RoffeSwayne
chartered accountants

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TAXALERT

Don't be an April Fool!

The period leading up to the end of the tax year on 5 April is one of the best times for you to review your personal tax position and take action to maximise tax saving opportunities and minimise liabilities. This briefing contains a summary of the more important 'in year' and year end tax tips to help you identify the areas that should be considered so that we can then provide tailored advice for your particular needs.

Income tax saving ideas for all the family

Married couples
The tax treatment of married couples applies to same sex couples who have entered into a civil partnership under the Civil Partnership Act. References to husband and wife should therefore be read to include civil partners throughout this briefing.

Allocating income
A review of the allocation of income between husband and wife may yield tax savings such as reducing or eliminating higher rate tax liabilities. For a redistribution of income to be effective there must be an unconditional and outright transfer of the underlying asset which gives rise to the income.

For example it may be possible to save almost £10,000 in 2009/10 by moving £43,000 of investment income from an income rich spouse to one with no income. This level of tax saving is unlikely to be possible for many but savings can still be made by much smaller transfers of income. Moving just £1,000 of savings income from a higher rate taxpaying spouse to one with income below the personal allowance (£6,475) may save £400 this tax year.

Jointly owned assets
Income arising from assets owned jointly but in unequal shares is automatically taxed in equal shares unless a declaration is made to HMRC stating that the asset is owned in unequal shares. This election can be made on a Form 17 but must be made before the income arises.

Consider such a declaration when a new jointly owned asset is acquired.

The exception to the equal splitting rule is dividend income from jointly owned shares in 'close' companies which is split according to the actual ownership of the shares. Close companies are broadly those owned by the directors or five or fewer people.

Income tax savings may also be made if you are self-employed. For example, your spouse could be taken into partnership or employed by the business. This could be just as relevant for a property investment business producing rental income as for a trade or profession.

Alternatively a spouse could be employed by the family company. However, the level of remuneration must be justifiable and payment of the wages must actually be made to the spouse.

Children
Children have their own allowances and tax bands. Therefore it may be possible for tax savings to be achieved by the transfer of income producing assets to a child. Generally this is ineffective if the source of the asset is a parent and the child is under 18. In this case the income remains taxable on the parent unless the income arising amounts to no more than £100 gross per annum.

Tip
Consider transfers of assets from other relatives (eg grandparents) and/or employing teenage children in the family business to use personal allowances and the basic rate tax band.

And for those 65 and over
Taxpayers aged 65 and over are able to claim higher personal allowances. The benefit of these allowances is eroded where income exceeds £22,900. In such circumstances a move to capital growth or tax free investments may preserve the higher personal allowances.

Please call Rob West on 01483 416232 or email him on rwest@roffeswayne.com if you need any advice on this matter.

Don't be an April Fool! continued

Using tax efficient investments

Some investments benefit from a favourable tax status. However any investment decision should involve consideration of all the relevant factors, including the risk level and the need for income and capital in both the short and long term, as well as the tax advantages.

Individual Savings Accounts
Individual Savings Accounts (ISAs) provide an income and capital gains tax free form of investment. The maximum investment limits are set each tax year. Therefore to take advantage of the limits available for 2009/10 the investment(s) must be made by 5 April 2010.

An individual aged 18 or over may invest in one cash ISA and one stocks and shares ISA per tax year within the following limits:

- a cash ISA allows you to invest up to £3,600 with one provider only, in any one tax year
- a stocks and shares ISA allows you the option to invest up to £7,200 with one provider in any one tax year
- however, if you want to invest in both then the stocks and shares ISA investment should be capped so that overall you do not exceed the £7,200 limit.

16 and 17 year olds are able to open a cash ISA only.

Tax alert

For those aged 50 and over the ISA limits for 2009/10 were increased with effect from 6 October 2009 to £10,200 overall with the cash component increasing to £5,100.

Other key investments
There is a wide range of **National Savings & Investment Bank (NS&I) products**, for example NS&I savings accounts, savings certificates and bonds. These are taxed in a variety of ways. Some, such as National Savings Certificates, are tax free.

For those whose income may fall in the future, for example due to retirement, investments deferring income to a subsequent period may be attractive. For example **single premium life assurance bonds** and **'roll-up' funds** can achieve this effect.

The **Enterprise Investment Scheme (EIS)** allows new equity investment of up to £500,000 in any tax year in qualifying unquoted trading companies. Income tax relief at 20% is generally available on the investment and capital gains tax exemption is given for shares held for at least three years.

Furthermore unlimited capital gains realised on the disposal of other chargeable assets (such as investment property) may be deferred by reinvestment in EIS shares.

A Venture Capital Trust (VCT) invests in the shares of unquoted trading companies. An investor in the shares of a VCT will be exempt from tax on dividends (although the tax credits are not repayable) and on any capital gains arising from disposal of the shares. Income tax relief, currently at 30%, is available on subscriptions for VCT shares, up to £200,000 per tax year, if the shares are held for at least five years.

