AUDIT • TAX • ADVISORY

Year end tax planning guide

2021/22

Now, for tomorrow

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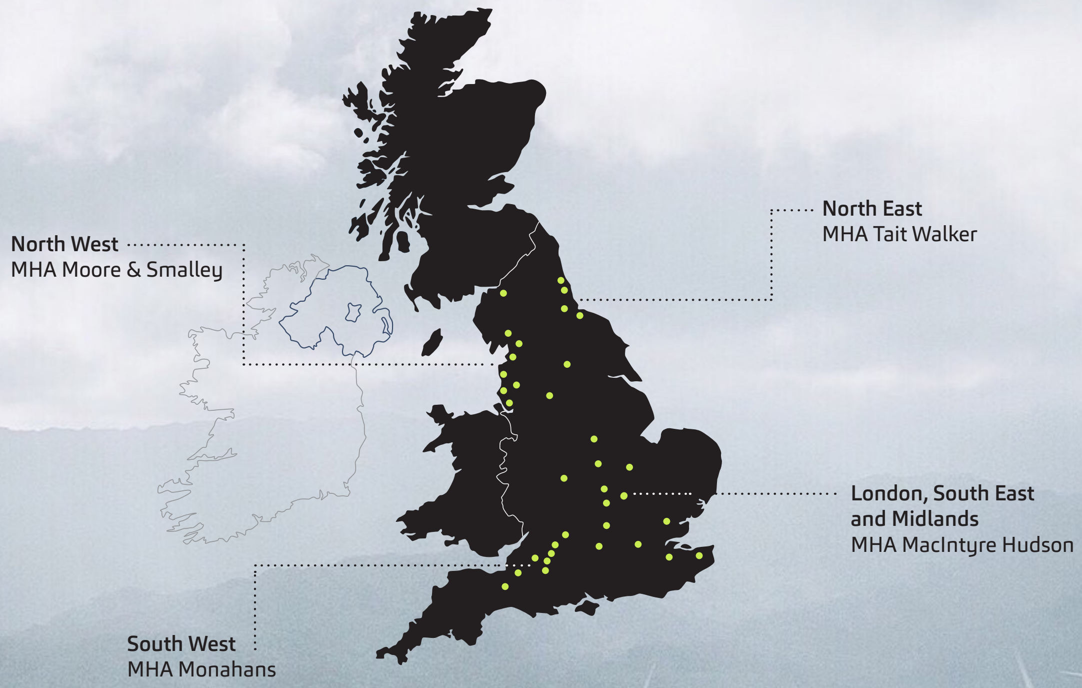
About MHA

MHA is an network of progressive and respected accountancy and business advisory firms with members across the UK.

Our member firms provide both national expertise and local insight to their clients. As an independent member of Baker Tilly International, a top 10 global advisory network, MHA offers clients unparalleled access to a broad range of in-country international specialists where overseas projects are on the horizon.

Our Services:

- Business structuring
- Employment tax services
- Inheritance tax planning
- Partnership tax services
- Tax investigations
- VAT
- Corporation Tax
- Executorships
- International tax services
- Owner managed businesses
- Personal tax
- Trust tax
- Wealth maximisation
- Outsourcing



National Reach

136 Partners

1,375 Staff

£121.9m Combined turnover

4 Independent accountancy firms

33 Offices nationwide

International Reach

148 Territories

US$4.04bn Combined member firm revenues

An independent member of bakertilly INTERNATIONAL

37,000 Partners & Staff

Contents

Post Brexit Planning

It is hard to believe that more than a year has passed by since we were at fever pitch with the uncertainty caused by a Brexit Deal or No Deal.

The trade agreement was finally announced on Christmas Eve and the UK began its Post Brexit era on 1st January 2021. Not all the UK though, as Northern Ireland (NI) has been the exception having a foot in both the EU and UK. This has led to much complexity and attempts to ensure a smooth and uninterrupted flow of goods into Northern Ireland from the UK has resulted in ferocious press and protests and disputes with the EU.

In the first few months of 2021 trading cross border was kept to a minimum and when trade started to increase there were many delays and problems. Consignments were stuck at ports and incurring large costs for clearance and demurrage. Covid and the Ever Given Suez blockage only compounded the position and led to lack of capacity as well as significant price increases for containers and agents.

Even now, over a year on, there is a crisis in supply chains and part of this is down to the Covid crisis and containers with PPE being on the wrong side of the world which is causing delays in getting global supply routes moving again.

The Northern Ireland protocol and the Trader Support Service (TSS) have been particularly difficult to navigate and many traders using the fast parcel operators have been in a fortunate position of being exempt from the complex rules. As we all know there is much political unrest between the UK and EU over the operation of the protocol and businesses trading with NI will need to keep a close eye on developments and changes. Our own experience has showed us that for just a simple movement of goods to NI it took 2 hours to complete the TSS declaration. To compound matters further we saw significant changes to EU VAT and in particular e-commerce sales.

Here are our tips for calmer trading conditions for 2022.

1 The importance of Incoterms

Incoterms underpin the import responsibilities and where the risk for the transport, insurance and delivery of the goods rest. As all goods moving into or out of the UK are now exports or imports these terms must be identified as part of the transaction. Delivered Duty Paid (DDP) means you as the seller have import responsibilities you perhaps hadn't bargained for. Whereas agreeing Delivered at Place (DAP) terms means the customer takes on those responsibilities.

2 Paperwork

To be able to move and clear goods as an import or export, the standing data and basic details need to be communicated properly in the paperwork provided to the logistics company. This means commercial information such as the correct commodity codes, incoterms, the exporters and importers details and their EORI and VAT numbers. We can often trace a problem back to this initial data not identifying the right importer or not having the very important EORI number in the data.

3 Having the right type of customs agent representation to clear goods

This has been one of the key issues in post Brexit trade. UK businesses importing into the EU and which do not have a business entity or establishment in the EU, will need to have an indirect representative. This type of agent is jointly and severally liable for Duty and VAT debts. Therefore, the high level of risk means it is very difficult for UK businesses to find the support they need in this area. It is an issue which takes time and cost to resolve.

4 Do not claim back overseas VAT on the UK VAT return

If you incur European VAT there is a special refund service which results in claims being made to each EU country. All the countries have different requirements and, in some instances, fiscal representation. Incurring EU VAT on goods raises questions to us as advisers. For example, should your business be VAT registered in that country? These are also the sorts of questions the tax authorities will ask. If you are buying and selling goods in the EU you must be aware that this is most likely to result in a VAT registration obligation. Different countries have different rules.

5 MSS data

This is a useful information source to track your customs compliance in respect of imports into the UK. It costs £20 a month but lists all imports made in your name, the commodity code and other useful information. As an importer you have compliance responsibilities, it is not the agent's responsibility to make sure it is correct. There are still many delayed declarations being made by agents and to ensure you can monitor your imports this is a good tool. Next year a new customs clearance system will be implemented by HMRC so by the end of 2022, it is hoped that importers will be able to view all relevant information through their gov.uk account.

6 Rules of origin

It is a general misunderstanding that the free trade agreement means no tariffs on cross border trade. Whilst the UK has lowered many tariffs to 0% the crux of tariff free trade relies on meeting complex rules of origin. The rules relating to this are tightening up in 2022 meaning UK exporters will need to ensure that satisfactory evidence is available to demonstrate the exported goods meet the applicable rule of origin. Any company providing a statement of origin on its commercial invoice will need to have this evidence, otherwise the claim for preferential status will be denied by HMRC.

Depending on the rule of origin, this could require declarations to be obtained from all UK, and even EU, suppliers of materials and components. We are expecting the UK to be subject to request for verifications of origin declarations in 2022 so UK exporters must ensure they have the required evidence, or its EU customers face the prospect of receiving customs duty assessments from its local customs authority.

7 Selling B2C into the EU may result in VAT registration

Simplification procedures such as OSS or IOSS will help to minimise the reality of multiple EU VAT registrations. This will mean just 1 return for all EU sales which are Business to Consumer (B2C). This also includes the sale of digital and other services to consumers.

8 Customs relief regimes

Businesses which import goods for manufacturing, processing or repair should seriously look at the following regimes to minimise that bottom line cost of Customs Duty.

1. Customs warehousing
2. Inward processing relief
3. Returned goods relief
4. Freeports

9 Postponed VAT accounting

The UK Government introduced postponed VAT accounting (PVA) which enables the importer to account for the import on the VAT return rather than paying import VAT up front and then claiming it back a month or so later. It is a great cash flow benefit but has had its teething problems. By using PVA you are not paying agents fees unnecessarily for using their deferment accounts to clear goods.

