

Private Client

Winter 2009/10

Maximising and protecting your wealth





Welcome to the winter edition of *Private Client*.

As we enter the new year, thoughts are turning to the prospect of a 2010 General Election and the possibility of a change of government. It is too early to predict the outcome at the polls, but the main political parties are keen to lay out their credentials to the electorate, and the business world in particular.

The Labour Party set out their plans for taxation in December's Pre-Budget Report, the most striking being the 50% 'bank payroll tax' on bonuses over £25,000. We'll provide a full overview of the Chancellor's report in our next issue.

From their vantage point as the main opposition, the Conservative Party has consistently challenged the Government's plans, but there are still some question marks over the Tories' plans for taxation and public spending – raising the transferable inheritance tax threshold to £1m is one policy which does now seem to have been confirmed, however.

The Liberal Democrat Party has laid its cards on the table, with recent plans from their Treasury spokesman for a 'mansion tax' on properties worth over £2m and proposals to fund an extensive training and re-skilling programme for the 16 to 24 age range.

As always we welcome any feedback on the articles in this issue.

Regards

Clive Mackintosh

Where in the World?

Recently, some individuals have publicly commented that the announcement by Alistair Darling of the 50% higher tax rate from 2010/11 is the straw that has finally broken the camel’s back and that they are considering leaving the UK. Some are actively taking steps to move their homes to other nearby locations, such as the Channel Islands, the Isle of Man, Monaco and Switzerland, while a few are looking further afield.

The concept of emigration has always been an option for higher earners, and some individuals are now contemplating a move away from the UK’s tax regime (not to mention the UK weather!).

In our last issue we gave an update on residency and the factors to consider if you are thinking about breaking your ties with the UK and the care that needs to be taken in managing this. If you have taken the decision to leave the UK, and you are prepared to lose your UK tax residency status, have you done all your ground work needed for the move to your new home?

There are many factors to consider before taking up residency in another country. Too many people have taken this step in an attempt to reduce their tax bill but at the expense of their own or their family’s happiness. If you have worked hard to accumulate your wealth, you want to be in a place where you can enjoy it!

For example, how easy is it to become resident and what lifestyle can you expect in these countries? We have a global network with vast experience in this area. We take an all-encompassing approach when advising individuals who would like to emigrate,

considering both tax and non-tax factors. For example, we normally suggest that prospective emigrants meet people in the new locality to understand what it is really like to live there.

There are, of course, many countries which, on the surface, may closely meet your lifestyle and cultural interests. Care also needs to be exercised to consider the tax regime; for example many European countries charge an annual ‘wealth tax’ and some have forced heirship rules to determine who can inherit your wealth. Some locations offer a nil tax regime whilst others offer to cap your tax liability. All of this needs to be taken into account.

Once an individual makes the decision to adopt a new country of residence, the actual move may sound relatively straightforward. However, advice should be sought to ensure that your tax profile is managed before moving and throughout your stay in the jurisdiction of choice. Clearly, return visits and activities in the UK need careful monitoring to avoid inadvertently resuming UK tax residency. Care must also be taken with any UK assets that continue to provide taxable source of income in the UK – for example rental on UK property. You should be aware that it can be much more difficult to break your UK domicile status and you may remain liable for UK inheritance tax.

If changing your tax domicile and leaving the UK are options you are considering and you would like some further information on the options open to you, please contact Gary Telford, Laura Morris or your usual PwC contact.

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Reflections on taxing change

Guest contributor, Tax Policy Director at the Chartered Institute of Taxation and former PricewaterhouseCoopers partner, John Whiting, reflects on how tax has changed during his lengthy time with the firm.

