HOLLIS AND CO

CHARTERED ACCOUNTANTS

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MARCH NEWSLETTER

Tax penalties: failing to declare lifetime gifts for IHT

In the first case since new penalty rules were introduced in April 2009, an individual who failed to tell professional advisers of a gift he had received from his father shortly before his father's death, was held liable to a penalty of £87,533.80.

We are all aware that a taxpayer who makes a return should make full disclosure. What is new here is that HMRC also has powers to raise a penalty when someone other than the taxpayer is to blame for an error. This applies both to inaccurate statements and failing to disclose information at all.

Executors for the late Mr Robert James Hutchings submitted an incorrect return for Inheritance Tax. HMRC accepted that the executors acted in good faith, but considered that one of Mr Robert Hutching's sons, Mr Clayton Hutchings, had deliberately failed to tell the executors of a gift received from his father, which affected the tax liability. The tribunal decided, on the balance of probabilities, that Mr Clayton Hutchings had deliberately withheld the information.

Disclosure following enquiries from HMRC can lead to a minimum penalty of 50% of the potential lost tax revenue.

It is clearly high time to think very carefully about the accuracy and completeness of information which could / should find its way onto a return to HMRC – even where your own name is not on the return.

Pensions and capped drawdowns

If you have been contributing to a pension and are 55 or older you need to consider whether to place some of your pension funds into capped drawdown on or before 5 April 2015.

You are currently able to contribute up to £40,000 per year into a pension scheme. From 6 April 2015 if you withdraw funds from your pension after this date, any contributions made into your fund will be limited to £10,000 per year. There is, however, an exception for those who are able to place funds into capped drawdown before 5 April 2015, the £40,000 limit is preserved. This applies whether or not you actually withdraw cash. The amount of any withdrawals to be made must be within capped drawdown limits, and the £10,000 restriction will not apply to those who take tax-free cash from their schemes — this is generally up to 25% of the fund value, but 33% for some older schemes.

You are also able, under current drawdown arrangements, able to cash up to three small pension pots of no more than £10,000 each as a lump sum without being subject to a reduced annual allowance of £10,000. If you are currently under 55 and likely to be affected by the capped drawdown rules after 5 April it may be worth considering building up a series of small £10,000 pension pots in order to be able to take them later tax-free.

Tax Calendar

March 2015

19/22	Monthly PAYE/Class 1 NICs/student loan and CIS payments due. *19th for non-electronic payments, 22nd for online payments.*

April 2015

5	End of 2014/15 tax year. Employers submit final FPS for the last payday in 2014/15. Last day to use up your annual exemptions for capital gains tax, inheritance tax and ISA's.
6	Start of 2015/16 tax year.
19/22	Monthly PAYE/Class 1 NICs/student loan and CIS payments due. *19th for non-electronic payments, 22nd for online payments*

May 2015

1	Additional daily payments of £10/day up to a maximum of £900 for failing to file self-assessment tax return due on 31 January 2015.
3	Notify HMRC of any changes in company car information for the previous quarter using P46(Car).
19/22	Monthly PAYE/Class 1 NICs/student loan and CIS payments due. *19th for non-electronic payments, 22nd for online payments*
31	Ensure all employees have been given their P60s.

June 2015

19/22	Monthly PAYE/Class 1 NICs/student loan and CIS payments due. *19th for non-electronic payments, 22nd for online payments*

July 2015

5	End of tax quarter and last date for agreeing PAYE Settlement Agreement (if any) for tax year ended 5 April 2015.
6	Deadline for expenses and benefits annual return forms P9D, P11D and P11D(b) to reach HMRC. Deadline for employers to give copies of forms P9D and P11D to employees. Deadline for submission of Form 42 (transactions in shares and securities).

The High Income Child Benefit charge (HICBC): where are we now?

It sounds so simple. If you or your partner's 'adjusted net income' is over £60,000, there is a tax charge which claws back all the Child Benefit you are entitled to. Rather than face the hassle of receiving Child Benefit and then paying it back again, you can elect not to receive it. If your income is between £50,000 and £60,000, you receive all the child benefit and then pay part of it back. With income of under £50,000, you get Child Benefit in full.

But look at the detail and there are planning points and pitfalls:

- Income is taxable income, less any grossed up Gift Aid donations, and pension payments (where basic rate relief has been given at source). Income £65,000 pa, but pension payments of £5,000, means your adjusted net income, grossing up the pension payments, is now £58,750. So if you elected not to receive Child Benefit, you may want to change your mind
- You have two years from the end of the tax year to change your mind and retrospectively ask to have the Child Benefit you were entitled to. Child Benefit will be paid in full, but you will then be liable to pay the HICBC through self assessment. By then you may be liable to late payment penalties on the HICBC
- For couples, the one who pays the HICBC is the one with the higher income, not the one who received the Child Benefit in the first place. If you both have income over £50,000, liability to pay the HICBC could switch between you through relatively small changes in income or pension contributions.

Please contact us if you would like to check your net income calculation and avoid a potential charge under these measures.

Using trusts to buy property for children

Parents who are worried about rising property prices and inheritance tax and who want to assist a child in getting onto the property ladder, without directly giving them cash could consider settling funds on a trust which can then purchase a property for their offspring.

A gift of cash of up the Inheritance tax nil rate band (currently £325,000) made into a trust will not attract a tax charge on creation and if the giver survives 7 years after making the gift, it falls out of account for IHT purposes.

Once property is held in a discretionary trust, it is subject to a ten year charge and/or an exit charge. These charges are in fact very low as they are based on the initial value of the property placed into the trust and so growth in trusts funds is not taxed in this way. There is also no ten year charge if the funds settled were less than the nil rate band.

Once cash is placed on trust, the trustees may purchase a house on behalf of child named as beneficiary to be its main residence. The trustees may take advantage of the private residence relief (PRR) rules and even let the property for a time, bearing in mind that if the child is still a minor, any rental income in excess of £100 per year will be taxable on the parents. When the trustees sell the house a profit on disposal is subject to capital gain tax, however PRR may mitigate the gain, leaving the trustees to distribute the remaining cash proceeds to the beneficiary or otherwise invest in another property, perhaps by that stage the child will have left university and started work.

If you have any queries in relation to any of the topics covered in this newsletter then please do not hesitate to contact us.

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