

Buzzacott Private Clients



2011 TAX RETURNS

2011 Personal and Partnership Tax Returns were issued at the beginning of April. Some clients may not receive a full Return – because we file most Returns electronically, HMRC have stopped issuing paper Returns and instead issue a "notice to complete a Return". In either case, you are required to complete and file a Return. If you receive neither you may still, under self-assessment, be required to notify HMRC that you have a liability, and file.

We send our clients a letter and checklists at the end of April. Why the end of the month? Because that is the very earliest anyone will have all or most of the information they need to send us – P60s,

bank statements, etc issued at the end of April. We reviewed our procedures some years ago and realised that sending the checklist on 6 April, as we had for many years, guaranteed the letter would be put to one side.

Over the following months clients send us their data. We aim to complete the Returns fairly quickly, but sometimes information is missing or there are other reasons for delays in processing.

Once the Return is complete, we send a copy to the client for approval, with a letter explaining any assumptions we have made, requesting any final items of information we still need, and usually setting out the client's tax position – liability for the year,

balance due, next payment on account due, so the client knows what he or she is going to have to pay over the coming year.

This year we are aiming, for the first time, to offer our clients electronic delivery, not only of the "Return for approval" and formal letter, but also of the copy of the "Return as filed". The former has become essential in the log jam of Return completion and filing which occurs each January, but as more clients ask us about electronic delivery and storage, we have decided to offer it as a year-round alternative to the traditional "all paper" service we have offered in the past. Selection can be made at any time, by any means, but we have included tick boxes on this year's checklist.

Shared experience.

LATE FILING AND LATE PAYMENT - an altogether more serious matter



We always encourage clients to send their tax return data to us as soon as possible, and do our best to process it and e-file Returns before the 31 January deadline.

New rules on late filing penalties are due to apply for 2011 Returns. Basically:

- the standard penalty for late filing will remain at £100, but there will be no mitigation for paying the tax due on time
- a daily charge will be levied for Returns over three months late - an automatic daily penalty of £10 per day, up to a maximum of £900
- an additional penalty of the greater of £300 or 5% of the tax due will be added for Returns over six months late
- a further penalty of the greater of £300

or 5% of the tax due will be added for Returns over a year late
- in serious cases HMRC can impose a higher penalty, of up to 100 per cent of the tax due.

In addition to late filing penalties, surcharges ("late payment penalties") already apply when any balance of tax due for a year is paid late. So long as all tax due for the year is paid within 30 days after the following 31 January, only interest will be added to late payments. The tax is deemed to be due on 31 January, so we are considering here the balance of tax due for 2010/11, self-assessed through the 2011 Return, and with the final balance due on

31 January 2012. So long as that tax is paid within 30 days, only interest will be added.

For tax paid 30 days late, a 5% penalty will be added, with a further 5% penalty on tax remaining unpaid after six months and again after 12 months.

"FOR TAX PAID 30 DAYS LATE, A 5% PENALTY WILL BE ADDED, WITH A FURTHER 5% PENALTY ON TAX REMAINING UNPAID AFTER SIX MONTHS AND AGAIN AFTER 12 MONTHS."

BUDGET ROUND-UP

The Chancellor presented his Budget Statement on 23 March 2011. Key proposals for private clients include changes to the personal allowances and rate bands, an increased Remittance Basis Charge for long-term resident non-doms and some new rules on gifts to charity.

2011/12 Income Tax rates

Basic rate band - income up to	£35,000
Starting rate for savings	*10%
Basic rate	20%
Dividend ordinary rate	10%

Higher rate - income over	£35,000
Higher rate	40%
Dividend upper rate	32.5%

Additional rate - income over	£150,000
Additional rate	50%
Dividend additional rate	42.5%

**Starting rate is only for savings income up to the starting rate limit of £2,560 within the basic rate band.*

Personal Allowances (PA) 2011/12

Under 65 at the end of the tax year	£7,475
65 to 74 at the end of the tax year	£9,940
75 and over	£10,090

The personal allowance for those aged under 65 increases from 6 April 2011 to £7,475 and from 6 April 2012 to £8,105. The advantage to higher rate payers is countered by a lowering of the higher rate threshold, to £35,000 from 6 April 2011 and to £34,370 from 6 April 2012.

For 2011/12, the PA for those aged under 65 will be increased to £7,475. The basic rate limit will be reduced so that higher rate tax payers do not benefit from the increase in the PA.

Age-related allowances are reduced by £1 for every £2 that adjusted net income exceeds £24,000, to a minimum PA of £7,475. Where income exceeds £100,000, the PA, including the minimum age-related allowances, is reduced by £1 for every £2 that net adjusted income exceeds £100,000.

Married Couple's Allowance (MCA)

Either partner born before 6 April 1935 (relief restricted to 10%) £7,295

The MCA is reduced by £1 for every £2 by which the income of the spouse or civil partner with the most income exceeds £24,000, subject to a minimum value of £280.

Qualifying time deposits

Interest paid on sums held in qualifying time deposit (QTD) accounts – "fixed term deposits/bonds" – is included in taxable income, but is currently paid gross to account holders. From 6 April 2012, basic rate tax will be deducted at source from taxable interest paid on new QTDs.