10 Duty Deferment Account

Get a Duty Deferment Account if you are incurring Customs Duty as this ensures minimal delay on customs clearance and reduces agent fees for use of their deferment. Since January, guarantee waivers can be authorised by HMRC to further minimise any additional costs of having a deferment making this a effective way of managing your UK duty liabilities.

International trade has many Customs Duty and VAT consequences. MHA and the Baker Tilly network can help you navigate all of these issues to support your business.

Income Tax

The tax-free personal allowance for the 2021/22 tax year is £12,570 (£12,500 for 2020/21). The allowance has been frozen at £12,570 until 5 April 2026.

The next £37,700 is taxed at the basic rate of 20% (7.5% for dividend income). Higher rate tax of 40% (32.5% for dividends) is charged on income above £50,270 and additional rate tax of 45% (38.1% for dividends) is charged on income above £150,000. Note that dividends are treated as the top slice of income, so the basic and higher rates are first allocated against other income.

The personal allowance is reduced by £1 for every £2 of income above £100,000. There is therefore no personal allowance at all where income exceeds £125,140. Therefore, the effective rate of tax on income between £100,000 and £125,140 is 60%. This means that the effective rate of tax relief on pension contributions and gift aid donations is 60% within this income band.

Action Point

Sufficient gift aid donations and/or personal pension contributions should be made, where possible, to mitigate the impact of the tapering of the personal allowance.

The Government has announced that the NIC rates and tax on dividends will increase by 1.25% from 6 April 2022. This will increase the basic rate for dividends to 8.75%, the higher rate will increase to 33.75% and the additional rate will increase to 39.35%.

Action Point

Dividends should be taken prior to 5 April 2022 to be taxed at the lower rates.

In order to maximise tax relief, sufficient income should be generated where possible to fully utilise the personal allowance and basic rate band. This may be done by careful planning of the timing of dividends from a private company or distributions from a family trust.

The personal savings allowance entitles basic rate taxpayers to £1,000 of tax-free savings income and higher rate taxpayers £500. However, additional rate taxpayers receive no allowance. The dividend tax allowance of £2,000 is available for all taxpayers. Amounts falling within the dividend allowance are taxed at 0%. The allowance will, however, use any part of the lower rate bands that they would otherwise have fallen into.

Married couples can effectively transfer 10% of their personal allowance to their spouses or civil partners by making an election. Tax relief is given via a tax reduction of 20% of the transferred amount, £1,260 for 2021/22 (£1,250 for 2020/21). This transfer is only available if both parties are not higher rate or additional rate taxpayers. It should be remembered that children also have tax free allowances that may be utilised.

Action Point

There is potential to divert income from grandparents or other relations (not parents) in order to utilise a child's personal allowance. This can be achieved by creating a family trust as part of an Inheritance Tax planning exercise. Professional advice should be sought before undertaking this. If you or your partner receive child benefit, it is important to remember that taxpayers with adjusted net income in excess of £50,000 are liable to the high-income child benefit charge. The charge will be levied on the higher earning partner. The charge is 1% of the full child benefit award for every £100 of income between £50,000 and £60,000. Where income is more than £60,000, effectively all child benefit is lost. You can elect not to receive child benefit if you or your partner prefer not to pay the charge.

The Government announced a reform of the basis period rules for sole traders and partners in the Autumn Budget 2021.

From 2024/25 the profits of the tax year will be the profits arising in that tax year. The transitional year of 2023/24 will be the current year basis period profits plus the transitional period profits from the accounting year end to 5 April 2024. Full relief will be given for any overlap relief and no further overlap can be created. Any additional profits arising for the business under the new rules will be spread over five tax years starting in 2023/24 with an option to elect to accelerate the tax charge.

This differs from the current year basis rules where a basis period for a tax year is the 12 months ending with the accounting date in that year, together with additional rules for the opening and closing years of a business or when there is a change in accounting period.

Action Point

Review the impact of this change on your business and cash-flow projections, as in some cases it will bring forward tax payments significantly.

Health and Social Care Levy

On 7th September 2021, the Government announced the introduction of a new tax called The Health and Social Care Levy to support the UK health and social care bodies following the impact of the Coronavirus pandemic.

What is it?

It is a temporary increase of 1.25% to Class 1, Class 1A, Class 1B and Class 4 National Insurance Contributions for 2022-2023 and will affect employees and the self-employed with any earning above Primary Threshold, currently set at £9568 (2021/22). The table below provides the detail for both employees and employer:

	Employee Class 1 NICs	Employer Class 1,1A & 1B NICs	Self Employed Class 4 NICs
Tax Year 2021-2022	12% / 2%	13.8%	9% / 2%
Tax Year 2022-2023	13.25% /3.25%	15.05%	10.25% / 3.25%

In 2022/23 tax, any Class 1A benefits will not be subject to the new levy, as this is calculated on benefits provided in the 2021/22 tax year.

Example:
Sarah's NIC'able pay = £2000 and is on NI Category A

2021/22 NIC calculations

£2000 – £797 = £1203 x 12% **= £144.36 NIC – Employee**

£2000 – £737 = £1263 x 13.8% **= £174.29 NIC – Employer**

2022/23 NIC calculations

£2000 – £797 = £1203 x 13.25% **= £159.39 NIC – Employee** An increase of **£15.03**

£2000 – £737 = £1263 x 15.05% **= £190.08 NIC – Employer** An increase of **£15.79**

N.B. Those employees who earn **above** the Upper Earnings Limit will see an increase on NICs paid normally at 2% – this will now be 3.25%

Tax year 2023/24

In this tax year, the new levy will be implemented in isolation and the NIC % thresholds will revert to the current 12% (2% above UEL) Employees and 13.8% Employers. It will, for the first time, mean that employees over the State Pension Age (Category C, NI code) will also be liable to pay NICs of 1.25% on any earnings above the Primary Threshold. With an ageing population and workforce, this will bring in further revenue to help boost the funds into the health and social care areas.

It will be shown as a separate deduction on the payslip and will continue to be linked to the NI thresholds and Class 1A NICs due on benefits received in 2022/23 and will be paid at the 2022/23 increased NI rates. Employment Allowance can be used to offset against Employer NICs and Employer Levy Charges. The table below reflects the changes for 2023/24:

2023-2024	Employee Class 1 NIC	Employee Class 1, 1A & 1B NIC	Self-Employed Class 4 NIC
12% / 2%	13.8%	9% / 2%	
H & SC Levy	Employee	Employer	Self-Employed
1.25%	1.25%	1.25%	

The additional NICs and Health and Social Care Levy will not contribute towards the entitlement to the State Pension.

What is yet to be established?

There are several areas which are currently unclear on the consequence the Levy will have.

- Will it need to be shown on selected stationery, e.g., P60/P11d, P11D(b)
- Will it need to be shown on the P45 as it is a Levy tax?
- How will it interact with the calculation of Court Orders and AEO's?
- As the Levy tax is not contributing to the State pension qualification, how will this reflect in the employee's record in their personal tax account and how will it be differentiated?
- Although the Levy can be easily offset against the Employment Allowance in the 2022/2023 tax year when it is being included in the NI calculations, how will it be processed in 2023/2024, when it is being identified separately?
  - In 2022-2023 the Levy will be included in NI bill so it can be easily offset against the Employment Allowance.
  - For the year 2023-2024 we are still waiting to hear how it will it be processed.

Further details will be released in due course.

Capital Gains Tax

The annual exemption for 2021/22 is

£12,300

Use your annual exemption

The annual exemption for 2021/22 is £12,300 and will remain at that level up to and including the 2025/26 tax year. This is a 'use it or lose it' exemption; it cannot be carried forward to the future years.

It therefore makes sense to crystalise gains each year to the extent of the annual allowance, if possible.

Note that under the 'bed and breakfasting' rule (selling some shares and then buying the same shares shortly afterwards to crystalise a gain or a loss), a gain or loss does not crystallise for tax purposes if you sell shares and repurchase the same shares within 30 days.

> Action Point

It is possible to repurchase the same shares through an ISA. Alternatively, a married couple can arrange for one partner to sell shares after their spouse has transferred some loss-making shares to them to reduce the overall gain.

Rates of tax for shares

The rate of capital gains tax (CGT) is 10%, where the total taxable gains and income is less than £37,700. Any excess gains are taxed at 20%. Where business asset disposal relief (BADR) applies, the rate of tax on the whole gain is 10% subject to a £1m lifetime allowance (see next).

