught. However, some companies that would not normally consider themselves to be banks may fall within the draft legislation because they are part of a ‘banking group’.

In terms of the impact on the financial services sector, it is unlikely that the new 50% tax on bonuses in isolation will cause employers or employees to decide to relocate outside of the UK. However, in combination with the incoming 50% income tax rate, NIC increases, restrictions on tax relief for pensions and changes to the taxation of foreign nationals, the tax on bonuses may further impact on the attractiveness of the UK as a business location.

Anti-avoidance measures

Specific anti-avoidance measures have been introduced targeted at risk transfer schemes, insurance premium tax, inheritance tax and trusts, index linked gilt-edged securities, stamp duty land tax and sale of lessor companies to name a few.

Indirect taxes

As previously announced in Budget 2009, the standard rate for VAT returned to 17.5% from 1 January 2010. No announcements have been made about any further increases to the VAT rate in future.

Offshore evasion

The PBR announced robust measures to tackle offshore tax evasion. Legislation will be brought forward to ensure that those who fail to declare UK tax on offshore accounts will face the tough penalties attracted by deliberate tax evasion. There will also be a new requirement to notify HMRC when opening offshore bank accounts in certain jurisdictions, supported by a separate penalty regime. Evading tax offshore could therefore result in combined penalties of up to 200% of the unpaid tax.

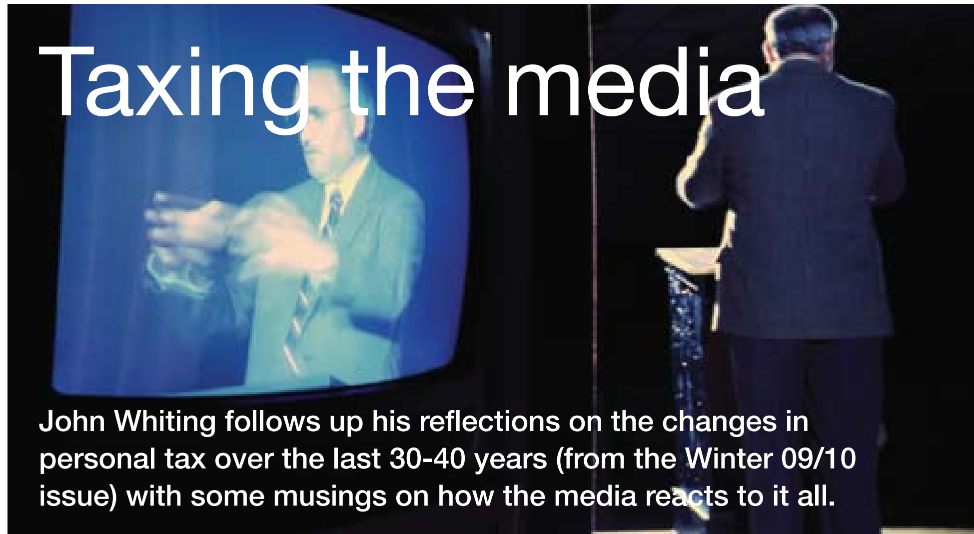
More information

The full analysis of last year’s PBR, including a webcast from the day, can be found by visiting our Budget website at www.pwcbudget.co.uk.

For more information, please contact:

Alison Smith
0113 289 4892
alison.j.smith@uk.pwc.com

back



Taxing the media

John Whiting follows up his reflections on the changes in personal tax over the last 30-40 years (from the Winter 09/10 issue) with some musings on how the media reacts to it all.

My article in the previous issue of *Private Client* on some of the developments in the UK's personal tax system during my time with PricewaterhouseCoopers (PwC) prompted the editors to ask me what the media made of it all. Did they really care about tax? Did they really 'get' the issues, or did they see it as all technical and largely academic?

The printed word

Any survey of the media and tax should start with the printed side of things – after all, ancient Babylonian and Egyptian records contain much about what was due to the ruler and what had been handed over – tax demands and receipts! The introduction of income tax in 1799 (no, I wasn't at PwC then) certainly saw a lot of comment and cartoonists found a fertile new area to exploit. The simple reason for such media interest was that the subject matter – tax – interested and affected readers.

That driver – the impact on readers – remains why tax hits the papers today. Over the last 50 years or so, tax has become a topic of much wider interest, as taxes have multiplied and income tax has extended further down the income scale. Latterly, the advent of tax credits mean that almost all adults have dealings with HM Revenue & Customs (HMRC) and so are potentially interested in what it gets up to.

