

# Private Client

*Growing and protecting your wealth*

*Spring 2011*

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# Editorial



Welcome to the spring edition of *Private Client*.

Many of you will be aware that the Chancellor, George Osborne, will be delivering the 2011 Budget on Wednesday 23 March. If you receive our electronic version of *Private Client*, we'll be updating you via email on the major announcements that will affect you. This year's Budget shouldn't contain many surprises, as the draft Finance Bill 2011 clauses were released back in December of last year. But as evidenced by the recent unexpected hike in the bank levy, anything is possible in the current climate.

The Government has its eye on making the UK a more attractive proposition, both for overseas investors and larger corporate groups. Details of the corporation tax reform were released back in November 2010, and the Government's main aim is to reduce the corporation tax rate down to 24% by 2014 – a move which has the potential to make UK plc a far more inviting prospect for long-term business planning. Non-doms should be aware of mooted plans for extending the 'non-dom levy' to crack down on the lower taxes paid by some, so a keen eye should be kept on developments following the Budget.

Careful planning of your investment portfolio is vital, and we have some handy tips for you to think about prior to the financial year end.

We also look at how HM Revenue & Customs' (HMRC) increased powers could affect your tax planning and highlight the work of HMRC's High Net Worth Unit, the unit set up to look into the tax affairs of the UK's 5,000 wealthiest taxpayers.

John Whiting, former PwC partner and now Tax Director of the Office of Tax Simplification (OTS), gives us an overview of the OTS's aims and outlines plans to streamline and simplify the over-complex tangle of reliefs and taxes which currently make up the UK's tax code.

As always, we'd love to hear your thoughts on any of the issues raised in this edition – you can email us at [private.client@uk.pwc.com](mailto:private.client@uk.pwc.com).

*Clive Mackintosh*

Regards,  
Clive Mackintosh

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# Pepping up your portfolio



*PEPs (Personal Equity Plans) have long disappeared from the investment landscape. However, the combined effect of an increase in the highest rate of income tax, together with restrictions on the maximum pension contributions which can be paid in a tax-efficient manner, has encouraged many investors to consider investments which are similarly efficient in tax planning terms.*

## **Tax-efficient investments**

Recently, there's been a resurgence of interest in alternative tax-efficient investments. These include investments such as venture capital trusts (VCTs) and enterprise investment schemes (EISs), as well as less well-known alternatives such as the business premises renovation allowance (BPPRA). Each of these has different tax advantages and qualifying conditions. But, as ever, it's essential that you consider each on its investment merits, rather than being driven solely by the desire to be tax efficient. Choosing investments only for the tax benefits might result in poor investment returns. On the plus side, the cushion provided by the tax advantage can lead you to build a more diverse portfolio, by encouraging investment in areas you may otherwise have chosen to avoid.

## **Investment in clean energy**

This sector has also been given a boost by the launch of income-oriented investments in clean energy technologies and, in particular, those which take advantage of the feed-in tariff (FIT) regime. FITs were introduced on 1 April 2010, and are intended to ensure that generators of energy using qualifying technologies are paid an inflation-linked income stream by an electricity supply company. The basis for this income stream is regulated by the Government. As such, this allows a relatively secure income to be generated early in the investment's life, which has obvious appeal for potential investors.

### **How can VCTs help?**

VCTs have a number of qualifying conditions and, subject to meeting these, they offer initial income tax relief of 30% in the year of payment (subject to a maximum investment of £200,000 per tax year; i.e. a maximum tax saving of £60,000). They can also offer tax-free dividends, as long as you hold the investment for at least a five-year period. Historically, VCTs invested in relatively new companies, meaning that there was a period of years before dividends can be paid. This is no longer the case for two reasons.

Firstly, you can buy shares in a new VCT alongside existing VCTs, which means you're buying into a more mature portfolio of companies which is already paying dividends. Secondly, the FIT regime is designed to ensure that income is received at an early stage. So, provided the higher-risk nature of VCTs is acceptable to you, they can be a very tax efficient method of generating income, especially if you're paying tax at the highest rate.