Investment property

The 10% and 20% rates also apply to gains on commercial property but gains on residential properties are taxed at the higher rates of 18% and 28%. Taxable gains on the sale of UK residential property must be reported to HMRC within 30 days if the sale occurred on or before 26 October 2021, and within 60 days if the sale occurred after that date.

Crystallise and use capital losses

Capital losses must be offset against capital gains in the same year. Unused losses are carried forward indefinitely and can then be offset against future gains. A formal claim is required. The claim must be submitted to HMRC within four years of the end of the tax year of the loss, otherwise it will be time-barred. Hence, claims must be made by 5 April 2022 in respect of 2017/18 losses if claims have not already been filed.

When an asset has become valueless or worth next to nothing, it may be possible to make a "negligible value claim" in order to crystallise a capital loss. The claim can be related back up to two tax years in certain circumstances, allowing the loss to be offset against gains made in earlier years.

Business asset disposal relief (BADR)

CGT is charged at 10% where BADR applies, subject to a lifetime limit of gains totalling £1m. BADR applies to the sale of a trading business carried on as a sole trader or partnership, or to the sale of shares in a trading company. It can also apply to personally held assets that have been used in the trade of a partnership that you are a partner of or a company that you are a shareholder in.

Your main residence

Ownership of two homes in the UK is becoming more commonplace as couples who both own houses marry, houses are inherited, parents buy houses for their children to live in, or people just buy a place in the country, either to let or to escape to at weekends.

The gain on your principal private residence is normally from CGT. If you have more than one private residence, your 'main' residence will normally be, by default, the one in which you spend the greatest time.

However, it is also possible to determine that matter by nominating one of them as your main residence. This requires careful planning, since the flip side of a gain on one residence being treated as exempt is that a gain on the other residence will become chargeable. Written nominations must be submitted to HMRC within 24 months of any change in residences becoming available. Lettings relief of up to £40,000 (£80,000 per couple) is available for those landlords who are in shared occupancy with their tenant. The final 9 months of ownership of a main residence is exempt from CGT, irrespective of how you use the property in that time.

> Action Point

If you own more than one home, consider whether a principal private residence election is needed. You have two years to make an election so the sooner you speak with us, the better the position we will be in to advise on which property the election should be made over.

Marital breakdown

If you have permanently separated from your spouse during this tax year, you may want to consider dealing with transferring assets between you before 5 April 2022. This is because assets can pass between separated spouses without capital gains tax in the year of permanent separation. Transfers taking place after this deadline may attract capital gains tax.

Capital gains tax overhaul

In recent years, there has been heightened media speculation that the government is considering a major overhaul to capital gains tax which could see rates aligned with that of income tax (currently 20%, 40% and 45%). So far, the Chancellor has chosen not to make any significant changes but this could be announced in a future Budget. Individuals who anticipate realising capital gains in the short to medium term should consider whether it is appropriate to bring these gains forward.

> Action Point

Business owners should consistently review their BADR position as it is easy to fall foul of the detailed rules.

Tax Favoured Investments

Individual savings accounts are an excellent investment for higher rate taxpayers.

Utilise individual savings accounts

Individual savings accounts (ISAs) are an excellent investment for higher rate taxpayers. The maximum allowance is £20,000. You must save or invest by 5 April for it to count for that year and if you don't use the allowance it is lost. The ISA family has grown considerably since its inauguration in 1999, with a further five ISAs to consider:

1. **Help to buy ISA** where first-time buyers get a 25% cash bonus from the Government on savings made into a help to buy ISA. The help to buy ISA closed to new accounts on 1 December 2019. If you have already opened a help to buy ISA, you will be able to continue saving into your account until November 2029.
2. **Inheritance ISA** which allows a spouse or civil partner to inherit the savings in an ISA belonging to their deceased loved one without triggering income tax.
3. **Lifetime ISA** (LISA) where UK residents aged between 18-39 can contribute up to £4,000 per tax year and the Government will then add a 25% bonus at the end of each tax year in respect of the contributions paid.
4. **Flexible ISA** is a basic ISA which allows you to withdraw and replace money from your ISA.
5. **Innovative finance ISA** (IFISA) lets you put your savings with peer-to-peer lenders or invest in companies through crowd funding websites.

Consider investing in Enterprise Investment Schemes and Seed EIS Shares

Tax relief is available where you subscribe for shares qualifying for Enterprise Investment Schemes (EIS) or Seed EIS (SEIS) relief. Under the EIS scheme, your tax liability for the year may be reduced by up to 30% of the sum invested. In addition, capital gains from disposals in the previous 36 months or following 12 months may be reinvested into EIS shares, resulting in a deferral of the gain.You can invest up to £1m under EIS in the year or up to £2m if you invest in knowledge intensive companies (broadly these are early-stage businesses engaged in scientific or technological innovation).

The Seed EIS scheme offers another form of reinvestment relief for investors who subscribe for shares in small start-up companies. Currently, the maximum qualifying investment is £100,000 per tax year. Income tax relief is given at the rate of 50% of the sum invested, and relief may be given against tax in the tax year the investment is made or the prior tax year.

Both EIS and SEIS shares are normally exempt from Capital Gains Tax (CGT) and Inheritance Tax (IHT), subject to detailed conditions being met.

A number of professionally managed EIS and SEIS investment funds exist which invest in a broad range of EIS and SEIS companies on behalf of investors. Whilst such funds should allow for risk management through the spreading of your investment between different companies, it must be remembered that EIS and SEIS investments will, more likely than not, be viewed as carrying with them a high degree of risk.

Action Point

Prudent utilisation of the reliefs associated with tax favoured investments as part of a balanced portfolio can make a big difference to future investments' returns, but it is important to consider the risks associated with them and it is essential that professional advice is sought.

Venture Capital Trusts

Venture Capital Trusts (VCT) are specialist tax incentivised investments that enable individuals to invest indirectly in a range of small higher risk trading companies and securities. VCTs are companies in their own right and, like investment trusts, their shares trade on the London Stock Exchange.

Shares in qualifying VCTs offer the following tax incentives

1. Up front income tax relief at 30% of the amount subscribed, subject to a maximum investment of £200,000 per tax year. The investment must be held for a minimum of five years in order to retain the income tax relief. Note that income tax relief on the purchase of VCTs is available only where new shares are subscribed, and not for shares acquired from another shareholder.
2. Dividends received on VCT shares are exempt from income tax in respect of shares acquired within the 'permitted maximum' (including shares acquired from another holder).
3. CGT exemption applies on the VCT shares (including shares acquired from another holder).

Family Investment Companies

Family Investment Companies (FIC) can be a useful way to protect family wealth. The most appropriate structure will depend on the family's circumstances and objectives. A FIC enables parents to retain control over assets whilst accumulating wealth in a tax efficient manner and facilitating future succession planning.

By subscribing for shares in the company and making loans to it, the family directors can then invest as appropriate via the corporate structure. If the company makes profits, the profits will be subject to corporation tax at just 19%, presenting a significantly greater advantage than if the investments had been held directly and suffered income tax at 40%/45% or through a trust where the rates applicable to trusts would be applied.

Please note, from 1 April 2023 the rate will increase to 25% with profits of over £250,000. The 19% rate will continue to apply to companies with profits of not more than £50,000.

If the company receives UK dividend income from investments in shares, it will be exempt from tax. However, interest (from saving accounts), rents (from investment properties) and other income will be taxable. Losses from rental income can be offset against other income in the company.

Gains in an FIC are taxed at 19%, compared to most individuals and trustees who pay up to 28%. Extraction of profits from the company can be made tax efficiently according to each shareholder's personal circumstances. Shareholders only pay tax when the FIC distributes income so allowing profits to be retained in the company until required and perhaps taken at retirement when the individual's personal tax rate may be lower.

Any investment gains and income could be paid into a pension plan for the benefit of the shareholders.

Action Point

If you are seeking to preserve family wealth within a controlled family environment and/or wish to consider introducing the next generation into the decision- making about investments made, please speak to your professional adviser about how an FIC could benefit you.

Points to note

Gains from other assets cannot be rolled into purchases of VCT shares. The rule changes to SEIS and EIS affecting the annual investment limit and investments which are intended to provide 'capital preservation' shall apply on the same basis to VCT investments.

Property Investment Business

Tax relief for mortgage/loan interest for Residential Buy-To-Let investor

Since 6 April 2020, a higher or additional rate taxpayer will only be able to claim relief for any Residential Buy-To-Let (RBTL) interest at the basic rate.