Domicile and residence

Review of taxation of non-domiciliaries

In June 2010 the Government confirmed that it would review the taxation of non-domiciled individuals (non-doms). This has apparently lead them to two conclusions:

- the current regime is beneficial for non-doms regardless of the length of time they have been resident in the UK, and
- nevertheless, the current rules create a disincentive to inward investment through the tax charge on foreign income and gains when they are remitted to the UK by remittance basis users.

The Government therefore proposes to:

- remove the tax charge when non-doms remit foreign income or capital gains to the UK for the purpose of commercial investment in UK businesses;
- simplify some aspects of the current tax rules for non-doms to remove undue administrative burdens; and
- increase the existing £30,000 annual charge to £50,000 for non-doms who have been UK resident for 12 or more years and who wish to retain access to the beneficial tax regime (the remittance basis). The £30,000 charge will be retained for those

who have been resident for at least seven of the past nine years and fewer than 12 years.

The Government will issue a consultation document in June 2011 and intends to implement these reforms from April 2012.

It has also said there will be no other substantive changes to these rules for the remainder of this Parliament.

Statutory residence test

Also due from April 2012 is a statutory definition of residence, intended to replace the current unclear and uncertain rules for determining tax residence for individuals with greater certainty. Again, a consultation document will be issued in June 2011.

Individual Savings Accounts (ISAs)

The annual ISA subscription limit for 2011/12 will rise from £10,200 to £10,680, up to £5,340 of which can be invested in a cash-only ISA.

Following the closure of the Child Trust Fund to new entrants earlier this year, tax-free Junior ISAs will be launched from Autumn 2011. They will be available to UK resident children under the age of 18 who do not have a Child Trust Fund account, as a cash or stocks and shares product.

Capital Gains Tax (CGT) Entrepreneurs' Relief

Qualifying gains are taxed at 10%. The lifetime limit for Entrepreneurs' Relief rises from 6 April 2011 to £10 million. The increased limit applies only to qualifying disposals on or after that date.



"QUALIFYING GAINS ARE TAXED AT 10%. THE LIFETIME LIMIT FOR ENTREPRENEURS' RELIEF RISES FROM 6 APRIL 2011 TO £10 MILLION. THE INCREASED LIMIT APPLIES ONLY TO QUALIFYING DISPOSALS ON OR AFTER THAT DATE."

Inheritance Tax (IHT) reduced rate for legacies to charities

A reduced rate of IHT will apply where at least 10% of a deceased person's estate (net of IHT exemptions, reliefs and the nil rate band) is left to charity. Where this is the case, the current 40% IHT rate will be reduced to 36%. This will apply where death occurs on or after 6 April 2012. The Government will be consulting on the detailed implementation of this measure and will issue a consultation document in the next few months.

Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCTs)

The rate of income tax relief given under EIS will increase to 30% for shares issued on or after 6 April 2011.

For EIS and VCTs, the following increases will be introduced for shares in investee companies that are issued on or after 6 April 2012:

- the employee limit to fewer than 250 employees
- the size threshold to gross assets of no more than £15 million before investment
- the maximum annual amount that can be invested in an individual company to £10 million

- the annual amount that an individual can invest under the EIS to £1 million.

Companies whose trade consists wholly or substantially in the receipt of Feed-In Tariffs (FITs) or similar subsidies will only be eligible for the two schemes where commercial electricity generation commences before 6 April 2012. Shares issued before 23 March 2011 will not be affected.

Charities, Gift Aid and SA Donate

The existing cap whereby the benefit received by individuals and companies as a result of making donations to charities and community amateur sports clubs in excess of £10,000 is to remain at 5% of the value of the gift, but the monetary cap on the value of such benefits is to increase from 1 April 2011 (companies) and 6 April 2011 (individuals) from £500 to £2,500.

The option to have self assessment repayments donated to charity under the SA Donate scheme is to be withdrawn in respect of:

- tax returns for the tax year 2011/12 onwards

- tax returns for years up to and including 2010/11 where the repayment is made on or after 6 April 2012.

The Government is to consult on a scheme to encourage donation of pre-eminent works of art or historical objects to the nation in return for a tax reduction. From April 2013, a new scheme will allow charities to claim Gift Aid on up to £5,000 of small donations without the need for Gift Aid declarations.

'Tainted' charitable donations

The law will be changed to deny tax relief on charitable donations where one of the main purposes of the donation is to receive an advantage for the donor or a connected person directly or indirectly from the charity. These donations will be known as 'tainted donations' and there is no monetary limit on the amount of the donation which may be caught by these rules.

The rules will affect charity donations made on or after 1 April 2011 and replace the existing 'substantial donor' rules.

FURNISHED HOLIDAY LETTINGS

Stiffer conditions, limited tax relief from April 2011

Special rules treat UK Furnished Holiday Lettings as a trade for some tax purposes, basically, subject to meeting certain conditions, the trade qualifies for:

- capital allowances
- sideways loss relief against general income
- profits are relevant earnings for calculating maximum pension relief
- various capital gains tax reliefs, including entrepreneurs' relief.