It's not possible to label VCTs as lower risk – but some VCTs are designed with the intention of turning the initial net investment of 70p in the pound into £1 over a five-year period. At face value, this may not appear that attractive, but this works out to a post-tax annual return of over 7% per annum, over a five or six-year period – not a bad return in anyone's book.

Historically, it's fair to say that many VCTs have performed poorly, leading some investors and advisers to consider whether they are a sensible investment. But a number of VCT sponsors have demonstrated a

consistently good track record over a prolonged period – making them an investment worthy of consideration, as long as you do the right research.

This combination of factors has led sector specialists to predict that the total amount invested in VCTs during the 2010/11 tax year could amount to £450m, a near 30% increase on the total funds raised in the previous tax year.

### **What about EISs?**

EIS qualifying investments attract a lower rate of initial income tax relief of 20% against that for a VCT. There's a maximum investment of £500,000 per tax year, so that's a maximum tax saving of £100,000, although the minimum holding period is just three years when compared to a VCT investment. In addition, you can defer capital gains tax (CGT) on gains reinvested in EIS, subject to certain conditions. This is especially beneficial given the increase in the higher rate of CGT to 28%. Furthermore, after a two-year qualifying investment period, an EIS holding should qualify for business property relief (BPR), meaning that inheritance tax shouldn't be payable on its value.

A relatively recent adjustment to the EIS rules allows qualifying investments in one tax year to be related back to the previous tax year. This helps to advance the cashflow benefit and, for larger investors, increases the total amount of income which can be sheltered in this way.

### **The advantages of BPR**

The BPR was introduced in April 2007 and is designed to encourage investment in disused commercial property in designated areas. The property is then renovated and used for a qualifying trade and often involves the conversion of dilapidated commercial property into a hotel business with one of the leading hotel brands. The tax relief is a little more complicated than for VCT or EIS, but the combination of tax relief together with limited recourse borrowing should allow you to invest as little as five or six pence in the pound, net of tax relief.

To maintain the BPR qualifying conditions your business needs to trade for at least a seven-year period. When combined with the initial renovation period of say one or two years, this gives rise to a nine or ten-year investment horizon. This won't suit all investors, but could be useful if you're looking to complement your pension planning – particularly if you're paying tax at the highest rate and have fully exhausted your tax-efficient pension allowances.

### **The time to act is now**

You should note that the Chancellor's new Office of Tax Simplification has indicated that EIS and VCT tax reliefs are under scrutiny. Any changes are unlikely to be retrospective, though. Previously, you'd have been well-advised to bide your time when making investments, as delayed investments can often be implemented in subsequent years. In the current climate, you should consider acting now while the opportunity exists.



## As the new calendar year begins, the end of the tax year looms

If you'd like to find out more about tax-efficient investments, you can speak to:

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- **Income tax:** If your income is below key thresholds of either £100,000 or £150,000 in 2010/11 but likely to exceed them next year:
  - Accelerate the receipt of income so that it falls before 6 April 2011.
  - Delay payments which attract tax relief; e.g. gift aid donations, until after 5 April 2011.
- **Capital gains tax (CGT):**
  - If you want to make a disposal of shares with a gain in excess of £10,100, gift some of those shares to your spouse so that you can then each make a disposal by 5 April 2011.
  - If your spouse has unused capital losses, transfer assets standing at a gain to them, so that they can make the disposal and utilise their losses.
  - Stagger your disposals so that some element takes place either side of 5 April 2011 so you use your annual exemption for each year.
  - Use this year's annual CGT allowance by realising gains to uplift the cost of your assets using a 'bed and spouse' transaction – you sell the asset on the open market and your spouse buys a similar asset back on the same or the following day.
  - Crystallise a capital loss by making a negligible value claim for assets which have become worthless. This will be treated as a disposal and re-acquisition at the current low value and the loss can be set against other gains and, in some circumstances, against income.
- **Inheritance tax (IHT):** If you have surplus cash, consider making gifts to use some basic allowances:
  - Use your annual IHT-free gift allowance of £3,000, which is doubled up if you did not use it last year.
  - Make smaller gifts of up to £250 per individual.
  - Start a pattern of making regular gifts from surplus income.

