

The Chorus

SPRING/SUMMER 2008

From Perrys Chartered Accountants

Capital Gains Tax – Entrepreneurs' Relief

Following on from the Capital Gains Tax (CGT) changes announced in the last issue of the Chorus, the Chancellor has since announced details of the new Entrepreneurs' Relief that will take effect from 6 April 2008.

To remind you of the new rules, from this date there will be a flat rate of CGT of 18%, and both taper relief and indexation will be withdrawn. The new relief will mean that the first £1 million of gains that qualify will be charged to CGT at an effective rate of 10%. Gains in excess of £1 million will be charged at the normal 18% rate.

The new relief will be available in respect of:

- gains made on the disposal of all or part of a business, or
- gains made on disposals of assets following cessation of a business by certain individuals who were involved in running the business.

Individuals can claim relief on more than one occasion, up to a lifetime total of £1 million of gains qualifying for relief. There will be no minimum age limit for claiming the relief, and it will be available where the relevant conditions are met for the period of one year.

The relief will work by reducing the chargeable gains by 4/9ths, the resulting amount being charged at 18%. So, assuming a gain of £450,000 before entrepreneurs' relief, this is reduced by £200,000 (4/9ths) to £250,000. CGT at 18% amounts to £45,000, which is equivalent to 10% of the original gain of £450,000. These figures are subject to deduction of any allowable losses and the annual exempt amount.

The relief applies to gains arising on disposal of whole or part of a trading business but this does not include a property letting business other than furnished holiday lettings.



An individual can carry on the trade, either alone or in a partnership.

On cessation of a business, as opposed to a disposal as a going concern, relief will be available on gains on assets previously used in the business and disposed of within 3 years of cessation.

The relief will also apply to gains on disposals of shares in a trading company, but the individual making the disposal must have been an officer (i.e. director) or employee of the company and owning at least 5% of the ordinary share capital giving them at least 5% of the voting rights in that company.

In this instance, the relief will also be available on "associated disposals" of assets that were used in the company's business. For example, if the business premises is owned personally by the director, and disposed of at the same time as the shares, the sale of the premises may count as an "associated disposal" and the gain subject to entrepreneurs' relief. The relief however will be restricted where the asset was not wholly in business use throughout the period of ownership.

If you have any queries about how this new relief could affect you, then please contact your Perrys Partner or Consultant, who will be happy to advise you.

EDITORIAL

Welcome to the Spring 2008 edition of The Chorus, keeping you up-to-date with the latest developments in the world of tax and accountancy.

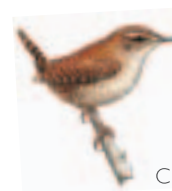
In this edition, we explain the Capital Gains Tax changes coming into effect from 6 April 2008 including the introduction of the new 'Entrepreneur Relief'.

Hot off the press, we also review other changes announced by Mr Darling in the recent Budget, summarising the main points that will be relevant to you and your business. We were very relieved to see that the controversial 'income shifting' proposals have been deferred until next year; income can still be split between spouses.

There is also the usual mix of HM Revenue and Customs news and updates, as well as an article on Corporate Manslaughter which, from 6 April 2008, could see companies facing more stringent laws in relation to work related death.

If you would like to discuss any of the articles featured in this edition of The Chorus, please do not hesitate to contact us.

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CHARTERED ACCOUNTANTS

How will the 2008 budget will affect you?

Chancellor Darling's first budget was delivered on 12 March 2008. The main points to note are:

Tax returns due by 31 October

Self-assessment tax returns for the 2007/2008 tax year will be due by 31 October 2008 if submitted on paper and 31 January 2009 if submitted on-line.

Self-employed losses

With effect from 12 March 2008, sole traders who are actively involved in their business for less than ten hours per week will only be able to offset any losses from their sole trade up to a maximum of £25,000 against other income.

Capital allowances

For small and medium-sized companies, the first £50,000 (pro-rated for the 2008/2009 tax year) spent on new plant and machinery will be fully tax-deductible in the year of purchase from April 2008.

Capital Gains Tax

From 6 April 2008 there will be a single tax rate on capital gains of 18%. The only exception to this is a lower tax rate of 10% on gains

on sale of businesses up to £1 million. This means that if you're a basic rate taxpayer and have held assets such as shares or residential property for five years or more then you will pay more tax if you sell them after 6th April.

VAT

The VAT registration threshold has been increased from £64,000 to £67,000. Previously, if you made an error on your VAT return of less than £2,000 then this could be corrected on your next return without having to disclose the error to the VAT office. This limit has now been increased to £10,000.

