

CONCERNS OVER EUROPE

In general terms the whole of Europe, if not the World, is in favour of reducing the risk of war by introducing as much free trade as possible. A European free trade area is precisely what everyone in the UK signed up to.

It is difficult to understand how the law abiding citizens of Northern Europe who pay their tax could have been fluffed into joining up in a single currency with the Southern Europeans who have treated payment of tax as a national sport. In Italy, a short while ago, they had the idea of shaming their more wealthy residents into paying tax by announcing a regular table of the top taxpayers in the country, hoping that this would encourage competition. To begin with it worked, but then the Italians realised the reason for the idea and some went back to their old ways of avoiding, evading and generally not paying tax if they could possibly help it.

The naive Labour Government took on the mantle of the Southern Europeans, overspending our money to such an extent that we are in a similar mess, but at least Sterling could be devalued as the pressure valve for our economy. Everything costs more, including holidays abroad, but this is the price we pay for indecisive leadership.

We are concerned that when interest rates rise, as they will assuredly, this will trigger significant repossession and falls in house prices. The trigger for increased interest rates will probably be a reduction in the price of oil and commodities generally because of a reduction in world demand resulting from the measures which have to be taken by Governments to shore up their banking and financial systems. This may lead to a temporary fall in the stock market but well financed and well run businesses will survive and prosper in the longer term.

However, there is hope in the innate inventiveness of the UK and the ongoing research in many areas and into thorium technology. Visit the Weinberg Foundation website for the possibilities for cheaper, safer energy.

Avoiding the top rates of tax

There are no easy ways out, tax rates have increased for higher earners and those in that bracket will have to pay more income tax and national insurance for the foreseeable future.

The 50% rate has been billed as temporary but there is a lack of political will to reduce the burden on higher rate taxpayers, regardless of the disincentive that high tax rates prove to entrepreneurs.

All of the strategies below have drawbacks as well as potential tax benefits and it is important to realise this. As with many things it depends how much risk one is willing to take and whether one considers that higher rate taxes will come down. Commerciality must be the key driver.

1. Paying capital gains tax over income tax – minimising income drawn in favour of capital gains at a later date. The rate of capital gains tax is a maximum of 28% (as little as 10% for entrepreneurial gains). The danger is whether the asset value will hold up in the future i.e. is cash in hand now even at 50% tax worth more than an anticipated gain?
2. Not taking salary or dividend from a limited company followed by company sale – the premise being that the company will be sold in the future and the entrepreneurs rate of 10% will apply to a sale of the shares. This has been a successful strategy in many cases but:-



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- a. the cash asset of the company may be questioned as to qualifying for entrepreneurs relief;
 - b. the veil of incorporation (protecting individuals from being responsible for company liabilities) is effectively lifted i.e. the company has reserves to pay a legal action, whereas a properly paid dividend puts those reserves outside the company; and
 - c. inheritance tax planning can be affected.
3. Deferring dividend payments – creating a timing difference in the hope that tax rates will go down.
 4. Bring forward spending – creating a tax deductible expense at an earlier date. Essentially a timing difference. The purchase of capital assets that enhance the value of the business is especially significant as there are higher rates of capital allowances available before April 2012. But spending solely for tax purposes is not really wealth maximising.
 5. Transfer interest income to a spouse with more tax allowances available – this can be achieved by holding interest bearing accounts in the sole name of the lower rate taxpayer.
 6. Transfer shares to a spouse – there is no capital gains tax between spouses and it is a popular method to utilise the lower rate band for dividend income. Care is required as this is a gift and there cannot be a stipulation that it must be given back - although it can be revoked at a later date. This requires some form filing, but is effective.
 7. Maximise pension contributions – the annual contribution limit is £50,000 and carry forward rules from previous years might allow up to £200,000. This can depend on pension inputs periods. There have been consultations about disposing of higher rate relief for pension contributions altogether, so it should be considered before the autumn statement if a contribution was to be made in the short term.

There are other more complicated methods, however, in our experience this can be a case of the tax tail wagging the dog and generally the more complex the scheme, the more attention it attracts from HMRC. All individuals need to be extremely wary of advisers recommending complex schemes and ideally review them with another adviser.

VAT Reminders

HMRC will no longer be sending out reminders to businesses by post regarding due dates for quarterly VAT returns – presumably to save on postal costs. To ensure that you receive an email reminder you must register your email address with them via the “Maintain email address” on the VAT section of the HMRC website, if you have not already done so.

Get your tax returns completed – penalties are going up!