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# High Net Worth Unit

## Dealing with the change in risk assessment

*Over the past few years we have seen a significant change in the way HM Revenue & Customs (HMRC) deals with the tax affairs of individuals; a change which has been most evident for high net worth individuals.*

### **What is the High Net Worth Unit?**

In April 2009, HMRC created the High Net Worth Unit (HNWU) to focus on the UK's 5,000 wealthiest personal taxpayers. By comparison, the predecessor to the HNWU – the Complex Personal Return Team – dealt with approximately 42,000 individuals. The increased focus of resources in this area certainly indicates that HMRC views high net worth individuals as a risk area.

The unit follows a similar risk-based approach to that used by the Large Business Service, involving a team of specialists, headed by a customer relationship manager (CRM), who'll act as the main point of contact and use risk assessment as the key tool in determining how a taxpayer is dealt with.

HMRC will consider a range of factors to determine whether a taxpayer should be classified as 'low risk' or 'not low risk'. HMRC wants to develop an open and transparent relationship and, more importantly, move towards real-time working. This represents a fundamental shift from the previous policy of raising enquiries on specific areas of the self-assessment return.

Two years on, Richard Alderson explains what we have seen to date and what we can expect to see in future.

### **What has been the immediate impact of these changes?**

We didn't see an immediate change from April 2009 and it took some time for HMRC to implement the new risk assessment process. Even after two years, we still see instances where HMRC has not yet carried out a detailed risk assessment. We are, though, seeing more activity and certainly much closer scrutiny of tax returns.

### **How does HMRC use the additional resources available to it?**

We've certainly seen an increase in the amount of research and information undertaken by HMRC to get a full picture of a person's wealth. High net worth individuals tend to be high profile and in addition to the wide range of information already held (such as UK and foreign bank account and property transaction details etc.) HMRC will also research the internet, use local knowledge and obtain third-party information from a wide variety of sources.

### **Does HMRC share the risk assessment with you?**

No. Unlike the process adopted by HMRC for large corporates, the risk assessment is not shared with individuals or their advisers. It's important, therefore, to fully understand the risks identified by HMRC. Engagement with the CRM is crucial to managing any enquires effectively.

### **How does the approach differ from before?**

The risk-based process operates using a 'carrot and stick' approach. If you're regarded as 'low risk', there should be little in the way of enquiries and there will be a light touch. If you're regarded as 'not low risk', HMRC will take a different approach. Typically, a return would be regarded as 'not low risk' where it's particularly large or complex, there is a poor compliance history or where a person is engaged in tax planning. In these cases, HMRC is aiming for a more open dialogue and a meeting will



usually be requested to discuss the issues. Ideally, HMRC would like to have these discussions in ‘real time’; i.e. at the time the transactions occur rather than waiting until submission of the tax return.

### ***What happens if you don't engage with HMRC?***

Although there's no requirement to attend meetings, from 1 April 2009 HMRC has been granted new powers to inspect business records, assets and premises. It also has new powers to obtain information and documents from third parties, even before a tax return is submitted. These powers enable HMRC to obtain a far greater amount of information and in a more timely manner than before. It also provides legislative support for the desire to work in real time. If there's no engagement with

HMRC, it's likely that detailed questions will be asked following the risk assessment and that the new powers will be invoked to obtain information to address any risks. You can read more about HMRC's increased powers in our article on page 8.

### ***Does the new system bring any benefits for you?***

Overall, our experience to date is that a collaborative approach with HMRC can be beneficial. Certainly, having a single point of contact with an inspector who understands your tax affairs provides continuity – and early dialogue on specific areas of risk should ensure no nasty surprises in future. If you are deemed as ‘not low risk’ HMRC is prepared to work with you to move to a low risk relationship. Until low risk status

is achieved HMRC will be taking a far closer look than before. But as long as HMRC is clear on the risks and any enquiries are effectively managed, any additional burden can be minimised.

The new risk assessment process is still not fully embedded but from April 2009 we have already seen some significant changes. One thing that is certain: risk assessment and the new approach are here to stay.

