Newsletter

SPRING 2010

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DRE & Co Financial Planning LLP Adviser attains specialist trusts and estates practitioner qualification

DRE & Co Financial Planning's adviser Stephen Jones has attained a professional qualification that will set him apart not only from competitors in the local area but he believes the UK as a whole.

Stephen has qualified with a STEP Diploma for England and Wales (Trusts and Estates).

STEP (Society of Trusts and Estates Practitioners) is the professional body providing members and affiliates with a local, national and international learning and business network. The STEP Diploma recognised professional qualification for those already working within or considering a move to a trusts and estates position. Members of STEP include solicitors, barristers, accountants and other professionals who specialise in the subject.

Having completed the four diploma papers; administration of estates, administration of trusts, taxation of trusts and estates, and trust and estate accounting; Stephen Jones is one of only a handful of financial advisers in the UK with *TEP* after their name. He said: "This qualification is generally regarded as a requirement for solicitors wanting to specialise in wills, probate and trust matters. However, with this expertise now in-house DRE will be able to offer specialist knowledge to clients seeking high level inheritance and tax planning advice."

DRE & Co Financial Planning LLP, a firm of independent mortgage and financial advisers, was established in 2007. The firm itself was awarded Chartered Status by the Chartered Insurance Institute in 2009 – this award has been achieved by only around 100 companies in the UK. The firm provides advice to both individuals and companies on all aspects of financial planning, such as pensions, life assurance, investments and mortgages. The firm is jointly owned by DRE & Co and 75point3 Limited. 75Point3 is authorised and regulated by the Financial Services Authority.

Initial meetings with Stephen Jones to discuss inheritance tax or any other financial planning issue are free and without obligation. You can arrange a meeting by contacting your usual account manager.

In this issue

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The impact of Pre-Budget Report tax changes

December's Pre-Budget Report was a careful balancing act between assuring the markets that the Government was behaving responsibly and not upsetting too many voters in the run-up to the general election. The Chancellor, Alistair Darling, also felt he needed to avoid hampering the fragile economic recovery.

How well he succeeded remains to be seen. The main tax increases and spending cuts are yet to come; this was just the start.

The headlines focused on the 50% payroll tax imposed on banks that pay bonuses of more than £25,000; the extra tax charge will not fall directly on the bank employees themselves. The Chancellor has also frozen all the main tax rates and allowances for 2010/11. However, the rate freeze is welcome news for small businesses; the planned 1% increase in the small company's corporation tax rate from 21% to 22% is now delayed until 2011.

People with high incomes will be hit by the new 50% income tax 'super rate' on incomes over £150,000 already announced for 2010/11. From 6 April 2011, higher rate tax relief for pension contributions is to be restricted for those with 'relevant income' over £150,000 and the Government has now set out the way in which this will work.

In the meantime, the special anti-forestalling rules that prevent people from getting higher rate tax relief on large additional contributions to their pensions before the change have been extended to those with incomes of £130,000 or over.

National insurance contributions are due to rise sharply in 2011/12. Employers, employees and self-employed people will each pay an extra 1%. The good news is that the primary threshold and lower profits limits will be raised to compensate lower income earners. Some other key measures announced by the Chancellor were:

- **Research and development (R&D):** From 9 December 2009 it has no longer been a requirement for SMEs to own the intellectual property derived from their R&D expenditure. This will enable more companies to claim the relief.
- **Business rates:** Businesses that have empty buildings with a rateable value below £18,000 will be exempt from business tax until 2011.
- **Basic state pension:** The basic state pension will rise by 2.5% in April to £97.65 a week for a single person and £156.15 a week for married couples and civil partners.
- **Inheritance tax:** The nil rate band was frozen at £325,000, even though an increase to £350,000 had been announced.

Did you know that since 6 April 2009, HMRC has operated daily subsistence scale rates for reimbursing expenditure incurred by employees working away from home? The rates vary from £5 to £15, depending on the length and time of absence. HMRC has now confirmed that a daily rate of up to £15 to reimburse expenditure may be paid to employees from abroad on UK assignments of no more than two years. If you have such foreign employees, and pay them a fixed expense allowance within this limit, there will be no income tax or national insurance contribution consequences. The scale rate covers daily subsistence only, and not overnight accommodation.

Pensions and tax relief

People with high incomes will cease to benefit from higher rate tax relief on pension contributions after 5 April 2011, and 40% relief will be restricted in the tax years 2009/10 and 2010/11.

The Government has produced a consultation paper setting out the proposed rules that will apply in the longer term as well as tightening up on the so-called anti-forestalling rules that apply now.

After 5 April 2011, the big dividing point for income will be £130,000 – and that's income from all sources. If your pre-tax income is less than this amount, the new rules will not apply to you even if your employer makes a very substantial contribution to your pension scheme.