The main role of the media in relation to tax used to be to inform, and thereby help, readers on what was happening as far as their taxes were concerned. One major achievement over recent years has perhaps been that people generally have realised that taxes and spending are inextricably linked: more spending can only be achieved if tax revenues go up. That is probably obvious to *Private Client* readers but many people seemed to think that government could just generate money to spend from nowhere.

In recent years the media seems to have moved on from helping people understand tax to far more making a 'story' out of tax issues. There have, I think, been two main drivers for that:

- There is a lot more basic tax information around and easily available – so less need or value for the papers to set it out...but still a need to explain more involved areas to some.
- There is pressure for news stories – things move fast and there is a constant hunt for new headlines...tax can play its part, not least because it is a very political subject.

More subtly, the growth of the financial services industry, influenced significantly by vehicles such as personal equity plans (PEPs), individual savings accounts (ISAs) and venture capital trusts (VCTs) et al, has funded a good deal of advertising and so the explosion of the weekend financial pages. That gives regular space to tax in the media and for tax people to comment and explain.

continued

One overriding result of all this is that different papers can be predicted to take different stances. Some still seek to explain; others to find a story to make the headlines. Of course, a huge change for the media has been the advent of the internet and all other forms of e-media. That has impacted tax: websites, both public (e.g. the BBC) and commercial, regularly feature tax.

Broadcasting tax

Tax also makes the airwaves. William Pitt's introduction of income tax would certainly have been a major feature on the BBC's 1798 Budget programme had it existed. The Budget remains a major media event and the BBC has long devoted a programme to it. I was fortunate enough to win an audition for the role of the BBC's Budget tax commentator in the early 1990s; that regularly led to two days of intensive rehearsals before the actual day. It is probably a reflection of the differing way programmes are made today that the Budget programme is not only shorter than it used to be but also just seems to happen. Guests just turn up and talk.

Tax features regularly on programmes such as Radio 4's *Moneybox* and BBC2's *Working Lunch*. They can be relied upon to cover developments and explain. Other outlets – Radios 2, 4 and 5Live business slots, the BBC News Channel, Channel 4 and Sky will all cover tax when it is 'news', as will BBC World and outlets such as CNBC, though the latter are, inevitably, interested more in international issues and in particular how the UK measures up against other countries.

Featured recently...

One recent – and still ongoing – topic for all of these channels has been the coming 50% rate of income tax. Inevitably, some want to just make sure people understand who is affected and when; some try to assess the impact on the wider economy; some take the political angle of which parties would do what in the future.

Can one use the media? At times it is possible to raise issues via the media – and if the media get hold of a topic it can serve to make sure the issue is raised and noticed (stealth taxes anyone?). But in turn that can be double edged. The risk is that tax authorities and their political masters may dig their toes in if the media attack.

It has also been noticeable that the tax authorities have started to use the media to get their point of view over. The 'avoidance debate' in recent years has certainly been a media issue as well as a technical one – and arguably the authorities have managed to get the tax avoider portrayed as a wrongdoer and worse than the tax evader, which is an interesting result.

The changes to trusts taxation in 2006 and non-domicileds in 2008 both made the press; not always entirely accurately. Tax tends to be a complex topic and these days the attention span of the media may not be all that it should be if it's to convey a proper understanding and communication of the issues.

