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Green & Co

Tallest sky scraper in the world is nearly completed

What have the Burj Dubai and the UK tax system got in common? The Burj Dubai is a super tall skyscraper under construction in Dubai and is the tallest man-made structure ever built, despite being incomplete. New floors are continually being added to the structure. The UK man-made tax system has the longest tax code in the world. Despite this the UK government continue to add new rules, and tweak old ones, making it probably the most complicated tax system in the world. The similarities stop there, as the Burj Dubai will be completed in the near future, but the UK tax system will continue to evolve.

The growing complexities of the UK tax system are not only creating tax traps for the unwary, but also tax saving opportunities that many are overlooking. We aim to rectify this by ensuring that we highlight some of the tax traps that can be costly if you are not aware of them and to give you an idea of possible tax saving opportunities in certain situations.

As everyone's circumstances are different we would be delighted to talk to you in detail about how the rules apply to you and how you could save tax. We want to help you pay your fair share of tax… and not a single penny more!

Best Practice Employee Remuneration and Rewards

Businesses face a number of difficult decisions in the current economic climate, one of which has been the drive to reduce head count to bring the work force in line with the drop in demand for the supply of goods and services both within the UK and internationally.

The effect of redundancy on the morale of employees left within the business can lead to stress, anxiety and in some cases a depressed workforce. This may have an immediate impact on productivity, and may have further implications on employee loyalty once the economy gets back on its feet. It would therefore be reasonable for employers to consider measures to address both present and future employee engagement issues. This can be done by considering a number of relatively straightforward opportunities.

Total Reward Statements ("TRS")

Employees often take their remuneration packages for granted. Now would be a good time to remind staff of the value of benefits accruing from their employment. A TRS which sets out both cash and non-cash elements of the employee's remuneration package, should have a positive impact on employee morale especially in times when pay rises have all but stalled, and in some cases been cut back. This has the additional advantage of highlighting what the employee already enjoys but may have taken for granted.

Discount Vouchers

The use of recognition and retail discount schemes is a low cost option but they have high impact for employees facing constraints on their finances.

Salary Sacrifice Schemes

Salary sacrifice schemes are gaining an increase in popularity in the current climate as they can provide both tax and National Insurance advantages for employees, as well as National Insurance savings for the employer. Salary sacrifice schemes can include bicycles, company cars, pensions and car parking and are typically incorporated into an employer's Flexible Benefit programme, providing employees some element of control over the make-up of their remuneration/benefit packages.

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Using a salary sacrifice scheme instead of pay rises, can be a very tax efficient way of providing employees with added benefits that increase the value of their package, without increasing the costs to the business.

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Take money out of your company with no tax – part 3

In recent editions of Pay Less Tax, we have explored how dividends and Employer Financed Retirement Benefit Schemes (EFRBS) could be used to extract profits from the company, with no tax in some circumstances. In this edition we turn our attention to EBT's.

What are EBT's I hear you ask? EBT stands for Employee Benefit Trust. An Employee Benefit Trust is a Discretionary Trust set up by an employer to provide benefits to past, present and future employees and their dependents.

There are generally no restrictions on the type of benefits that an EBT may provide and in practice a wide range of benefits may be provided, where reasonable to do so. Typically EBT's have provided loans to beneficiaries enabling the beneficiary to manage and have more control over the funds whilst retaining an inheritance benefit. Not only can the beneficiary gain access to the funds to use freely, the continued debt against their estate can serve to reduce the Inheritance Tax liability.

Where interest free loans in excess of £5,000 are provided in connection with an employment a benefit in kind would arise. This currently equates to 1.9% tax per annum for a higher rate taxpayer. There will be no tax charge on the loan recipient if the loan is interest bearing.

When the company contributes to the EBT, it may even be possible to obtain a corporation tax deduction for the company contribution into the EBT, again depending upon the full circumstances.

The Trust can be set up onshore or offshore, depending upon particular requirements and how the funds are to be applied. The location of the trust is not relevant to the immediate tax benefits of any planning, but can have a significant bearing in the long term. The key difference will be the ongoing income tax and capital gains tax position of the trust. If the trust is resident in the UK any income and gains will be taxable as they arise in the hands of the trustees, whereas a non resident trust may only be taxable in the UK if there is a UK source.

