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PROBLEMSOLVED.

July 2019

The inheritance tax implications of gifts

by Adrian Hills

Research carried out by the National Centre for Social Research (NCSR) and the Institute for Fiscal Studies (IFS) recently found that there is a 'staggering lack of awareness' of the inheritance tax (IHT) implications of making a financial gift. Below we outline the gifting rules and the IHT implications.

Annual £3,000 exemption

Every year, an individual may give gifts of up to £3,000 without being charged any IHT. Any unused amount may be carried forward for one year only.

Other exemptions

Other exemptions include giving as many gifts as you want of up to £250 per person per tax year. Gifts between spouses/civil partners are exempt from IHT, and on death, a spouse can pass on their unused Nil-Rate Band (currently at £325,000 each).

Wedding gifts of up to £5,000 made to children are exempt from IHT; gifts of up to £2,500 to grandchildren or great-grandchildren are exempt; and up to £1,000 is exempt if the gift is given to any other relative or friend. Gifts to registered charities are also exempt, as well as those to political parties, under certain conditions.

Gifts given to help with family maintenance are also exempt from IHT. These can be in the form of a transfer of property on divorce; gifts to children aged under 18 or in full-time education; or gifts towards the living costs of a dependent.

Normal expenditure out of income is outside the scope of IHT. If the individual can give away some of their income without it adversely affecting their standard of living, then any such amount falls outside IHT. If standard of living is affected, such gifts would be deemed as capital as thus reliant on the above rules.

Potentially Exempt Transfers

Potentially Exempt Transfers (PETs) are, as the name says, transfers or gifts that may potentially be exempt depending on when the gift was given. In this case, a person may choose to give a gift up to the IHT threshold without incurring any IHT. You may, however, need to take into consideration other taxes, such as capital gains tax.

If the donor dies within seven years of making the large gift, then IHT will be due. The amount of IHT due will be dependent on the number of years that have passed since giving the gift and the donor's death.

Gifts made within three to seven years before a donor's death are taxed on a sliding scale known as 'taper relief'. This means the effective IHT rate for three to four years between gifting and death is 32%; for four to five years it's 24%; for five to six years it is 16%; and between six and seven years it will be 8%. After seven years, no IHT will be due on the gift.

The IHT threshold

The IHT threshold (or Nil-Rate Band) for an individual is £325,000, and potentially £650,000 for married couples/civil partners upon the second death. An additional Residence Nil-Rate Band (RNRB) is available for estates which include residential properties. Any unused RNRB can be transferred between spouses upon the first death. From 6 April 2019, the RNRB is £150,000, rising to £175,000 from 6 April 2020, and is available when the residential property is bequeathed to a direct descendent.

There may be scope for substantial savings when planning your estate by giving gifts, so please do get in touch.

Meet the Team: Donna Bibbings

Role: Payroll Manager.

Years with Kirk Hills: 3 Years.

Favourite Food: Has to be chocolate.

Favourite bit of the job: When people have birthdays and bring in cake. Just kidding, I love all aspects of payroll especially having to manually work out payroll. I also enjoy the people I work with and speaking to clients.

Desk Essential: It has to be a mug of coffee and a picture of my grandson.

Favourite place in Exeter: Taking our dog for a walk along the quay on a lovely summer's day.

Person you'd most like to have dinner with: This is a nice easy one. It has to be Shemar Moore the guy that used to play Derek Morgan in Criminal Minds.

Getting the details right

As self assessment tax returns for 2018/19 will soon be on the agenda, there are some key developments to keep in mind. Here, we explore these in greater detail.

Directors' tax returns

The question of whether HMRC has been right to require all company directors to file a self assessment tax return has prompted debate at the tax tribunal over the years.

In a welcome move, HMRC has clarified its guidance. The correct position is that company directors whose income is taxed at source, and who have no further tax liability, do not need to complete such a return. Many directors, however, will receive dividends as well as salary from their companies. Where there are dividends in excess of the dividend allowance (currently £2,000), there will usually be an additional tax liability to collect under self assessment, and a return will be required as usual.

