GE Gerald Edelman
www.geraldedelman.com

news • events • information
winter 2010

GENIE

in this issue

The Football Creditor Rule Page 2

The Midas Touch Page 2

Looking after the Kids Page 3

Why outsourcing Investment Management is a must Page 4

VAT increases to 20% Page 4

More changes to Pension and Tax relievable contributions Page 5

Gift Aid Page 6

Capital Gains Tax Planning Page 6

Corporation Tax Changes Page 7

Liechtenstein Disclosure Facility Page 7

Taking on a Temp? Page 8

by Colin Burns

The 'Flipping' Main Residence

Every individual, or married couple/civil partnership, is entitled to have a property regarded as their principal private residence, such that any gain arising on the disposal would be free of capital gains tax.

Where a house has not been occupied throughout the period of ownership, part of the gains arising are chargeable, and part is exempt. The exempt gain is calculated by time apportioning the gain between periods of occupation and non-occupation (only periods since 31 March 1982 are included in this calculation).

There are additional rules surrounding the choice of property, where two or more properties are owned (the relief extends to adjacent buildings and gardens and grounds up to 0.5 of a hectare, or such larger area as is required for reasonable enjoyment of the property).

An election exists which is intended to enable a taxpayer, where he/she has two or more properties which are used as residences, to elect which property the relief applies to. I stress 'residences', as the property must be capable of being occupied as such e.g. it must not be empty.

This is where we come on to 'flipping'. This is essentially foregoing a short period of capital gains tax relief on your main home, to get relief on 36 months of gain on a second property. Therefore by way of an example, if you have two residences for many years, you would have had two years from the acquisition of the second residence to make an election to HM Revenue and Customs, nominating which of the two should be regarded for the purpose of exemption as exempt from capital gains tax. Having made the election, you are then entitled to submit a notice of variation to your original notice (which can be retrospective by up to two years) so that both properties will have been your principal private residence at some point during their ownership and as a result, enabling a tax exemption for the last 36 months of ownership for each.

Although this seems incredibly beneficial, HM Revenue and Customs accept the validity of this planning and even repeat this in their own internal manuals that are publicly available. The whole matter recently came to the public's attention through the controversy regarding ministerial expenses, where the election was seen as a relatively standard part of tax planning for individuals with two or more houses. This type of election has been used extensively by MP's who have been avoiding large amounts of capital gains tax on second properties. Whether this will lead to a change in the rules regarding this election remains to be seen. It has been around for many years and was essentially brought in at a time when property markets were slow to give people time to sell their old property without incurring a tax charge. Originally the exemption was just one year, but this then extended to two years, and eventually to the current three years. It should also be noted that the election to nominate a residence can be situated either in the UK or indeed abroad, if a reasonable period of time is indeed spent at that property during the course of each year.

Let us hope this relief survives unchanged in the ensuing years, and always think about making the election within two years of a change in a number of residences that you own. The two year period to nominate a residence starts each and every time there is a change in the number of residences and not just when a second property is acquired.

Welcome

to the Winter edition of Genie in which I hope you will find something of interest as we have a very varied edition looking at some popular subjects such as investing in gold, the benefits of a professional fund manager, tax issues when selling your home and getting a tax subsidy on childcare costs.

2011 will no doubt be a tough year for everyone but the promise of an economic recovery certainly seem to be coming through so lets hope the forthcoming rise in VAT and public sector expenditure cuts do nothing to stifle this. Wishing everyone a healthy and prosperous New Year.

GENIE

The Football Creditor Rule

by Bernie Hoffman

At the time of dictating this article, one of the most extraordinary sagas in English football finally reached a conclusion.

Portsmouth FC the troubled Championship club finally came out of administration after the team was sold to a company controlled by its former owner.

The 112 year-old club went bankrupt last season when it was in the Premier League and was forced to sell a number of its high profile players. Many readers will be aware of the attitude of HM Revenue & Customs who were one of the larger creditors at the time. In fact, HMRC are currently lobbying the government regarding the Football Creditor Rule ("FCR"). This rule basically means that any football club that is part of the top leagues in the UK and enters administration is bound by the FCR. This means that some creditors – such as players and other clubs – are paid in full and in priority with the remaining money being divided between unsecured creditors including HMRC.