The way that this restriction operates means that a taxpayer's total income will no longer include a deduction for the restricted interest. This can further affect a taxpayer's position if this increase means the taxable income then exceeds certain thresholds which reduce the availability of child benefit, the personal allowance or the pension savings annual allowance.

Annual tax on enveloped dwellings

Annual tax on enveloped dwellings (ATED) can apply when residential property with a value of at least £500,000 is held in an 'envelope'. Broadly, an envelope includes a limited company, an LLP with a corporate partner or a collective investment scheme.

For any properties owned at 6 April 2021, unless the 'envelope' is a charity, a return will need to be filed by 30 April 2021 and any tax accounted for. In the case of a mid-year acquisition, a separate return must be filed within 30 days of purchase.

For a newly built property you need to submit within 90 days of the earliest of the date:

- Your property becomes a dwelling for Council Tax purposes
- It's first occupied

The ATED charge is based on the relevant property valuation. Relief from the ATED charge is available in many situations including where the property is used for property development or as part of a buy-to-let business. It is important to remember, even if there is no ATED charge, a nil return may still need to be filed and the relief claimed to avoid penalties. It is the property value at 1 April 2017 that must be tested against the thresholds for ATED from April 2020. Properties must be revalued every 5 years or on certain other interim events.

Action Point

RBTL investors should consider tax planning opportunities as soon as possible. This could involve paying down debt or refinancing lending. Incorporation may be desirable in some cases, but a careful examination of the relevant factors is required, including any available reliefs from CGT or SDLT.

If you hold a residential property within an envelope, advice should be sought to understand whether it falls within ATED. The property value at 1 April 2017 must be used. If you file a return six months late, the penalties could be £1,000.

Structure and buildings allowances

A new tax relief is available for businesses (including property rental businesses) that incur capital expenditure on the construction or improvement of non-residential buildings and structures. The relief known as structure and buildings allowances (SBA) will apply at an annual rate of 3% on a straight-line basis once the property has been brought into use. If a business paid over the market value for the structure, they may only claim for the original market value. The new legislation that the relief will not be given for construction projects which began before 29 October 2018 and, in contrast to the tax relief which applies for fixtures in buildings (which will continue unchanged), there will be no balancing allowance or charge when the property is transferred (the new owner will claim the remaining relief) and the relief will reduce the base cost of the property for capital gains purposes.

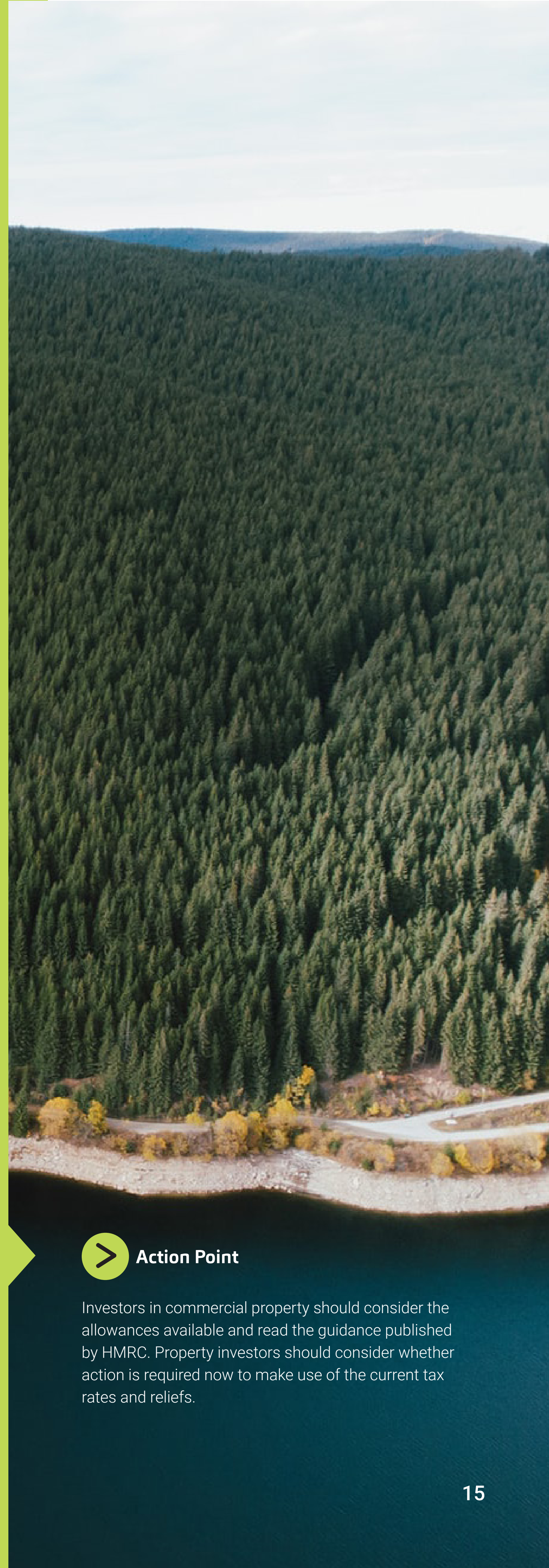
Changes to property taxes?

Tax rates could increase in 2022 and we might see an increase in the rate of capital gains tax (CGT) and/or the reduction or abolition of certain CGT reliefs. Whilst the stamp duty holiday ended 30 September 2021, first- time buyers are still exempt from tax on the first £300,000 of a property's purchase price. If you are planning on gifting, selling or buying property you should speak with your advisor to discuss implications of the various tax implications.

CGT 60-day reporting and payment regime

Since 6 April 2020 individuals, trustees and personal representatives (but not companies) who realise a taxable capital gain from the sale or other disposal of UK residential property have to make a residential property return and a payment on account of CGT. The exchange of contracts for the sale or gift of a UK residential property must be reported to HMRC within 60 days of completion if a tax liability arises, and an estimated capital gains tax payment will also be due by the same date. This reporting requirement was previously 30 days if completion took place prior to 27th October 2021.

A return is not required where the capital gain is not taxable, for example, if it is covered by private residence relief but otherwise interest and penalties will be charged if the deadline is missed.



Action Point

Investors in commercial property should consider the allowances available and read the guidance published by HMRC. Property investors should consider whether action is required now to make use of the current tax rates and reliefs.

Making tax digital

Since its inception in April 2019 all businesses above the VAT threshold have been filing their returns under Making Tax Digital (MTD), with the soft-landing on digital links withdrawn in April 2021.

The next key date on the MTD journey is April 2022 with all VAT voluntary registered businesses required to follow the MTD rules. The rules will apply to the first return starting on or after April 2022. Businesses falling into this category must ensure that their records are maintained digitally, all relevant digital links are in place and their returns are submitted directly from software or via bridging software.

Making tax digital for income tax

MTD for income tax was due to be mandated in April 2023 for all landlords, sole traders and partnerships turning over more than £10,000 per annum. However, in September 2021 HMRC announced that MTD for income tax would be pushed back to April 2024 for landlords and sole traders, with general partnerships brought in from April 2025. No date has yet been announced for LLPs and partnerships with a corporate partner.

While it is expected that many businesses now use software for their records keeping, it will represent a major change for landlords who often only prepare an income and expenditure statement when preparing their tax return. There are many challenges still to overcome for software developers for MTD for income especially around landlords where properties may be owned in a variety of combinations.

Change of year basis

In preparation for MTD for income tax quarterly filing HMRC have also announced changes to the taxation of sole traders and partnerships with a non-31 March or 5 April year end. At present profits are taxed according to the tax year in which the accounting year-end falls. In the first years of a trade the 'opening year rules' must be applied, which can create a double taxation of some profits, called overlap profits. Any overlap profits are then relieved on cessation of the business or upon retirement of a partner.

From April 2024 HMRC will tax all unincorporated business on a tax year basis rather than an accounting year end, with 2023/24 being a transitional year. We envisage that many accounting year ends will transition to 31 March, unless there is a strong commercial reason for a different year end. The transitional rules in 2023/24 allow for excess profits falling to be taxed in this transitional year to be spread over five tax years.

Example

A sole trader has a year-end of 30 June. The profits to 30 June 2023 are £30,000 and for 30 June 2024 are £60,000. They have overlap profits brought forward of £5,000.

