



# PKF

Accountants &  
business advisers

# Tax year-end planner 2008/09

March 2009

Arranging your finances to save tax is clearly important in these difficult times. These notes are a reminder of planning opportunities available before 6 April 2009, possible tax strategies for the coming year and compliance obligations that may have to be met. Not all of the points will be relevant in your personal circumstances but, where a suggestion is of interest, please contact us for specific advice.

## Urgent Issues

### **Pensions - Lifetime allowance**

No matter what your pension fund is currently worth, if the value of your NHS pension fund and any personal pension funds at 5 April 2006 exceeded (or were close to) £1.5 million, you should seek urgent advice on whether or not to elect for 'protection' under the pension reform transitional rules. For full details please refer to our bulletin of August 2006 (also on [www.pkf.co.uk](http://www.pkf.co.uk)).

The lifetime allowance limit is particularly important to GPs, including those who retired in the

two years up to 5 April 2006. This is mainly due to the recent judicial review decision removing the Government's capping of the pension uprating factors for 2004/05 and 2005/06.

If you think this may affect you, please contact Andrew Clifford of PKF Financial Planning who will be pleased to help.

### **NHS Pensionable Pay Estimation**

From April 2009 every GP practice needs to provide information to their PCT to enable

them to collect the appropriate tiered contributions on account of their superannuation liability.

The golden rule for going forward is that GP's tiered contributions are based on their total GP Pensionable pay. For 2009/10 contributions, practices will have to provide an estimate of the partners' non-practice earnings as well as their share of partnership pensionable income.

# Income Tax

## Personal Allowances

It was proposed in the 2008 Pre-Budget Report that from 2010/11, the basic personal allowance will be reduced in two stages. Where your income exceeds £100,000 the personal allowance will be reduced by £1 for every £2 above £100,000 up to a maximum of half of the basic personal allowance.

Where your income exceeds £140,000 the personal allowance will again be reduced by £1 for every £2 of income above £140,000. However, this time the allowance can be extinguished completely.

From 2011-12 it is also proposed that there will be a higher rate of tax of 45% for non-dividend income above £150,000, and a new 37.5% tax rate will apply to dividend income where total income is above £150,000.

## Allocation of income and reliefs

Married couples should consider maximising the use of personal tax allowances and their 20% tax bands for 2009/10 by transferring income-producing capital to the spouse with the lower income.

With the substantial increases in personal tax allowances that took place during 2008/09 and significant falls in the amount of income generated from deposits and other investments, it is likely that transfers of assets will be required to maintain maximum tax-efficiency. This can be achieved at no capital gains tax (CGT) cost. However, it is important to ensure that any such

transfer is outright and unconditional.

Families supporting children through university should consider gifting income producing assets to children aged over 18 to utilise both their allowances and tax bands.

## Giving to charity

All taxpayers can make gifts to charities by means of gift aid and so provide further income for the charity. Consider making such payments by 5 April 2009 to provide the earliest benefit to the charity. However, it is possible to elect for the gift to be treated for tax purposes as if it was paid in the previous tax year. Tax relief on the payment reduces higher as well as lower rate tax liabilities.

## Capital allowances

For qualifying purchases, a new annual investment allowance (AIA) was introduced from April 2008. The AIA gives 100% tax relief for the first £50,000 of capital expenditure annually on plant and machinery (excluding cars).

Clearly, getting the timing of purchases right can significantly increase the allowances available. Depending on the date of your business year-end, the AIA may be apportioned for 2008/09. Therefore, if you are planning to acquire new equipment it is sensible to take advice on the timing of the purchase (i.e. whether to buy before or after 6 April 2009) to maximise the tax relief available for 2008/09 and 2009/10.

## Rental Properties

Advancing anticipated expenditure on repairs to the property so that it falls into the 2008/09 tax year will mean you get tax relief on the cost at an earlier date.

While it may be extremely difficult to extend a mortgage on a rental property at present, if you are able to obtain an equity release loan, interest paid could qualify for tax relief in certain circumstances.

If you let a property in France, it is important to consider your position for 2009 as there have been substantial changes to the French tax regime for landlords. For example, if your letting has previously been taxed under the *Micro BIC* rules (with a fixed expenses deduction at 71% of annual rents) it is now likely to receive less generous treatment. For 2009, the scheme annual rental limit is reduced to €32,000 and the fixed deduction falls to 50%. Where annual rents are above the new limit, net taxable profits now have to be calculated by deduction of itemised expenses and French accounts must be filed. Alternatively, landlords may be able to register under the *meublés de tourisme* scheme to continue to qualify for fixed deductions at 71% and a turnover limit of €80,000 (2009).