We realise that we warn every year to get information to us before November but this year it is even more important because the penalties have risen substantially. Even if you have no tax to pay and you are 1 day late you will need to pay £100 if you go over the 31st January deadline.

Every day thereafter costs another £10 for the next 90 days and with further penalties for being 6 months and 12 months late, the minimum penalty for a return that is 12 months late is £1,600.

Everyone knows that snow and illness have been bad in the last few years, so please get the information to us now!



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The Banking Crisis simply explained

John bought a donkey from a farmer for £100 and the farmer agreed to deliver the donkey the next day. But the next day he drove up and said, "Sorry son, but I have some bad news. The donkey's died."

John replied, "Well then just give me my money back."

The farmer said, "I can't do that, I've already spent it."

John said, "OK then, just bring me the donkey."

The farmer asked, "What are you going to do with him?"

John said, "I'm going to raffle him off."

The farmer said, "You can't raffle a dead donkey."

John said "Sure I can. Watch me. I just won't tell anybody he's dead."

A month later, the farmer met up with John and asked "What happened with that dead donkey?"

John said, "I raffled him off. I sold 500 tickets at £2 apiece and made a profit of £898." The farmer said, "Didn't anyone complain?"

John said, "Just the guy who won. So I gave him his £2 back."

Share Option Schemes

At a time when share values in private companies are low, it might be worth rewarding management with shares in the company rather than cash bonuses.

Share option schemes can be tax efficient. The idea is to reward an employee with shares rather than cash bonuses and they will continue working hard to make the company grow. However, getting the scheme right for tax and commercial objections requires careful planning.

Tax should not necessarily be the driving factor behind share option schemes, but it is certainly an extremely important consideration.

There are plenty of hoops to jump through before giving shares or share options to an employee and in order to preserve the tax benefits the employer must ensure that these are followed to the letter.

From the employee's perspective – make sure you fully understand the tax implications of a scheme before accepting a certain kind of share option or exercising that option. This is often quite specialist tax advice and the numbers can be quite significant.

Unfortunately, a number of unapproved option schemes have sprung up that can have significant tax consequences and there may be a better way of doing things. The most tax efficient schemes nearly always require the approval of the tax authorities.

We have seen plenty of difficult cases recently, often connected with redundancy from large firms, where share options have been exercised and the shares sold, only for there to be a large unexpected tax bill a year later.

Employee Management Incentive Schemes - These are extremely tax efficient method of rewarding staff with share options specifically aimed at small companies and is a very under used scheme

Don't forget straight share subscriptions! - Sometimes a complicated share option scheme is not needed. In the current economic environment the value of private companies is relatively low and a straightforward share allotment at market value might be the simplest route of rewarding an employee and retaining their loyalty.

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HMRC crackdowns - E-Traders watch out!

Every month HMRC launches a new crackdown to keep everyone on their toes and to try to get tax evaders to come clean. They reduce the penalties and expect everyone to come out with their hands up. The target of the Government is £7 billion in the course of the next parliament by cracking down on evasion, avoidance and fraud.

In June it was announced that new HMRC software would be trawling the internet looking for e-traders and trying to match it to personal tax returns. They have developed 'web robot' software to find targeted information about people and companies together with their new Connect system.

HMRC have commented that people who are only selling a few items are unlikely to be targeted by this campaign.

There is no set definition of trading although case law has developed over a number of years into a number of 'badges of trade' and if anyone does find themselves in investigation they should speak to an experienced accountant before conceding to HMRC.

The HMRC manuals give a number of badges of trade that they will consider together:

1. Profit seeking motive –an intention on to make a profit.
2. The number of transactions - systematic and repeated transactions tend to mean 'trade'.
3. The nature of the asset – whether the asset is a type or amount that it can only be turned to advantage by a sale? Or did it yield an income or give 'pride of possession', for example, a picture for personal enjoyment?
4. Existence of similar trading transactions or interests.
5. Changes to the asset - was the asset repaired, modified or improved to make it more easily saleable or saleable at a greater profit?
6. The way the sale was carried out - was the asset sold in a way that was typical of trading organisations? Alternatively, did it have to be sold to raise cash for an emergency?
7. The source of finance - was money borrowed to buy the asset? Could the funds only be repaid by selling the asset?
8. Interval of time between purchase and sale - assets that are the subject of trade will normally, but not always, be sold quickly. An intention to resell an asset shortly after purchase will support trading.
9. Method of acquisition - an asset that is acquired by inheritance, or as a gift, is less likely to be the subject of trade.