There are many within the profession that believe that the tax man is right in his attempt to rid the football world of this "preferential creditor" status - why should a football club be treated differently to any other business in the UK? Regardless of how big or small a business is, each business must adhere to insolvency legislation.

A spokesman from HMRC has stated that HMRC believe that the FCR is "unlawful" and puts creditors involved in football insolvency on an unequal footing.

In addition, included in the claim that is being lodged by HMRC is also a challenge on "membership rules" which HMRC have labelled a "depravation principle". In essence, membership rules in football clubs mean that ownership of player contracts revert back to the league if a club enters liquidation. This has the effect of severely reducing assets and money left to be divided between creditors. HMRC believe this rule is "in breach of the principle that the assets of an insolvent estate should be preserved for the benefit of creditors".

Despite a great deal of support in HMRC's favour, the Premier and Football Leagues are unlikely to accept a substantive change to the current rules. A trial window has been set for 15 February 2011 for both the football industry and HMRC to give their arguments in court as to why the case should go to trial or be thrown out.

Are you overpaying on your utilities?

Gerald Edelman in conjunction with LSI, one of the UK's leading utility brokers, are offering all of our clients a free, independent assessment on their utility bills. Savings of up to 30% can be achieved on your gas, electricity and telephone bills as most businesses are overpaying for their utilities. Whether you are in a fixed contract or on standard tariff, LSI will carry out an independent assessment and report back to you with a detailed analysis of the savings that can be achieved, without any cost or obligation to you or your business.

As a client of Gerald Edelman you will be able to benefit from LSI's bulk purchasing power which, in your business's own right, you would not be able to achieve. Once a client of LSI you will be entitled to your own Account Manager to deal with any queries, so that your time is not wasted sorting out your own utility issues. LSI manage the accounts of some of the UK's leading businesses and have an experienced track record.

In order to take advantage of this offer please get in touch with your contact partner and he will arrange for a copy of your utility bills to be forwarded on to LSI accordingly. If you wish to discuss this proposal with a member of LSI staff, then please email leanne@lsiutilitybroker.co.uk and she will respond directly to you. As your financial advisers, we want to provide any service that we can to assist you in minimising your overheads and we hope this initiative goes some way to fulfilling our aim.

Howard Wallis

The Midas Touch

by Colin Burns

Whilst sadly I do not have the above, I can however recognise tax free investments when they appear, and this one has been around for a long time! As I write, the value of gold has reached an all time high, and there are many ways of investing in this asset class. Generally though whichever approach is taken, the disposal of gold at a gain represents a chargeable capital gain and investors would typically be subject to capital gains tax at a top rate of 28%.

However, it is often overlooked that if you buy gold sovereigns, half sovereigns, or gold Britannias (introduced in 1967), instead of gold, then gains on the disposal of these items are exempt from capital gains tax because they are British coins and are therefore legal tender in the UK. This exemption only covers British coins and legal tender, and does not for example extend to gold Krugerrands, which would still be subject to capital gains tax.

Finally a word of warning: where there is an exemption for gains, there is also no allowance for losses, so make sure you buy at the right time!

by David Allis

Looking after the kids

I make no excuses – this is a selfish article concerning myself but it may also affect you! I currently have a young daughter who has just finished nursery. I have previously benefited from Gerald Edelman taking part in Employer Supported Childcare.

You may be either an employer or an employee but this article may be worth reading especially in these difficult economical times. The cost of childcare may affect you directly or alternatively it will be very high on the list of issues for some of your important employees. My previous article on this matter was some time ago (see the GENIE Spring edition of 2005 on our website archive) after which I was inundated with telephone calls on how to best take advantage of tax and National Insurance savings. This is now a time when perhaps such savings are valued even more highly especially in these harsh economic times. You would be surprised by the number of employers who did not realise that they could benefit from saving employers National Insurance and more importantly increasing their employee's net earnings.

The basic principle of Employer Supported Childcare is that a parent employee can pay over childcare costs gross of tax and National Insurance. The rates have not changed significantly since my last article and are currently at a rate of £55 per week. Why as an employee would you want to suffer tax and National Insurance on this weekly amount and have to pay over more cash from your net salary to settle nursery fees? I will simply outline the changes because my previous article explained in more detail the mechanics of how this worked. I should however point out that the childcare should be via an authorised childcare provider. Please feel free to telephone me if you require further guidance on the principles of how everything works and the best way to implement this in your business.