Taxable profits for 2023/24 are:

1 July 2022 – 30 June 2023	30,000
1 July 2023 – 31 March 2024	45,000
Less: overlap profits	(5,000)
Taxable profits 2023/24	70,000

As these profits exceed the current year profits of £30,000 the excess of £40,000 can be spread over five years. The minimum amount per year to be added is £8,000 (40,000/5). An election to spread the profits would therefore see 2023/24 taxable profits of £30,000 + £8,000 = £38,000.

£8,000 would then need adding to the taxable profits for the subsequent four tax years.

Action Point

If you are a self-employed individual or a landlord then it is time to start to consider what necessary steps you may want to take now to aid with the transition to MTD in April 2024. If you need guidance our MHA advisers can assist.

Making tax digital for corporation tax

No target date for MTD for corporation tax has yet been set however HMRC have said that this will not occur prior to 2026.

Pensions

Action Point

If the total of all your pension funds is likely to be at or near £1m by the time you retire, you should seek urgent advice.

From April 2014

You can contribute £40,000, this can be increased if you did not use up your allowances in the preceding 3 years and were a member of a qualifying pension scheme.

From 6 April 2020

From 6 April 2020, the standard annual allowance (AA) of £40,000 for pension contributions (the total of personal and employer contributions) was also reduced by £1 for every additional £2 of an individual's 'adjusted income' over £240,000 and can still affect you if your income from all sources is over £200,000.

Unused allowances from, 2018/19 and 2019/20 and 2020/21 can be brought forward and used in 2021/22. This can affect you unexpectedly if you are a member of a final salary (e.g. defined benefit (DB) or career average scheme.

Should you breach the rules and pay too much, you will be subject to an annual allowance charge. Payment of this charge is the individual member's responsibility and will be charged at your marginal rate of tax.

Lifetime allowance considerations

Although funds invested within a pension can grow tax free, there is a limit (the lifetime allowance – LTA) on the total amount you can hold in a pension pot: funds in excess of the limit will suffer penalty tax charges when you start to take pension benefits.

The LTA reduced from £1.25m to £1m from 6 April 2016. You can elect for 'Individual Protection 2016' (IP16) to preserve your individual LTA at the lower of £1.25m or the actual value of your pension funds at 5 April 2016 (if they were above £1m on 5th April 2016). As with previous reductions, individuals can also preserve the earlier £1.25m LTA by opting for 'fixed protection 2016' (FP16). Although all contributions must have stopped from 6th April 2016 if fixed protection is chosen.
The Government initially announced that the LTA would increase in line with the consumer price index each year from 6th April 2018. This was then changed and will remain at the current level of £1,073,100 until at least April 2026.

Stakeholder pensions

Stakeholder pensions allow contributions to be made by, or for, all UK residents, including children and grandchildren from birth. Consider making a net contribution of up to £2,880 (effectively £3,600 gross) each year for members of your family, even for those who do not have any earnings. You can also make pension contributions in respect of family members who do not work (i.e. have no relevant earnings) or cannot afford them.

If you make contributions to your children's pension schemes on their behalf, they get the tax relief and the payments are treated as reducing their taxable income, so it could help keep them below the £50,000 income threshold at which they can retain the child benefit.
The earlier that pension contributions are started, the more they may benefit from compounded tax-free returns.

Pensions freedoms

The popular pension freedom reforms that launched in April 2015 mean that people can now access their whole pension pot at age 55 and spend, save or invest the money as they wish. Savers can withdraw the whole pot in one go, although you might mistakenly run up a huge tax bill, especially if you were only used to being taxed at the basic rate through an employer. By withdrawing large portions of your retirement pot, the outcome may mean you move into a higher rate tax bracket.

Flexible access from age 55

Pension investors aged at least 55 (rising to 57 from 2028) will be able to access their pension fund as a lump sum if they wish.

From 2028 onwards, the Government's intention is that the minimum pension age for private pensions should be ten years below State Pension age, although they are not automatically linking NMPA increases to State Pension age increases at this time.

The increase to age 57 will not apply to members of the various firefighters, police and armed forces public service pension schemes (commonly referred to as uniformed services pension schemes).

The Government intends to introduce a protection regime to apply to all types of UK registered pension scheme (occupational and non-occupational schemes) that will allow benefits to be taken before age 57 (but not earlier than age 55) after 5 April 2028 where a protected pension age is held.

Essentially, the protection regime will work by allowing anyone who is a member of a pension scheme by 5 April 2023 that had an 'unqualified right' in the scheme rules at 11 February 2021 to take benefits from their arrangement at an age below 57, to be able to take benefits at that younger age even after 6 April 2028. If protection does apply, this right will apply to all money paid into the arrangement.

Note 11 February 2021 was the date the initial consultation document was published.

The first 25% of a lump sum will be tax free and the rest will be treated as taxable income and will be subject to income tax at their marginal income tax rate. Basic rate taxpayers need to be aware that any income drawn from their pension will be added to any other income received, which could result in them paying tax at 40% or even 45%.

You can also choose to take your pension in smaller lump sums, spread over time, to help manage your tax liability.

Since April 2015, some restrictions have been removed. Fully flexible drawdown will offer considerable freedom but highlights the need for expert planning advice.

Action Point

If you are in a defined contribution scheme (DC or Money Purchase), you should consider your options now and check what your scheme offers.

If you were already in flexible drawdown prior to 6 April 2015, you can move to the new unlimited regime and draw more income than the current maximum, however that can lead to restrictions on further contributions.

Existing capped drawdown arrangements will continue, although they are currently limited to 150% of a benchmark annuity rate. It should be noted that adopting these new flexibilities will restrict your future ability to invest more into your pension scheme, so care is necessary.

The money purchase annual allowance (MPAA) is currently £4,000 and is triggered when taking income from your drawdown not your Pensions Commencement Lump Sum (PCLS).

Transferring a final salary scheme

If you have a final salary (e.g. defined benefit (DB)) pension fund, you may still be able to take advantage of the new rules to make unlimited withdrawals. However, to do so you would have to transfer some or all of your pension into a defined contribution scheme (DC or Money Purchase), there are a range of personal pension wrappers available. You should seek financial advice before transferring benefits as you could lose valuable benefits which need to be weighed against the new flexibilities.

Unfortunately, members of unfunded public sector DB schemes, such as the NHS Superannuation scheme won't be able to transfer to DC schemes.

Action Point

Speaking to an adviser before transferring benefits out of a defined benefit scheme to ensure you are aware of the full implications.

Reviewing your retirement plans

The new rules give considerable freedom of choice. Under the new rules, whilst nobody will be forced to buy an annuity at any age, those who wish to do so can and this may prove to remain the most appropriate solution for some people.

Clearly, it has never been more important to make the right choices about your pension fund, both about how you should carry on saving and how you should take the benefits. These decisions will affect you for the rest of your life. It is essential, especially for those nearing retirement, to seek professional advice. Not only will an expert look at your pension fund, but they will consider your wider financial goals. They will also consider another aspect of the new freedoms outlined below.

Your pension pot: A tax efficient way of keeping it in the family

Important changes are also taking place with regards to how pensions are treated in the event of your death. Retaining pension wealth within the pension fund and passing it to future generations is now an extremely tax efficient estate planning solution, as it combines inheritance tax (IHT) free inheritance with tax free investment returns and potential tax-free withdrawals. Indeed, it may even change the way we utilise our capital in retirement, possibly leading us to spend other funds before our pensions.

From April 2015, you can nominate who inherits your pension fund. It can be anyone of any age and is no longer restricted to your 'dependents'. If death occurs before age 75, the nominated beneficiary can access the funds at any time, tax free. If the original policy holder dies after age 75, defined contribution pension funds can be taken in instalments or a lump sum and will be taxed at the beneficiary's marginal rate as they draw income from it.

Additionally, the nominated beneficiary can appoint their own successor, allowing the accumulated pension wealth to cascade down generations, whilst continuing to enjoy the tax freedoms that the pension wrapper will provide.

Each time a pension fund is inherited, the new owner has control over the eventual destination of those funds.