In the beginning

Tax began to be something other than a deduction from my meagre pay from holiday jobs and Price Waterhouse salary in the early/mid 1970s. Looking back at the ‘tax scene’ then gives an interesting picture:

- Income tax top rate of 75%, with a basic rate of 30%
- Investment income subjected to a 15% surcharge
- Capital gains tax was at 30%
- VAT arriving in 1973 at a rate of 10%
- Corporation tax heading for 52%

If these seem bad, income tax basic rate soon went up to 35%, with a top rate of 83%; VAT did reduce to 8%, but a luxury rate of 25% came in; stock relief tried to compensate for inflation; and new levies such as

‘development land tax’ arrived. At least there was tax relief on mortgage interest – rather necessary with interest rates around 15%. Estate duty was replaced by ‘capital transfer tax’...to paraphrase the apocryphal quote attributed to Denis Healey, Chancellor at the time, pips were undoubtedly being squeezed in all manner of ways.

Was it any wonder that tax avoidance was rife – and that what is now called remuneration planning took off in the face of limited taxation of ‘fringe benefits’?

Running the system

The tax system ran rather differently then. As far as income tax and corporation tax were concerned, it was a case of the taxpayer sending in details on a return, assessments being made, appeals going in against the

assessments, fairly genteel discussions and disputes, leading eventually to payments. It could all take a lot of time. And of course it was all down to dealings with the Inland Revenue – Customs & Excise hardly seemed to have an impact.

One great harbinger of change was a seminal report on the administration of the tax system. At the time, I thought some chap called Keith had been hired to do something but sometime later I realised it was Lord Keith’s committee that pointed the way to a major shakeup in the UK’s tax system. The biggest immediate impact was on that Cinderella tax of VAT which, as the 1980s arrived, began to be seen as a tax that needed managing and indeed could benefit from some thought and even planning.

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Beginning to change

Rates changed significantly – in a 1979 Finance Act that today seems laughably brief, Geoffrey Howe cut the top rate of income tax to a breathtakingly low 60% but almost doubled VAT to 15%. Then in the 1980s, the Chancellor who has a fair claim to be the one in recent times who thought most about the tax system – Nigel Lawson – switched corporation tax around, cutting the main rate to 35% but phasing out the high capital allowances that had meant that the 52% rate was usually applied to a loss.

Case law started to impinge more strongly with leading cases on avoidance such as *Ramsay*, *Burmah* and *Furniss v Dawson*. Of course, tax cases had always been important, but the volume of significant cases began to be quite something. Working methods had to change as time limits began to bite and, particularly on VAT, the taxman woke up to the meaning of cash flow.

Income tax wasn't forgotten in this modernising drive and 1990 saw perhaps the seminal change as 'independent taxation' finally arrived. Yes, a married woman was actually responsible for her own tax rather than the taxman dealing only with her husband and adding her income to his.

Taxes reduce – or do they?

The term 'stealth tax' is seen as a recent phenomenon but has probably always been there. As tax rates generally reduced, what tended to happen was a broadening of

the base. One trend that has helped Chancellors for many decades is fiscal drag – with thresholds not keeping up with inflation. That has been supplemented with a steady erosion of allowances – 'mortgage interest relief at source' (MIRAS) and married couples' allowance are two classic examples.

Tax has always been seen as an instrument to promote change in behaviour – by individuals or businesses – and the 1990s saw plenty of experiments with devices such as 'profit related pay.' But one levy that failed was a charge on '*...a curse on our time..*' – Norman Lamont's £200 tax on the private use of mobile phones (now there's an idea for closing our current fiscal deficit...).

Broadening and deepening

The tax system has steadily broadened its reach in recent years, with more people and businesses drawn in – and more complexity for them to cope with. The advent of tax credits draws many more into contact with the taxman.

Long gone are the days when practitioners could carry around their volume (note singular) of tax legislation to meetings. Now five thick volumes sit on bookshelves, driving a tax system that puts much more onus on the taxpayer (or their agent) to do the work and get things right. Self assessment perhaps started when we weren't looking, with VAT, but nowadays it is all but universal. HM Revenue & Customs – the product of the Inland Revenue/Customs & Excise merger but also taking in the old Contributions Agency – is increasingly there just to police the system.

