KILSBY & WILLIAMS

HMRC CLAMPS DOWN ON DEFAULTERS!

HMRC has in place a special monitoring programme intended to keep a close eye on certain taxpayers to make sure they file Returns and make timeous payments of tax. Known as the Managing Serious Defaulters programme (MSD) the focus is on taxpayers who HMRC judge may be deliberately defaulting – these will include those taxpayers who have previously been charged a penalty for seriously mis-declaring their income and which may have been judged as deliberate. In 2014/15 there was a 30% increase in individuals and businesses referred to the MSD programme over the previous year, amounting to more than 6,000 targets. This increasing trend is likely to continue.

The powers afforded to HMRC are significant and allow Inspectors to make visits to business premises – both arranged and unarranged – to carry out a thorough review of business practices and undertake rigorous compliance checks. There is no right of appeal against inclusion in this programme and HMRC can continue to monitor a taxpayer until satisfied all obligations are being met. This process can last up to five years and is both onerous and intrusive.

The MSD programme was launched by HMRC in 2013. At the time David Gauke, the then Treasury Exchequer's secretary, said "It is only fair that someone who has deliberately tried to evade tax should face extra scrutiny from HMRC. This measure, along with those announced in the Budget, demonstrate that we will crack down on people who do not pay what they owe." This measure is further evidence of HMRC's continued drive to reduce the tax gap and is one of a number of avenues being pursued.

Stephen Williams

If you require further information or assistance or would like to discuss your requirements please contact Stephen Williams – stephen.williams@kilsbywilliams.com.

DISCRIMINATION AGAINST MARRIED OR CIVIL PARTNERSHIP COUPLES?

In the Autumn Statement, the Chancellor announced proposals to levy an additional 3% Stamp Duty Land Tax (SDLT) on properties bought as a second home or a buy to let.

HM Treasury is currently consulting on the detailed terms of the proposals, the intention being to announce the final design on 16 March, Budget Day and the levy to take effect from 1 April 2016.

At present, the proposal is to treat a married couple or civil partnership as one "unit" when looking at the application of the new SDLT rules.

In contrast, co-habiting individuals may each purchase a house without falling foul of the new SDLT rules. With careful planning, they may each also be eligible for Private Residence Relief and Letting Relief, to reduce any tax bill when the property is sold.

Diane Nettleton

It may be perceived as extreme planning to suggest that individuals should stay single to save tax. However, what is being proposed could be construed as further discrimination against married couples and civil partners.

As noted above, the new rules are still in the consultation process. If you require further details on what is being proposed and want to understand how these changes may affect you please contact Diane Nettleton – diane.nettleton@kilsbywilliams.com.

PENSION CONTRIBUTION CHANGES

The Summer Budget announced details of the tapered reduction in the pension annual allowance for those with income over £150,000. Those affected will have a reduced limit on their tax-efficient pension savings from 6 April 2016.

In summary, the normal £40,000 annual pension contribution allowance will reduce by £1 for every £2 that 'adjusted income' goes over £150,000, up to an adjusted income level of £210,000. The effect of this will be to reduce the annual pension limit to an allowance of just £10,000. It is important to note that employer contributions will count towards your adjusted income!

Contributions made above the annual allowance do NOT get income tax relief and, if the contribution is structured as an employer contribution, this will be treated for income tax purposes the same as salary.

Pension contributions above £10,000 will therefore not be attractive as you could potentially be taxed twice on the same money; once when the contributions go in and again when money is withdrawn from the pension.

For affected individuals it will be worth considering increasing contributions before 5 April 2016, especially if they have unutilised brought forward pension capacity.

If you require further information or assistance or would like to discuss your requirements please contact Karen Davies – karen.davies@kilsbywilliams.com.

Karen Davies

HMRC FACES CRITICISM FROM THE LAW!

In a recent Tax Tribunal case, HMRC was chastised for the "confusing" statements of accounts they sent to a taxpayer.

The facts in the case of Janak Shah (TC4706) were routine and, not surprising, the taxpayer lost. However, in delivering his judgment, the Judge made a series of observations, criticising the correspondence sent to Mr Shah by HMRC.

In particular, the Judge highlighted two Self-Assessment (SA) Statements that were the source of his frustration. Both Statements related to underpayments and late payments of tax, and made reference to interest charged on the taxpayer's account. The first Statement, received in June 2014, contained 43 entries. Following various payments on account being made, a further SA Statement was issued which contained 65 entries. Several of the entries were headed "Repayment issued" despite the fact that the figures related to amounts to be paid. Following a review of the Statements the Judge commented: "any ordinary person... would be extremely puzzled by this," and noted "it is not just Mr Shah who is confused by SA Statements. I am confused by them, and (the HMRC Representative) agreed they are confusing."

Furthermore, each SA Statement specified that interest was accruing but did not give details of the rate of interest or from which date it commenced. The Judge criticised HMRC for not making the rate plain, and advised that he had been unable to find details of the respective interest rates on HMRC's website, and instead had to delve into the national archives.

HMRC's digital strategy is intended to encourage taxpayers to take greater responsibility for their tax affairs. However, this cannot be achieved without HMRC giving equal priority to improving the accessibility of information to taxpayers. Whilst this case alone may not result in a change in approach by HMRC, it is comforting to know that HMRC representatives struggle to understand SA Statements, and Judges also get frustrated when trying to access information on the HMRC website.

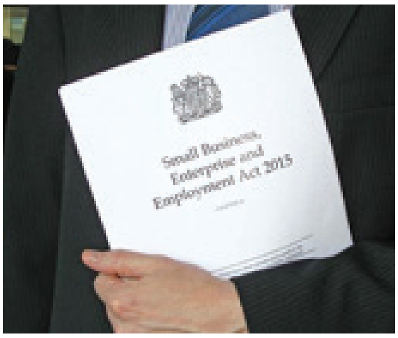
If you require further information or assistance or would like to discuss your requirements please contact Lucy Lloyd – lucy.lloyd@kilsbywilliams.com.

Lucy Lloyd

THE SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT ACT 2015

People With Significant Control Register (PSC register)

The Small Business, Enterprise and Employment Act 2015 (SBEE Act) introduces measures for greater transparency of companies and LLPs which the Government hopes will help combat tax evasion and money laundering.



Under the SBEE Act, most companies and LLPs are required to maintain a register of who ultimately owns and controls the company or LLP – This register will be known as the People With Significant Control Register (PSC register).

Sometimes, the name of the individual who has significant control of a company is different to that shown on the company's public register of shareholders. For commercial reasons many companies would like this information to be kept private. However, from April 2016, there is an obligation to maintain a PSC register, and from June 2016, this will need to be submitted to Companies House. The general public will be able to request this information from Companies House.

With reference to the SBEE Act, a person with significant control is defined as a person that meets one or more of the following conditions:

- Directly or indirectly owns more than 25% of the shares in the company;
- Directly or indirectly holds more than 25% of the voting rights in the company;
- Directly or indirectly has the power to appoint or remove the majority of the board of directors of the company;
- Has the right to exercise or actually exercises significant influence or control over the company;
- Has the right to exercise or actually exercises significant influence or control over a trust or firm that is not a legal entity, which in turn satisfies any of the first four conditions.

The requirement to maintain the PSC register will be an administration burden for many companies. However, failure to comply could result in penalties for the company and its officers, and the company being struck off the company register.

If you require further information or assistance or would like to discuss your requirements please contact Rachael Day – rachael.day@kilsbywilliams.com.

Rachael Day

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