

EXCLUSIVELY FOR CONTRACTORS

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TAX AVOIDANCE

Tax avoidance is legally using every means at your disposal to avoid paying any more tax than you have to. Tax evasion means using illegal ways to avoid tax.

Recently the Deputy Chairman of the Inland Revenue issued a statement which said that many tax avoidance schemes were 'improper' and 'immoral'. He also said the following "let's see some self restraint, the adoption and promotion of ethical tax policies and information provided to the Revenue Department about loopholes".

You may find this an absolutely breathtaking statement bearing in mind the disgraceful way in which the Inland Revenue relentlessly pursues the taxpayer. You may very well think that IR35 is both improper and immoral,--- we do!

Contrast this view to what Lord President Clyde said in 1929 in a case involving the Inland Revenue. We gave you a short extract from this recently but it is worthwhile repeating all of what he said, "No man in this country is under the smallest obligation, moral or other, so to arrange his legal relations to his business or to his property as to enable the Inland Revenue to put the largest possible shovel into his stores. The Inland Revenue is not slow to take every advantage which is open to it under the taxing statutes for the purpose of depleting the taxpayer's pocket. And the taxpayer is, in like manner, entitled to be astute to prevent, so far as he honestly can, the depletion of his means by the Revenue".

What Lord Clyde said in 1929 is certainly true today. Tax freedom day, which is the date each year from which we start earning for ourselves rather than the Inland Revenue, was June 2. By 2005 it will be June 9, if not later. Before long we will be spending more than half of our lives working for the Government!

A few thoughts for you to take away with you on your Summer holidays!

INTEREST RATES AND DEFLATION

We have written before about interest rates and deflation and many of our clients who are either approaching retirement and are looking to buy annuities or those who rely on decent returns because they live

off the income generated from their investments are feeling the pinch. Those rosy forecasts of what could be expected in retirement have been hastily revised and some people are now looking to make less secure investments so as to boost their return on capital.

We know that deflation is characterised by high levels of unemployment, weak demand for goods and services, low commodity prices, low interest rates and 'asset bubbles' which is what we are seeing with our housing market at the moment.

The pundits who only six months ago were forecasting that the next movement in interest rates would be up are now firmly predicting that interest rates will continue to go down. You could be excused for thinking that nobody really knows what is going on and all they do is produce a reason for what has happened which is not much good to anybody really, is it?

The most striking thing, in our opinion, that is happening at the moment is the action that is being taken to lift the world out of recession and that is the continuing reduction in interest rates. We are constantly told that rates are being reduced to make borrowing cheaper and to stimulate economic activity. Well,--- one of the features of a recessionary/deflationary environment is very low interest rates. We are not suggesting that interest rates should be doubled to buck the trend (!) but we do believe that Governments around the world are purely reacting to events and are not really capable of influencing them significantly.

We would like your views on this.

A bottle of champagne for the best letter emailed to evanj@wheawill.co.uk.

HUSBAND AND WIFE COMPANIES

We have already alerted you to the stance that the Inland Revenue are taking with husband and wife companies by upsetting the long established practice of allowing family units to arrange their affairs as they please so as to take advantage of personal allowances and lower rates of income tax.

The legislation that the Inland Revenue are relying on is called Section 660A which is commonly known as legislation against settlements.

Various cases will be coming before the Courts in the next few months and whether the Inland Revenue

will be successful will then become clear although what may happen in the event that they are not successful is that the Government will change the legislation.

Some of the factors that the Inland Revenue will look at are:-

- The main earner draws a low salary from the company which leaves money which can be paid in dividends, typically to other members of the family.
- Shareholders receive disproportionately high returns on their investment.
- Different classes of shares are created so that dividends can be paid to shareholders who are paying lower rates of tax.
- Dividends are waived so that low tax payers can receive greater dividends from the business.

During this uncertain period it would be prudent to make sure that the principle earner receives income which reflects their involvement in the business and that they are not seen to be transferring income to other family members to an undue extent.

SHAMBLES AT THE INLAND REVENUE

On an almost daily basis the Inland Revenue have been slammed in the Press for the botched up way that the new tax credit system has been introduced. It cannot have helped when one tax credit applicant received a correctly addressed letter from the Inland Revenue asking him, among other things, for his name and address!

HOLIDAY HOMES

It's holiday time! The kids have broken up from school and if your thoughts are turning to perhaps buying that house by the seaside or the idyllic thatched cottage in the Cotswolds then the tax breaks are there for you to benefit from as long as you meet the rules.

For a start if your holiday home qualifies as a business then you have an asset which qualifies for business-asset taper relief. This means that if you own it for two years and then sell it your profit will only be taxed at 10%. This is much more beneficial than a typical buy to let property where the capital gains tax regime is not nearly as beneficial.

To qualify as a holiday home the property has to be

available for letting to the public for at least 140 days a year and lettings have to amount to at least 70 days. The property must be fully furnished and it must be let at a market rate and not a special rate for friends and relatives.

It must not be occupied by the same tenant for more than 31 days in any period of 7 months but once you have passed this test it can be let to the same tenant for the remaining 5 months of the year. Tax relief is not available either when you stay in the property or when it is not available to rent.

Rent received can be offset by all expenses incurred on the property e.g. repairs and maintenance, heating and lighting, gardening, insurance, agent's fees and also mortgage interest payments.

Any loss which may arise can be offset against your other personal income and will reduce your overall tax bill.

There are possible tax planning opportunities for couples if they own the property jointly as the rental income will be split between them and in a typical husband and wife case there may be the opportunity to take advantage of personal allowances which would otherwise be wasted.

Capital gains tax at only 10% is good news (relatively anyway!) these days and can be deferred or even avoided altogether if the proceeds from the sale of the property are reinvested in another asset that qualifies for business taper relief.

If you are thinking of buying a holiday home then please contact Iain Ferrie at iainf@wheawill.co.uk who will explain the rules in more detail.

EQUAL RIGHTS FOR AGENCY WORKERS

A much heralded European directive requiring employers to give the same rights to agency workers as to permanent staff has run into problems. The European Council has been unable to reach agreement on the draft which as it is presently constructed would require the same general conditions to be in place from day one and the same salary after six months.

ANNUAL HOLIDAYS

We are off to the sun to buy our holiday homes and we will see you again in September. Enjoy your summer holidays!

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