Taking stock

The one constant over my career in tax has been change. The pace of change has increased, as a glance at the size of successive Finance Acts on my bookshelf shows. One good development has been the amount of consultation that surrounds the changes. If Budgets aren't as exciting as they used to be (far fewer rabbits out of the Budget box), it's usually because we have been talking about many of the changes already. Sadly, the wheels still come off the consultation wagon at times but there has been a welcome shift to far more involvement from the taxpaying goose in debates about which feathers are to be plucked and how they are to be removed.

Mind you, some things don't change. National insurance contributions, for example, still have strong overtones of the weekly 'stamp' underlying the system. We haven't finished modernising and we can but hope that this – and simplification – are not forgotten in what may well become an era of tax rises to help the economy. Now where have I heard that before?

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Pensions are changing

The Chancellor's 2009 Budget contained proposals which aimed to restrict tax relief on contributions to UK registered pension schemes for 'high earners'. Now that Finance Act 2009 has been enacted and subsequent guidance has become available from HM Revenue & Customs (HMRC), Sean Beattie and Mike Bonner-Davies summarise what has become a complex area.

There are two main aspects to consider: the changes due to take effect from 6 April 2011 onwards and the interim rules for the period from 22 April 2009 to 5 April 2011. This article looks at each in turn.

Proposed changes from 6 April 2011 onwards

It is proposed that tax relief on pension contributions will be restricted where gross income is £150,000 or more, gradually tapering down so that if your gross income is £180,000 or more, tax relief will be the same as it is for a basic rate taxpayer. Gross income for these purposes will incorporate all pension contributions. If your gross income, excluding the value of any employer contributions, is less than £130,000 then these restrictions will not apply.

These proposals will remain subject to a formal consultation which will run until 3 March 2010, so the shape of the rules when they are finally introduced and the extent to which tax relief may be restricted remain to be seen, particularly as we could see a change of government prior to their introduction.

Temporary 'anti-forestalling' measures from 22 April 2009 to 5 April 2011

These so-called 'anti-forestalling' measures came into effect on 22 April 2009 and were amended in the 2009 Pre-Budget Report on 9 December 2009. They were designed to stop high earners taking advantage of the current tax treatment of pension contributions, prior to the introduction of the new rules in 2011.

A new tax charge, the 'special annual allowance charge' (SAAC), has been introduced. This charge is payable by the individual on certain increases that are made to their pension savings, regardless of whether these increases are paid by you or your employer. The SAAC is set at 20% for the 2009/10 tax year (and up to 30% for the 2010/11 tax year) and will be collected through self-assessment.

With effect from 9 December 2009, the SAAC will apply to you if **all** of the following apply:

- Your relevant income (RI) is £130,000 or more in the 2009/10 tax year (or either of the previous two tax years) or the 2010/11 tax year (or either of the previous two tax years).

RI can broadly be defined as total taxable income from all sources (i.e. total P60 earnings, taxable benefits in kind, investment income etc.) although there are various reliefs available. The HMRC definition of RI is complex so it is vital that great care is exercised in calculating it correctly.

- Your pension savings increase on or after 9 December 2009 beyond the level of their normal contributions (or simply where pension savings increase on or after 9 December 2009, for those without a history of regular contributions).

Normal regular amounts are defined as contributions that were being paid prior to 9 December 2009 on a quarterly or more frequent basis.

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- Your total pension savings exceed the Special Annual Allowance of £20,000 in the 2009/10 or 2010/11 tax years. For those individuals with a history of ‘infrequent’ pension savings (i.e. contributions made less frequently than quarterly), the Special Annual Allowance can be calculated as the higher of £20,000 and the average of their infrequent pension savings for the tax years 2006/07, 2007/08 and 2008/09, up to a maximum of £30,000.

Pension savings are defined as contributions paid into a pension on your behalf, whether made by you personally, by an employer (even following a bonus or salary sacrifice) or by a third party. It also includes benefits accrued through a defined benefit pension scheme.

