Pointers

SAUNDERSON HOUSE

MICHAELMAS 2007

FOCUSED FINANCIAL ADVICE

CAPITAL GAINS TAX REFORM

The Pre-Budget Report (2007) announced fundamental changes to the way in which Capital Gains Tax ("CGT") is charged on disposals by individuals, trustees and personal representatives. With effect from 6 April 2008, taper relief and the indexation allowance will be withdrawn and replaced with a flat CGT rate of 18% on any realised gain for business and non-business assets. The CGT annual exemption (currently £9,200 for 2007/08) will remain. The proposed changes will affect individuals differently, depending mainly on whether their assets currently qualify for business or non-business taper relief and whether they are a basic or higher rate taxpayer.

As far as **business assets** are concerned, the new 18% rate is likely to adversely affect most individuals who own these, as the effective rate is currently 10% after two years of ownership for higher rate taxpayers (5% for basic rate taxpayers). There is pressure on Alistair Darling to vary these proposals. Though many owners of business assets may want to sell them before 6 April 2008, there are a number of factors which may make this impossible to achieve, not least finding a willing and able buyer.

Conversely, higher rate taxpayers holding **non-business assets** with inherent capital gains are likely to benefit by deferring disposals until after 5 April 2008, assuming the proposals take effect. In some circumstances i.e. where assets have been held prior to 6 April 1998 and/or where an individual is a basic rate taxpayer, less tax may be payable if non-business assets are sold prior to 6 April 2008. A calculation will need to be made and individual advice should be sought.

NON-DOMS £30,000 TAX CHARGE CHOICE

The long expected changes to the taxation of UK residents who are not domiciled in the UK will be effective from 6 April 2008. Though much of the detail is yet to be confirmed, the main points, which apply to those who have been resident in the UK for seven years or more, are:

- Tax will be charged on worldwide income and capital gains whether remitted to the UK or not;
- Optionally, tax will be charged only on income/gains remitted to the UK if a charge of £30,000 per annum is paid and in which case there will be no personal allowances;
- There may be additional charges for those who have been UK resident for ten or more years;
- Irish-source income can be taxed on the remittance basis;
- In determining residency, days of arrival and departure will be counted as days spent in the UK.

Those affected need to consider now whether they should pay the flat rate charge and if the change in the method of counting UK resident days will impact them.

REPORT CAPITAL LOSSES OR LOSE THEM!

A loss on the disposal of a chargeable asset can be offset against capital gains realised in the same tax year or it can be carried forward and set against capital gains realised in future tax years. **However, it is not widely appreciated that capital losses must be reported to HMRC on realisation if they are to be carried forward for future use.** This is achieved by completing the relevant supplementary pages (Capital Gains) of the Self Assessment tax return. The time limit for claims is five years and ten months from the end of the tax year in which the capital losses were made. Those not reported will be lost.

Individuals should also be aware that, under current legislation, losses and gains are amalgamated before the application of taper relief. HMRC allows an investor to choose against which assets gains and losses are offset, so that taper relief can be maximised.

GREATER PROTECTION FOR YOUR CASH?

Normal deposit accounts offer very little protection in the event of provider default, despite the recent increase in the Financial Services Compensation Scheme from £31,700 to £35,000 in the wake of the Northern Rock debacle. However, cash can be held via life assurance products such as single premium investment bonds and qualifying policies. This provides the highest level of investor protection for large deposits and attractive interest rates can be achieved through their tax advantages and "institutional" buying power.

The table below shows the level of protection for various types of investment:

Type of Investment	Protection	Details
Deposits	£35,000	100% of first £35,000
Investments (including cash unit trusts)	£48,000	100% of first £30,000 and 90% of next £20,000
Life assurance and pensions (including cash funds)	No upper limit	100% of first £2,000 and 90% of the balance

If you would like advice on any of the matters in this bulletin, please contact Nick Fletcher, Managing Director, at nick.fletcher@saunderson-house.co.uk or on 020 7315 6504 (direct), who will either help you personally or guide you to an appropriate adviser.