If the funds are likely to be invested for a significant period then an offshore trust may allow funds to roll up in a low tax environment. There may also be advantages of the trust being offshore if any of the beneficiaries are, or may become, non resident in the UK. Alternatively, if it is envisaged that the trust is likely to provide benefits to employees in the short to medium term it may be that the tax advantages of being based offshore are small or non-existent. We offer a remuneration review for company owners to identify the most tax efficient combination of options to extract funds from the company and save as much tax as possible.

Don't rely on the HMRC helpline

You would think that a "help line" is there to provide help. Unfortunately this isn't always the case, especially one provided by HM Revenue & Customs (HMRC). Imagine you have a technical query regarding your business tax affairs and phone one of the help lines provided by H M Revenue & Customs. You are looking for help on how to treat certain transactions for tax purposes.

You provide all the facts and think that you can completely rely on the answer provided. When you find out that the advice given by HMRC was wrong and that your business now owes over £100,000 in tax, you may feel a little angry. Perhaps you even consider going to court.

You may then be surprised to learn that, even if you had proof of the advice given by the HMRC helpline that you relied upon, you would still lose the case. This is exactly what happened to one taxpayer this year. The taxpayer was told that the help lines provided by HM Revenue & Customs are merely there to provide general advice rather than specific advice on which to rely.

Be careful with salary sacrifices and pensions

Salary sacrifice is a great way to provide more tax efficient benefits to employees, often without increased costs for the employer. For example an employer may agree to vary an employee's salary to replace the salary with employer pension contributions.

Both the employee and the employer immediately save the National Insurance Contributions on the amount effectively redirected to the personal pension scheme. For those employees earning in the region of £112,000 from April 2010 the potential tax savings could be as much as 80%. However care is needed if the employee's earnings exceed £150,000 and pension contributions are to exceed £20,000. The employee may be caught by new rules brought in this year which restrict the higher rate tax relief on pension contributions, by creating a tax charge. There could be alternatives to consider and we would be happy to talk these through.

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Discretionary Will Trusts still useful

Prior to October 2007, Discretionary Trusts were commonly used in the Wills of married couples and civil partners to ensure that both Nil Rate Inheritance Tax Bands were fully utilised. Such a Trust came into existence on the death of the first spouse. The Discretionary Trust could then be used to benefit the surviving spouse and/or children without the Trust assets being added to the surviving spouse's estate and liable to Inheritance Tax.

In October 2007 the Chancellor brought in changes that allowed married couples and civil partners to leave their unused Nil Rate Band to the surviving spouse. This effectively means that couples can fully utilise both Nil Rate Bands available to them and would only need simple Wills, leaving everything to each other. Since 2007 many are under the impression that the Nil Rate Band Discretionary Will is no longer of use. This is not the case.

Let us consider an example where you are married to a UK domiciled spouse and have an interest in a business. The interest in the business may well qualify for business property relief. As a result of the relief the value of the business is effectively reduced to zero when calculating the inheritance tax liability on your death.

However this wouldn't be an issue if you were leaving your estate to your spouse. The only problem is that when your spouse passes away, will they meet the qualifying conditions to obtain business property relief on the business interest that you left them? Will the relief even be available by then? We may not know whether they will or not be entitled to the relief until they pass away, and by then it is too late to do anything about it.

A Nil Rate Band Discretionary Trust Will can provide a solution; to be precise, two trusts. Within the Will you include two Discretionary Trusts. Into the first Discretionary Trust you leave the value of your estate up to the unused Nil Rate band (currently £325,000), excluding your interest in the business. In to the second Discretionary Trust you leave your business interest.

This ensures that we get HM Revenue and Customs' agreement that Business Property Relief is available to reduce the value of the business interest to nil. If it isn't then we may have time to sort it out. On the assumption that the relief is available we have then secured the relief on first death. On top of this we then have the option to effectively receive the relief twice by selling the business interest from the trust to the surviving spouse. There are other issues to consider, with Stamp Duty and Capital Gains Tax being amongst them. However with careful planning and attention significant tax savings can still be made with Discretionary Trusts in Wills.

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Our 'Inheritance Tax Health check' could be just the starting point that you need. It will tell you whether you have a potential Inheritance Tax liability and, if so, provide recommendations to address it. If you are interested please do not hesitate to contact us.