When the anti-forestalling rules were originally introduced on 22 April 2009, the RI threshold was set at £150,000. The SAAC could therefore also apply if your pension savings increased above the Special Annual Allowance between 22 April 2009 and 9 December 2009 (in the same way as described above) and your RI was £150,000 or more, either during this tax year or in either of the two previous tax years.

The impact on pension planning

These new rules are likely to have significant implications for the pension planning of high earners. For example:

- If you have not exceeded the £130,000 RI limit and are concerned about the possible introduction of further tax relief restrictions in 2011 you may want to consider taking advantage of the opportunity to fund your pensions to their fullest extent sooner rather than later.

- If, since 6 April 2008, you have exceeded the RI limit of £130,000 by a relatively modest amount, you may wish to investigate the potential tax-planning steps that could be taken to reduce your RI to below the threshold, thereby allowing you to continue to benefit from pre-Budget style contributions without being ‘caught’ by the new regulations.
- If you have exceeded the RI limit of £130,000 since 6 April 2007 (or are likely to in the 2009/10 or 2010/11 tax years) you should not increase your regular pension contributions over and above their pre-9 December 2009 level or make additional pension contributions without taking further detailed advice.

High earners are likely to find that the new rules will reduce the attraction of ‘approved’ pension savings. However, alternative funding arrangements may be designed, or revisited – for example, one which is attracting significant interest is ‘employer-financed retirement benefit schemes’ (EFRBS).

EFRBS allow employers to offer retirement benefits to employees without being restricted by the rules imposed on registered pension schemes (albeit without the same specific tax advantages). An EFRBS must have the provision of retirement and death benefits to employees as its primary and sole purpose, thus differentiating it from an ‘employee benefit trust’.

EFRBS planning defers national insurance contributions and employees’ income tax. Any UK corporate tax deduction would also be deferred until benefits were paid out of the EFRBS. EFRBS are taxable where they are resident – however an offshore scheme can be structured so as to benefit from the gross roll up of investment returns.

EFRBS can be appropriate if:

- You wish to use a ‘pension saving vehicle’ and accumulate retirement funds in excess of the traditional limits (e.g. the current year’s £1.75m lifetime allowance) imposed on registered pension schemes.
- You are seeking to sacrifice salary and/or bonus.
- You are in the above populations who (a) wish to defer receiving income in the current climate and receive the income once retired at potentially lower effective rates of tax and/or (b) are considering living outside of the UK, post retirement.
- You are a non-domiciliary.

In summary, the complex nature of these new regulations – which will take us even further away from the original intention of ‘pensions simplification’ – and the introduction of the SAAC mean that if your income is close to or in excess of the RI limit of £130,000 (in either the recent past or the future) you now need to take specialist advice on your planning and possibly explore alternative strategies.

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In the 2009 Chancellor’s Budget, Alastair Darling announced that the highest rate of income tax would rise to 50% as of 6 April 2010, replacing the proposal in the 2008 Pre-Budget Report to introduce a 45% top rate. This tax rise, on top of the increases to National Insurance rates, heralds a squeeze on higher rate taxpayers earning over £150,000 and is a reflection of the current state of the UK’s financial position.

Within a year the UK will have the seventh highest income tax rates of the 30 member countries of the Organisation for Economic Cooperation and Development (OECD). In another surprise development, the Chancellor also announced changes to the pensions regime which, in some cases, significantly reduce the amount of tax relief available for contributions. In this article Andrew Nutbrown and Gary Telford look at the options and opportunities available to mitigate the impact of these changes.

The impact and comparison of effective tax rates

Individuals & trusts	Was	Now	Will be
Capital gains	40% – 10%	18%	18%
No difference between trade and investment			
Income tax – highest rate	40%	40%	50%

Companies	Was	Now	Will be
Retained	28%	28%	28%
Extracted – Dividend	46%	46%	54%
– Bonus	47.7%	47.7%	56.56% / 57.69%*
– Capital	43.2% – 35.2%	40.96% / 35.2%	40.96% / 35.3%

*2011/12 – Employers National Insurance increases to 13.8%.
 These figures were prepared internally for PwC communications.