There were certain political persuasions before the General Election suggesting that it was not fair that a higher rate taxpayer should benefit more than a basic rate taxpayer from having the £55 paid gross over to a nursery. The suggestion has been that everyone should benefit from having basic rate tax relief and not the higher rate tax relief. On a tangent, I may not be the only one wondering if a taxpayer who only just pays tax at the higher rate in London should be treated the same as a basic rate taxpayer living in a less expensive part of the United Kingdom. This is for another day!

Nevertheless, I have been looking at the HMRC press releases and the taxation press on how the changes would affect someone like me if I needed childcare for another child after 6 April 2011. The recent announcement is that the claw back in income tax relief for higher rate taxpayers will affect those who do not have a qualifying child before 6 April 2011. Therefore, if like me, you cease to need Employer Supported Childcare because your first child has started school then where do you stand if you have another child?

Firstly, a qualifying child or stepchild of the employee is one who at whose expense, either in full or in part, the child is maintained; or resident with the employee and for whom the employee has parental responsibility A child qualifies up to 1 September after their fifteenth birthday (or 1 September after their sixteenth birthday if they are disabled).

The new guidance indicates that you can have a temporary cessation of childcare vouchers – HMRC state that this should not exceed twelve months. Some of the examples HMRC give are gaps because of maternity leave or long term sick leave. Unfortunately, the gap for me is likely to exceed twelve months because I currently only have one child who no longer needs childcare.

It is stated in the newly released guidance that it is an obligation of the employer to check whether an employee is a higher rate taxpayer. This is relevant for all employees who did not have a qualifying child before 6 April 2011 and join the scheme for the first time and also those who have previously left the scheme and want to rejoin.

It was initially suggested that higher rate taxpayers would have tax relief clawed back via adjustments to their PAYE notices of coding. Some of you may have read another of my articles on the problems on the new HMRC PAYE computer systems. I wondered like a number of other accountancy practices about the mechanics of a taxpayer being only just into the higher rate tax band. Perhaps, wisely, HMRC have decided that it would be sensible not to rely on their own systems and also to simplify the system.

The provisional new guidance indicates that it is necessary for the employer to carry out a "basic earning assessment and keep a record of your conclusions". This should be done initially and then annually at the start of the tax year.

The check involves considering the PAYE coding notice in operation for the employee in question and whether this results in her or him then being a higher rate taxpayer. It would appear that if you are a higher rate taxpayer (even if only just) that you will then receive only basic rate tax relief on payments to the nursery.

I should again point out that the HMRC guidance has only just been released but you do question the reliance on an accurate PAYE coding notice and whether certain taxpayers may benefit from e.g. a one-off pension contribution so that they do not appear to be a higher rate taxpayer. It may also be worth considering whether certain restrictions to the personal allowance need to be shown in a PAYE coding notice if you are only just a higher rate taxpayer.

If it is determined that an employee is a higher rate taxpayer then unfortunately it is necessary to restrict the amount that can be paid over gross to the nursery. The rate is reduced from £55 to £21. I should again stress that employees that already had qualifying children at 6 April 2011 are unaffected by the changes. Perhaps, surprisingly, this may also not affect employees with qualifying children not attending nursery exactly at this date but these individuals should act quickly to sign up before the cut off date.

We are always interested and want our clients to benefit from tax planning. The announcement in the last few weeks may not help those employees who like me cease to need employer provided childcare but may need it in the future. At least nine months warning would have helped!

You would be surprised by the number of employers who did not realise that they could benefit from saving employers National Insurance

Why outsourcing investment management is a must

by Graham Thomas

I recently read an article in the financial press where a supposedly experienced IFA expressed his views about the follies of those of us that feel it is beneficial to outsource to Discretionary Investment Managers as opposed to managing clients funds ourselves!

I was amazed by the naivety of the comments made as it struck me that those of us who do outsource, realise that we do this in the knowledge that our clients will get access to a greater level of expertise that only a qualified and experienced investment manager can offer.