If you need any advice on this matter please call Linda Warner on 01483 416232 or email her on lwarner@roffeswayne.com.

Capital gains tax

Could you benefit from planning ahead?
Each individual has an annual exemption for Capital Gains Tax (CGT) purposes. This is £10,100 for 2009/10. Review your chargeable assets and consider selling before 6 April 2010 to utilise the exemption.

Key point

Husband and wife each have an annual exemption. A transfer of assets between them may mean they can both make gains of £10,100 tax free.

Bed and breakfasting (sale and repurchase overnight) of the same class of shares is no longer tax effective. However sale by one spouse and repurchase by the other, or sale outside an ISA and repurchase inside, may achieve the same effect. This can be done either to utilise the annual exemption or to establish a capital loss to set against gains.

Children also have their own annual exemption and this may be utilised by investing for capital growth.

Careful planning could lead to £10,100 of gain per family member being realised every year tax free.

The current system of CGT

- Certain qualifying business gains are charged at an effective 10% tax rate on the first £1 million of such gains where Entrepreneurs' Relief is available.
- A flat rate of CGT of 18% will apply to any other chargeable gains.
- If you have two homes you may be able to make elections to maximise the 'main residence' exemption.
- Remember that capital losses can be established by making a claim where assets no longer have any value - a 'negligible value' claim.
- Certain other reliefs may allow you to defer certain types of gain.

Comment

Many of the key areas of planning for CGT have qualifying conditions or requirements to follow before being achieved so please contact us to discuss any of these areas of interest.

Please call Kathryn Knight on 01483 416232 or email her on kknight@roffeswayne.com if you need any advice on this matter.

Trusts and the 50% rate

There has been much discussion surrounding the introduction of the 50% rate of income tax from 6 April 2010 for individuals with taxable income in excess of £150,000. The additional rate on dividends will also be introduced at the same level of income at a rate of 42.5%.

What is possibly not realised by many is that the same rates will be applied to the income of many trusts from the same date but that there is no cushion of £150,000. All trust income will be taxed at 50% (42.5% for dividends). The current trust tax rates are 40% (32.5% for dividends).

The impact of this change will be felt by those trusts where the trustees decide each year whether or not they want to distribute the income of the trust and to whom they want to make distributions. These trusts are known as 'discretionary trusts'. Such trusts will pay tax at 50% on all their income (42.5% for dividends).

When income is distributed to beneficiaries it forms part of their taxable income. However beneficiaries do receive a full 50% credit for the tax deducted by the trustees. So if a beneficiary was only a basic rate taxpayer in their own right they would be due a repayment of tax.

Example

The trustees of a discretionary settlement receive gross interest of £200.

They will pay tax on that of £100. They decide to pay the balance of the income to a beneficiary who is a basic rate taxpayer. The beneficiary will be deemed to have received £200 of income on which £100 tax has been paid. The beneficiary is only liable to tax on the £200 at 20% which means they will be entitled to a tax refund of £60.

Where the trust decides not to distribute the income then the overall position will be that the trustees will suffer the 50% deduction and this will deplete the ongoing reserves of the trust.

Where the trustees are obliged by the terms of the trust to pay out the income each year to named beneficiaries (what is known as an interest in possession trust), the tax rate which trustees will pay is only the basic rate of 20% (10% on dividend income). The beneficiary will again obtain the benefit of the tax credits passed on by the trust but only at the 20% or 10% rates. For a basic rate taxpayer this will cover the liability but not create a refund.

Please call Liz Beadsley on 01483 416232 or email her on lbeadsley@roffeswayne.com if you need any advice on this matter.

Widening the scope of APR

Agricultural Property Relief (APR) is a key inheritance tax (IHT) relief that can reduce the value of agricultural property in an individual's estate for IHT purposes to nil. However, there are detailed conditions on ownership and use to be satisfied in order to obtain the relief.

Until now the relief has only been available where an individual owned agricultural property in the United Kingdom, the Channel Islands and the Isle of Man. The Finance Act 2009 however, extends the relief to qualifying land anywhere in the European Economic Area (EEA). This comprises all the EU countries plus Norway, Iceland and Liechtenstein.