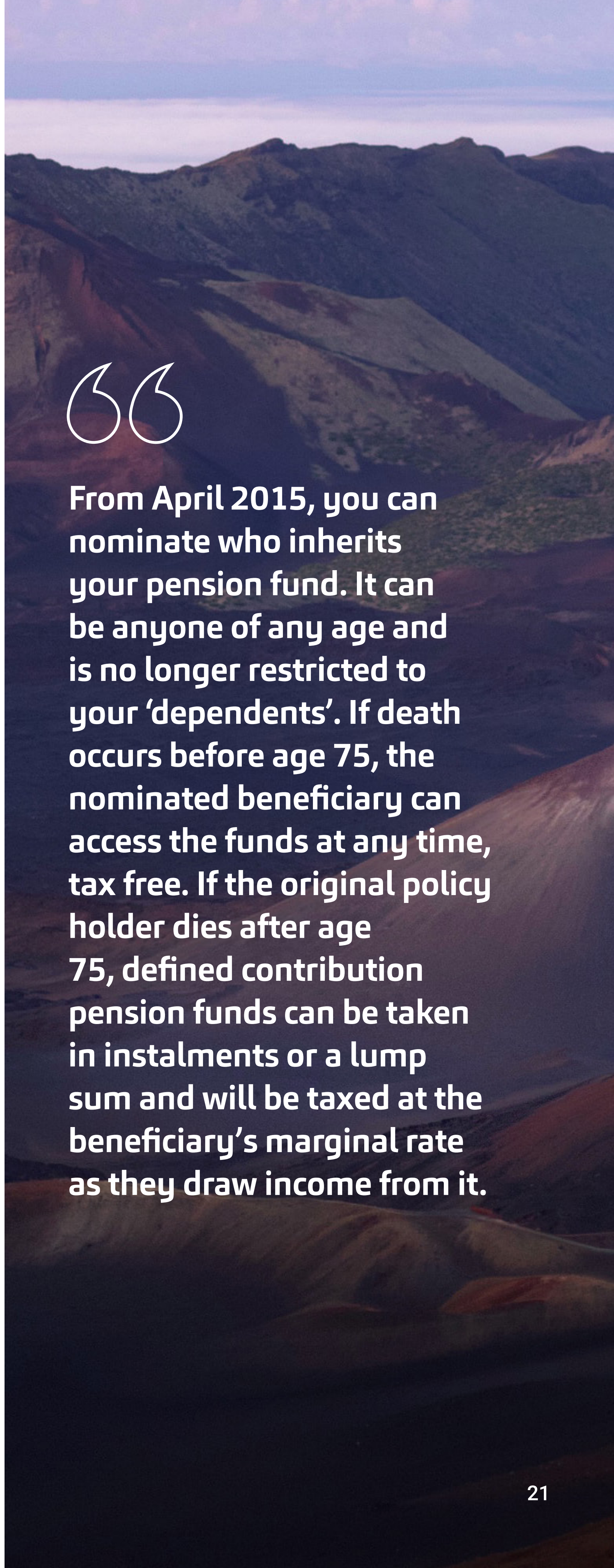
Stakeholder pensions

1. There is flexible access to pensions from age 55 (potentially 57 from 2028) and is set to remain at 10 years below state pension age.
2. Pension drawdown restrictions have been relaxed.
3. Some final salary pensions can be switched to DC, but some transfers from public sector schemes are no longer allowed.
4. Death benefits from a defined contribution pension paid to beneficiaries before age 75 will be completely tax free.
5. Death benefits paid to beneficiaries after age 75 will be subject to tax at the beneficiary/nominees marginal rate.
6. The 25% tax-free amount no longer has to be taken all at once on retirement. It is possible to take smaller amounts over time, each with 25% tax free.

Disclaimer

The purpose of this guide is to provide technical and generic guidance and should not be interpreted as a personal recommendation or advice.

The value of investments can go down as well as up and you may not get back the full amount you invested.



Corporation Tax

As an end to the pandemic became visible in 2021 (or so it was thought at the time), the significant changes that were likely to be made to Corporation Tax were announced in the March 2021 budget.

These announcements have been combined with a return to normal deadlines for filing Senior Accounting Officer returns when required and, a tightening up of the process of repayments of tax overpaid where previously the Government was keen to ensure repayments were placed in the hands of companies as soon as possible to help those companies manage their liquidity. Not quite a full return to normal but the direction of travel is obvious.

The Government was already committed to supporting economic growth through infrastructure spending and "levelling up" those parts of the UK that had suffered under-investment. Added to this is the imperative of beginning to repair HM Treasury finances ravaged by the pandemic.

In the March 2021 budget, the Chancellor announced both measures to encourage investment and help struggling businesses as well as a very significant medium-term increase in corporation tax rate for all but the smallest companies.

Short term measures announced in 2021 included:

- The super deduction
- Accelerated relief for Special Rate Asset expenditure
- Extended loss relief carry back
- A continuation of the £1m Annual Investment Allowance beyond the end of 2021

To benefit from these changes, companies need to think carefully about when they spend money on capital assets and what they spend it on. They also need to think about whether through necessity or good planning they should use valuable tax relief such as losses to recover tax now or, store these valuable tax attributes for use in 2023 and beyond when corporation tax rates will increase.

For many businesses the answer may be obvious; claim relief and recover tax now either through claiming loss relief in 2021 or carrying back losses over the extended carry back period. However, as the date of 1 April 2023 tax increase looms, companies and their advisers may well start thinking about deferring the use of tax losses and tax relief to relieve profits from the higher rate of tax in force from that date.

Corporation tax rates

- The main rate of corporation tax will increase from 19% to 25% from April 2023
- Businesses with profits less than £50,000 will continue to be taxed at 19%
- A tapered rate will be introduced for profits between £50,000 and £250,000
- The lower and upper limits of £50,000 and £250,000 will be proportionally reduced for short accounting Period and where there are associated companies. Broadly, a company will be associated with another company at a particular time, if at that time or at any other time within the preceding 12 months:
  - one company has control of the other
  - both companies are under the control of the same person or group of persons

Companies accounting for deferred tax will need to factor in the increased corporation tax rate in their deferred tax calculations for year-end accounts purposes.

Extended loss carry back

There is no change to the current one-year unlimited carry back of trade losses. However, for accounting periods ending in the period from 1 April 2020 to 31 March 2022 there is scope for an extended relief claim where businesses can carry back trading losses to the earlier two years, up to a maximum of £2m per year.

Groups will be subject to a group cap of £2m for each relevant period but there is no pro-rating of the cap if the earlier accounting period is less than 12 months. Extended loss carry-back claims will be required to be made in a Corporation Tax Return which means many claims will only be processed once statutory accounts are signed and the corporation tax return reflecting the loss to be carried back is completed and filed.

However, claims below a de minimis limit of £200,000 may be made outside a Tax Return without having to wait to submit that Tax Return. A stand-alone de minimis claim may be made as soon as the accounting period in which the loss occurs has ended, providing it can be quantified appropriately with draft accounts and management accounts

Enhanced relief

Our section of this guide on enhanced relief and capital allowances includes details of the myriad of incentives available to companies, particularly the new capital expenditure relief announced in the 2021 budget. Most companies would want to claim the so called "super deduction" where possible and they may consider accelerating a capital project to before 31 March 2023 to qualify for that relief in respect of planned capital projects. The Government may well hope they do, to boost investment in the aftermath of the pandemic.

Alternatively, a company may find second-hand plant is more readily available than new plant due to well publicised manufacturing problems during the pandemic. But, would that company be prepared to pay a premium for new plant in the knowledge it could secure the super deduction for new plant that would not be available for the expenditure on second-hand plant?

If a company realises losses either by virtue of the super deduction or has been pushed into a loss position by virtue of the pandemic or Brexit transition, it may reflect whether carrying back losses to realise cash now is a good idea. The added attraction that the loss is put to good use, outweighs the potential to relieve profits arising after 1 April 2023 that will otherwise be taxed at 25%. Each company will have its own priorities and the decision on how to use losses will be linked a variety of factors including whether there is a need for repayments of tax now and, the certainty with which profits can be predicted in 2023 and beyond.

However, would those businesses also want to claim the 50% special rate pool relief when claiming Annual Investment Allowance for that special rate expenditure get a better result?

Action Point

Companies should plan how they can obtain best value for their tax relief which may in some circumstances require a choice between a carry back of losses and cash now or, carry forward losses with more tax at the higher rate saved later. Groups of companies have the added dimension of thinking about which group company should claim capped relief such as the £2m extended carry back of losses or the £1m Annual Investment Allowance. MHA Tax specialists will be familiar with the decisions companies need to make and are available to guide companies to the right decisions for their specific circumstances.

Payment dates

There are three separate payment regimes for how and when companies pay corporation tax. Which regime a company falls within is determined by whether they meet certain profit thresholds. The "associated companies" rules for tax rates will also replace the 51% group company test for the purposes of determining whether a company is large or very large for quarterly instalment payment purposes. Companies should consider if this new test will propel them into the quarterly payment regime or even into the very large quarterly payment regime for corporation tax.