Background

One issue which has historically been of vital interest to clients is the effective cost of extracting value from a business. For a company; should directors choose to take dividends, pay pension contributions, or take cash bonuses? For unincorporated business; should the owners leave capital in the partnership, or withdraw funds from the business? As the table clearly shows, the

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proposed changes mean that corporate taxation and capital taxes have become far more attractive than income tax. This means that it is essential to consider whether traditional methods are still effective and, if they are still used, that the full costs are taken into account.

A number of strategies are available for high earners to consider.

1) Bringing forward income/deferring expenditure

Paying a bonus before 6 April 2010 will mean that it is taxed at the existing top rate of 40%, as opposed to 50% after 5 April 2010. The same savings are available for dividends. Similarly, relief for costs will be at a higher rate if postponed until after 5 April 2010. However, even simple strategies such as this require appropriate funding options to be available and complexity will vary, depending upon the number of directors, partners, or employees involved. Close attention should also be paid to bonus scheme rules and employment law considered.

2) Pension planning

As highlighted in the previous article, the new pension rules mean that it may be sensible to look at alternatives to traditional pension planning. A variety of investment options are available, ranging from a selection of alternative pension-based investments, to investing completely outside the pension regime – on the basis that the reduced tax incentives no longer offer attractive enough returns. It is also worth considering whether a

non-UK based pension structure might give a more attractive and tax efficient return. Unfortunately, it is clear that the new rules are not yet properly understood leading to missed opportunities to maximise contributions to existing plans.

3) Emigration

A number of other countries offer attractive tax regimes. However, any move to relocate outside the UK needs to be taken with a clear understanding of the potential tax pitfalls. Recent tax cases confirm that HM Revenue & Customs will look very closely at any claim to have left the UK for tax purposes. In the past there has been an over reliance on counting days spent in the UK, when the prime test has been overlooked: i.e. has the taxpayer actually made a break and left the UK?

4) Maximising capital growth

Rumours of an increase in the rate of capital gains tax in the 2009 Pre-Budget Report proved to be unfounded, with the rate remaining unchanged, so the current mismatch between income and capital gains tax rates means that now is still the perfect opportunity to restructure investments or reward structures, with a view to realising capital rather than income. As ever, the opportunities available depend upon the specific facts and circumstances of your financial, personal and tax affairs, but the difference between tax rates as low as 10% (with entrepreneur's relief) and the 50% income tax rate should not be disregarded.

5) Trusts

From April 2010, where funds are accumulated in a trust, the income will all be chargeable at the 50% highest rate. It is important that all income flows are reviewed to consider whether it is possible to avoid this unwelcome increase.

6) Investment structuring

Increasingly family wealth structures may include a range of vehicles, including a corporate vehicle. These structures provide flexibility as well the opportunity to access lower corporation tax and capital gains tax rates.

Conclusion

Tax rates are returning to rates last seen in the 1970s, with higher levels of tax on the highest earners and wealthiest individuals in the UK. Taxpayers should consider how they might mitigate these changes and plan accordingly. As we have outlined, there is a lot that can be done in the next few months to prepare for the coming changes.

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A passion for business – investing in the future

Here at *Private Client* we're always interested in talking to those figures in the business world who have shown real entrepreneurial spirit and, with this in mind, we recently caught up with Mike Balfour OBE to talk about his views on private investment and what it takes to be a successful entrepreneur.



Mike co-founded Fitness First back in 1992 and was pivotal in growing the brand into the largest health club company in the world. Mike is involved in several investment ventures, notably The Hideaways Club and Yacht Plus.

Fractional ownership

We were interested to hear Mike's thoughts on private investment and to know what prompted him to get involved in 'fractional ownership' ventures. Value, it seems, is the key.

"My whole business life I've very much been interested in value for money. That doesn't mean to say buying the cheapest; it just means getting good value for money. The concept of sharing assets that are not frequently used just seems to make an enormous amount of sense.