The qualifications were that:

- a) the property must be furnished, and in the UK
- b) it must be available for letting to the public for at least 140 days in a 12 month period
- c) it must actually be let to the public for at least 70 days in a 12 month period
- d) longer term lets (lets of more than 31 consecutive days to the same person) must

not exceed 155 days in a 12 month period
e) the lettings must be commercial, with a view to making a profit.

To comply with European law, the special treatment has more recently been extended to properties in the European Economic Area (EEA).

The Finance Bill 2011 will include new legislation which will:

- increase the number of days the property must be available for letting to the public from 140 days to 210 days
- increase the number of days it must actually be let to the public from 70 days to 105 days
- separate UK lettings from lettings elsewhere in the EEA and limit loss relief only to carry forward against future profits from the same UK or EEA lettings business

- introduce a period of grace to allow lettings businesses that do not reach the new "actually let" target to qualify for up to two years.

The rules will generally apply from 1 April 2011 for companies and 6 April 2011 for individuals, but the "available" and "actually let" targets are not increased until 1 or 6 April 2012.

So, it will be more difficult for a UK property to qualify

- a villa in Spain is probably more likely to be let over a longer season than a cottage in Northumberland and for a less advantageous relief
- losses on UK lettings only c/f against later UK letting profits, losses on non-UK lettings only c/f against later non-UK letting profits.

PENSIONS

As previously announced, the new caps on tax-efficient pension contributions came into effect on 6 April 2011:

Annual allowance £50,000, based on contributions in the pension input period (PIP) ending in the tax year. Your annual allowance may be increased if contributions in any of the preceding three tax years (PIP-based) were less than £50,000, but please consult us and/or your pension adviser as the rules are complex.

Lifetime allowance reduced to £1.5 million from April 2012.

Where pension savings exceed the limit, a tax charge will arise – if the charge exceeds £2,000 will be able to elect to have it met

from the pension benefit, with the scheme paying the tax when the charge arises.

The requirement to buy an annuity by age 75 no longer applies. With effect on or after 6 April 2011:

- individuals with defined contribution pension savings from which they have not yet taken a pension will be able to defer a decision to take benefits from their scheme indefinitely
- individuals with a lifetime pension income of at least £20,000 a year will be able to gain access to their drawdown pension funds without any cap on the withdrawals they may make
- the age 75 ceiling will be removed from

most lump sums to which entitlement arises and the tax rate on lump sum death benefits will be 55%.



CAPITAL GAINS TAX AND THE PRIVATE RESIDENCE

This is the second article in our series on tax and your residence. In our first article we considered what can be a private residence. Here, we look at how a gain would be calculated.

First principles – you calculate the capital gain on the disposal of a residential property by taking:

- disposal price, less all costs of disposal (estate agent, legal, etc), less
- acquisition price, including all costs of acquisition (legal, search fees, stamp duty land tax, etc) and less
- the cost of any improvements (not repairs) reflected in the value of the house at the time of disposal.

But hang on a minute, everyone knows you do not pay capital gains tax when you sell your home, right? Wrong!

In the right circumstances any capital gain you realise on the disposal of your only or main private residence will be covered by the principal private residence exemption, but 100% exemption is not by any means certain.

For example, if you buy a dilapidated property and take more than a year on renovations before you occupy the property,

you need to obtain the agreement of HM Revenue & Customs to include the period between purchase and moving in to your "exempt period". HMRC will need a valid reason for the works taking so long, and will almost certainly reject a period of more than two years.

That expression "exempt period" is key – you may at any one time have only one residence which is your "principal private residence". If you have only one home, and live there from the date you complete the purchase to the date you complete your eventual sale, then there is no problem – the whole period of ownership qualifies for the exemption, therefore 100% of the gain on the property (including up to 0.5 hectare of garden – see the article in our last issue) is exempt. (The same goes for losses, incidentally, so there is usually no relief if your home is sold at a loss).

Example: Peter and Mary buy Goldcrest, a shell, in September 2010 for a total of £250,000 including costs. They then spend three years and £1,500,000 rebuilding a modern home in the grand old shell. Peter and Mary move in in October 2013 spend

five years living in Goldcrest (their only home) until they sell in September 2018. The net sale proceeds are £4.5 million. The gain on the sale of Goldcrest is £2,750,000 and of that 5/8ths or £1,718,750 is covered by the PPR exemption, leaving £1,031,250 taxable.

Once a property is established as your principal private residence, certain periods of absence can be included in your exempt period. For example, and subject to some conditions:

- a period of (or periods of up to) 3 years, as long as you re-occupy the property at the end of the period of absence,
- a period of (or periods of up to) 4 years during which you are required by your work to live elsewhere, so long as you re-occupy the property at the end of the period of absence,
- the last 36 months of ownership.

Otherwise, the exempt period and the exempt gain is proportionate to the PPR period over total period of ownership.

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NEXT ISSUE

Next issue: How the right election can save thousands of pounds

Get in touch

If you require further information regarding any of the articles included in this publication we'd be happy to help, please contact us at:

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