Research and Development

Companies carrying out qualifying research and development (R&D) activities can save corporation tax, depending on the costs incurred. Only companies can claim this relief. Sole traders and partnerships cannot. Generally speaking, the relief is under claimed and it is important to identify any potential R&D projects. The section on enhanced tax reliefs sets out more details.

Income and expenditure

The general tax planning strategy should normally be to defer income and make full use of all available allowances and deductions. If liquidity is not a concern some thought should be given to when relief is claimed if it becomes apparent there is a need to mitigate the effect of higher tax rates in the future.

Income

Income is reflected for tax purposes in accordance with what is termed generally accepted accounting principles (GAAP). The general principle is that income arises when the work is done, or the goods are supplied and not when you are paid. It may be possible for income to be deferred into a later accounting period. However, the accounting policies must be applied on a consistent basis from one year to the next and must be consistent with GAAP.

Maximising other deductions

There are several ways in which a company can maximise deductions for expenses in an accounting period. Planned expenditure, for example on repairs, could be brought forward, or in some instances, a provision could be made in the accounts for future costs. In general, tax relief is often allowed for provisions made in full accordance with GAAP provided there isn't a specific prohibition for the expense.

The following items merit review:

Bad debts

The debtors' ledger should be reviewed in detail so that provisions and/or impairments can be made for bad debtors. It is important that evidence is available where a provision is to be made, that the circumstances under which the debt have proven to be bad were in existence as at the balance sheet date.

Stock

The company can make a specific provision against slow-moving, damaged or obsolete stock, but a general provision is not allowed against tax. The company might be able to change the way it values stock, but great care needs to be taken.

Bonuses

It might be possible to make a provision for bonuses and/or other remuneration to be paid in the following year, thus advancing tax relief. For such a provision to be allowable, it must be possible to establish that the liability to make the payment existed at the balance sheet date and that the payments must then be paid within nine months of the end of the period, otherwise they will be deductible only in the accounting period in which they are paid.

Pension contributions

If the company has a registered occupational pension scheme (including schemes such as a SIPP or a SASS for the directors and their families), tax relief is given for contributions actually paid in the year, rather than the amounts provided for in the accounts.

Filing deadlines

Year end marks a deadline for various tax filing obligations in addition to the normal CT600 corporation tax return. These include where relevant:

- The corporate interest restriction return (interest > £2m)
- Reviewing and publishing tax strategy (large groups)
- Country by Country Reporting (companies that are members of large international groups)

The anniversary of the preceding year's filing deadline also may mark the final date for certain claims such as R&D claims, group and consortium relief claims, use of the Group Deductions Allowance and loss carry back claims. Companies should review prior years and consider if further filings are needed before the window to make further changes to the return for the prior year closes.

Where a company or group has over £200m of UK turnover it will also need to consider if it has a Senior Accounting Officer filing obligation for both corporation tax and all other in-scope taxes. The filing deadline for this is aligned to accounts filing deadlines of 6 and 9 months after the end of the accounting period.

Action Point

Companies should review filing deadlines and have a plan to file relevant returns and claims before the time limits. A discussion with an MHA tax specialist will assist in confirming what filing obligations need to be met.

International

International governmental agreement to further measures to combat international tax avoidance have been widely reported. These are reflected in the ongoing work of the Organisation for Economic Co-operation and Development in the Pillar 1 and Pillar 2 initiatives. These deal with:

- Attributing taxable income to countries where large companies actually do business (Pillar 1)
- Establishing a global minimum rate of tax (Pillar 2)

There is substantial work still to be done on these proposals at both an international and domestic level.

However, in the meantime the UK together with other jurisdictions are looking more closely than ever at the pricing and trading arrangements between international affiliates to determine if taxable income is being reflected in the correct country for tax purposes. Groups of companies should continue to examine arrangements with affiliates. While the UK does have an SME exemption for Transfer Pricing, other countries may well not offer relief from their own Transfer Pricing rules for smaller companies. Together with recently introduced profit fragmentation rules that apply to all companies trading with lower tax countries, even small groups of companies may find themselves subject to UK or overseas scrutiny if it could be argued they are not reporting "arm's length" profit.

Action Point

Companies trading with overseas affiliates and related businesses should consider if they are at risk from "Transfer Pricing" and related challenges from the UK tax authorities or elsewhere and seek support from a suitable tax specialist if they are concerned. Companies should also consider their compliance with Corporate Criminal Offence (CCO) rules. MHA tax specialists are on hand to give advice on these complex areas.

Where companies are being subjected to withholding tax deducted from overseas receipts they should consider how they will recover or obtain relief for the tax deducted. MHA tax specialists have extensive experience of withholding tax and, supported by colleagues from our Baker Tilly International network, are often involved in helping companies either recover the tax or mitigate the cost.

Capital Allowances

If your business or company is incurring capital expenditure, it is important to seek specialist advice to ensure the current temporary tax reliefs such as the Super Deduction and Annual Investment Allowance are correctly applied and the tax relief for capital investment is maximised. It is also important to ensure that the timing of the acquisition of the asset is considered and that you do not miss out on the substantial savings available by failing to arrange the acquisition before the reliefs expire.

The Super Deduction

For qualifying expenditures incurred by companies (only) from 1 April 2021 up to and including 31 March 2023, companies can claim in the period of investment:

- A super-deduction providing allowances of 130% on most new plant and machinery investments that ordinarily qualify for 18% main rate writing down allowances
- A first-year allowance of 50% on most new plant and machinery investments that ordinarily qualify for 6% special rate writing down allowances

The Super Deduction is a temporary measure and is designed to stimulate business investment. It does so by increasing the incentive to invest in plant and machinery by offering higher rates of relief than were previously available. The Super Deduction ensures that the rate of relief companies will get for their qualifying investments in plant and machinery will be similar to the rate at which depreciation is disallowed after the rate of corporation tax increases to 25% on 1 April 2023.

There are exclusions whereby expenditure can be prevented from qualifying for the Super Deduction. One key exclusion is that the plant must be "new" and so second hand plant is excluded. If your company intends to incur significant expenditure on plant and machinery before 31 March 2023 then you may wish to take advice to ensure that the plant does in fact qualify for the Super Deduction.

Annual investment allowance – extended to 31 March 2023

In addition to the Super Deduction, the Chancellor has again temporarily increased the annual investment allowance (AIA) to £1m, which means that the first £1m of qualifying expenditure can be relieved in full in the year it is incurred.

However, this increase is temporary and is again scheduled to reduce to its former allowance level of £200,000 from 1 April 2023. The AIA is not as straightforward as it may seem, as the allowance must be pro-rated depending upon your year end.

For instance, if you have a year end of 31 December 2023 you would be entitled to:

3/12 x £1,000,000 = £ **250,000**

9/12 x £200,000 = £ **150,000**

Giving a total AIA available for utilisation of £400,000. There are also limits on the amount that can be spent in each period based on the apportioned allowance.

As can be seen from both the AIA and the Super Deduction, timing expenditure so that it falls before 31 March 2023 and can qualify for the enhanced tax reliefs will continue to be important planning.

Enhanced capital allowances

With the exception of capital expenditure in respect of electric car charging points, the Enhanced Capital Allowances (ECAs) regime was abolished from April 2020. As there is a two-year claims deadline, businesses should review fixed asset expenditure in 2019 and 2020 to identify any ECA qualifying plant and machinery acquired up to 31 March 2020 where a claim could still be made for 100% first year allowances under the ECA regime. Under the ECA regime, a loss-making company also has the opportunity to surrender their identified ECA assets for a cash tax credit.

Structures and buildings allowance

This relief awards a 3% (originally 2%) writing down allowance (on a straight-line basis over 33 1/3 years) against the cost of construction of non-residential properties or the elements of a mixed-use building which are non-residential. Although not dissimilar to the industrial buildings allowance, the new regime covers a much wider sector of construction.

However, the relief does not come without its pitfalls and the writing down allowance available each year reduces the base cost of the property when claimed; as such, upon disposal of the property, an increased chargeable gain may arise. This in turn causes an increase in the administrative burden in that an additional schedule must be prepared to keep track of the relief claimed and the reduced base cost of the asset. This relief is available in respect of construction contracts which were entered on or after 29 October 2018.

Integral features uplift opportunities

The 'new' fixtures pooling requirement came into force with effect from 1 April 2014 and affects all property disposals after this date.