Cars

For new cars purchased from 2010, the lowest polluting cars will pay no road tax in the first year, with the highest polluting cars paying £950.

Despite increasing fuel costs, there is still no change to the Taxman's authorised mileage rates which stay at 40p per mile for the first 10,000 miles and 25p thereafter.

Savings

From 6 April 2008, you can invest up to £3,600 (it was previously £3,000) in a cash ISA and receive tax-free income on it.

HM Revenue & Customs Update

In addition to the budget, it is useful to remind you of some of the changes that are coming in to effect from this April that have been announced previously.

Corporation tax

From 1 April 2008 the corporation tax rate for small companies will increase by a further percentage point to 21%. It should be remembered that a further increase to 22% will happen on 1 April 2009. However, for large companies, the rate is decreasing on 1 April 2008 to 28%.

Income tax

From 6 April 2008 basic rate tax is being cut to 20%, however this coincides with the scrapping of the current lower rate of 10%. Therefore income above the new personal allowance of £5,435 will be taxable at 20% up to the higher rate tax threshold of £36,000.

Directors pay

As a result of the above, there are changes to the amounts of salary and dividends that can be drawn from a company from April 2008. Monthly salary should be increased from £435 per month to £452 per month, and the maximum amount of dividend that

can be taken without incurring additional higher rate tax is increased to £32,400 i.e. £2,700 per month.

There is nothing preventing dividends being drawn in excess of this amount, providing distributable profits are available, the additional higher rate tax being equivalent to 25% of the additional net dividend drawn.

Construction Industry status review

It has now been a year since the new Construction Industry scheme was introduced, one of the main aims being to improve compliance in this area. Previous articles in The Chorus have detailed the workings of the new scheme.

However, it is important to remember that if you are paid gross under CIS, your status is at risk if you do not file documents and pay your tax on time. Under the old system, gross status was only considered at the renewal stage, once every 3 years. With the new scheme, you could be moved from gross to net payment status as soon as a breach occurs.

HMRC introduced the Tax Treatment Qualification Test (TTQT) in October 2007

which started to look at a random sample of 1/12 of gross registered subcontractors per month. The tax compliance for the previous 12 months would be reviewed, and unacceptable breaches would lead to a determination moving the subcontractor to net status. The following month another 1/12 would be checked, until by September 2008 all subcontractors would have been reviewed.

It is the intention of HMRC to then start again in October 2008, but with a different random sample of 1/12. What this means is that each gross registered subcontractor will be looked at each year, but there may not necessarily be a year between compliance checks, it could be anything from one month to 2 years. It is impossible to say therefore when anyone will be checked.

To pass the compliance test, all documents must have been submitted on time and all tax paid on time. This will apply to all partners within a partnership and all directors in a company. It is therefore important to ensure that, as a gross status subcontractor, systems are in place to ensure filing deadlines and tax payment dates are met.

Corporate manslaughter charges

A work related death could see companies facing new corporate manslaughter charges from 6 April 2008 under the Corporate Manslaughter and Corporate Homicide Act 2007. Companies will face prosecution if they are found to have caused an individual's death due to corporate failings in health and safety.

How does the new Act differ from current law?

Currently, the law links the guilt of an organisation to the gross negligence of an individual who is said to be the embodiment of the company. In the past it has always been difficult to prosecute large organisations, and, generally, successful prosecutions have been against small companies where the director and company are essentially one and the same.

The new Act is seeking to change this by instead focusing the law on the way in which a company's activities are managed or organised, and is therefore not reliant on one individual being found guilty of gross negligence. The courts will be able to look at the failings of the organisation's senior management.

Who is considered "senior management"?

An organisation will be guilty if a death has occurred due to gross failure of the senior managers, for example, where they fail to ensure safe working practices. Senior management are those that play a major role in the decision-making process regarding how their activities are organised and managed. This will clearly be different in each case and will depend on the size and structure of the business.

What is a gross management failure?

For a conviction, it must be proved beyond doubt that the management failure amounted to a "gross breach" of the duty of care owed to the deceased. It will be considered whether the conduct of the business had fallen far below that which could reasonably be expected. If a business failed to comply with relevant health and safety legislation, it will be looked at how serious the failure was and what risk of death it posed.



What penalties will a company face?

Penalties will include unlimited fines, remedial orders and publicity orders. Remedial orders will necessitate a business to take steps to remedy the management failures that have led to the death. The court could also make public the details of the offence of the company so that the general public are aware.

What can you do?

It is important to make sure you review your internal policies and procedures to ensure that health and safety legislation is being complied with. This should be carried out on a periodic basis, along with ensuring staff are trained in this area. It is possible to have your business reviewed by health and safety experts who can advise on any issues your business may have.