The days of cobbling together a mixture of funds, utilising a questionable stochastic modelling system are in my mind, thankfully coming to an end, with active fund management through a Discretionary Investment Manager becoming even more essential in view of the volatile investment climate we have been experiencing in recent years.

The investment world has become a very different place from where it stood prior to the Global melt down

The investment world has become a very different place from where it stood prior to the Global melt down back in 2008, with investment markets capable of huge and rapid variance both down and up! For an IFA to make an informed investment decision, followed by a client recommendation and subsequent implementation in most cases will take days!! In contrast, a good Discretionary Investment Manager has constant access to investment research and analysis and is able to react quickly to take advantage of investment opportunities that reveal themselves as well as being in a position to realise investments more quickly, when appropriate to do so.

Do we mortal IFAs really have the research capabilities to confidently invest in the different asset classes and investment instruments that are currently available in the 'investible universe'? For example, Structured Notes, Exchange Traded Funds (ETFs), Absolute Return strategies, etc. In Gold itself you have ETFs in different currencies. A Discretionary Investment Manager should be in a position to say, invest in a Swiss Franc Gold ETF rather than the US Dollar denominated one if they felt the Swiss Franc would outperform the US Dollar!

As we progress towards the introduction of the Retail Distribution Review, I believe IFAs will move away from DIY investment services, gravitating towards a combination of two investment approaches. Passive investment management, predominantly through Model Portfolios or Active investment management through Discretionary Investment Management. The choice of management will inevitably be decided by client objectives, the size of investments and cost. Either way, both of which can be managed by an investment manager with a discretionary mandate.

With the time saved not having to manage the underlying investment content of a client's fund, IFAs like myself can use the time saved to direct more resource into providing the valued added services our clients deserve. This time saving and therefore effectively cost saving can also be channelled towards providing services to clients, perhaps of a lower net worth who may otherwise lose out on the financial advice they too deserve.

I accept that just like IFAs, there are a small percentage of good quality Discretionary Investment Managers. However, when you find a good one, in my experience they are worth their weight in gold holding on to. They offer a professional service reassuring clients that their affairs are in good hands, overseen by an IFA who demonstrates a quality proposition and understands there is no value to the client in acting as a jack of all trades and a master of none.

Standard rate of VAT to increase to 20% in 2011

by Steve Coleman

As a reminder on 4 January 2011 the standard rate of VAT increases from 17.5% to 20%. Any sales made that are zero-rated, reduced rated or exempt are unaffected.

From 4 January 2011 onwards the new rate of 20% should be applied on supplies of standard rated goods or services that take place on after 4 January 2011. The VAT fraction changes from 7/47 to 1/6.

The new rate of VAT is to be applied to all invoices issued on after 4 January 2011 except where:

- the goods or services were provided before 4 January 2011 and more than 14 days before the issue of the Vat invoice. (For example issuing a Vat invoice on 4 January 2011 for goods and services provided before 22 December 2010 or
- monies were received before 4 January 2011.

In the above cases where the sale took place before 4 January 2011 and the old rate of 17.5% will apply.

New rates will also apply to the flat rate scheme. Users of the scheme will need to check the HMRC website for the new flat rate applicable to the business at www.hmrc.gov.uk.

More Changes to Pension and Tax relievable contributions

As if the situation hasn't been confusing enough for the last couple of tax years for high earners and how much they can pay to pension and get tax relief at the highest rate, the Government has recently announced the latest raft of changes!!

Annual allowance – 2010/11 and beyond!

The normal annual allowance or maximum level of tax-privileged pension savings which can be made either by an employer and/or personally is £255,000 for the 2010/11 tax year. Personal contributions cannot exceed 100% of relevant UK earnings which are chargeable to income tax and employer's have to ensure that they can justify their contributions under 'wholly and exclusively' expenses rules for them to be treated as an allowable deduction for corporation tax purposes.

The Government has announced that the annual allowance will reduce to £50,000 from 2011/12 and will remain at this level until the end of the 2015/16 tax year. From 2016/17 they have suggested that they may review whether this amount should be indexed in some way!