If you'd like to find out more about the HNWI, then you can contact:

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# Simplifying the tax system

*The Office of Tax Simplification (OTS) has a brief to make our tax system easier to deal with. Former PwC partner, John Whiting is its first tax director and he outlines the OTS's work so far.*

Simplification of the law is not a new issue. In a proclamation in 1551, Edward VI said<sup>1</sup>:

*“... when time shall serve, the superfluous and tedious statutes were brought into one sum together and made more plain and short, to the intent that men might the better understand them, which I think shall much help to advance the profit of the commonwealth.”*

That might be something of a mission statement for the OTS, set up by the Government on 20 July 2010. I've long argued that we need to work at simplifying the UK's tax system, so I was very pleased to be offered the role as the OTS's first tax director.

## **So what is the Office of Tax Simplification?**

The OTS has, as the name suggests, a brief to look at areas of the UK tax system and report on how it might be simplified. I don't believe we can ever have a truly simple tax system in the UK. We live in an increasingly complex world and tax must reflect that, especially if we want a fair system – fairness tends to pull against simplicity. But the system can be simpler – both administratively and technically. Above all, we can commit to doing things in an easier, more straightforward way.

Apart from our chairman (Michael Jack, previously both an MP and a Financial Secretary to the Treasury) and tax director (me), both on a day-a-week basis, we have three full-time members, drawn from HM Revenue & Customs (HMRC) and HM Treasury (HMT) and four secondees from the private sector, including Caroline Turnbull-Hall from PwC. Only the HMT/HMRC roles are paid – I should stress

that the OTS is a small unit and good value for the taxpayer! We can draw on subject matter experts from HMRC/HMT as well as HMRC's statistics team.

There has been a huge amount of goodwill for the OTS's creation and mission. If that goodwill could be bottled and poured over the UK's tax code, we'd be down to a few pages in no time. The goodwill has translated into many real offers of assistance: we are very grateful to the firms who have provided secondees and members of our consultative committees. We are also indebted to the many hundreds of practitioners and executives who have come to our 'roadshow' meetings during the past couple of months (we're doing far more dates than *Take That* and our events are easier to get into). Just as well: our tiny central team couldn't do the project ourselves – nor would we want to. I have been very clear from the outset that this is all about harnessing the views, experiences and contributions of those affected by the UK tax system...which means everyone!

## **Nine months on – how are we doing?**

The OTS's brief covers all the taxes run by HMRC, but excludes tax credits. We can't make changes: our role is to review and report, while decisions on actual changes are down to ministers. We are initially tackling two areas, aiming to report by Budget 2011.

The first is as intractable as any in the tax system: the taxation of small businesses, including the IR35 intermediaries' legislation. The volume and quality of input we've had on this topic has been impressive. I suspect most people had assumed simplification would be all about chopping out swathes of the tax code. However, I have always felt that complexity was as much

about administrative burdens as technical difficulties – and that has been echoed by the vast majority of people at our meetings. Indeed, that is probably the ultimate measure of the success (or otherwise) of our project: is it getting easier to comply with tax responsibilities?

So, what are people saying is the biggest source of complexity in the system for small businesses? Maybe this will surprise some readers, but the frequency of change, coupled with the uncertainty change generates, is probably the biggest issue that we hear about.

The second project is to codify and evaluate the multiplicity of reliefs in the tax system. The reliefs are all undoubtedly helping someone (business or individual) but are they efficient and delivering value for money? The list we have compiled of the tax reliefs that fall under the ambit of HMRC<sup>2</sup> totals a rather startling 1,042. We have also published our strategy for reviewing this little list (*Background and Approach*), using criteria such as:

- The original objective of the relief – is it working as intended?
- The administrative effort for taxpayers – is it worthwhile?
- HMRC's experiences – does the relief cause difficulties for HMRC and taxpayers?
- What impact does the relief have – any evidence it influences behaviour?
- The length of the legislation – does that show the relief is overcomplex?



We are aiming for simplification, not a scything away of reliefs. Our aim – and I think ministers' aim too – is for revenue neutral reforms that make the system run more efficiently. That might mean delivering available tax relief money through another route if a relief doesn't work. A report testing our methodology on a small number of reliefs was published in December 2010<sup>3</sup>.