If you would like to discuss this matter in more detail then please contact your Perrys Partner or Consultant.

Foreign workers – too good to be true?

In the last couple of years many thousands of people have arrived in the UK from the continent, which may have helped you fill your staff vacancies, but are there any risks involved with employing foreign workers?

In a recent survey just under a half of directors believed that foreign workers work harder than their UK counterparts, and two thirds of directors that employ foreign workers agree that they are good for the company culture.

Most immigrants that arrive in the UK do so legally. However some do not, and directors have a personal responsibility to ensure that all their workers have the right to work in the UK. Even if someone from Poland tells you they are willing to work

12-hour days for the minimum wage this isn't sufficient to satisfy the authorities should they discover illegal workers.

Directors are at risk of being handed a fine and jail sentence under the Immigration, Asylum and Nationality Act 2006.

Checks must be made before the workers are employed. You should ask to see, for example, a full UK or EEA (European Economic Area) passport, or a national identity card; or a UK birth certificate and evidence of the applicant's National Insurance number; or a passport that has been stamped as giving permission to work in the UK. This list is by no means exhaustive.

Care should be taken to ensure that any photos on passports are consistent with the appearance of the applicant, and that the names and dates of birth given on documents are again consistent. In situations where workers only have a limited time to remain in the UK, checks should be undertaken at least once every 12 months.

Copies of all documents should be retained by the employer and kept for a period of 2 years after the employment has ceased.

For more information on employing foreign workers and on the type of documents that a foreign worker could provide you with please go to www.bia.homeoffice.gov.uk

Client Spotlight

Innovate Space specialise in office design, project management, fit-out, refurbishment & furniture supply.

Formerly known as Melac Services and operating predominantly as an electrical contractor, there has been a significant wind of change since the appointment of James Smithers as Managing Director in 2003.

James has utilised the firm foundations of the company whilst imposing his knowledge, experience and vision upon it.

A Quantity Surveyor with a BSc (Hons) degree from the University of Greenwich, James spent 5 years working for a leading professional Quantity Surveying practise in Central London before being head hunted by an established London based Interior Design & Refurbishment specialist where he held the position of Operations Director.

James capitalised upon the fact that the company already had a directly employed skilled workforce, unlike the vast majority of its competitors who are reliant upon subcontractors and steadily added to the team with other specialist tradesmen necessary to complete the skill base.

James says, "Investment has been made in people, technology and the workplace geographically in order to position the company strategically in its target market place. With offices in the City and the West End of London and a new Regional Office in Woking Surrey, Innovate are ideally placed to react to the needs of it's target audience".

"Many of our Clients are looking for a 'one stop shop', someone to take the stress out of relocating or refurbishing their office environment. We carry out the relocation, the design and the build leaving our Clients to concentrate on their primary concern, running their business. A fully managed solution on a fixed price and time scale."

"This year has seen a re-brand and the re-naming of the company. The appointment of a new Project Director and Design Director prompted a review of the company's current corporate image and perceived position in the market place and subsequently the branding consultants were appointed".

"The company's turnover was approximately £1M in 2003 and is now in excess of £4M and Perrys have been a vital partner for us during our growth and development. Perrys conduct themselves in a manner similar to our own which we have always found to be reactive to our needs and friendly with a personal touch. You never get the impression as a Client that you are just 'one of many!'"

"Perrys have guided us through our expansion professionally and reliably and will continue to do so."

For more information please visit

www.innovate-space.com



INNOVATE SPACE



PERRYS CYSTIC FIBROSIS MOBILE PHONE APPEAL

All Perrys offices are currently collecting old mobile phones to donate to the Cystic Fibrosis Trust, and have a target to reach of 1000 phones.

Partner Sean Rustrick has spearheaded the campaign, as his Goddaughter suffers from Cystic Fibrosis. The trust will receive a minimum of £2.50 for every old phone donated, so please have a hunt around to find any old mobiles you may have, and drop them in to your local office. The phones do not need to work, but do need to be complete and have a battery. If the phone does not work, please make us aware of this when you drop it in. Cystic Fibrosis is a genetic condition that affects over 8,000 people in the UK, and affects the internal organs of the sufferer, especially the lungs and digestive system. Life expectancy for someone with this disease is only around 31 years, however the Trust has been able to fund research to look for a cure for the condition. Trials are due to start this year for gene replacement therapy that is hoped will ultimately lead to a cure.

Over the last few years £180,000 has been raised for the Cystic Fibrosis Trust by the donation of old mobile phones. We would be grateful to receive any redundant mobiles you may have, and hope that you will search hard to donate to this very worthy cause.



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