"The concept of the Hideaways Club is that we buy luxury villas, put them in a property company and then sell shares in that company to our members. Our members own the villas, not us, so they own a portfolio of properties across the world. We operate and manage them and the members then have the ability to use any

of the villas. I'm a member myself. I'm one of the luckiest people around because I have a share in the ownership of twenty five luxury villas in Europe, Asia and Africa for less than the cost of a two bedroom apartment. It's far better to invest your money in a portfolio of properties in lots of different economic jurisdictions, than to have one two-bedroom apartment in Spain.

"To improve people's lifestyles for a fraction of the cost of what they would normally spend just seems to be a good thing to do. It's a good business to be in and it's a good thing for the consumer."

continued 

Entrepreneurial spirit

Some investors prefer to adopt a ‘hands off’ approach to the businesses they invest in, so we were interested to know if Mike is involved in the day-to-day running of the business. As chairman of the Hideaways Club, Mike readily confesses that he’s not someone who likes to take a back seat.

“I am very ‘hands on’; and that’s how I enjoy it. You need to create the pace that new businesses need and it’s that inner belief that this can succeed.

“If you consider that we started the concept just before this economic crisis began, and we’ve had over a hundred members join the club, that effectively means that we’ve sold over £23m of property during the worse crisis we’ve ever had. It’s really moving in the right direction. Two years ago we didn’t have a single villa, now we have twenty five in three continents, all funded through membership.

“We’ve just bought properties in Bali, one in Phuket, one in Borneo, two in Cape Town and Mauritius. You wouldn’t want to necessarily buy a single property in any one of those places, but being part of a fund that owns all these villas is just a good idea. Simple ideas are often the best ideas.”

Investing in the future

In the current downturn, there has clearly been a reduction in the numbers of investors willing to invest money in smaller and start-up businesses. We asked Mike if he believes private investors have a part to play in kick-starting the economic upturn. His response was emphatic.

“They have a huge role to play. The banking market has effectively dried up; therefore, the only people that are funding new businesses are private investors. It has got to be enormously difficult for young people to set up a business in today’s environment.

“Ironically, there are also a lot of private individuals looking for homes for their money. With banks paying so little interest on their money, there are a lot of individuals who have money who are frustrated because they know it is not earning them anything.”

You can read the full interview with Mike Balfour in our new sister publication, *Private Business*. The first issue is available now from www.pwc.co.uk/publications

The information and opinions expressed in this article are those of the interviewee. PwC has not independently verified or reviewed such information and opinions, and they do not necessarily represent the views of PwC.

Enterprising UK: will private business drive the UK forward?

We recently carried out the third of our Enterprising UK surveys of private businesses. The survey tracks how companies perceive the tax regime in the UK and how they feel it supports both enterprise and growth.

At PwC we are always keen to listen to the concerns of private business and one of the survey's principal aims was to understand how well companies feel their views are heard and represented at Government level. For the first time this year, the research also investigated the activities and attitudes of privately-owned companies during the recession and identified key actions which private businesses are planning in order to thrive, as the economy moves towards an upturn. Private business is not a sector that is looking for a crutch. Entrepreneurial businesses represent the commercial powerhouse of

the economy, and 99% of these companies have been taking active steps to thrive in the face of the recession.

What were the key findings?

The survey has shown a growing optimism and confidence for the future, with more than two thirds of privately-owned companies expecting their businesses to do better in the next couple of years. Private companies are seizing the opportunities offered by the recession to help themselves. The vast majority had

updated their strategic plans when they were surveyed this summer.

Private businesses are starting to switch from cost-cutting to focusing on their customers, products and services, with better targeting of customers cited most frequently as their highest priority strategy over the next year. While almost nine in ten privately-owned companies have identified the key people in their organisation, only six in ten are confident that they have aligned their business strategy and their talent management strategy.