If your income is £130,000 or more, then you will potentially come into the rules, because the value of your employer's contributions to your pension scheme will be included in the definition of income. If your income including employer pension contributions is £150,000 or more, then HMRC will taper the amount of 40% or 50% higher rate tax relief that you receive.

If your income is £180,000 or above, then you will only receive 20% basic rate tax relief on all of your pension contributions. The reduction in the tax relief will be made by a special charge on you personally.

The current anti-forestalling rules for 2009/10 and 2010/11 have been amended so that a £130,000 threshold has also applied from 9 December 2009. The rules apply if the limit is exceeded in the year of the contribution or in either of the two preceding years.

It is possible to make limited pension contributions regardless of your income that qualify for full higher rate tax relief. The amount that can be invested in this way is at least £20,000 but could be more depending on your circumstances. It will make sense to contribute as much as possible while you are still able to get full tax relief. Pension contributions that qualify for just 20% basic rate tax relief will be significantly less attractive.

For some people the challenge will be to keep their income below the £130,000 (or £150,000) threshold without affecting their standard of living too much.

Did you know that hiring a contractor may soon prove to have unexpected consequences? If the UK implements the EC Agency Workers Directive (AWD) in the way currently planned, contractors using personal service ('umbrella') companies and who are reclassified by HMRC as deemed employees under the so-called 'IR35 rules' could qualify for the same employment rights as a permanent employee. Although IR35 has no tax consequences for the hirer (only for the contractor and the contractor's service company), the AWD could require the hirer to grant the contractor holiday pay and other employment benefits available to the hirer's actual employees.

Tax penalties: what all directors must know

Tax officials expect you to take 'reasonable care' in completing tax returns and other documents. This requirement is central to the new penalty rules HMRC introduced with effect from 1 April 2009.

If you make a mistake, but you were found to have taken reasonable care, you will not be penalised. However, if you made a mistake and were found to be careless, then a penalty may apply.

So what does 'reasonable care' really mean? HMRC has released some guidance in its Compliance Handbook Manual. In principle, reasonable care will vary depending on the capabilities and circumstances of the individual, and in particular on the type of business or transaction being dealt with.

In general, HMRC will expect lower standards from an unrepresented taxpayer than a taxpayer who is advised by a professional. Taxpayers are expected to take extra care where they are undertaking complicated or unusual transactions.

HMRC does not just expect taxpayers to take reasonable care in completing the official returns; the duty also extends to the records that a taxpayer must keep in order to report income and gains correctly, and to the systems that a business needs to ensure that it correctly deals with tax in relation to its transactions.

A director has a statutory duty under the Companies Act 2006 to protect the interests of the company and its creditors. This includes being familiar with the various taxes that apply to the company and ensuring that the company has adequate systems in place to maintain accurate books and declare its tax liability. Directors are also required to make sure that the company has adequate systems so that it can meet its obligations for VAT, PAYE and any other relevant taxes.

Some directors are likely to have a better understanding of tax than others and HMRC accepts this. For example, finance directors would be expected to know about filing deadlines and how the tax penalty regime operates in practice.

Directors may also delegate responsibilities to employees. If so, the employees must be properly trained and equipped and HMRC will still hold the director responsible for the employee's mistakes. If a director does not understand the tax treatment of a particular transaction, HMRC would expect them to ask for advice from a competent person or HMRC.

New points basis for employing foreigners

If you are employing anyone from outside the European Economic Area (EEA), they must hold a British passport or a visa in order to work in the UK. UK work visas are granted under a points-based system consisting of five different tiers. However, only four are currently available because Tier 3 (low-skilled workers required to cover a temporary labour shortage) is suspended indefinitely.

A foreign worker is entitled to apply for a work visa under a specific tier depending on their skills or their sponsoring employer's type of business.

Each tier has different entry checks, entitlements and requirements and is organised into categories. For example, Tier 2 consists of four categories: general (ie sponsored workers in skilled roles), inter-company transfers, ministers of religion, and elite professional sports people.

In April 2009 the qualifications and salary required for general applications under Tier 1 were raised to a master's degree and a minimum salary requirement of £20,000.

The Home Office's Border Agency provides useful information for employers who want to recruit workers from outside the EEA or retain foreign workers they already employ (www.ukba.homeoffice.gov.uk/employers/points/). The information includes how to go about obtaining a sponsor licence, which you will need if you want to sponsor foreign workers. It is not specific to any individual employee.

At the moment the Home Office's published commitment is to decide 95% of sponsorship licence applications within four weeks. To obtain a licence, you will need to provide supporting documentation and comply with certain requirements.For example, Tier 2 skilled jobs must now be advertised through Jobcentre Plus for a total of at least four weeks.

