



## Opportunities on assets

**The value of many assets has fallen in the economic downturn. While that is generally bad news, it is most probably temporary, and shares and property are likely to appreciate again in the future. Until then, the depressed values present an opportunity to make gifts or to carry out other transactions that you might have considered before but put off because of the tax implications.**

This may be a good time, for example, to pass assets to your children. If you make a gift, capital gains tax (CGT) is charged as if you had sold the asset at its market value. Although there is a tax relief for gifts, it does not cover non-business assets. Perhaps you have bought a property for a child, but kept it in your name. You could pass it on and, depending on what you paid for it, you might now have little or no CGT to pay on the gift. The lower value would also reduce any inheritance tax that might arise in the unfortunate event that you die within seven years.

### Lower costs and less tax

Some business reorganisations give rise to CGT. Although there are certain tax reliefs, many arrangements do not qualify. There might now be much less tax on such a transaction than previously.

Rewarding employees with shares or share options is also likely to be less costly for the employee than before. For example, under share option schemes approved by HM Revenue & Customs, employees can acquire shares in the future at today's market value. So granting options now will fix a low price and give the employee a greater incentive as the shares' value grows again.

### Don't forget pensions

If you have a self-invested pension plan (SIPP), you could take advantage of the low value of the stock market by transferring quoted shares you own into your fund as a pension contribution. Where the shares are standing at a loss, you pay no tax on the transfer, and you get full tax relief on the value contributed to the scheme. Any future increase in the shares' value will be protected from tax within your pension scheme.

These are just some ways in which you can benefit from today's lower asset value. We would be happy to help you with these and any other transactions you might have in mind.

### In this issue

VAT savings with the flat rate scheme

New rules on company cars

Pay business taxes in instalments

Surprise decision in tax residence case

Claiming VAT on bad debts

Tax treatment of civil partnerships abroad

### Lang Bennetts, Chartered Accountants

The Old Carriage Works  
Moresk Road  
Truro  
Cornwall TR1 1DG  
Tel 01872 272047

Regulated to carry on audit work  
and regulated for a range of  
investment business activities by  
The Institute of Chartered  
Accountants in England & Wales.

## VAT savings with the flat rate scheme



**If the value of your annual sales is below £150,000, you may be able to save VAT by using the flat rate scheme. Many businesses have taken advantage of the VAT savings and reduced their annual VAT bills by thousands of pounds in some cases. The scheme also simplifies the process of completing VAT returns.**

The basic principle of the scheme is that you still charge VAT to your customers at the relevant rate (currently 15% for standard rated sales) and still pay VAT to your suppliers on the expenses that you incur. However, instead of paying tax based on the VAT charged to your customers (output tax) less VAT paid to your suppliers (input tax), the VAT payment is calculated as a flat rate percentage of your gross (VAT inclusive) income. The specific percentage depends on your category of business.

### Example

John is a management consultant and his sales for the period ended 31 March 2009 will be £35,000 plus VAT of £5,250, ie £40,250. The VAT on his expenses will only be £200. Under normal VAT accounting, John would pay VAT of £5,050, ie £5,250 less £200.

The relevant flat rate percentage for 'management consultants' is 11% – so John's VAT bill under the flat rate scheme would be £4,427.50, ie £40,250 x 11%. He has saved £622.50 of VAT, an annual saving of £2,490.

The scheme produces winners and losers. John had a good outcome in the above example because he does not have much VAT to claim back on his expenses.

### Other issues

There are a few important points to remember about the scheme:

- The flat rate percentage is applied to all your sales – including sales that are zero-rated or exempt from VAT. This could mean the scheme is not suitable for your business.
- The flat rate percentages are reduced by 1% in the first year that a business is VAT registered.
- You are required to check that your category of business has not changed in the last year as the flat rates vary. You should review your category each year on the anniversary of when you joined the scheme.

Contact us to find out if you are eligible to use the scheme and whether it could save you tax. There is a simple application form that we can help you to complete.

## New rules on company cars

**New rules for tax relief on business cars will affect cars bought or leased from April 2009. As a result, you may decide to change your car sooner rather than later because it may make a big difference to the timing of the capital allowances.**

Under reforms detailed in the Pre-Budget Report, writing down allowances for cars are to be based on a car's carbon dioxide (CO<sub>2</sub>) emissions. The changes will affect cars acquired after 31 March 2009 for companies and after 5 April 2009 for sole traders and partnerships.

From next April, only cars with CO<sub>2</sub> emissions up to 160 g/km will qualify for the present 20% writing down allowance. Cars emitting more than 160 g/km will attract allowances at only 10%. Buying a higher emitting car before April will therefore preserve the higher rate of relief.