The next targets are anticipated to be those who provide private tuition and coaching and this will include dance teachers and fitness instructors and they are also looking at overseas property rental income. A new unit was announced last week.

VAT intrastate declarations

It will be mandatory to electronically file intrastate declarations from April 2012. The submission date will also be brought forward from the last day of the month to the 21st day of the month.

Suggestion schemes

We very rarely see the use of workplace awards and it can be a good way of rewarding performance without having to pay tax or national insurance.

There are two types of award and more details are available on the HMRC website and the schemes must be run according to their rules:

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- a. Encouragement Award – up to £25 with no criteria for the suggestion to have been adopted.
- b. Financial Benefit Award – up to £5,000 for a suggestion that relates to an improvement in efficiency or effectiveness, the suggestion is going to be adopted and it can reasonably be expected to lead to a financial benefit.

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Heaven or Hell!

The following is an actual question given on a University of Washington chemistry mid-term.

The answer by one student was so "profound" that the professor shared it with colleagues, via the Internet, which is, of course, why we now have the pleasure of enjoying it as well:

Bonus Question: Is Hell exothermic (gives off heat) or endothermic (absorbs heat)? Most of the students wrote proofs of their beliefs using Boyle's Law (gas cools when it expands and heats when it is compressed) or some variant. One student, however, wrote the following:

First, we need to know how the mass of Hell is changing in time. So we need to know the rate at which souls are moving into Hell and the rate at which they are leaving. I think that we can safely assume that once a soul gets to Hell, it will not leave. Therefore, no souls are leaving.

As for how many souls are entering Hell, let's look at the different religions that exist in the world today. Most of these religions state that if you are not a member of their religion, you will go to Hell. Since there is more than one of these religions and since people do not belong to more than one religion, we can project that all souls go to Hell. With birth and death rates as they are, we can expect the number of souls in Hell to increase exponentially.

Now, we look at the rate of change of the volume in Hell because Boyle's Law states that in order for the temperature and pressure in Hell to stay the same, the volume of Hell has to expand proportionately as souls are added. This gives two possibilities:

- 1. If Hell is expanding at a slower rate than the rate at which souls enter Hell, then the temperature and pressure in Hell will increase until all Hell breaks loose.*
- 2. If Hell is expanding at a rate faster than the increase of souls in Hell, then the temperature and pressure will drop until Hell freezes over.*

So which is it? - If we accept the postulate given to me by Teresa during my Freshman year that, "It will be a cold day in Hell before I sleep with you," and take into account the fact that I slept with her last night, then number two must be true, and thus I am sure that Hell is exothermic and has already frozen over.

The corollary of this theory is that since Hell has frozen over, it follows that it is not accepting any more souls and is therefore, extinct..... leaving only Heaven, thereby proving the existence of a divine being which explains why, last night, Teresa kept shouting "Oh my God."

This student received the only "A".



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Workplace pension changes

The Conservative Government have decided to accept the Labour party's legislation entitling all employees to an additional pension. They have done this principally because the State Pension scheme is becoming unaffordable but it means that there will be an additional cost both in time and also money for all employers. This does not apply to the self-employed, which may be an additional reason for considering whether a one man limited company is worthwhile.

You will have seen advertisements from The Pension Regulator and 'auto-enrolment' seminars are springing up everywhere.

From October 2012 all large employers (over 120,000 employees) will have to enrol most employees into a pension scheme. However, for firms with 250 employees or less this process starts from February 2014 and continues in stages up to January 2016. Employers can find their staging date by visiting www.tpr.gov.uk/staging.

The amount payable is also staged.

| | <u>Employer</u> <u>minimum contribution</u> | <u>Total</u> <u>minimum contribution</u> |
|----------------------------|--|---|
| Staging date to 30/09/2016 | 1% | 2% |
| 01/10/2016 - 30/09/2017 | 2% | 5% |
| 01/10/2017 onwards | 3% | 8% |

This means that by October 2017 a contribution of 8% must be paid of which 3% is due from the employer. The remaining 5% is open to negotiation between employer and employee and should be borne in mind when negotiating pay increases over the next few years.

The real problem is the administration - the employer must be in a position to enrol any employee soon after they start to work for the company. The employer must anticipate any bonus which they might give - some hope - and reflect this in their monthly or weekly contributions. The employer must keep records for each employee and of all their wages and contributions made and retain them for at least six full years i.e. seven in reality. The pension company must be able to isolate the pension contributions of all individual employees and value them. The penalties/fines for not doing this or encouraging an employee to opt out are draconian.