Only a third of private businesses believe the UK tax regime supports and encourages enterprise, despite the wide range of tax reliefs available and the measures introduced in the 2009 Budget. An increasing proportion of companies are also calling for stability in the tax system, with a reduction in uncertainty and the rate of change. Privately-owned businesses are prepared to pay their fair share of tax, but, like any other cost, will seek to reduce the size of the bill where they can.

Counting the costs

The squeeze on funding by the banks has had a real impact, but has not hit the private companies surveyed as hard as might have been expected. Nevertheless, just over a third of companies say they have been forced to compromise their business plans due to a lack of access to financing. Private companies, and especially family businesses, tend to be far more risk averse about borrowing money, and more inclined to grow through generating their own cash, a strategy which allows them to successfully weather the recession.

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Raising money within the company

Rather than running to the banks, private companies have sought to free up cash from inside their businesses in order to cope with the economic conditions of the last year. The most popular ways to take advantage of the downturn, cited by around 80% of companies surveyed, were increasing profitability through cost containment, and focusing on liquidity. The next most popular measure was increasing profitability through top-line growth.

Investing to succeed

Many private companies view the recession as an opportunity for success, rather than a struggle for survival. The three most popular competitive strategies considered were: reducing the cost of operations, maximising return on investment and better targeting of customers, with customer targeting as the highest priority over the next year. During the last recession, many companies were forced to lose some of their best talent. This time round, private businesses are proving more resilient, trying to be more innovative in controlling people costs without losing key employees, getting closer to their customers and improving their reputation.

Investing in talent

Putting the right people in the right place is vital to the success of any business. The vast majority of private companies, almost nine in ten of those viewed, have identified the key people central to their organisation. However, only six in ten are confident that they have aligned their business strategy and their talent management strategy. One of the most important areas,

in these times of constrained resources, is to ensure that incentive arrangements are driving the right behaviours (both short and long term) in key people.

Support from the tax regime

Only a third of private companies surveyed believe the UK tax regime supports and encourages enterprise, despite the raft of tax reliefs available and the measures introduced in the 2009 Budget. Awareness of the tax reliefs and incentives on offer has grown since 2006, but in some areas has fallen slightly since 2007. Overall, although usage levels have grown since 2006, they remain low. While the current tax reliefs and incentives on offer are not having as wide an impact as Government might hope, it should not be forgotten in any usage statistics that many reliefs are specifically targeted, and, therefore, will not be relevant to a broad population. This includes the crucial assistance offered by the Enterprise Incentive Scheme and Venture Capital Trusts, which help narrow the UK's 'equity gap', by providing funding and skills for early stage growth companies.

Creating a more competitive tax system

When it comes to improving the competitiveness of the UK tax regime, just over half the companies interviewed would like to see tax rates cut, but more than a quarter focused on reducing the burden of compliance.

On the positive side, the online service provided by HMRC is proving even more popular with privately-owned businesses than two years ago. Simplifying the tax rules remains the most popular measure Government could take to lighten the burden of compliance, but an increasing proportion of companies are calling for a

reduction in uncertainty and the rate of change, up from 8% in 2006 to 17% in 2007 to reach 25% today.

Mary Monfries, Head of UK Private Business at PwC said: "Trust that the tax rules will not keep changing is just as important as the underlying tax rate in attracting entrepreneurs and investors to the UK."

Where is the voice of private business?

More than eight in 10 companies agreed that privately-owned businesses need an effective voice within HMRC and HM Treasury. However, almost half (45%) do not feel the private business sector is able to make its views heard by the Government, and less than a fifth believe that the Government acts on the concerns expressed.

We are now using the research to discuss with Government how the tax regime can be improved to help private businesses for the long term. This continues PwC's long-standing commitment to private businesses, helping them to have a louder voice, and a better understanding of the reliefs and incentives available.