For UK domiciled and resident individuals, the new rules may only cause changes to the amount of French tax you pay and claim as credit against your UK tax liability on the rents. However, non-UK domiciliaries

claiming the remittance basis should seek detailed advice on their French tax exposure from a suitably qualified professional adviser. For further information on the subject visit [www.pkfguernsey.com](http://www.pkfguernsey.com).

### Family businesses

New legislation on 'income shifting', proposed after HMRC lost the celebrated case of *Jones v Garnett*, has not yet been brought into effect and there is to be further consultation before any changes are made. This does not mean that it is tax-effective to simply allocate part of the business to family members. However, in many situations there may be opportunities to extract profits from a family company by way of dividends or bonuses to family members without fear of challenge.

You should also consider the precise date when payment of dividends, bonuses or salary should be made, around 5 April 2009. It may be possible to defer any tax charge or utilise different

rate bands. However, care is needed over the company's corporation tax position and any changes to personal tax rates. Remember that bonuses are taxable at the earlier of actual receipt and the date a person becomes entitled to payment. For directors, this can include the date the payment is determined or when it is credited to the director in the company's accounting records.

If you are self-employed or running a family company and don't already employ your spouse or partner, you can still consider doing so for the future. Obviously, it is important that their role in the business justifies the amount paid (and that a payment is actually made), but paying them a salary and pension that utilises both his or her personal allowance and tax bands will save you tax as a couple. National Insurance Contributions (NICs) must also be considered.

Employing adult children in the business during the university

breaks can also be tax-efficient but, again, the work done by the individual must justify the payment that is made by the business.

### Offshore Assets & Income

If you are not domiciled in the UK and have been resident here for seven out of the last nine tax years it is important to consider your position for the current tax year.

If you have more than £2,000 of foreign income you may need to claim the benefit of the remittance basis for 2008/09. By claiming the remittance basis you will lose your entitlement to UK personal allowances and capital gains tax annual exemption. However you should note the proposals announced in the 2008 Pre-Budget Report referred to below. When considering this, you should take the proposed changes into account.

This whole area can be very complex and you should contact us.

## Capital gains tax

### Capital losses

Whilst 'bed and breakfasting' of shares is, in general, no longer effective for tax purposes, it may still be possible to crystallise gains to mop up losses by a sale followed by a repurchase by your spouse or within an ISA or trust. Alternatively, the balance of a portfolio of quoted shares can be maintained by selling shares in one company, crystallising either a gain or loss, and re-investing in another in the same sector.

If you have overseas assets, it is important to remember that for UK tax purposes, gains and losses on the overseas assets of UK resident and domiciled individuals are calculated using spot exchange rates on the dates that the assets are bought and sold – even if none of the proceeds are brought back to the UK. Therefore, while assets may be sold at a paper loss in the overseas currency, the transaction may create a sterling gain for UK tax purposes. This is

particularly likely at the moment as the value of sterling has fallen against many other currencies since autumn 2008.

These rules apply to most overseas assets so if, for example, you are considering selling an overseas holiday home, you should seek advice from us on the tax position before any transaction takes place. Similarly, substantial movements of cash in overseas deposit accounts may also

trigger capital gains tax implications.

Crystallising a loss should also be considered. A loss on private trading company shares may give rise to income tax relief. An allowable loss may also be created on chargeable assets without actually disposing of the asset where the value of the asset has become negligible.

Whilst crystallised losses cannot be transferred between husband and wife, transferring assets before their sale can ensure optimum use of losses.

However, care must be taken as anti-avoidance legislation on the use of capital losses has cast doubt on even these basic optimisation techniques. As a general rule, if the parties genuinely suffer the economic consequences of a transaction, loss relief is likely to be allowed.

If you have lent money to someone (other than a spouse or civil partner) to help their business and the debt has become irrecoverable, subject to certain conditions, you can claim the outstanding amount as a capital loss that can be set against other gains. Similar provisions apply if you have to pay out funds because you acted as guarantor to a business loan that has become irrecoverable.

Once losses have been claimed on your tax return, any losses that are not set against gains in the same year can be carried forward indefinitely to be set against gains in future tax years to reduce your potential tax liabilities.

### **Entrepreneurs' relief**

For disposals from 6 April 2008 onwards, entrepreneurs' relief may be available on the first £1m

of an individual's qualifying gains meaning that they will suffer CGT at an effective rate of 10% (the same effective rate as under the old taper relief rules); any excess will be taxed at 18%.

Entrepreneurs' relief is subject to an overall lifetime limit of £1m of gains and there is no minimum age limit. The relief can apply to gains made by individuals disposing of the whole or part of a trading business carried on alone or in partnership – this includes furnished holiday lettings but not other property letting 'businesses'. Where a business has simply ceased to trade, the new relief covers disposals of assets of the business within the following three years. To qualify, an individual has to have owned a qualifying business asset for at least one full year up to the date of the disposal.