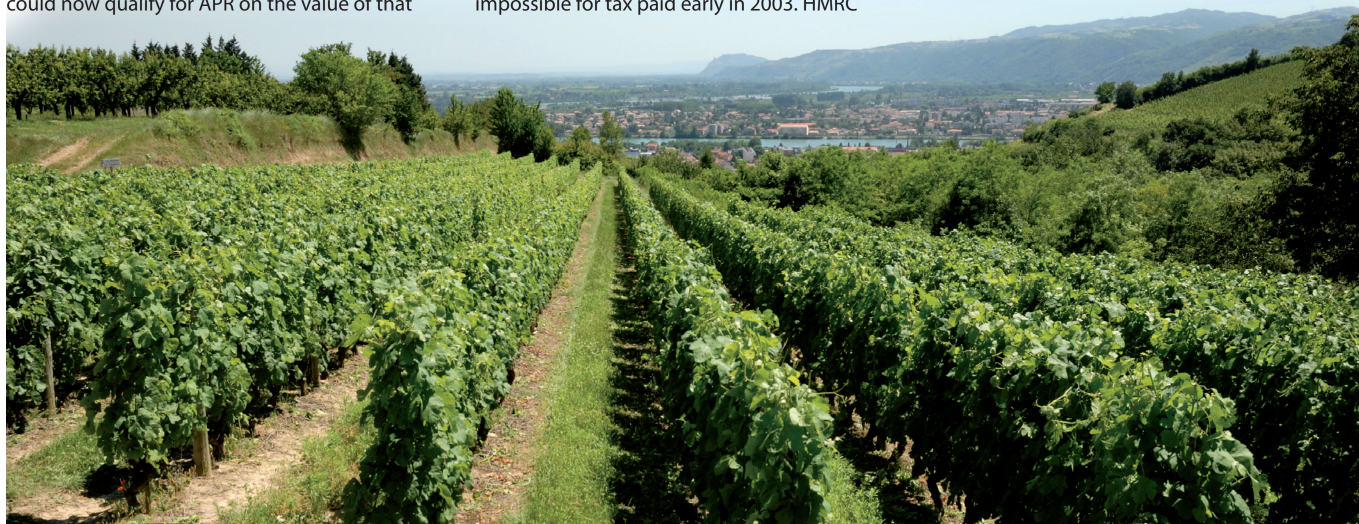
Going forward this means that an individual owning agricultural land in, for example, France could now qualify for APR on the value of that land in their estate or pick up the relief if they were to transfer the land into a trust in their lifetime and possibly avoid or mitigate their IHT liability accordingly.

The relief has, however, been introduced retrospectively because the UK government has been forced to remove discrimination in favour of UK land. This means that there may now be an opportunity to make a claim for a repayment of tax.

If IHT was paid on property in the EEA after 23 April 2003 and the land would have met the conditions to qualify for APR then the tax paid can be recovered by making a claim to HMRC. Normally a tax repayment has to be made within six years which would now be impossible for tax paid early in 2003. HMRC are required to allow claims to be made by 21 April 2010 where they would otherwise be out of time.

It is not just IHT which might be repayable. Where a gift of land qualifying for APR is made, that gift can be deferred for capital gains tax (CGT) purposes. If for example an individual had gifted farmland in Eire to their children say in 2005, the parent may have paid CGT on the gain made by reference to the market value of the land at the date of the gift. A claim could now be made to defer the gain until the children dispose of the land and that would give the parent a repayment of CGT now.

Please contact Liz Beadsley on 01483 416232 or email her on lbeadsley@roffeswayne.com



Introducing Roffe Swayne's High Net Worth Tax Service

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Why do we need to offer this new service?

We live in a time when things change very quickly and this is especially true of tax rules and rates. HMRC are restructuring to reflect the changing environment and consolidating returns for High Net Worth individuals or those with complex affairs into specialist departments. We obviously need to respond to these changes to provide our clients with the service they require.

What does the service offer?

The service is designed to ensure that private clients receive a pro-active service managing the tax affairs for themselves and their families, seeking to maximise wealth through careful structuring. This includes:

- Tax return preparation for the family group including trusts where appropriate
- Annual Wealth Report highlighting tax planning opportunities
- Regular meetings with your tax advisor

Our advisors will consider the income tax, capital gains tax and inheritance tax implications of any transactions you undertake or of any changes in your or your family's circumstances.

We work closely with investment managers, independent financial advisers and pension specialists to offer the broad range of tax solutions we know you require.

If you would like to talk to someone about this service please contact a member of the High Net Worth Team or your usual Roffe Swayne contact.

Your contacts

Partners and Associates
Richard Edmondson, Chris Baxter, Mark Leigh, Sharon Ward, Jeremy Gardner, John Fisher, Elaine Way, Tony Kelly, Linda Warner, Liz Beadsley, Helen Kay, Melanie Richardson and Matthew Katz.

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The High Net Worth Team

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Linda joined Roffe Swayne as Tax Partner in 2008 and is a highly experienced tax specialist. She expertly advises on all aspects of UK and international tax issues from inward and outward investment through to exit planning.

Linda is married with three children and enjoys playing the piano, singing, playing badminton and walking her dog.

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Liz Beadsley Associate Tax Partner

Liz joined Roffe Swayne in 1987 and is a Chartered Tax Adviser. She specialises in Inheritance tax, trusts and capital gains tax planning.

Liz enjoys spending time with her husband, young daughter, dogs, and chickens, as well as gardening and fishing.

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Kathryn Knight Tax Adviser

Kathryn is ATT (Association of Taxation Technicians) qualified and joined Roffe Swayne in 2000. She specialises in high net worth individuals, capital gains tax, the new pension rules and also enjoys mentoring tax trainees.

In her spare time Kathryn enjoys floristry, walking and travelling. She also runs the Guildford support group for a national charity.

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