Should you receive a notice to file and consider that you have no other taxable income, please do talk to us straight away. In these circumstances, it would usually be appropriate to request that the notice to file is withdrawn, but it is important to act within time limits. We are always happy to assist with the administrative complexity associated with running your business.

Residence matters

Taxpayer status broadly depends on where someone's main residence is located. Now that both Wales and Scotland have devolved powers over taxes, taxpayers within the UK are now classified as having Welsh, Scottish or rest of UK (rUK) taxpayer status.

It is important that HMRC gets any taxpayer residence correct. At present, tax rates and bands in Wales are the same as in rUK, but this is not the case in Scotland. An error in Scottish taxpayer status therefore has the potential to create the wrong tax liability. So too could incorrectly classifying a Welsh or rUK taxpayer as Scottish.

A problem with HMRC computer systems in this regard has surfaced this year. This has led to some Scottish taxpayers being wrongly classified as having rUK status, and some rUK taxpayers wrongly given Scottish status. It is still not completely clear how this has happened, but HMRC may have been overwriting addresses reported on self assessment tax returns with details already held on file.

There are also reports of problems with the issue and correct application of Welsh tax codes. Welsh PAYE taxpayers should have a C code, just as Scottish taxpayers have an S code. HMRC believes that there may be some initial issues with employer payroll software applying C codes incorrectly. In some cases, Welsh taxpayers have been charged tax at Scottish rates. HMRC intends to check the system and reissue C codes over the next few months if there is a discrepancy between the code on its system and the code applied by employer software.

There are two subsidiary points to note. HMRC systems identify taxpayer residence from postcode information. Where someone is on its system as having a Welsh postcode, they are flagged as a Welsh taxpayer. However, postcode information will not always produce the correct result. Firstly, the address that you choose to use for HMRC may not in fact reflect your Scottish or Welsh tax residence. This could be the case where you have a correspondence address – for example, if you live or work abroad for a while. It could also apply if you have more than one residence. In these circumstances, HMRC may be at particular risk of making an error. Secondly, if you have more than one residence, the capital gains tax private residence election does not determine income tax status for Scottish and Welsh income tax.

Change of address?

If you want to notify a change of residential address to HMRC – wherever in the UK you live – HMRC suggests it is best reported via the personal tax account (PTA): **bit.ly/2VUH07b**. As outlined previously, it would certainly seem unwise to rely on the self assessment tax return providing effective notification of a change of address.

Employers should make sure that employees are aware of the importance of HMRC having their correct address. They need not just alert you, the employer, to a change of address, but to use the PTA to tell HMRC as well.

Date of birth

HMRC has indicated another problem area, where dates of birth reported on self assessment tax returns fail to match data it already holds. What currently happens in these circumstances is that the information from the tax return is used to overwrite other HMRC records. The tax return date of birth is used as input for at least 16 other government systems, such as state pension records. Date of birth can also be used as part of the security procedure when a taxpayer phones HMRC, or wants to access their digital tax account. It is clearly very important that the tax return provides the correct detail to prevent HMRC applying the wrong information across the board.

As HMRC's operations become increasingly digital, teething problems with computer systems do seem likely to occur. Please be assured that we are always particularly vigilant on your behalf during the completion of your returns.

Considering the National Minimum Wage

Getting minimum wage obligations right can be challenging for employers, as indicated by the findings of a recent report by the Low Pay Commission. The report found considerable levels of minimum wage underpayment. Overall, the report revealed that underpayment has been steadily increasing since the introduction of the National Living Wage in 2016. Here, we provide an overview of the minimum wage.

Overview

The minimum wage is paid at an hourly rate, with payment bands depending on age, and special provisions applying to apprentices. The National Living Wage (NLW) is the minimum wage for those aged 25 and over, whilst the National Minimum Wage (NMW) applies to those above school leaving age and individuals aged under 25. For convenience, we refer to 'minimum wage' to cover both the NLW and the NMW.