Employers can face a civil penalty of up to £10,000 for every foreign worker they employ illegally, and so it pays to check the Home Office and Border Agency's guidance on preventing illegal working. Support is available to help you avoid this pitfall: Business Link (www.businesslink.gov.uk) will help you check an individual's eligibility.

It is also worth ensuring that, in preventing illegal working, your actions are not perceived as contravening human rights and racial discrimination laws. Again, there is official guidance available if you are unsure.

2010: planning for a taxing time ahead

Income tax at the rate of 50% will be payable on taxable income over £150,000 with effect from 6 April 2010. In another move to tax higher income taxpayers, their personal allowance of £6,475 will be taken away at the rate of 50p for every pound of income over £100,000, so that the allowance will disappear altogether when a taxpayer's income reaches £112,950.

All this makes the normal end-of-tax-year planning even more important this year. Some of the ideas worth considering are:

Bring income forward to before 6 April 2010. Consider how you might legitimately bring forward any income coming to you in the near future into the current tax year (2009/10) so that the top tax rate payable is 40%. That will normally be preferable to receiving income in the 2010/11 tax year, if the new 50% tax rate will apply.

Remuneration and dividends. If you have your own company, consider paying bonuses and dividends to yourself and/or relevant employees before 6 April rather than after. Of course, earlier bonuses will also bring forward PAYE and national insurance contribution liabilities. Dividends received in this tax year are taxable at a top rate of 32.5% in 2010/11, the top rate on dividends is 42.5%.

Husband-wife partnerships and companies. Spouses and civil partners who are in business together may still legitimately divide profits or dividends between themselves so as to favour the lower earner or so that both partners' income falls below the £150,000 (or £100,000) threshold. Under the law as it stands, many such arrangements will pass muster, but it is important to get our advice to avoid problems with HMRC.

Approved share schemes. Consider opening or activating HMRC-approved share and option schemes. They can be very tax efficient and relatively easily established, but it is important to ask our advice on the choice of schemes.

Pension contributions. Tax relief at 40% is currently available on pension contributions for higher rate taxpayers, although certain restrictions have applied since April 2009.

After 6 April 2011, a person with a taxable income over £150,000 will have their tax relief restricted. Therefore, for those affected by these rules it could be worth making pension contributions that qualify for full relief in the current tax year. (See 'Pensions and tax relief' on page 2.)

Capital gains. A significant gap has opened up between the current tax rate on capital gains of 18% and the top income tax rate that will soon be 50%. An increase in the tax rate on gains is widely expected and so it might be worth considering making taxable disposals before 6 April 2010 rather than waiting until the new tax year. As usual, at the very least it is generally worth making disposals to use the annual exemption – which for 2009/10 is £10,100 per taxpayer.

KEY TAX DATES

Every month

1 Annual corporation tax due for companies with year ending nine months and a day previously, eg tax due 1/03/10 for year ending 31/05/09.

14 Quarterly instalment of corporation tax due for large companies (depending on accounting year end).

19 Pay PAYE/NIC and CIS deductions for period ending 5th of the month if not paying electronically. Submit CIS contractors' monthly return.

22 PAYE/NIC and CIS deductions paid electronically should have cleared into HMRC bank account.

30/31 Submit CT600 for year ending 12 months previously. Last day to amend CT600 for year ending 24 months previously.

If the due date for payment falls on a weekend or bank holiday, payment must be made by the previous working day.

February 2010

2 Submit forms P46 (car) for quarter to 5/01/10.

28 Last day to pay 2008/09 tax to avoid automatic 5% surcharge (unless late payment agreed with HMRC).

File accounts at Companies House for private companies with year ended 31/05/09 and public companies with year ended 31/08/09.

March 2010

12 Last day to disclose and pay online under the NDO.

31 File accounts at Companies House for private companies with year ended 30/06/09 and public companies with year ended 30/09/09.

Last-minute planning for 2009/10. Last few days to use any CGT and inheritance tax annual allowances and exemptions.

April 2010

1 VAT returns must be filed online for businesses with turnover of £100,000 or more and all newly registered businesses.

5 Last day of tax year. Deadline for paying into an ISA for 2009/10. Last day to make gifts to use up annual IHT exemption for 2008/09 and for disposals using 2009/10 annual CGT exemption. Furnished holiday lettings rules end.

6 Start of 50% income tax rate on income over £150,000 (42.5% for dividends) and of withdrawal of personal allowance for income over £100,000.

Increase in ISA limit to £10,200 (£5,100 cash ISA) for all investors.

14 Due date for CT61 return and payment for quarter to 31/03/10.

20 Interest accrues on employers' unpaid PAYE and NIC for 2009/10 (23rd if paying electronically).

30 IHT due on lifetime transfers between 6/04/09 and 30/09/09.

File accounts at Companies House for private companies with year ended 31/07/09 and public companies with year ended 31/10/09.