

Newsletter of August 2007

Husband and wife companies – House of Lords rules

Judgement was delivered in this key case on the tax treatment of husband and wife owned companies. In the case known as Arctic Systems, Broadly HMRC was trying to tax dividends paid to Mrs Jones on her husband on the basis he contributed most to the profits of the company. Much to the relief of many husband and wife owned companies, the Jones' appeal to the House of Lords was successful and HMRC cannot tax Mr Jones on dividends paid to his wife, so other taxpayers with similar arrangements should be safe from HMRC challenge for past years.

However, the taxman does not like to lose and the Treasury has already indicated that it will seek to change the law to counter income splitting arrangements that many husband and wife owned companies facilitate.

So what should be done? The decision in the House of Lords will stand until the law is changed possibly later this year or at the start of the next tax year in April 2008. If both spouses are actively involved in the business so that the split of ownership reflect the commercial realities then there should be little to worry about.

Possible precautions to consider to ensure you can counter future HMRC challenge would include:

- Both spouses should be directors and collectively take the important decisions e.g. payment of dividends, decisions on investment and new contracts;
- Document decision making so you can prove to the taxman that you are both active in the business;
- You should both hold ordinary shares with no restrictions on rights;
- Consider documenting respective responsibilities and roles to provide support for profit split.

Capital expenditure

HMRC have recently issued a consultative document on capital allowances as a follow up to the proposals announced in the budget earlier in the year.

Key proposals include:

- An annual investment allowance to provide 100% tax relief on the first £50,000 of expenditure on most plant and machinery.(excludes cars)
- The writing down allowance for plant and machinery generally is to be reduced from 25% to 20%;
- Plant and machinery known as integral fixtures will be added to the long life asset pool and qualify for just 10% writing down allowance. The definition of integral fixtures has yet to be determined but may include heating, air conditioning, lifts etc.

With significant changes in the capital allowance regime, businesses contemplating substantial capital expenditure in the next year should consult with their advisers to determine whether the timing of the expenditure may significantly effect the tax relief available. For example, the availability of the 100% investment allowance for the first £50,000 of expenditure may encourage smaller businesses to defer capital expenditure until the start of the new rules.

Do you have an up to date Will?**Have you also considered an enduring power of attorney?**

A recent survey found that just 45% of respondents had made a Will. Making a Will and regular review of it should be regarded as a vital part of financial and tax planning.

A Will enables you to determine how your assets are distributed on death and avoids the complications of intestacy. Wills can help minimise tax frequently by use of trusts so both spouses can use their inheritance tax (IHT) nil rate band.

Enduring powers of attorney (EPA) enable you to nominate someone to deal with your affairs if you become incapable. The regime for EPAs is due to change from 1 October 2007 which will potentially make such arrangements more costly and complicated to set up. Individuals reviewing their Wills may wish to consider creating an EPA before 1 October so that current rules apply.

Business owners should ensure agreements cover what happens to shares / partnership interests if one dies to protect both surviving owners and the deceased's relatives. The agreement needs to be drafted to avoid prejudicing IHT business property relief. Life assurance should be considered to provide funds to buy out the deceased's interests.

Wills and shareholders agreements should be reviewed regularly with professional advisors to ensure they reflect current wishes and latest legal developments.

Lost treasure? Do you have forgotten bank accounts?

With the government looking to release funds from forgotten bank accounts to good causes, now may be the time to trace long lost accounts. How do you trace long forgotten accounts? National savings has launched an advertising campaign to encourage people to trace their savings. Details and a form can be obtained from their website www.nsandi.com or by calling 0845 964 5000. Banks and building societies run similar services to help people trace old accounts and contact details for these are below.

The Government's Pensions service provides a tracing service to help people find lost occupational pensions. It will provide details of pension scheme administrators but not whether you are a member of a scheme.

Experian, the credit rating agency provides a commercial service, the Unclaimed Assets Register, for tracing insurance plans, old pensions and lost shares. For a fee of £18 it will search its databases which include around 80% of life insurers, some occupational pension schemes, unit trust companies and FTSE100 companies.

British Bankers Association	0207 216 8909	www.bba.org.uk
Buildings Societies Association	0207 437 0655	www.bsa.org.uk
The Pension Tracing Service	0845 6002 537 or write to: The Pension Service, Tyneview Park, Whitley Road NE98 1BA	
Unclaimed Asset Register	0870 241 1713	www.uar.co.uk

Impending deadlines

30 August 2007 Private companies with 31 October 2006 year-ends should file their accounts at Companies House.

31 August 2007 Corporate tax returns for periods ended 31 August 2006 should be filed by concession no penalty is charged if the return is submitted by 7 September 2007.

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30 September 2007 Last day to submit paper returns for 2006/07 if you want to have unpaid tax up to £2,000 collected through the 2008/09 PAYE code

For more information or to discuss how the ideas can be applied to your particular situation please contact Simon Bell by phone on 01376 571358 or email simon.bell@sjbtax.co.uk . For copies of previous newsletters or details of our services please visit our website www.sjbtax.co.uk

Please feel free to forward this newsletter to any colleagues or friends who may be interested in it or refer them to our website www.sjbtax.co.uk

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