When calculating how much of the annual allowance has been utilised when someone is a member of a final salary scheme, the factor used to calculate the deemed amount used each year has been increased from 10 to 16 times the increase in benefit. This means that a £1,000 increase in annual pension will be treated as being worth £16,000 rather than £10,000. Fortunately, it is only any increase in benefit which exceeds the increase in the Consumers Price Index that will be counted towards the annual allowance.

The Government has unexpectedly announced that where someone exceeds the annual allowance in any given year, they will be able to use any unused allowance from the previous 3 tax years to offset against any excess pension savings made. This will include going back to 2008/9, 2009/10 and 2010/11 where it will be assumed that a £50,000 annual allowance applied to each of those years. It is essential that a person had an open pension contract in those earlier years to benefit from the carry forward facility. We would therefore strongly recommend that you open a pension contract NOW if you intend to make a large contribution in excess of £50,000 in later years.

High earners

In the 2010/11 tax year, where an individual has relevant income of £130,000 or more they are treated as a 'high earner' and there are restrictions in the level of contribution which can be made by an employer and/or personally and take advantage of higher rate tax relief. Relevant income is basically total income (including dividends) with a number of additions and reductions.

For the current tax year, a high earner can pay either:

- £20,000 where no irregular contributions (normally single) have been made or
- An amount of more than £20,000 but not exceeding £30,000 where irregular contributions have been made based on the average of those contributions over the 3 tax years before 2009/10

Alternatively, where someone was making regular contributions (at least monthly or quarterly) in the 2008/9 tax year which exceeded £20,000 per annum this would be a protected level of contribution and can continue in this current tax year only.

For high earners the introduction of the new £50,000 annual allowance and ability to carry forward unused allowances will be very welcome. This could obviously allow a contribution of £200,000 in 2011/12 where no contributions have been paid in the previous 3 tax years as long as they were a member of a registered pension scheme in those three tax years but made no contributions.

Lifetime Allowance

When an individual comes to take their benefits (or dies), there is a limit on the value of tax relieved pension savings that an individual (or their beneficiaries on death) can benefit from without incurring a tax charge. The limit is currently £1.8m but this is being reduced to £1.5m with effect from the 2012/13 tax year.

Any fund in excess of this limit is subject to a tax charge at 55% where it is taken as a lump sum or 25% where it is used to provide an income. The income is then subject to income tax in the individual's hands. The tax charge does not apply to excess funds on death which are used to provide an income, albeit the income is still subject to income tax in the recipient's hands.

There is a suggestion that the Government will be providing protection against the tax charge for those immediately affected by the change, however no details are yet available.

If you have previously obtained enhanced or primary protection against the effects of the tax charge, this will continue to apply.

Conclusion

The change in annual allowance will simplify things compared with what was intended by the previous Government from next year and allow more scope for high earners that has been possible in recent years. The change in the lifetime allowance is disappointing for those who intended to fund their pensions heavily.

For those looking to save more than £50,000 per annum towards their retirement, there are still other vehicles which will allow them to save tax efficiently, such as ISA's, maximum investment plans and offshore investment bonds.

by Rob Jones

For high earners the introduction of the new £50,000 annual allowance and ability to carry forward unused allowances will be very welcome

GENIE

Gift Aid

a way of enhancing your donations

By Michael Harris

Background

The British people are among the most generous in the world when it comes to responding to charitable appeals. The most recent example of this is the Pakistan Flood Appeal.

In circumstances where the donor is a UK tax payer, the recipient charity can benefit more than the original cash gift by the donor choosing the Gift Aid route for the donation.

Gift Aid allows a charity to reclaim basic rate tax on donations from UK taxpayers and enables higher rate taxpayers and additional rate taxpayers to claim 20%/30% tax relief respectively on the amount of the gift grossed up for basic rate tax. If the amount of UK tax (income tax and/or capital gains) paid by the donor is less than the amount of basic rate tax which the charity can reclaim then the shortfall has to be repaid by the donor to HMRC.

Example

Take X, a higher rate taxpayer, who gives £800 to a recognised charity. Under the Gift Aid scheme this will be treated as a gift of £1,000 from which basic rate tax of £200 has been deducted at source. The charity can reclaim the basic rate tax from HMRC so it will receive a total of £1,000.