The relief will also apply to gains on disposals of shares (and securities) in a trading company (or the holding company of a trading group) provided that the individual making the disposal has been an officer or employee of the company, or group, and owns at least 5% of the ordinary share capital (and voting rights) of the company. However, most individuals who own shares in their employers, for instance via company share schemes, are unlikely to own enough shares to qualify for the new relief.

For shares, this is an all or nothing relief. If the company does not qualify as a trading company, there is unlikely to be any entrepreneurs' relief on a subsequent sale. Substantial non-trading activity in a company will mean loss of relief.

Therefore, if there is doubt over qualification for relief, do contact us for advice before any disposal is made to ensure that tax liabilities are minimised.

### **Exemptions**

You may realise capital gains up to the £9,600 annual exemption tax free. Gains above this figure for 2008/09 are taxed at 18%. The annual exemption is available to each individual, including children. Any exemption unused in a year cannot be carried forward. However, individuals who claim the benefit of the remittance basis (see Offshore assets) for 2008/09 or a later tax year will lose their entitlement to an annual exemption for that year.

If you have two homes and reside in both, consider making a main residence election for your second home if you are likely to sell that first. Subject to time limits, an election to have your second home treated for tax purposes as your main residence (even for only a short period) can add valuable reliefs when you come to sell it, at a cost of a very small loss of relief on your main home.

If you currently have two homes and are unable to sell one it is possible to let one of these properties and with careful planning you may still qualify for the exemption. If this applies to you and you would like more information please contact us.

The gift by an individual of stock market listed shares to a charity will generate income tax relief rather than triggering a capital gains tax liability. However, if the asset is standing at a paper loss, it may be better to sell it first to

crystallise the loss (which you can set against gains at a later date) and simply claim tax relief on the gift of the sale proceeds to the charity.

### Offshore assets

If you are not domiciled in the UK and own offshore assets through a company or trust, it is likely that these will have been, or will need to be, restructured to take account of the new remittance rules that took effect from 6 April 2008. It is important to remember that if you are

claiming the remittance basis for income and gains, it is also possible to elect for overseas losses to be available in the UK. This is an irrevocable election that will apply in all subsequent years for which the remittance basis is claimed. It must be made by 31 January following the end of the first tax year after 6 April 2008 in which a claim for the remittance basis is made. Therefore, there may be an opportunity to make use of offshore capital losses in much the same way as UK losses (see

above). However, the full implications of claiming overseas capital losses and the remittance basis will need to be assessed before any action is taken, as this can give a disadvantageous result in some circumstances.

**Remember that any decisions that affect investments should only be taken after seeking expert advice from PKF Financial Planning and should take into account the merits of the investment as well as any tax advantages.**

## Inheritance tax

### Assets

Business and agricultural assets may qualify for 100% relief from inheritance tax (IHT): this currently includes shares in private trading companies and those listed on AIM and trading partnerships. For example, private company shares that qualify for income tax and capital gains tax relief under the Enterprise Investment Scheme can also qualify for relief from IHT. Therefore, careful choice of investments can significantly reduce IHT liabilities.

### Gifts

If you make a gift of an asset before 5 April but still retain some benefit or use of that asset, is unlikely to be effective as an IHT planning tool. Please contact us for further advice.

Consider using the personal annual exemption for gifts of £3,000. Any unused exemption can only be carried forward for one year.

Gifts of up to £250 per donee may be made to individuals who do not also receive gifts under the annual exemption. Other gifts, made as part of normal expenditure from net disposable income, may be exempt but advice should be sought from us first.

Most lifetime gifts to individuals will not attract an immediate liability to IHT and could become totally exempt if the donor survives for seven years. Chargeable lifetime gifts (for example, gifts to trusts where the value exceeds the unused nil rate band) presently suffer lifetime tax at 20%, with a further tax charge falling due if the donor dies within seven years.

Consider making gifts of business or agricultural property now to take advantage of the present 100% exemption on such gifts. It cannot be guaranteed that these reliefs will remain available indefinitely. Use of the reliefs now, for example, by transfers into a trust, could

prove beneficial. But the capital gains tax implications of any gifts must also be considered.

If gifts of assets qualifying for such reliefs are not possible or desirable, it may be an appropriate time to gift other assets – particularly if these are to be given to a trust. For example, many assets will have fallen in value in the last 12 months, so if gifted now, a property or stock exchange investment will be transferred at a low value, enabling you to make better use of your available nil rate band. Potential capital gains tax liabilities are also likely to be reduced.