We will be able to help with the administration via our payroll system - be sure to contact us before the deadline looms.

Corporation tax falling – accelerate expenditure?

Corporation tax for larger companies are set to fall from 26% to 25% for the financial year 2012. There are no current proposals to reduce the smaller rate level of corporation tax from 20%.

All companies paying higher rates of tax should therefore consider accelerating expenditure to obtain relief at the highest tax rate as well as achieving the timing difference in corporation tax payments.

Our opinion is that if you are due to make the expenditure anyway, consider accelerating it, but don't let tax dictate your commercial decisions!

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SAGE 50 Accounts on your mobile

SAGE have made an App available for all iPhone users that links to the main version of SAGE 50 in the office.

This allows access to data on customers and the ability to generate orders and quotes whilst on the road and to view records such as credit limits. This might be a useful App for some people.

Capital allowances

The Additional Investment Allowance of £100,000 was designed to encourage all types of business to spend on plant and machinery; this includes new vans but not motor cars!

The limit drops to £25,000 from April 2012 and there are splitting rules when the year spans this date. It is worth thinking about whether your business will need capital expenditure in 2012 and pushing this forward where appropriate.

The rate of capital allowances available for the main pool and special rate expenditure falls to 18% and 8% respectively. It may be worth considering some of the equipment as short life if it is not expected to last over four years.

Company cars

Successive Governments have seen company cars as an area where they can extract more tax, this is often announced under a green agenda but whether this is their main focus is debatable as seen by the decision to reverse away from establishing more electric charging points across the country.

Company car taxes are now based on emission levels and for the lowest emitting cars there is definitely a tax incentive. The car manufacturers took some time to cotton on but are now pushing energy efficient vehicles and both the range and the quality of the vehicles is improving.

If you are considering buying a company car then pay serious consideration to energy efficient vehicles, they might be tax efficient.

And for non company car drivers remember it is 45p not 40p per mile!

Furnished holiday lettings

The saga runs generally like this: The European Courts did not like the UK tax authorities trying to restrict furnished holiday lets (FHL) to properties let in the UK. The previous labour Government decided to throw their toys from the pram and proposed that they would do away with FHL all together, which also appealed to wings of the party that did not like second home ownership. The Coalition parties rubbed their hands with glee and went on a crusade to protect FHLs. However, they then realised that by having to include foreign properties (or run the risk of upsetting the European Courts) it might cost an awful lot of money.

So the qualification criteria for FHLs are now much stricter and owners are no longer able to use losses against other income. This has been effective since April 2011.

The main benefit of an FHL is the rate of capital gains tax it attracts on a sale. If the criteria are met then a 10% entrepreneurs tax rate is available. This is very favourable when one considers higher rate capital gains tax is now 28%.

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The qualifying periods with effect from April 2012 are:

- Available for letting 210 days (up from 140 days)
- Actually let 105 days (up from 70 days)

If these qualifying conditions are not met then there is a period of grace written into the legislation which looks at individual circumstances.

Research and Development

Over the years research and development tax credits have been difficult to claim. However, it appears that the Government have directed HMRC to relax their stance and they have been directed to be more helpful when people want to pursue R&D tax credits.

For projects that qualify there is a significant incentive for tax. This can involve a deduction for corporation tax purposes (200% of the expense from next April) or the repayment of cash if there are no corporation tax profits, subject to certain criteria.

The main expense is likely to be the wages and salaries of those involved in research and development. This can be a proportion of the wage cost.

The procedure is to claim the R&D through the corporation tax return. We have summarised a rough guide as to how to get the ball rolling in making a claim, further details are available on HMRC and Business Link websites.

- Prepare a summary document explaining exactly what is being worked on. It is important that this is a specific project and can be separately identified. In particular you need to be able to answer the following questions:-
 - What is the scientific or technological advance?
 - What were the scientific or technological uncertainties involved in the project?
 - How and when were the uncertainties actually overcome?
 - Why was the knowledge being sought not readily deducible by a competent professional? (NB – usually this will be because the information is not in the public arena and you are recruiting/using people qualified in the field).

Generally a one page summary is helpful at this stage.

- Schedule out all the costs that are relevant to the R&D.

This is very much the second step as there will be quite a lot of work involved. A specific folder with the relevant costs identified will make things much easier.