### Time to buy now?

However, even for more expensive cars with emissions up to 160 g/km it may be better to buy now. At present, if you buy a car costing more than £12,000, writing down allowances are restricted to £3,000 a year, but there is a balancing allowance when you dispose of it. The result is that the

whole capital cost of the car is allowed for tax over its lifetime.

The new rules remove the £3,000 limit and the balancing allowance. For expensive cars that depreciate faster than the rate of capital allowances, this means there may be a significant shortfall in allowances compared to the cost of the car over its life.

For sole traders and partnerships, allowances on cars with private use will continue to be calculated on each car separately. So if you buy an expensive car after 5 April 2009, you will benefit from the abolition of the £3,000 allowance limit without losing the advantage of a balancing allowance on eventual disposal.

### Leasing for business

Businesses that lease expensive cars should benefit under the new rules. The present restriction to tax relief on lease rental payments for all cars costing more than £12,000 will be replaced by a disallowance

of 15% of lease rental payments on cars with CO<sub>2</sub> emissions above 160 g/km, regardless of cost.

We can help you plan your business expenditure on cars to maximise your tax relief and advise you on how directors and employees will be taxed if you provide them with company cars.

### New advisory fuel rates

From 1 January 2009, new advisory fuel rates apply to all journeys. The rates are reviewed twice a year, with changes taking effect on 1 January and 1 July. For the purpose of these rates, HM Revenue & Customs treats petrol-hybrid cars as petrol cars.

Engine size	Petrol	Diesel	LPG
1400cc or less	10p	11p	7p
1401cc to 2000cc	12p	11p	9p
Over 2000cc	17p	14p	12p

## Pay business taxes in instalments

**If you are having difficulty paying your taxes, help is at hand – provided you are a business. A new HM Revenue & Customs (HMRC) support service allows businesses affected by the current economic conditions to temporarily delay their tax payments. Instalment arrangements will be tailored to individual circumstances.**

The service, which the Chancellor of the Exchequer announced in his Pre-Budget Report in November, covers income and corporation tax, national insurance, VAT and any other payments owed to HMRC.

If you think you will not be able to make a payment, you simply phone 0845 302 1435, provide your tax reference number, details of the tax you are having trouble paying and basic details of your business income and

outgoings. HMRC says it will normally give a decision within ten minutes.

Paying late under this arrangement you will still be charged interest, currently at 5.5% for most taxes. However HMRC will not charge late payment surcharges where they would otherwise arise, for example where HMRC agrees to your paying income tax for 2007/08 later than 28 February 2009.

### Keep in contact

HMRC says the support line is only for new enquires and that if you have already been chased for overdue tax you should continue dealing with the office that originally contacted you.

However, it seems that you will be able to discuss payment arrangements with that office, and even if you have received a

warning letter about court action, you can contact the support line if you cannot get through to the office that sent the letter.

There are, however, limits to HMRC's new-found helpfulness. If you have already paid your taxes and are now experiencing cash flow problems, HMRC will not make repayments unless your tax bill is reduced. So you need to plan ahead carefully.

Remember too that delaying your tax payments can never be a solution to all your cash flow needs. We can help you manage cash flow and explore ways in which you might be able to obtain finance. And whether or not you are in financial difficulty, we will ensure you have claimed all available tax reliefs so that you are not paying more tax than necessary.

**Did you know that employers sometimes pay the accountants' fees for completing personal tax returns of internationally mobile employees?** In the past these have been taxable, like any other benefit provided for an employee. HMRC has now agreed that, subject to some conditions, up to £650 of fees will not be taxable as a benefit where returns are completed for an employee for both the home and host countries. Where only a UK return is completed, the limit is £250.

The concession only applies to returns completed as part of a wider bundle of services provided to the employer. Dealing with HMRC enquiries cannot be included as part of the bundle.



## Surprise decision in tax residence case

**Doubt has been cast on the strength of one of the main tests for determining whether a person is resident in the UK. Following a High Court decision last November, it may no longer be enough to just spend an average of fewer than 91 days a year in the UK when claiming non-UK residence status.**

The case concerned Lyle Dicker Grace, a South African pilot employed by British Airways flying out of Heathrow. He had been resident in the UK since 1986, but in 1997 he acquired a home in Cape Town. From then on he stayed in his UK home only for brief periods immediately before and after flying for British Airways and spent an average of fewer than 91 days per tax year in the UK.

Grace claimed he was not UK resident from 1997/98 onwards but the High Court disagreed, largely because Grace had not left the UK to live abroad, and was not in the UK for only a temporary purpose.

### Make a break

The case highlights the need for a distinct break where a former UK resident claims to be non-resident. To be safe, a UK resident who wants to become non-resident should move their domestic and business life to another country, and spend as little time as possible in the UK in the first tax year of non-residence.