As X is a higher rate taxpayer he may claim higher rate tax relief on the gift. This is calculated as follows:-

	£
Gross gift	1,000
Tax relief at 40%	(400)
Less: Tax deducted when gift made	200
Reduction in X's tax liability	200

For an additional rate taxpayer the corresponding reduction in liability would be £300 (ie. 30% of £1,000).

Other tax benefits

The reduction in higher rate/additional rate tax is given by an increase in the basic rate band equal to the grossed-up gift. In the example above, X's basic rate band would be increased from £37,400 to £38,400 for tax year 2010/11. This could mean that dividends otherwise taxable at 32½% (less the 10% credit) could fall within the extended basic rate band with no extra tax payable. Similarly, capital gains otherwise taxable at 28% could fall to be taxed at 18%.

Non-cash gifts

It is also possible to obtain income tax relief by an individual donating 'qualifying assets' to a charity. By 'qualifying assets' are meant:-

(a) Quoted shares

(b) Units/shares in a unit trust/OEIC

(c) Share in an offshore fund

(d) A freehold interest in land in the UK or a leasehold interest in such land for a term of years absolute.

Relief is given by way of a deduction against income otherwise subjected to tax. The amount that can be deducted is broadly, the market value of the asset gifted plus the incidental costs of disposal e.g. commission, costs of transfer, advertising fees. So if a donor with a taxable income of, say, £125,000 gave qualifying shares worth £50,000 to a charity then he would have an income tax saving of £20,000 (40% of £50,000).

In addition:-

(i) There would be no capital gains to pay on the gift, even if the shares had appreciated in value since acquisition.

(ii) There would be no inheritance tax payable on the gift.

Summary

For cash gifts it is more tax efficient for these to be made within the Gift Aid scheme.

For gifts of certain other assets, although not falling within the Gift Aid scheme, income tax relief can be obtained by the donor at his/her marginal rate(s) of income tax as well as having the usual exemptions from CGT and IHT.

giftaid it

Capital Gains

Tax Planning

The introduction in June 2010 of a 'three rate' system of CGT increases the importance of tax planning in relation to CGT.

The three rates are as follows:

10% -where entrepreneurs' relief is available on the disposal of for example, a business owned by the individual, of assets used in such a business or of shares in a trading company where the individual owns at least 5% of the ordinary share capital and is an officer or employee of the company

18% -where the total taxable income and gains of the individual is less than the basic rate band (currently £37400)

28% -where the taxable income and gains exceeds the basic rate band.

The brief article concentrates, on gains which do not qualify for the entrepreneurs' relief and where some careful planning can reduce the amount of gains taxed at the higher rate of 28%.

- Subject to investment and commercial considerations, the annual exemption should be used each year and can represent a useful means of avoiding tax on simple portfolio re-balancing exercises eg a husband can sell a holding of shares to use his annual exemption and his wife can independently acquire shares in the same company if desired.
- Spousal transfers should be considered. If such a transfer is made prior to the spouse with the lower effective rate of CGT disposing of the asset, HMRC will only challenge the spousal transfer where it is clear that the recipient spouse never had a beneficial interest in the asset and that the transfer instead amounted to a gift of the sale proceeds.
- As the CGT rate is now determined by reference to the level of the taxpayers income, an individual's income should be minimised in any given year in which capital gains have arisen in excess of the basic rate band. Consideration should also be given to changing a business year end, maximising business capital expenditure to benefit from capital allowances, deferring dividend receipts or maximising pension contributions to extend the basic rate band.
- the basic rate band can also be extended by making gift aid payments which provide more flexibility as the payment can be carried back to the preceding tax year.

The important point to remember is to plan well in advance so as to ensure that capital gains are taxed at the lowest possible rate.

David Convisser

Corporation Tax changes

Up until now companies and their agents have had the choice of filing Corporation Tax returns either by paper or electronically. Before May last year, GE chose to file paper returns but because of the long delays that were being experienced in getting responses from HM Revenue & Customs and the number of errors that were occurring, through data being incorrectly captured, it was decided that we would, in future, file electronically as many returns as possible. From April 2011, however, this choice has been removed as electronic filing will then become mandatory.