### **What can you do?**

We're hoping people will look at the list of reliefs, and our interim report, and give us input. What are the reliefs that have caused you difficulties in practice? Which reliefs take too much time to sort out? Don't just look for the bad: what are the reliefs that are really important? What tweaks would make them deliver benefits more efficiently?

On small business taxation, those of you that run businesses or operate as consultants or freelancers will have certain questions – what is it about the tax system that takes too much time? What causes the real difficulties? What do you think of ideas such as abolishing national insurance contributions as a separate tax and combining it with income tax (probably the second

most popular nomination we hear) or getting a clearer, simpler definition of employed vs. self-employed (probably number three on our list)?

### **Conclusion**

We have a lot to do on our two initial projects, including thinking through the implications of our proposals. We have to establish the methodology for our work and to show that the OTS can make a difference to the UK's tax system. Then we need to establish projects for the future – so we need to know what other areas of taxation cause you particular difficulties (apart from paying it, which sadly we can't do anything about).

The OTS needs your input; we need continuing support and time. It has taken hundreds of years to make our tax system as complex as it is; it will take a while to turn the tide. Simplification is difficult!

If you'd like to find out more please contact **John Whiting** and the OTS team:

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1. W. K. Jordan, *The Chronicle and Political Papers of King Edward VI* (Ithaca, N.Y.: Cornell University Press, 1966), page 166

2. See [http://www.hm-treasury.gov.uk/ots\\_taxreliefsreview.htm](http://www.hm-treasury.gov.uk/ots_taxreliefsreview.htm)

3. See [http://www.hm-treasury.gov.uk/ots\\_taxreliefsreview.htm](http://www.hm-treasury.gov.uk/ots_taxreliefsreview.htm)

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# HM Revenue & Customs' increased powers

## Explaining what they mean for you

*Schedule 36 of Finance Act 2008 brought about the biggest reworking of HM Revenue & Customs' (HMRC) powers for direct tax purposes that we have seen in the last three decades. Two years down the line, we look at the practical application of these powers and ask whether there have been changes in how you, the taxpayer, interact with HMRC given these new powers of inspection and investigation.*

### **What are the main points of Schedule 36?**

#### **Power to obtain information and documents**

##### **Para 1 – the taxpayer notice**

- HMRC may, by written notice, require production of information or documents reasonably required for checking the taxpayer's tax position.
- If a taxpayer has submitted a return for a specific period, then HMRC needs to give a notice of enquiry before the powers can be used, or there is a requirement that HMRC can demonstrate there has been an underassessment in the period in question.
- As 'tax position' is defined as past, present and future liabilities, HMRC in effect has wide-ranging powers that can be used to request information at any time.

##### **Para 2 – third-party notice (specific taxpayer)**

- HMRC's third-party power has been extended to include information as well as documents, providing HMRC with a far wider reach to gather background information.
- These notices must be approved by the taxpayer or by the First-tier Tribunal.

##### **Para 5 – third-party notice (identity unknown or 'class of taxpayer')**

- Again, this power has been extended to include information as well as documents, and to broaden the circumstances under which HMRC can consider documents or information which is more than six years old.
- These notices must be approved by the First-tier Tribunal.

- Power to inspect business premises.
- An officer of HMRC can inspect premises, business documents and business assets if reasonably required for checking a taxpayer's tax position.
- Private residences used for business purposes can be inspected, although wholly private premises are specifically excluded.
- HMRC has no right to forced entry if access to premises is refused.
- HMRC can only ask for and inspect business records to be produced; officers cannot search the premises for documents.

### **What are the potential concerns?**

The new powers have been in place since 1 April 2009 and were expected to redefine the balance between HMRC and taxpayers. This would be done by increasing HMRC's ability to work on a real-time basis and limiting the statutory safeguards available to protect the taxpayer. There were concerns that aligning the powers available to HMRC across taxes would increase the intensity of direct tax enquiries to a level more akin to indirect tax investigations – something which would be potentially disproportionate to the particular issues in hand.

The alternative view was that these powers had existed for VAT and PAYE previously and were generally used appropriately.