The future

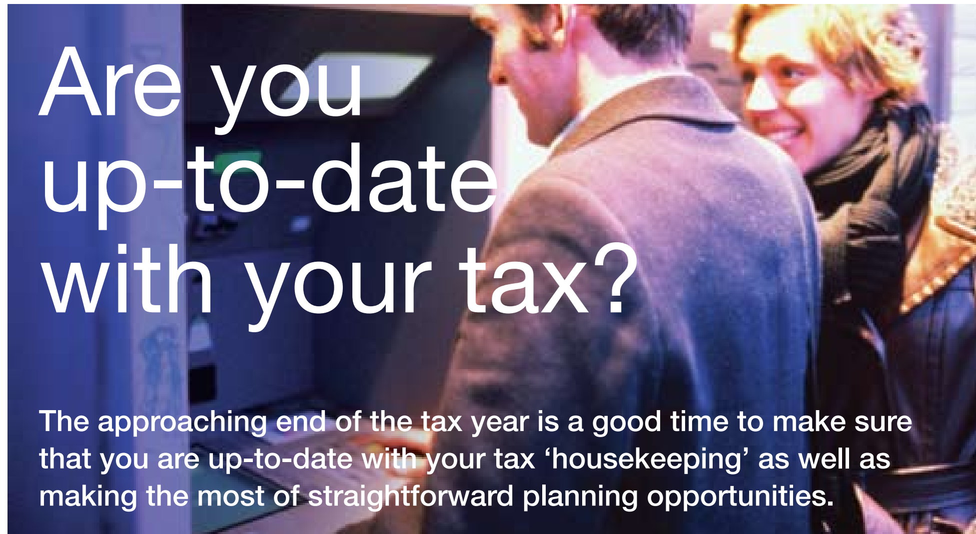
Tax will surely remain a topic for the media. Indeed, with the pressure to find more tax revenues, it is likely to creep up the media agenda with all the attendant risks and opportunities. With the advances we have seen in the media over the past few decades, and the increased number of ways to communicate tax-related issues to the masses, who knows what future Budgets will bring? Though a 3-D Chancellor is unlikely to make tax changes appear any more palatable!

Contact

John Whiting
020 7340 0591
jwhiting@ciot.org.uk

The information and opinions in this article are those of the interviewee, and do not necessarily represent those of PricewaterhouseCoopers LLP.

back



Are you up-to-date with your tax?

The approaching end of the tax year is a good time to make sure that you are up-to-date with your tax 'housekeeping' as well as making the most of straightforward planning opportunities.

You and your family

Anticipating higher tax rates and restricted allowances:

For 2010/11 onwards, an additional higher rate of income tax of 50% will apply to taxable income above £150,000 and the amount of personal allowance otherwise available will be reduced where, broadly, income exceeds £100,000. If you will be affected by these provisions, you should consider what steps could be taken to accelerate the receipt of income so that it falls before 6 April 2010. You could consider delaying the payment of amounts, such as gift aid donations, which attract tax relief until after 5 April 2010 so that, when paid, they will obtain relief at the higher rates. The advantages of the tax saving need to be balanced against consideration of the cash-flow disadvantage of paying additional tax sooner.

Selling assets:

You and your spouse each have your own capital gains tax (CGT) annual exemption of £10,100, which will be lost if you don't use them.

- If you, for example, wish to make a disposal of shares with a gain in excess of £10,000, you could make an absolute, unconditional gift of some of those shares to your spouse so that you can then each make a disposal by 5 April 2010. If your spouse has unused capital losses, you can transfer assets standing at a gain, so that they can make the disposal and utilise their losses.
- If you can each stagger your disposal so that some element takes place either side of 5 April 2010, you can also use your annual exemptions for 2010/11. Taken together, you could jointly make up to £40,400 of tax-free capital gains (assuming the exemption remains at the same level for 2010/11).
- If you have capital gains on assets that you wish to continue holding, you could consider using this year's annual CGT allowance by realising the gains to uplift the cost of your assets using a 'bed and spouse' transaction. This is where the asset holder sells the asset on the open market and the spouse buys a similar asset on the same or the following day. This is typically most useful for shareholdings.

If you have assets which have become worthless, consider crystallising a capital loss on those assets by making a negligible value claim. This will be treated as a disposal and re-acquisition at the current low value and the loss can be set against other gains. In some circumstances, that capital loss can be set against income.

With CGT rates currently at a relatively low flat rate of 18%, there has been speculation that rates may increase in the future. While we would recommend a cautious approach to planning in anticipation of changes which may, or may not, arise we can offer advice on the potential impact of a rate change and discuss possible options with you.

continued

Giving cash or other assets away:

Both you and your spouse have an annual inheritance tax (IHT)-free gift allowance of £3,000 for each tax year:

- If you did not use your gift allowance during 2008/09, you can double up for this tax year, so that each spouse could make a gift exempt from IHT of up to £6,000.
- You can also make gifts of up to £250 to any one individual each tax year (this exemption cannot be combined with the annual allowance).
- If you make regular gifts from surplus income of more than the annual gift allowances, these may be exempt from IHT if the gifts are made regularly and do not affect your usual standard of living. Keep records of your income and out-goings, as HMRC may ask for these details.

Gifts of assets rather than cash may have CGT implications which should be considered.