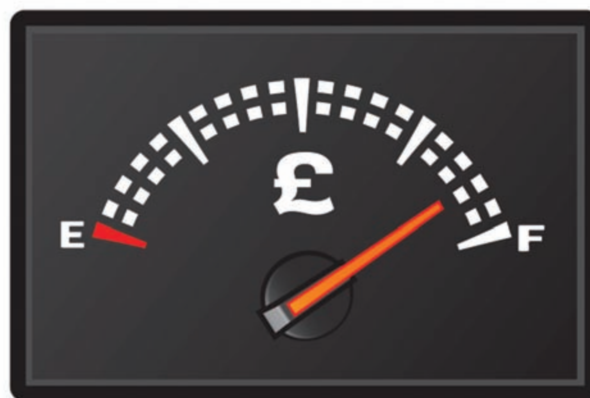
Fuel rates for company cars change from 1st July 2009

HM Revenue and Customs have issued new advisory fuel rates for use from 1st July 2009. Where employees are provided with a company car and they are reimbursed a mileage rate to cover the fuel used on business journeys, or employees are required to reimburse the employer for fuel used on private journeys then the advisory rates are normally used. Records of the journeys and payments need to be maintained to ensure that tax bills don't arise on the mileage reimbursed or fuel paid respectively.

These rates apply to all journeys on or after 1 July 2009 until further notice:

Engine Size	Petrol	Diesel	LPG
1400cc or less	10p	10p	7p
1401cc to 2000cc	12p	10p	8p
Over 2000cc	18p	13p	12p

Petrol hybrid cars are treated as petrol cars for this purpose. The rates are not binding, and where actual costs can be demonstrated to be different these can be used instead by agreement with your local tax office



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The good and bad for Furnished Holiday Homes

There is good and bad news on the rules regarding furnished holiday property. At present owners of qualifying UK holiday properties enjoy several tax benefits. Should the expenses of running the holiday home exceed the rental income, then this loss (providing it is commercial) may be set against other income of the owners, unlike losses arising from other property which can only be set against property income in the year or carried forward.

Furthermore, Capital Gains Tax (CGT) on a holiday home can be deferred into another holiday home, providing it is acquired within 3 years of selling the original home. Owners may also be able to benefit from Entrepreneur's relief and pay Capital Gains Tax at 10%, rather than the normal 18%. They also have the potential to claim capital allowances on the property furnishings.

The great news is that for a short period these tax breaks will be extended to those individuals that have qualifying holiday homes in countries within the European Economic Area (EEA) and liable to UK taxes on the income. It may even be possible to reconsider the position in earlier years for such properties.

The bad news is that all these great tax breaks will be withdrawn from April 2010, although at time of going to press the changes had not been consulted on, nor included in the 2009 Finance Bill and so either the rules will be included in the legislation next year or perhaps the proposed changes may alter.

If the tax breaks are withdrawn in 2010 then HM Revenue and Customs may be inundated with claims to treat furnished holiday homes as a trade. Although treating it as a trade will create a National Insurance charge for the individuals, the resulting tax breaks may well be worth it. Unfortunately in deciding whether the holiday homes are a trade reliance may be placed upon very dated tax cases, which are unlikely to relate to modern circumstances.

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If you own a property in the European Economic Area (EEA) then please let us know. We can review the full circumstances, check that the property qualifies as a Furnished Holiday Home, and what tax benefits can be claimed.

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If you are lucky enough to own a Furnished Holiday Home in the UK or the European Economic Area (EEA) that has significantly increased in value since you acquired it, then you may wish to crystalise the gain now and sell the property. There are various options to crystalise the tax depending upon your personal circumstances, including selling to a limited company, or perhaps a trust.

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If you are setting up a new business and introducing funds, consider whether it can be set up under the EIS rules and you enjoy the same tax breaks as for an EIS investment. Care would be needed but the tax savings could be substantial.

We can help

Despite statements about simplifying the UK tax system, the truth is that it gets increasingly complex each year. But we can help. We can guide you through the complexities of the legislation and help you to pay much less tax.

So if you would like to discuss ways in which we can help you to make tax savings, or if you would like to discuss any of the issues identified in this edition of 'Pay Less Tax' please do not hesitate to contact us.

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