Current rates

Minimum wage rate	Hourly rate from 1 April 2019
NLW	£8.21
21-24 year-old rate	£7.70
18-20 year-old rate	£6.15
16-17 year-old rate	£4.35
Apprentice rate	£3.90
Accommodation Offset	£7.55 per day: £52.85 per week

Minimum wage rates usually change each April.

To help employers check their minimum wage calculations, the government has provided a minimum wage calculator: **bit.ly/2bsC9XA**. Failure to pay the minimum wage correctly can lead to penalties.

What counts as pay?

Incentive payments and bonus payments, for example, count as pay for minimum wage purposes. Loans, advances of wages, pension payments and rewards under staff suggestion schemes do not. Neither do tips and gratuities. If someone incurs expenses in connection with their employment and is not reimbursed by the employer, then the expense reduces their pay for minimum wage purposes. Consider uniforms: where a salary sacrifice scheme is operated, employers need to look at the figure for pay after sacrifice to assess minimum wage compliance.

What counts as working time?

HMRC reports errors around failure to pay travel time, and whilst staff do not need to be paid for home-to-work travel time, there are some periods of travel time for which there is a minimum wage liability. These include travelling from one work assignment to another, or waiting to collect goods.

Paying apprentices

HMRC reports many errors in this area. To qualify as an apprentice, there must be an apprenticeship contract and an element of structured training. The apprenticeship rate applies only if an apprentice is under 19, or over 19 and in the first year of their apprenticeship.

Further help

General information for employers can be found on the gov.uk site: **bit.ly/1DMD7Vd**, with more detailed guidance in HMRC's manuals: **bit.ly/2sCnLmM**. The minimum wage is a complex area, and we have only been able to touch on key points here.

We would be only too pleased to provide any further assistance you may need.

Analysing the changes to VAT and construction

A major change in the way that VAT is accounted for in the building and construction sector takes effect later this year.

The VAT domestic reverse charge for building and construction services will apply from 1 October 2019. This is an anti-fraud measure – an administrative change, impacting invoicing and VAT return procedures. With a reverse charge, any VAT-registered recipient of services accounts for VAT rather than the supplier.

This means that the supplier – here, a VAT-registered subcontractor – will state on its invoice that supplies are subject to the reverse charge. The contractor then uses its VAT return to account for output VAT on the supplies received, instead of paying output VAT to the supplier. Subject to normal VAT rules, the contractor can then reclaim VAT on the supplies received as input tax. In most cases, this will leave no net tax payable on the transaction. Where there is an 'end user', it will be expected to provide notification of end user status to suppliers. This signals that suppliers should charge VAT in the usual way.

The charge affects VAT-registered businesses where payments are required to be reported through the Construction Industry Scheme (CIS). It will be used along the supply chain, until the recipient is no longer a VAT-registered business making an onward supply of specified construction services. The rules call this an 'end user'. The reverse charge will not affect zero-rated supplies. It will not apply to services provided to end users. Neither will the reverse charge apply in some circumstances to 'intermediary suppliers that are connected or linked to end users', for example landlords and tenants.

The reverse charge covers 'specified services' – essentially, construction services as defined for CIS purposes. Where services – such as those of architects, surveyors and some consultants – are supplied on their own, they are not covered by the reverse charge. If provided along with supplies subject to the charge, however, the whole supply will be subject to the charge. The reverse charge also includes goods, where supplied with specified services.

HMRC has issued technical guidance: **bit.ly/2WHQ5R2**, and we recommend planning for change now – for example, by adapting accounting and IT systems to cope. You may also need to consider the impact that the reverse charge will have on business cashflow.

Please don't hesitate to contact us for further advice.

Tax Round-up

Investment Association calls for 'greater transparency' on dividends

The Investment Association (IA) is urging listed companies to 'improve the transparency of their approach to paying dividends'.