Your employment

You should have received your pay-as-you-earn (PAYE) coding notice for 2010/11:

You should check it before the tax year starts to ensure the correct tax allowances and benefits in kind are included (e.g. the coding may include a company car that you no longer have or may not make allowance for regular personal pension contributions and gift aid donations you make out of your net salary). HM Revenue & Customs (HMRC) may also include other non-earned income such as investment income in PAYE codes. You do not have to agree to this arrangement and you can reduce the amount included.

Your investments

Pensions

Pensions remain an important planning tool and are considered in our pensions article on page 3 of this issue.

Overseas property

If you have let out your overseas property, there is a one-off opportunity to take advantage of the 'furnished holiday letting' (FHL) rules which used to apply only to UK properties, but which have been extended to accommodation in the European Economic Area (EEA) before being repealed altogether from 2010/11.

Falling within the FHL conditions means that the holiday letting is treated as if it were a trade for a number of purposes, including loss relief, so that you could set your loss against other sources of income and gains. In addition, you could claim for similar treatment for losses incurred in tax years since 2003/04.

Tax-efficient investments

There are other tax-favoured investments that are more complex/high risk – film partnerships, enterprise zone investments, investments in flats over shops and plant leasing (e.g. environmentally beneficial plant, shipping or wind farms). You should seek specific advice if you are interested in these investments.

Maximise your investments for 2009/10 in tax-efficient packages:

Popular tax-efficient investments	Maximum investment per tax year	Tax benefit
Individual savings accounts (ISA)	£7,200 or £10,200	Grows tax-free
Child trust fund (CTF)	£1,200	Grows tax-free
Enterprise investment scheme (EIS)	£500,000	Income tax relief at 20% and capital gains deferral
Venture capital trust (VCT)	£200,000	Income tax relief at 30%

Don't forget to collate all information for the 2009/10 tax year

If filing a paper tax return, you need to do so by 31 October 2010. A later deadline of 31 January 2011 applies for an online return.

An expanded version of this article, together with advice on planning during 2010/11, is available from your usual PwC contact. Ask for the *Personal Tax Planning Review* Paper.

Contact

Natalie Miller
01603 883 289
natalie.a.miller@uk.pwc.com

back

Wrapped-up

If you have a question that you would like answered in the next issue, please email it to emma.thomas@uk.pwc.com or send it to: Emma Thomas, PricewaterhouseCoopers LLP, 1 Embankment Place, London WC2N 6RH

The trustees of the family trust which I set up some years ago are proposing to advance some shares in the family company to me. Although I am still a non-executive director of the company, the distribution is nothing to do with my role there. On that basis, can I assume that I do not need to consider the rules which I understand apply to shares received by virtue of an employment?

I am afraid that the short answer to your question is 'No'. Even though your receipt of the shares may be the decision of the trustees with no regard to the company, there is an argument that the employment-related securities (ERS) regime applies to those shares.

The ERS legislation is complicated but, broadly, the trustees are connected with the company and because the trustees are not 'an individual', they are not covered by the usual let-out which would otherwise apply. On this basis, there is a potential problem if, for example, the shares are restricted in some way or when you come to dispose of the shares which you have effectively acquired for less than market value. Either of these situations could theoretically lead to an income tax charge.

It is our view, and that of the profession generally, that the ERS legislation is not intended to apply in these circumstances and we have had some success in getting agreement on this point from HM Revenue & Customs (HMRC). However, we are aware that HMRC has sought to apply the legislation in similar situations and has stated that they do not consider they have sufficient concessionary powers to waive that application. HMRC has asked for details of situations where this is causing what would seem to be an unintended result.

Assuming that the trustees have no other assets which they wish to advance to you, you should seek specific advice on the implications of the proposed advance of the shares.

Contact

Natalie Miller
01603 883 289
natalie.a.miller@uk.pwc.com

continued

I set up a full discretionary trust for my grandchildren 10 years ago. I have heard recent changes could affect the trustees' discretion to refrain from distribution until they see fit.

There are already rules preventing trustees holding assets indefinitely. The length of time for holding capital is determined either by reference to an individual's life (or if no individual; 21 years) plus 21 years, or after 1964 and where expressly stated, 80 years or less, under the Law of Property Act 1925 as amended by the Accumulation and Perpetuities Act 1964 (the '1964 Act'). Generically, these periods are known as the perpetuity periods.

Before 1964, there was no restriction on reinvesting income generated from the trust capital. The 1964 Act introduced a statutory period of 21 years (or less if expressly stated) for accumulating the income, after which the trustees would be obliged to distribute.