### Nil rate band for widows and widowers

For married couples, up to twice the nil rate band (£312,000 for 2008/09, increasing to £325,000 in 2009/10) may be available on the second death. Where the nil rate band is only partly utilised on the first death (for example, because chargeable gifts are made to children or others rather

than making an exempt gift of all assets to the surviving spouse) the percentage of the nil rate band that is not used can be carried forward. If on the first death, the whole estate passes to the surviving spouse, then 100% of the deceased's nil rate band will be available for use on the survivor's death. When the surviving spouse or civil partner dies, that unused percentage will be applied to the nil rate band applicable at the date of the second death to enhance the nil rate band available on the second estate.

Families could gain a significant tax advantage by preserving the nil rate band on the death of the first spouse or civil partner so that it is available on the second death. Transferring allowances in this way means that the amount of both nil rate bands may increase over the years until the second death. While recent

years have seen significant increases in the nil rate band, the Chancellor takes both inflation and house prices into account when setting the band, so it may not increase as rapidly in future years.

Prior to the introduction of transferrable nil rate bands in 2007, most estate planning focused on using the nil rate band on the first death so that it was not wasted. Clearly, such plans may now need to be reviewed so that families do not lose out – particularly where there is a significant age difference between the spouses or civil partners.

Planning involving the use of lifetime gifts may also be affected and older couples may wish to defer making lifetime gifts to the next generation until after the first death has occurred to reduce the risk of 'freezing'

some of their combined nil rate bands if that death occurs within seven years of the gift. However, where a surviving spouse or civil partner makes gifts that could trigger a lifetime charge to IHT (for example, gifts to a trust), tax will be payable where the value of the gift exceeds one nil rate band. Any nil rate band 'inherited' from a late spouse can only be used on the death of the surviving spouse, not to shelter lifetime gifts.

Updating your plans now is the best way to secure tax savings for your family in the future. If you have been bereaved in the past two years, it may now be appropriate to vary the terms of your late spouse's will to ensure that, as a family, you make the best use of the nil rate bands available. Please contact us for more information and advice.

## Investment planning

### Pensions Annual Allowance

Both the self-employed and employers should consider maximising pension contributions into retirement contracts, such as Personal Pensions (PPP) and Retirement Annuity Contracts (RAC). The limit for an individual's contributions is the lower of 100% of earnings or £235,000 for the 2008/09 tax year. Tax relief is available at the payer's highest rate of tax.

Particular care must always be taken to consider contributions in

light of the overall Pension Lifetime Allowance limit.

Remember, it is no longer possible to carry back contributions to a previous year or carry forward any unused contribution limit to a future year. To make the most of the contributions limit for 2008/09, payments must be made by 5 April 2009.

If you are fully retiring before 5 April 2009 you need to ensure any balancing payment of NHS Superannuation contribution is paid before 5 April 2009 to qualify for tax relief.

### Individual Savings Accounts (ISA's)

UK residents aged 18 or over can invest in one stocks and shares ISA and one cash ISA each year subject to the £7,200 limit for 2008/09. Where possible, the full entitlement should be used, either by paying the full amount to a stocks and shares ISA or by paying into a combination of the two, subject to a £3,600 maximum for cash ISAs. If the limit is not used in any tax year it cannot be carried forward.

## Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCTs)

Investments made in qualifying companies may qualify for income tax relief and EIS shares may be exempt from capital gains tax on disposal. The rules are complex and professional advice should be sought. Despite restrictions, particularly in the property field, the range of activities that may be undertaken by qualifying companies remains large.

Investments in qualifying EIS companies attract income tax relief at 20% on a maximum annual investment of up to £500,000. For VCTs, income tax relief at 30% is available on qualifying investments of up to £200,000 per tax year. Furthermore, husbands and wives have individual investment entitlements. EIS and VCT investments are frequently high risk and specialist advice is recommended.

**Remember, any decisions that affect investments should only be taken after seeking expert advice from an Independent Financial Adviser and should take into account your attitude to risk and the merits of the investment as well as any potential tax advantages. Our advisers at PKF Financial Planning would be delighted to discuss any issues raised in the above, or any other matter in further depth.**

**The briefing is designed to raise some topical issues, not provide specific answers to particular circumstances. For more information on the above or any other matter please contact:**

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## Events Alert – 19 May

### The Impact of the Credit Crunch on GP Finances

- Your property – Surgery or Asset
- Tax planning post the April 2009 Budget

**Venue:** Silvermere Golf & Leisure, 1.00pm – 4.30pm

For more information or to book places please contact Rebecca Wilks on [rebecca.wilks@uk.pkf.com](mailto:rebecca.wilks@uk.pkf.com)

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