So, at a high level, how has this worked in practice over the last two years? There's certainly been more clarity and consistency across taxes. We can refer to one set of powers in one place in the legislation, and this encourages cross-tax teams in HMRC to work together to resolve enquiries. There's also more detailed guidance in place, both in a statutory sense and internally for HMRC, as to how visits are arranged and what an officer of HMRC can and can't do. In addition, we're not seeing the predicted hardened approach to inspections or direct tax officers making further use of the new extensive powers.

### **Real time powers and informal relationships**

If anything, HMRC has moved towards more informal interventions by working in real time with you, as a taxpayer, and your agents – this allows it to understand individual and business tax affairs. An example here is the relationships built between customer relationship managers (CRMs) in High Net Worth Units and you and your advisers. Once a good working relationship has been developed, we are seeing a more pragmatic approach to resolving tax issues being adopted, underpinned by the new information powers. An issue or area of risk which before may have been addressed through formal enquiries – and may previously have been started ten months after submission of a return and conducted by letter – can now be resolved through a telephone conversation once a return has been internally risk assessed.

When approached in this way, issues can be resolved at lower cost, within a quicker timescale and without the need for formal correspondence. But this activity is conducted against the backdrop of wide-reaching powers to investigate if an inspector needs to fall back on a more formal approach. In essence, Schedule 36 is 'the teeth behind the smile' if cooperation is not forthcoming.

### **Better informed**

HMRC has been particularly active over the last year in gathering information from both public and private third-parties about particular classes of taxpayers. For example, a large number of third-party notices were approved by the First-tier Tribunal and served on banks with offshore subsidiaries or branches in order to find out details of potential undeclared offshore income.

The indications are that HMRC has also been active in obtaining bulk information from other government bodies, such as payments made to private medical specialists by the NHS or to landlords by local authorities. Whilst these activities remain largely behind the scenes, the effect is that HMRC is accessing more detailed information and building internal databases that can be used to risk assess specific tax returns.

### **So what do the Schedule 36 changes mean on the whole?**

The statutory balance has certainly shifted in HMRC's favour, enabling access to a broader range of information with fewer restrictions. So far, in-line with its efforts to correct customer behaviour rather than simply punish wrong-doing,

HMRC has appeared to apply these new powers in a proportionate and reasonable manner. HMRC has been clear that the new powers will be exercised in a sensitive way, and its guidance indicates that high-level authorisation is required before the more intrusive elements of the powers are used.

But the long-term impact of this rebalancing of power between HMRC and taxpayers remains unclear. It seems likely that, as HMRC's move towards real-time working gains momentum, the impact of this change will become more evident. In particular, it's clear that HMRC intends to utilise its powers more robustly where serious tax risks are being considered – these include tax planning as well as non-compliance. If you take a higher-risk tax position then you should ensure that you are prepared for a more robust and more proactive HMRC approach in future.

If you'd like to find out more about HMRC's increased powers, you can contact:

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## *How trusts can work for you*

*Since the twelfth and thirteenth century crusades, when landowners would leave England to fight, trusts have been an integral part of UK law. Historically, crusaders would transfer legal ownership of their land to a trusted friend who would manage it in the landowner's absence and return it to them once they returned to England – although once the landowners did return they often found that the legal owner was under no obligation to return the land and it was then left to the courts to direct that legal ownership be transferred.*

Trust law has come a long way since the crusades and in modern times we see trusts used for a broad range of purposes, ranging from those established to hold interests in family businesses to those set up for wholly charitable reasons.

Despite the long and established history of trust use, HM Revenue & Customs (HMRC) often views them as vehicles of tax avoidance and has introduced legislation on several occasions aimed to counteract perceived tax avoidance.

### Recent draft legislative changes

A recent example of HMRC's view on trusts is the draft legislation announced on 9 December 2010, which intends to tax employees if funds held by a third party are allocated to the employee, no matter how informally, and it can be shown that this allocation relates to an individual's employment. An informal allocation could be something as simple as the trustees of an employee benefit trust earmarking assets for a particular person even though no formal decision has been made to allocate it and the individual has no right to draw on or utilise those funds in any way.