There are also other complex restrictive rules on accumulation of 'excessive' income for which the trustees should also have regard.

The Perpetuities and Accumulations Act 2009 (the '2009 Act'), which received Royal Assent on 12 November 2009 and is coming into force in April 2010, revised the rules on accumulation and perpetuity periods. However, for a trust already in existence, the impact may not be remarkably noticeable.

Most new types of trusts will have a perpetuity period of 125 years and the trustees will have the option to accumulate the income for the entire perpetuity period.

If your grandchildren's trust specifies the perpetuity period as being 80 years or less this will remain in place and the accumulation period of 21 years and other rules relating to excessive accumulations will continue to apply. If the perpetuity period is determined by an individual's life, there is the possibility for it to extend to 100 years.

If the trustees advance assets from the trust on to another trust with an interest in the future for any of your grandchildren, it will be subject to the same trust periods as the existing one.

Should you be concerned by the new legislation? The new legislation is unlikely to affect your grandchildren's trust or the distribution of assets from it to your grandchildren. It is strongly recommended your grandchildren's trust be reviewed to consider whether it is possible and advantageous for any planning to coincide with the introduction of the 2009 Act.

Contact

Carly Russell
020 7212 5975
carly.russell@pwclegal.co.uk

The Perpetuities and Accumulations Act 2009 does not apply in Scotland.

How to get your copy of *Private Client*

Paper or electronic versions: your choice

To reduce our environmental impact, PricewaterhouseCoopers is printing fewer copies of publications. Instead you can download them from our website. *Private Client* can be found at www.pwc.co.uk/publications.

However, *Private Client* will still be available in a paper version for those who want it and we will continue to post it to you unless you tell us otherwise.

Choosing a format

At your request, we will:

- post a paper copy to you; or
- notify you by email (which will include a link) when future issues become available on our website.

Please let us know if you would like to switch to the email version by contacting:

Laura Baldock, PricewaterhouseCoopers LLP, 1 Embankment Place, London WC2N 6RH; or by email private.client@uk.pwc.com.

Please note if you choose the electronic version please let us know the address we currently mail your copy to so we can change our lists.

back

Contacts

Editor: Sian Steele
01223 552226
sian.steele@uk.pwc.com

Regional Private Client contacts

London

Clive Mackintosh
020 7804 5614
clive.mackintosh@uk.pwc.com

Leonie Kerswill
020 7213 8588
leonie.kerswill@uk.pwc.com

South

Ray Thomas
0118 938 3278
ray.e.thomas@uk.pwc.com

Scotland

Valerie Smart
0131 260 4497
valerie.j.smart@uk.pwc.com

North East

Katherine Bullock
0113 289 4268
katherine.bullock@uk.pwc.com

Martin Pickering
01482 584089
martin.pickering@uk.pwc.com

Carol Chleboun
0191 269 4054
carol.chleboun@uk.pwc.com

North West

Gillian Banks
0161 245 2922
gillian.m.banks@uk.pwc.com

Lee Blackshaw
0161 247 4013
lee.a.blackshaw@uk.pwc.com

East

Sian Steele
01223 552226
sian.steele@uk.pwc.com

Midlands

Gary Telford
0121 265 6507
gary.a.telford@uk.pwc.com

Wales and West

Robert Brown
0117 923 4228
robert.j.brown@uk.pwc.com

Tracey Bentham
0117 928 1194
tracey.n.bentham@uk.pwc.com

Northern Ireland

Nigel Anketell
028 9041 5382
nigel.m.anketell@uk.pwc.com

Isle of Man

George Sharpe
01624 689689
george.sharpe@iom.pwc.com

Channel Islands

Lynsey Reeve
01534 838326
lynsey.reeve@je.pwc.com

Garry Bell
01534 838361
garry.bell@je.pwc.com

Investment advisory

Darrel Poletyllo
020 721 25272
darrel.poletyllo@uk.pwc.com

Lindsay Todd
028 9041 5540
lindsay.todd@uk.pwc.com

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PricewaterhouseCoopers LLP, its members, employees and agents accept no liability, and disclaim all responsibility, for the consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.

© 2010 PricewaterhouseCoopers LLP. All rights reserved. 'PricewaterhouseCoopers' refers to PricewaterhouseCoopers LLP (a limited liability partnership in the United Kingdom) or, as the context requires, the PricewaterhouseCoopers global network or other member firms of the network, each of which is a separate and independent legal entity.

Designed by studioec4 20165 (03/10)