NIL RATE BAND: MORE FLEXIBLE

With effect from 9 October 2007, any unused portion of the Inheritance Tax nil rate band became transferable to the estate of a surviving spouse or civil partner. This entitlement will be available to existing widows, widowers and bereaved civil partners, and can be claimed by the survivor's personal representatives. The main advantage in this rule change is that, where one spouse or civil partner has already died and not used their nil rate band, this is now available on the death of the survivor.

For married couples, gifting the nil rate band on first death is now unnecessary, though growth on gifts made now will fall outside of the estate. On second death, the executors of the survivor's estate can make use of both nil rate bands, taking into account any increase in this band in the interim. For example, if the first person died today and the second in 2010, by when the nil rate band will have increased to £350,000, the executors can make use of a combined £700,000 nil rate band entitlement. This may be particularly useful where a couple's main residence makes up the majority of their estate.

The general exemption for UK resident inter-spousal transfers will still apply. The inter-spouse exemption limit for non-domiciled spouses remains at £55,000.

PARTIAL POLICY TRANSFERS ALLOWED: TIME TO CONSOLIDATE PENSIONS?

The Finance Act 2007 confirmed that the partial transfer of pension policies would no longer cause the loss of enhanced protection. Individuals can now therefore freely transfer segments of existing pension policies to SIPPs, benefiting from increased fund choice, flexibility and potentially lower charges.

When consolidating a number of pension policies, it is essential to analyse the costs of transferring, existing fund choices and whether there are Guaranteed Annuity Rates. Whatever the vehicle, an overall asset allocation must be considered with the appropriate fund managers for each asset class. Saunderson House has negotiated enhanced terms with many specialist investment managers to ensure that any transfer does not suffer front loading of charges.

JAMES HAY TIGHTENS SIPP TRUST DEED

Self Invested Personal Pensions ("SIPPs") are a popular vehicle for pension funding with assets normally held on trust for the benefit of members and thus protected from the SIPP provider's own liabilities. The considerable investment flexibility that SIPPs provide, including commercial property, raises the possibility (albeit remote) of investment losses that could exceed the value of a particular member's SIPP assets, for example, perhaps through an environmental contamination issue.

The question of where such losses fall must then be addressed which, in the environmental contamination example, will usually be with the property tenant or their insurers. Should a net liability rest with the SIPP member, it is vitally important to ensure that one SIPP member's liabilities are ring-fenced from other SIPP members' assets.

With advice from a top five City law firm, we have recently arranged for an amendment to the James Hay SIPP Trust Deed which achieves this desired ringfencing. James Hay are backed by Banco Santander, which adds another layer of security.

RECORD YOUR GIFTS

HMRC has announced that it will "be paying particularly close attention to lifetime transfers" when reviewing estates. HMRC also confirmed "where it appears that the accountable persons have been negligent in not disclosing a gift in the IHT200, we will consider whether a penalty is appropriate".

Saunderson House can advise on exempt and potentially exempt lifetime transfers, which can help to mitigate Inheritance Tax, and compliance with the record keeping requirements. Gifting should be carefully considered within the context of an overall financial plan. To remind you, the three main strategic estate planning questions are:

- How much can I afford to gift?
- To whom should I gift (e.g. directly or via a trust)?
- When should I gift?

Saunderson House Ltd, Independent Financial Advisers, 1 Long Lane, London EC1A 9HF
tel: 020 7315 6500 - fax: 020 7315 6550 - web: www.saunderson-house.co.uk
Authorised and regulated by the Financial Services Authority

It is important to note that the value of many investments and the income derived can fall as well as rise. Few investments are guaranteed and you may not get back the amount you originally invested. Past performance is not a guide to future performance. All taxation is based on our current understanding of the law and HM Revenue & Customs practice as at 29 November 2007, which may change in the future from time to time.