The statutory pooling requirements essentially cover two key aspects:

1. The vendor must 'pool' the value of all fixtures in the property being disposed of which they have been entitled to;
2. The two parties must enter into an s198/s199 fixtures election to formally elect the vendor's disposal values and the acquirer's acquisition values. This must be completed within two years of the date of the transaction.

Interaction of the various reliefs

For companies incurring capital expenditure, where possible, it will typically be most beneficial if the expenditure can be planned to qualify for the Super Deduction. Companies should review their capital expenditure plans and identify what is the optimal strategy for the tax reliefs which can be claimed on that expenditure.

Enhanced tax reliefs

A company may be able to claim enhanced tax reliefs which give a tax deduction of more than 100% for a range of expenditure which HMRC are seeking to encourage, including:

1. Research and development (R&D) Tax Relief, where relief can be up to 230%
2. Patent box and the reduced tax rate of 10% on certain profits
3. Land remediation reliefs where relief can be up to 150%

For loss making companies, the losses created by these reliefs can, in some cases, be surrendered to HMRC for a cash tax credit.

Research and Development (R&D)

As a very brief overview of the R&D tax relief scheme, small and medium sized enterprises (SMEs) are given an enhanced deduction against tax of 230% of the eligible costs incurred. In some circumstances there is the opportunity to claim a repayable tax credit for loss making companies. For large companies, the basic relief is an `above the line` taxable credit of 13% from 1 April 2020 (12% from 1 January 2018 to 31 March 2020) of qualifying expenditure.

R&D tax relief is claimable when a company undertakes activities which seek to overcome scientific or technical uncertainty. The eligible expenditure covers staffing costs, consumables and prototype development, certain other costs such as power, fuel, water and software, subcontracted work and externally provided workers. The development must be related to a trade carried on by the company or be expenditure from which it is intended that such a trade will be derived.

In some cases, small or medium sized companies may be able to claim under the large company scheme if they are precluded from relief available to small and medium sized enterprises. This usually applies when a project has a further source of funding or is subsidised in some way.

Since 1 April 2021 there are limitations on the amount of tax credit which can be repaid to a loss-making company in cases where they subcontract qualifying activities to an overseas business. This was introduced to limit the amount of fraudulent claim cases.

Autumn Budget revisions

In the Autumn 2021 Budget further revisions to the R&D scheme were announced. The main revision came in the way of extending the qualifying software expenditure which can be claimed to include data and cloud costs from 1 April 2023. The inclusion of this expenditure will see the R&D scheme reformed to support the modern methods of software application access, such as cloud apps and remote data centres.

The second major announcement related to the R&D scheme being refocussed towards development and investment on innovation undertaken in the UK. This in practice limits the subcontracted qualifying R&D expenditure to activities undertaken in the UK only and will be effective from 1 April 2023. Qualifying expenditure on overseas software licences and consumables sourced overseas will however remain allowable, as will payments for overseas clinical trials volunteers.

Further to the Autumn Budget and following the publication of the full details of the proposed changes to the R&D scheme, HMRC also announced further changes to improve compliance and so limit fraudulent claims, these are as follows:

- All claims for R&D relief will need to be made in a digital format.
- The claim will need to include what expenditure the claim covers, the nature of the advance sought, the field of science or technology and the uncertainties overcome.
- The claim will need to be endorsed by a named senior officer of the company.
- Claimant companies will need to advise HMRC in advance that they plan to make a R&D claim.
- The claim will need to include details of any agent involved in advising the company in relation to the compilation of the claim.

These changes are planned to be effective from 1 April 2023.

Patent Box Regime

The patent box provisions can be utilised to reduce tax following the patent of the R&D development. The Patent Box regime effectively allows for a 10% tax rate to be applied to profits attributable to products, processes or royalties that carry or include a qualifying patent.

Changes to the regime culminated with changes to the calculation of the qualifying expenditure from 1 July 2021. The new calculation system `Modified Nexus`, does require the claimants to record, document and monitor process, however in the majority of cases this monitoring will have been undertaken and recorded during the R&D claim process.

Land Remediation Relief

Relief may be available on the cost of cleaning up land which had been acquired in a contaminated state. The relief is available at 150% of the cost incurred and may apply irrespective of whether the costs have been treated as revenue or capital. The relief is commonly but not exclusively claimed in relation to the clearing of asbestos from sites but can also apply to naturally occurring arsenic or radon.

The relief is also available for the removal of contamination of land arising from Japanese Knotweed. There are special rules relating to the treatment of Japanese Knotweed which may extend the conditions under which the relief can normally be claimed.

Inheritance Tax

Over the last few years, the tax receipts from inheritance tax (IHT) have been steadily rising. This is in part due to increasing property prices and wealth while the nil rate band (the threshold at which you start to pay IHT) is frozen at £325,000. The other reason is that many of the reliefs and exemptions available are often not utilised.

IHT is broadly payable at 40% on the chargeable value of an estate above £325,000. The right tax planning for many individuals can take them out of the IHT net completely and for others there are significant savings available. Estate planning involves making use of exemptions, lifetime giving and structuring assets to secure reliefs, including business property relief and the residence nil rate band. The general aim is to reduce the value of the chargeable estate and consequently the IHT charge on death.

Annual gifts

There are a number of reliefs and exemptions for IHT and some common ones to consider annually are:

1. **Annual exemption –** an amount of up to £3,000 can be given away each tax year and, if unused in a year, that amount can be carried forward for one year and utilised in the following tax year.
2. **Small gifts exemption –** you can give up to £250 to as many people as you wish each tax year.
3. **Wedding gifts -** £5,000 to your child, £2,500 to your grandchild or remoter issues and £1,000 to any other.
4. **Gifts out of income –** if your income regularly exceeds your expenditure, you can give away the excess as an exempt gift. To gain this relief, the gifts must be part of a settled pattern of giving or there must be evidence of the intention to make these gifts. It may be necessary to ensure that you have evidence demonstrating that the gifts have been made out of your post tax income.
5. **Gifts to charities or registered clubs –** full exemption from IHT.

Considering the above gifts should become part of your annual tax planning, although it is also important to make sure you are leaving yourself sufficient income for your needs.

> Action Point

Are your assets structured to make best use of the IHT reliefs and allowances?

Have you passed on assets that you no longer require to the next generation or even skipping a generation?

Are your assets functioning to provide you with enough income if you are retired or will they when you retire?

Have you updated your Will to reflect any financial and family changes?

If the answer to any of the questions above is no, now is the time to be looking at your IHT position.

Longer term planning

In addition to considering utilising gifts on an annual basis, you should also take a look at your overall position every few years.

1. **Potentially exempt transfers (PETs) –** a gift to an individual (family or others) that is in excess of the annual or small gifts exemption. There is no immediate charge to tax and if the donor lives for 7 years from the date of the gift, it is exempt from IHT. Tapering of the IHT may apply where between years 3 and 7 after the gift.
2. **Chargeable lifetime transfers (CLT) –** this is usually on a gift to a trust. Lifetime IHT is charged at 20% on the excess over the nil rate band of £325,000.
3. In addition to the nil rate band that can be used in lifetime and on death, there is a residential nil rate band (RNRB) available only on death. This is a valuable relief but is restricted on estates over £2million. Where appropriate, restructuring between spouses or civil partners to ensure both are below the £2 million means the relief is available on first death and further planning before the second can mean both RNRBs can be utilised.
4. **Trusts –** while trusts have dropped in popularity in recent years, they are still a very useful tool in estate planning as they allow a degree of control over the assets after they have been given away. The settlor cannot benefit from them if they are to be effective gifts for IHT, but they can have control over what happens to them which can be particularly useful where minor children are involved, or for older children where divorce or financial difficulty is a concern.
5. **Family investment companies –** these are becoming more popular and are often being considered in place of trusts, although both can be used together.
6. **Business relief and agricultural property relief –** these are complex but can provide very significant relief from IHT so it is important to take advice and ensure you are eligible and that you can provide evidence should it be needed. There are many IHT efficient investments available which utilise business relief and agricultural property relief. Appropriate investment advice would be needed when considering such investments as the financial risk needs to be considered alongside any tax benefits.
7. **Reduced IHT rate –** the standard IHT rate is 40% but a 36% rate will apply if you leave at least 10% of your net estate to charity.

This is a brief summary of some of the most common reliefs and planning options for IHT. When planning for IHT it can also have an effect on both income tax and capital gains tax. It is therefore important to take advice so that it is all done correctly. Planning should be tailored to you and your family ensuring you have sufficient funds in lifetime as well as being tax efficient for the next generations.

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