An adviser's perspective

Large Corporate OMB Tax voice

31 May 2016

Jeremy Coker details the range of issues presently of concern to the business adviser

If, like me, you deal with entrepreneurial clients and OMB’s the tax year end is usually one where you review their affairs and have a discussion to decide on those things that they needed to have done, those they could have done and those that they should have done as well as those they may wish to consider going forward. This time around the raft of matters to be discussed reminded me of the old Chinese proverb “One cannot manage too many affairs: like pumpkins in the water, one pops up while you try to hold down the other”.

Dividends

The matter that caught the eye most often was the changes to dividend taxation on 6 April 2016. The 10% tax credit, which even my better clients never understood, was abolished. A new dividend allowance (may we call it a nil rate band?) of £5,000 was introduced and the rates of tax were changed to:

- 7.5% (previously 0%) on dividend income within the basic rate band

- 32.5% (previously 25%) on dividend income within the higher rate band
- 38.1% (previously 30.56%) on dividend income within the additional rate band.

This apparent 7.5% increase across the bands meant that many whose main source of income is dividend income sought to make payments before the 5th April deadline where it was tax beneficial to them. The low salary and dividend model remains popular but the tax benefits have been reduced and, even more than ever before, the numbers need to be crunched.

Savings

Interestingly, the starting rate of savings tax of £5,000 offers additional planning opportunities for some of those directors who have loaned funds to their companies. This is different from the Personal Savings Allowance which from 6 April 2016 is £1,000 for a basic rate taxpayer and £500 for a higher rate taxpayer. Additional rate taxpayers do not get this.

Payroll

A number of changes happened to payroll on 6 April 2016. Benefits can now be included in payroll, although this is voluntary at the moment. Dispensations have been abolished and replaced by a statutory exemption for reimbursed expenses. Trivial benefits of amounts of £50 each, capped at £300 for employees and directors are now exempt (this seemed to be well received) and the £8,500 higher paid employee rule has now gone for most. The relaxed reporting regime for late submissions of the Full Payment Summary also changed.

The Employment Allowance, which reduces employers' Class 1 National Insurance, was increased to £3,000 but care needs to be taken to ensure that the business qualifies for it. In addition to the known restrictions (one allowance per group, most domestic schemes, service company with only deemed payments, etc) a new restriction is that single director companies with no other employees will not qualify for it.

Understandably, with the changes to dividend taxation, the rate of tax on loans to participators made after 6 April 2016 changes to 32.5%.

For those individuals working through personal service companies where the intermediaries legislation applies, relief for travel and subsistence expenses will be restricted from 6 April 2016.

Pensions

Those who had still not made use of their pension annual allowance of £40,000, as well as any unused allowance of the last three years, were encouraged to do so where possible. Transitional provisions to align pension input periods with the tax year as at 6 April 2016 meant communication with IFA's was really important. The tapered Annual Allowance for individuals with "adjusted income" of over £150,000 (which reduces the annual allowance by £1 for every £2 that the adjusted income exceeds £150,000, up to a maximum reduction of £30,000) came in on 6 April 2016. There are some anti avoidance rules but individuals with net income of no more than £110,000 will not normally be subject to this.

Capital Gains Tax

A surprise announcement was the reduction in the rates of Capital Gains Tax from 6 April 2016 from 18% to 10% within the basic rate band and 28% to 20% at higher rates. Although the rates of CGT on a residence that has not ever been your main residence has become even more complicated, up to 28%, this change was quite welcomed by clients.

Annual Tax on Enveloped Dwellings (ATED)

Not a new tax but one that impacted significantly on companies that have dwellings within their business was the reduction in the value of properties (£500,000 as at 1 April 2012 or on acquisition if later) that were subject to the Annual Tax on Enveloped Dwellings (ATED) or needed to complete ATED Relief Declaration forms for the year ending 31 March 2017. The tight deadline of 30 April was in stark contrast to the extended filing period of 31 October given when the value was reduced to £1m. Whilst HMRC's ATED online filing resource is helpful, the inability to save these HMRC forms comes with its own special frustrations. An interesting observation was that this ATED charge identified some clients who provide accommodation benefits in kind to employees of properties acquired pre 30 March

1983 and which cost less than £75,000, something the OTS have commented on in the past.

Company Distributions

The consultation on distributions in December 2015 and subsequent proposals included in the current Finance Bill, purportedly to stop phoenixism, has put the tax treatment of certain transactions in doubt. Whilst old clearances obtained prior to the introduction of the changes may need to be revisited, it appears that other commercial transactions may inadvertently be caught. As an illustration, a business owner who operates pubs all over the country, some through a company and others as a partner in a partnership has recently sold those pubs in the company and the plan is to liquidate the company. As he will be connected with a similar trade by virtue of his partnership interest, it would be good to know if he is caught by the TAAR or whether it will only apply to “new” trades.

Entrepreneurs’ Relief (ER)

The restriction of ER on goodwill on incorporation affected many OMBs. This meant that, even though it did not apply to most of them, I had to explain the recent amendments. One of these enable ER to be claimed, subject to certain conditions, on gains on the goodwill of a business when that business is transferred to a company controlled by five or fewer persons or by its directors. The principal condition is that the claimant must hold less than 5% of the acquiring company’s shares. There are special rules to allow relief where the acquiring company is then sold to a third party. These changes are backdated to 3 December 2014.

Investors’ Relief

Of particular interest however was the new Investors’ Relief introduced from 6 April 2016. This allows investors to make gains up to £10m on qualifying shares (newly subscribed shares in an unlisted trading company held for 3 years and no connection to officers/employees) and is additional to the ER £10m limit.

Property matters

The changes to property transactions for individuals and OMBs could form an article on its own and this has caused a ripple or two. The wear and tear allowance of 10% of net rents is abolished. Instead a deduction for the cost of replacement of certain capital items is allowed as a deduction from 6 April 2016. The measure to restrict relief for finance costs on residential properties to the basic rate of Income Tax, which will be introduced gradually from 6 April 2017, provided many a discussion. Considerations on incorporation of property businesses, selling up or just increasing the rent were among the options discussed. The imposition of higher rates of Stamp Duty Land Tax (SDLT) on purchases of additional residential properties (above £40,000), such as buy to let properties and second homes, to 3 percentage points above the current SDLT rates from 1 April 2016 accelerated quite a few purchases.

The future is Orange?

Despite my insistence on discussing “Making Tax Digital” and how it would affect them, most of my clients seem inclined to think their “accountant will deal with it” without any additional costs and so, whilst hoping HMRC can get the message out a lot clearer, we shall just have to watch this space.

Many things are afoot that I have not covered but with so much change going on at the moment, even more in the pipeline and with the prospect of increased penalties for non-compliance, I ask for forgiveness (something HMRC should perhaps consider more often) for ending with an even more dubious pumpkin quote: “It is not the strongest pumpkin grower that survives, not the most intelligent, but the grower most responsive to change.”

May our pumpkins continue to remain as carriages.