The draft legislation also imposes a tax charge on loans advanced to employees by third parties, including trusts. The tax charge is on the full value of the loan, rather than on a percentage of it using a notional rate of interest, and there is no mechanism to get this tax back even if the loan is repaid. At the time of going to press this legislation is still draft – so let's hope that these anomalies are corrected during the consultation process.

These new rules would be effective from 6 April 2011 (although they are subject to anti-forestalling provisions).

### Inheritance tax

The new legislation is not the first time that HMRC has brought in the legislative sledgehammer to crack a tax planning nut. An earlier example is the changes brought in by Finance Act 2008 to the inheritance tax (IHT) rules in relation to transfers to trusts. Prior to Finance Act 2008, generations of individuals had been transferring assets to trusts with the intention of providing financial support for others and, provided the donor survived seven years from the transfer, there would be no IHT to pay.

The opportunity to do this was significantly curtailed and generally it's now only possible for you to transfer amounts up to the value of your IHT nil rate band (currently £325,000) into trust every seven years without incurring a lifetime IHT charge.

### Today's trusts

It's not all doom and gloom, though:

*“there's still life in the good old fashioned trust.”*

If you have assets that qualify for business property or agricultural property relief (very broadly interests in a trading business or farm), these can be transferred to a trust without incurring a charge to IHT. This can be an attractive option if you run a family trading business and are concerned about succession issues (perhaps the intended successor is still a minor or too young to manage a business). The transferor would appoint trustees to administer the trust and their responsibilities may include running the business and distributing income to beneficiaries. Alternatively, the trustees could have the power to appoint someone to run the business on their behalf.

In addition, the following applies.

- It's still possible to provide a trust for spouses/civil partners to support them financially – but this can only effectively be done under the terms of a will.
- Trusts can benefit from entrepreneurs' relief for capital gains tax purposes and the trustees would pay tax at 10% on gains arising from disposals of business assets – but only if the trust has the right type of beneficiary.

- Non-UK domiciliaries can still set up trusts to hold their assets and continue to benefit from an advantageous tax regime – but they may have to pay £30,000 a year for the privilege of doing this and timing is of the essence.
- Employee benefit trusts are still effective vehicles for employees to set aside funds for employees – but care must be taken when looking to identify who can benefit from the trust.
- Excess income received by an individual can still be settled on trust without incurring a lifetime charge to IHT – but it should be a regular gift out of income and you may be required to report this under the tax avoidance disclosure regime.

Trustees are generally required to submit self assessment tax returns, prepare accounts and submit periodical IHT returns and pay taxes. With careful planning it may still be possible to mitigate a trust's exposure to tax. But the secret to effective planning is, as always, to consult well and plan early.

If you'd like to know more about the possible advantages of trusts or would like to discuss any queries concerning trusts, please contact:

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# Meet our people

## Clive Mackintosh

*In this issue we meet Clive Mackintosh, Head of Private Clients at PwC.*



*At PwC we're always keen to get to know our clients. A business relationship is a two-way street though, so we're also keen to let you know a little more about ourselves. In this 'Meet our people' feature, we'd like to introduce you to some of the leaders in our Private Client team and tell you a little more about what makes them tick.*

### **You're now the Head of Private Clients at PwC – how did your career start at PwC?**

“I come from a family business background – my family made Mackintosh’s toffees. Growing up, I thought I’d probably end up working for the family business, but I wanted to make sure I had a formal qualification. I’d planned to qualify as an accountant, and maybe go into the family business. By the time I qualified, though, it wasn’t a family business any more – it had merged with Rowntree and then Rowntree was taken over by Nestlé – so that option wasn’t open to me anymore.”

When I joined PwC, I started off in auditing but moved into tax soon after qualifying and started dealing with the private side – private companies, partnerships and private individuals.”

### **You attended the University of Oxford – what subjects did you study?**

“I studied philosophy, politics and economics. I’m a great believer that university is somewhere you go to

study something that you enjoy and that you do your vocational training afterwards. I saw it as a place for training the mind, rather than training for a job afterwards.”

### **Did you take part in any extra-curricular clubs or societies?**

“Yes. It’s very difficult to know where I found the time, to fit everything in, really! It was good training for life at PwC. I was always a keen sportsman: I played a lot of cricket, I captained my college, Oriel, at cricket, I played for the Oxford second team. I also played hockey and squash and represented the college at bridge as well.”