For more information and copies of the full Enterprising UK reports, please visit www.pwc.co.uk/privatebusiness

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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

› **My wife and I have made a substantial monetary gift to our son from our joint bank account. If we both live for seven years no inheritance tax will be payable on the gifted amount. What would be the position if one of us died within the seven year period and the other survived for the full term?**

› I assume that when you opened your joint account, you followed the normal process for bank and building society accounts, whereby you declared that it was in your joint beneficial ownership, and that you each have an equal share in the funds. In this case, it could be assumed that you have each made a potentially exempt transfer (PET) to your son of half the total amount. If one of you unfortunately died within seven years of the gift, their PET would become chargeable and, depending on the value of the rest of the estate, further inheritance tax (IHT) may be due. However, there are some potential uncertainties with gifts from a joint account whereby HM Revenue & Customs (HMRC) could argue that the rights of each party to the account effectively means that the whole of the PET should have been treated as being made by the estate of the first to die, thus increasing the potential IHT charge.

One option to assist in mitigating any IHT charge should one of you die within seven years of making the gift would be by taking out an insurance policy to cover the liability. This type of insurance is technically

known as a ‘gifts inter vivos’ policy and it will run for seven years. The policy is set up in trust to ensure that the funds fall outside your estate for tax purposes. The beneficiaries are normally the heirs to the estate.

Looking ahead, you should consider taking advice about your joint bank account as, generally speaking, they are not to be recommended for substantial sums. If you do not wish to separate the accounts or move funds elsewhere, you could consider making a formal declaration that you and your wife each own a separate, potentially unequal, share of the funds within the account. In this case, each of you can transfer your share of the account separately as part of the provisions of your will. From the date of the declaration, any gift could then be apportioned in accordance with the declaration and it is also possible (but not compulsory) to complete a form requiring HMRC to charge income tax on bank interest in that same proportion.

In contemplating future gifts, it would be a sensible idea to prepare a deed of gift. This would assist in documenting the amount of the gift that has been made by each donor and to whom the gift is made. This may help in protecting the position should one of you die within seven years, as your intention for making the gift is clearly evidenced in the memorandum.

continued 

› **My widowed mother is in her 80s and currently in good mental and physical health but she is worried that, if she becomes unwell, she may not be able to cope with her finances, particularly paying bills and budgeting. Would I be able to act on her behalf?**

› Although you could certainly help your mother with paperwork and advice, her bank will not allow you direct access to her account and you may find that many service providers, such as utility firms, are reluctant to discuss her affairs with you. The best way to give your mother peace of mind would be for her to make what is known as a ‘Lasting Power of Attorney (Property and Affairs)’ – an LPA(PA) – which would authorise one or more other people, of whom I assume you would be one, as Attorneys, to act on her behalf should she become unwilling or unable to manage her own financial affairs.

Your mother can specify when she would like the LPA(PA) to be used (either with immediate effect or only in the event of medical evidence of a lack of capacity), and set conditions and restrictions on what can be done (for example, not allowing the Attorney to make gifts),

The LPA(PA) is a legal document which must satisfy the following safeguards:

- (a) It must be read through by an independent person in the absence of any Attorneys, with that independent person then certifying that your mother understands the implications of the LPA(PA);

- (b) Your mother can name up to five people who must be notified when an application to register the LPA(PA) is made, giving them the right to object to the registration.

- (c) Alternatively, to avoid the need to notify anyone, two independent persons, rather than one, can be asked to certify your mother understands the implications.

- (d) The LPA(PA) must be registered with the Office of the Public Guardian (OPG) before any of the Attorneys can undertake any actions.

Once registered, you and the other Attorney(s) can do most things which your mother would do, such as manage investments, open and close bank accounts, claim benefits and pensions, or buy and sell property. Whilst your mother still has capacity, her Attorney(s) must still keep her fully informed as to how they intend to use it. If your mother changes her mind about your appointment, the document can be cancelled at any time.

The LPA(PA) is a relatively new form of document and you should check to see whether your mother previously prepared an old-style ‘Enduring Power of Attorney’ before 1 October 2007 as this will remain valid, provided no further amendment has been made to it since that date.

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