There is also to be a major change in the manner in which information is to be presented. Currently HMRC accept Corporation Tax returns filed electronically using a combination of technologies. The tax return and supplementary pages are submitted using XML whilst the accounts and the tax computation are attached to the main return as PDF documents. This is essentially the same technology used to submit self assessment tax returns.

However a key difference between an individual's Self Assessment return and a Corporation Tax return is that the accounts and the computation are legally part of the return. These attachments also contain the detail necessary to interpret the Corporation Tax return form which only shows summary results and calculations.

PDF documents are advantageous because they recreate the computation or accounts in a format that is easily distributed due to a number of free readers being available. This means the company or the inspector can open the document and view the contents. However it is very difficult to extract data from a PDF document as the information is not sufficiently structured in the underlying code.

This meant HMRC had to find a solution to extract information without compromising the ability of users to read it either electronically or in its printed form. The solution proved to be iXBRL – inline eXtensible Business Reporting Language – which is simply a viewable document which isn't miles away from a PDF but instead of viewing it via a PDF reader it is viewed in a browser. Transforming tax computations and accounts will, for the most part, be the concern of software houses but basically it involves tagging data items which are keyed in to pre-defined default fields. Companies House will also start accepting iXBRL accounts in a rolling programme starting this summer and eventually, with a few exceptions, this will be the only format in which accounts will be accepted. This means that the days of sending accounts and Corporation Tax returns by courier at the last minute will be over as all submissions will be made online.

You may have received communications from HMRC but if you do have any questions about the change we will be delighted to assist you. We have appointed Michael Porter to deal with any such queries and he can be contacted on 020 8492 5630 or by email on mporter@geraldedelman.com

One other change is that, whilst the due dates for paying Corporation Tax have not changed, the method of paying Corporation Tax will change from April 2011. Currently HMRC accept a number of payment methods including cheques. Some companies still use this as their primary means of settling any amounts due to HMRC. From April 2011 HMRC will only accept electronic methods of payment. For some time we have been actively encouraging clients to make payments electronically but there are now fewer options. Details of these choices can be found at www.hmrc.gov.uk/payingHMRC/corporationtax.htm but if you need any assistance on this Michael will also deal with those queries.

by Michael Porter

Liechtenstein Disclosure Facility

The Liechtenstein Disclosure Facility (LDF) offers very favourable terms to those taxpayers able to take advantage of it. The process can be of benefit to those with an offshore tax problem, or offshore disclosure to make.

In a recent survey, only 51% of high net worth individuals with assets overseas had heard of LDF in the six months since it was launched in September 2009. In view of the fact that the LDF is probably the most innovative and generous voluntary disclosure programme to date it is worthwhile summarizing the principal features.

- Taxpayers with assets already in Liechtenstein can make use of the LDF as can anyone who now transfers assets or opens a bank account or makes an investment there
- Disclosure is limited to the period from April 1999, as opposed to the usual 20 years in cases of tax evasion so that no tax is payable in respect of any liabilities arising before April 1999
- Taxpayers have the option to apply a single composite rate of tax at 40% (up to April 2009) to the disclosed income/gains if they do not wish to calculate the liability using the applicable annual rates and allowances.
- Fixed penalty of 10% plus interest on unpaid taxes
- Assurance against criminal prosecution for tax offences in most cases of full disclosure
- No public naming of offenders.

The LDF is open to UK taxpayers with assets or interest in Liechtenstein before 31 March 2015 and overseas assets from any other non-UK location can be transferred to Liechtenstein to qualify and disclose under the LDF.

Importantly, all outstanding UK tax liabilities are eligible to be and must be declared and will attract the LDF benefits, not just those in relation to the overseas assets. This effectively means that anyone with substantial tax irregularities arising from income and gains in the UK can put their affairs on a legal footing using the extremely favourable terms of the LDF, even though their liability in respect of income and gains arising overseas may be small.

In order to take full advantage of the LDF, it is important that the individuals had not previously been contacted by HMRC following previous offshore disclosures facilities and that they had not previously been the subject of a formal investigation by HMRC for serious tax fraud where they knowingly failed to disclose overseas assets while under investigation. In such cases, the penalty will be higher than the 10% under the LDF.