### **You were the president of the Oxford University Conservative Association (OUCA) in 1979. How did you become interested in politics?**

“It was a fascinating time, because it was in the late seventies when there was an unpopular Labour government. I was the president of OUCA in the term just before Margaret Thatcher came to power.

The radical thinking at that time was the Conservative philosophy – the Conservatives were putting forward a concept of lower taxes (the top rate of income tax was 98% at the time) and encouraging entrepreneurs and the private sector, as opposed to very high taxes and ‘big government’ under Labour. There was a very, very big difference between the two sides.”

### **Did you ever consider a career in politics rather than professional services?**

“It did appeal. I was active in politics for a while – my father died just after I left Oxford and I inherited a seat in the House of Lords [Clive’s full title is Viscount Mackintosh of Halifax]. I was active on the back benches for nearly 20 years. However, then Tony Blair reformed the Lords and, as a hereditary peer, I’m no longer able to sit in the House. I was as active as I could be, given that I had a full-time job.”

### **Debrett’s lists your leisure pursuits as cricket, golf and bridge. Are you an avid sportsman still?**

“Yes, I still play as much cricket as I can – cricket is the only team game I play now. I enjoy that during the summer and, because I play so much cricket, I don’t play as much golf as I might do. I also captained the PwC cricket team for a while.”

### **Your great grandfather founded John Mackintosh & Son’s confectionery business. Was the Mackintosh business a big influence on your early years?**

“Yes, I think it was, particularly in the role I have now. I could see how a family and a family business interact. Every family is different, but I did see at first-hand how one family

*PwC has always had a culture of working hard but also finding time to enjoy what you do – and we're a very supportive culture.*

organised itself and the business. That was a big influence on me. You can see the positives, but also how some things didn't work out."

**Your family were originally based in Halifax, but moved to Norfolk – which did you think of as being home?**

"That's an interesting question. All my immediate family come from Yorkshire, but I grew up in Norfolk. I've got a lot of relatives in Yorkshire and, as a child, we used to spend time there, but Norfolk was certainly home. I live in London now and that's where my home is."

**You have two sons, and a young daughter. Do you think they'll follow in your footsteps and move into business, or do they have other aspirations?**

"My eldest son has gone into business working for a large retailer. My youngest son is still at university and my daughter is only 10, so it's a bit early to know what she's going to do."

**You've been with PwC for 30 years now – you must have seen a lot of changes over those three decades. What are the main differences between PwC in 2011 and Price Waterhouse in 1980?**

"The sheer size of the firm is one big change. When I joined in 1980 there were only 70 partners in the UK firm and there are now over 800. We only had one office in London, Southwark Towers [now demolished to make way for The Shard building project]. But perhaps the biggest change is the difference in working methods. The fact that we now have email and computers and mobile phones makes the method of working so different.

PwC has always had a culture of working hard but also finding time to enjoy what you do – and we're a very supportive culture. I've greatly enjoyed my time working at PwC."

## Wrapped-up

**I keep seeing things in the news about internet fraud and stolen or lost personal electronic information getting into the wrong hands. Should I be worried?**

You certainly need to be aware of where your risks might be and take steps to reduce them. Things have come a long way from simple emails asking for cash to claim prize money won abroad. These days, criminals resort to much cleverer means and you may not even know what's happened until after the fact. Common risk areas include:

*Web Profiling* – Using the internet generates a digital footprint. If you know where to look, private details are freely available. You should monitor your online profile and protect yourself against those with malicious intent.

*Social Networking* – Significant personal information is given away on people's online profiles. And it's not just you who might post information about you. Friends and family could inadvertently compromise the physical security of your assets or family members.

*Emails* – Emails can be easily intercepted by cyber criminals as most emails pass across hundreds of servers before reaching the planned recipient. Appropriate email security is essential.

*Smart phones* – If not appropriately protected, these often hold enough sensitive information about you to enable your identity to be cloned.

We'll be covering the need for cyber security in more depth in our summer edition of *Private Client*. But if you're worried now you can speak to your usual advisor or drop an email to:

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

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