The High Court also held that Mr Grace was not in the UK for a temporary purpose because he was here to exercise the duties of his permanent employment. Some commentators have suggested that anyone who lives abroad but spends two or three days a month, say, working in the UK for a UK employer is now at risk of being taxed as a UK resident. Others believe this is very unlikely though there may be a danger in a few cases.

### Keep a record

For most people it will remain the case that if your family and social



life is clearly abroad, you are unlikely to be treated as resident in the UK if you are present on fewer than 183 days in any tax year and fewer than 91 days a year on average. You should keep a precise record of your movements in and out of the UK.

Determining residence status can be complex and needs care. We can advise you on matters concerning residence and domicile status.

# Claiming VAT on bad debts

**It is an unfortunate fact that bad debts are a feature of economic recessions.**

However, one positive point is that you can reclaim the VAT element of any unpaid sales invoices provided the output VAT has already been included on a VAT return – as long as certain conditions are met:

- The debt must be at least six months overdue for payment. In the case of an invoice raised on 30-day payment terms, the debt will qualify for relief seven months after the date of the invoice.
- The debt must be written off in your accounting records, ie the customer's

ledger is credited and a bad debt account created.

- The debt has not been sold to a factoring company.

If all the conditions are met, you can reclaim the VAT element of the debt within Box 4 of your next return.

Another option is to use HMRC's cash accounting scheme where you do not account for VAT until you receive payment from your customer. This gives automatic bad debt relief – contact us to see if you are eligible to use the scheme.

**Did you know that the Irish rate of VAT has increased from 21% to 21.5% taking effect from 1 December 2008?**



The major concern for Irish businesses is that the 6.5% differential with the UK could lead to a boom in the number of customers travelling to the North to buy goods.

UK-based businesses may benefit from the rate differential. However, don't forget that they will need to register for VAT in Ireland if the total value of these sales exceeds €35,000 in a calendar year.

# Tax treatment of civil partnerships abroad

**It is only just over three years ago that the UK recognised same-sex civil partnerships and treated them the same as married couples for tax and most other purposes. However, civil partnerships are not recognised in the same way throughout the European Union and this can lead to unexpected tax liabilities.**

For example, some countries charge an equivalent of inheritance tax that may be lower, or nil, on property that passes to a deceased's widow or widower, but UK civil partners might not qualify for this treatment. There might also be income tax reliefs for married couples that are not extended to UK civil partners.

Some EU countries, for example France, have their own form of civil partnership but do not recognise a UK arrangement. Other countries, such as Italy, do not recognise same-sex relationships at all.

Civil partners coming to the UK are unlikely to have similar difficulties. Registered overseas relationships are recognised in the UK if the parties had capacity to enter into the relationship and meet all the necessary requirements to ensure its validity.

There is no single solution for UK civil partners living abroad, but there may be steps you can take to deal with particular issues, such as choosing the most appropriate way to own property.



KEY TAX DATES	Every month	February 2009	March 2009	April 2009
	<p><b>1</b> Annual corporation tax due for companies with year ended nine months and a day previously, eg tax due 1 May 2009 for year ended 31 July 2008.</p> <p><b>14</b> Quarterly instalment of corporation tax due for large companies (depending on accounting year end).</p> <p><b>19</b> Pay PAYE/NIC and CIS deductions for period ended 5th of the month if not paying electronically. Submit CIS monthly return.</p> <p><b>22</b> Due date for PAYE/NIC and CIS deductions if paying electronically.</p>	<p><b>2</b> Submit form P46 (car) for quarter to 5 January 2009.</p> <p><b>28</b> 5% surcharge on IT and CGT for 2007/08 if paid after this date (unless late payment agreed with HMRC). File accounts at Companies House for private companies with year ended 30 April 2008 and public companies with year ended 31 July 2008. Submit CT600 for year ended 29 February 2008.</p>	<p><b>31</b> Last-minute planning for tax year-end 2008/09. Make sure you use any CGT and inheritance tax annual allowances and exemptions. File accounts at Companies House for private companies with year ended 31 May 2008 and public companies with year ended 31 August 2008. Submit CT600 for year ended 31 March 2008.</p>	<p><b>5</b> Last day of tax year. Deadline for paying into an ISA for 2008/09. Last day to make gifts to use up annual IHT exemption for 2007/08 and for disposals using 2008/09 annual CGT exemption.</p> <p><b>30</b> IHT due on lifetime transfers between 6 April and 30 September 2008. File accounts at Companies House for private companies with year ended 30 June 2008 and public companies with year ended 30 September 2008. Submit CT600 for year ended 30 April 2008.</p>