- Contact the specialist unit at HMRC and ask that they send someone from the specialist R&D unit to visit and discuss the claim and whether they consider a claim is valid. This is not a final decision, rather the opinion of one specialist so this does not preclude a claim. R&D claims are self assessment and you are not required to obtain prior approval.
- If the visit from HMRC identifies that there is a claim then complete the corporation tax return with the relevant R&D claim. The time limit for alteration of the prior year corporation tax return is two years from the year end, this might include the summary information that has been compiled above.

This is an area where specialists have become involved on a no tax back, no fee, strategy and using one of these specialists might be appropriate where you have a claim that you are unsure fits into the definitions.

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Financial Fraud and the Elderly

It seems obvious to say it, but ageing clients with declining memory, judgement and mental capacities may require increased loyalty, care and prudence in managing their financial affairs. We are aware that for some years elderly clients have been approached by a variety of individuals and organisations attempting to abstract their financial assets. Whilst many of these were not professional con-artists, they still have an agenda for the elderly clients' money that was not necessarily in their best interest. This list includes charities, investment promoters, entrepreneurs, extended family members, in-home help, suitors (both male and female) and a wide range of sales people. Many of these people have no financial training and are supremely oblivious to the needs of the elderly person, their objectives or their constraints. One of the greatest fears of the elderly is that of losing control but they know that they may be losing their judgment, remember less and get confused, but on the other hand they don't want others to see their mistakes because of embarrassment and fear of losing independence.

It is essential that older people, especially our clients, are not taken advantage of. Often elderly people do not want to talk to their children so it is essential that they have someone to lean on in the event of an approach.

We have had a number of cases recently of older clients telling aggressive sales people that they will refer any matters to their financial advisers, i.e. us, which meant that the salesmen have done a runner and the person has been left in peace. If you or your relatives wish to take advantage of the services which we offer for advising elderly people please don't hesitate to get in touch since we can act as a barrier against the inopportune approach and it can be a great relief to someone to be able to know that they can, at any time, ring us and ask for help without being embarrassed by ringing a member of their family.

Associated companies

The rules have been altered for corporation tax purposes with effect from 1st April 2011 to try to eliminate some of the unfairness of the rules which assumed association when in fact there was little commercial link.

The new rules are likely to be a lawyers paradise, since there is no clear definition. Instead the rules look at the commercial interdependence of the companies in question and focus on:-

- Financial interdependence i.e. support or interest in the financial affairs
- Economic interdependence i.e. same objectives/customers
- Organisational interdependence i.e. common management/employees/premises/equipment

Disguised remuneration

Apparently disguised remuneration is not over claiming on expenses or using our tax money to employ ones own family.

A typical situation might be where an employee benefit trust is set up in a foreign jurisdiction. Instead of paying Jill a salary the company makes a contribution to the EBT. The EBT then at its discretion loans Jill back money and she does not declare this for income tax purposes because it is a loan. If speculation is to be believed such schemes have been used by a number of professional footballers with their 'image' rights.

This and similar schemes have been sold for years and HMRC are very disapproving. So much so that there are a number of current court cases with many millions of pounds at stake. HMRC persuaded the Government to close the loopholes moving forward so that they can cap their exposure.

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With any extremely aggressive tax scheme there is the risk that it will be questioned. Whilst people are usually willing to accept a risk that the actual tax might be clawed back, it is the potential penalties and interest that is the main risk. The new penalty regime is extremely harsh so beware any scheme that is 'too good to be true'.

Junior ISAs

Junior ISAs came into being on 1st November 2011 to replace the Child Trust Fund that became too expensive. It is open to children that are under 18, live in the UK and are not entitled to a Child Trust Fund account. The main point is that income and gains are exempt from tax within the ISA. The contribution limit is £3,600 per year and, similar to the 'adult' version, two different types of account can be opened, in cash and in stock and shares. As with all these things the rules and regulations go on extensively but it is intended that the child will not be able to access the savings until they are 18.

Children with a Child Trust Fund will not be disadvantaged by the new rules since the contribution limits have risen for them as well.

Edwards Securities Limited successfully introduced stocks and shares ISAs last year and if you would like to know any further details we would be happy to help.

The Accountant Joke

A man in a bar leans over to the man next to him and says, "Want to hear an accountant joke?"

The man next to him replies, "Well, before you tell that joke, you should know that I'm 6 feet tall, 200 pounds, and I'm an accountant. And the man sitting next to me is 6'2" tall, 225 pounds, and he's an accountant. Now, do you still want to tell that joke?"

The first guy says, "No, I don't want to have to explain it twice."

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