According to the IA, companies not seeking a shareholder vote on dividend payments 'risk depriving shareholders of the opportunity to have a say on a matter that is pivotal to the organisation's attractiveness to investors'.

The IA has called for firms to publish a 'distribution policy', outlining their approach to paying shareholders dividends. Such a policy will 'provide shareholders with an opportunity to engage on companies' approaches to paying dividends', the Association stated.

Commenting on the matter, Business Minister Kelly Tolhurst said: 'I thank the IA for this report, which shines a light on companies who are not giving their shareholders a say on dividends.

'The government welcomes the further work being undertaken to encourage companies, as a minimum, to set out a distribution policy for shareholders. This type of policy makes sure shareholders have a clear basis for engaging with companies on their approach to dividends, investment and other uses of cash.

'We are committed to ensuring the UK's largest companies become even more transparent and accountable, which is why we have implemented reforms to upgrade our corporate governance and continue to seek further ways to ensure the UK remains the best place in the world to work, invest and do business.'

IFS states high earners 'increasingly hit by lack of indexation'

The Institute for Fiscal Studies (IFS) recently published a report which revealed that more people are being 'dragged into higher rates of tax' as a result of tax thresholds failing to rise in line with the rate of inflation.

The report states that, in 2007, the year before the top income tax threshold of £150,000 was announced, there were 319,000 individuals with income above this level. The IFS suggested that, as a consequence of the threshold not having moved since it was first announced, there are now 428,000 taxpayers with income above this level.

The report also stated that other tax thresholds being frozen in nominal terms include: the inheritance tax (IHT) threshold, at £325,000; the VAT registration threshold at £85,000, which is set to remain at this level until 2022; and the £110,000 and £150,000 thresholds at which the annual limit on tax-privileged pension saving begins to be reduced. Additionally, the £100,000 threshold at which eligibility for Tax-Free Childcare is removed is not adjusted for inflation.

Paul Johnson, Director of the IFS, commented: 'Recent governments have, rather stealthily, increased the tax rates on high earners. If the government thinks there is a case for more high-income people to pay more tax, it should be upfront about that view.'

Tax Tip

Deciding on a year end

It's important to choose a year end that suits your business. If your trading is seasonal, is there a more convenient time to close off your accounting records? If you have stock, what time of year is best for stocktaking?

From a tax perspective, for unincorporated businesses, choosing a year end at the beginning of the tax year would mean you have longer to pay any tax due.

Meanwhile, incorporated businesses may need to consider the timing of other taxes. If you are a director who completes a tax return, you may not want a year end which coincides with the self assessment deadline.

We can help you choose a year end that is suitable for your business. Please get in touch for more information.

Reminders for your diary

August 2019

2 Deadline for submitting P46(Car) for employees whose car/fuel benefits changed during the quarter to 5 July 2019.

7 Deadline to file first VAT return under MTD rules for the quarter ending 30 June 2019.

19 PAYE, Student loan and CIS deductions are due for the month to 5 August 2019.

September 2019

1 New Advisory Fuel Rates (AFR) for company car users apply from today.

7 Deadline to file first VAT return under MTD rules for the quarter ending 31 July 2019.

19 PAYE, Student loan and CIS deductions are due for the month to 5 September 2019.

30 End of CT61 quarterly period.

October 2019

1 Due date for payment of Corporation Tax for period ended 31 December 2018.

5 Deadline for notifying HMRC of new sources of taxable income or gains or liability to the High Income Child Benefit Charge for 2018/19 if no tax return has been issued.

7 Deadline to file first VAT return under MTD rules for the quarter ending 31 August 2019.

14 Due date for income tax for the CT61 quarter to 30 September 2019.

19 Tax and NICs due under a 2018/19 PAYE Settlement Agreement.

PAYE, Student loan and CIS deductions are due for the month to 5 October 2019.

PAYE quarterly payments are due for small employers for the pay periods 6 July 2019 to 5 October 2019.

31 Deadline for submitting 'paper' 2018/19 self assessment returns.