Taxpayers who have already been notified by HMRC that they are under investigation for serious fraud via Code of Practice 9 are ineligible to participate in the LDF. In view of the recent steps that have been taken to combat tax evasion and undermine traditional banking secrecy, it is increasingly risky for taxpayers to delay making a disclosure in order to wait and see what happens as the risk of errant taxpayers being caught sooner or later has increased appreciably.

At Gerald Edelman, we have the experience of dealing with disclosures under the LDF and we will be able to help you through the process quickly and cost effectively.

by David Convisser

only 51% of high net worth individuals with assets overseas had heard of LDF

Taking on a Temp?

by Sean Lamb

Agency Workers Regulations, which implement the Agency Workers Directive, were published in January 2010. The Regulations confirm that implementation will not begin until after 1 October 2011 but, even so, this legislation will impact on hiring budgets and employers are advised consider the implications for their costs and organisational strategy.

Following two consultations on the directive's implementation, the government's response to consultation confirms that:

- Agency workers placed with an end-user for 12 weeks or more will be entitled to the terms and conditions that would have applied if they been recruited as permanent employees. They will also be entitled to the same terms and conditions as comparable permanent employees.
- Eligible agency workers will be entitled to equal treatment in terms of "working time" provisions, such as holiday and rest breaks, as well as 'pay'.
- 'Pay' now has a wider definition than proposed in the draft Regulations. While occupational benefits such as pension contributions, sick pay and maternity pay will not amount to pay, some bonuses that relate directly to the quality or quantity of work performed will need to be extended to agency workers.
- Breaks of less than six weeks between assignments will not reset the 12 week qualifying period. The Regulations also introduces a new anti-avoidance provision. If it appears that assignments have been structured in a particular way to try and stop an agency worker from acquiring rights under the Regulations, an award of up to £5,000 may be payable.
- Agencies will be liable for claims if an agency worker has not received equal treatment. However, liability could move to the end user if it has not supplied the agency information about the relevant working and employment conditions.

Employers who hire temporary workers to any significant extent should now begin to address these issues internally by reviewing their hiring policies in preparation for these changes.

If the employer relies on agency hires they should also start consultation with the agency to ensure that any increased costs are identified and agreed in advance in addition to satisfying themselves that their chosen agency will, in time, fully comply with the new Regulations.

MEMBER FIRM ICAEW

Gerald Edelman is registered to carry on audit work by the Institute of Chartered Accountants in England and Wales. Genesis Wealth Limited is authorised and regulated by the Financial Services Authority (FSA) The value of investments can go down as well as up and you may not get back the full amount you invested. The past is not necessarily a guide to future performance. If you withdraw from an investment in the early years you may not get the full amount invested. The FSA do not regulate taxation advice, inheritance tax planning and trust advice.

GE Gerald Edelman
Chartered Accountants

Partners
Michael Harris LLP
Colin Burns LLP
Richard Kleiner LLP
Neil Summer LLP
Bernard Hoffman LLP
Howard Wallis LLP
David Convisser LLP
David Atkinson LLP
Deval Patel LLP
Stuart Rosenberg LLP
Stephen Coleman LLP
Ajay Shah LLP
Graham W Thomas LLP
Engin Zekia LLP

Consultant
Michael Fialko FCA CTA

GE Gerald Edelman
Business Recovery

Partners
Bernard Hoffman
Ian Yerrill
David Murphy
(Other Partners as above)

Consultant
Leslie Crowther

Directors
Colin Burns
Richard Kleiner
Graham Thomas
Robert Jones
Andrew Chaplin

Office Locations
25 Harley Street
London W1G 9BR
T: +44 (0)20 7299 1400

Edelman House
1238 High Road
London N20 0LH
T: +44 (0)20 8492 5600

Gateway House
Highpoint Business Village
Henwood, Ashford
Kent TN24 8DH
T: +44 (0)1233 666 280

240 Avenue West
Skyline 120
Great Notley, Braintree
Essex CM77 7AA
T: +44 (0)1376 569 333
F: +44 (0)1376 344 264

gemail@geraldedelman.com
www.geraldedelman.com

This newsletter is for guidance only, and professional advice should be obtained before acting on any information it contains. Gerald Edelman accept no responsibility for loss suffered by any person as a result of action taken or not taken as a result of the contents of this publication.