

SHIPSHAPE



In this issue

EIS funding proves a hit with British film-makers

We talk to the makers of World War Two drama, *Resistance*

News and Views

How companies and individuals will be affected by the latest raft of changes to the pensions system

Shipleys News

Trusts expert Tony Mitchell's appointment as a Shipleys principal, plus European tax surveys and Shipleys in the press

Tax News

A round-up of snippets from the Budget that you may have missed, plus a David and Goliath-style VAT battle

Money Matters

What's all the fuss about 'disguised remuneration' as new rules target trust loans at low or nil tax rates?

For further information, please contact one of our offices:

LONDON

10 Orange Street
Haymarket
London
WC2H 7DQ

T +44 (0)20 7312 0000
F +44 (0)20 7312 0022
E advice@shipleys.com

GODALMING

3 Godalming Business Centre
Woolsack Way
Godalming
Surrey
GU7 1XW

T +44 (0)1483 423607
F +44 (0)1483 426079
E godalming@shipleys.com

SAFFRON WALDEN

Market House
10 Market Walk
Saffron Walden
Essex
CB10 1JZ

T +44 (0)1799 521301
F +44 (0)1799 523854
E saffron@shipleys.com

Birmingham

2nd Floor
3 Brindley Place
Birmingham
B1 2JB

T +44 (0)121 698 8566
F +44 (0)121 698 8600
E advice@shipleys.com

www.shipleys.com

If you have any suggestions for topics you would like to see covered in *Shipshape*, or have any comments about its content, please contact Stuart Dey at our London office.

T +44 (0)20 7312 6528
E deys@shipleys.com

Shipleys LLP is a member of AGN International, a worldwide association of separate and independent accounting and consulting firms.

More detailed information on tax changes is available on our website at www.shipleys.com

Registered to carry on audit work and regulated for a range of investment business activities by the Institute of Chartered Accountants in England & Wales.

In this issue

Managing Principal's Comment

The times they are a-changin' page 1

Client Profile

EIS helps to fund new British film page 2

News and Views

The growing attractions of EIS page 3

Pensions – how will you be affected by the latest changes? pages 4 and 5

New bribery laws page 7

Tax Matters

Budget snippets page 6

VAT news page 7

Red tape round-up page 8

Shipleys News

Tony Mitchell appointed a principal page 9

In the press page 9

European tax surveys page 9

Money Matters

What's all the fuss about 'disguised remuneration'? page 10

Managing Principal's Comment: Ken Roberts

The times they are a-changin'

Our new Managing Principal says that despite economic uncertainty, many fundamentals remain unchanged.



This is my first *Shipshape* Comment as Shipleys Managing Principal and comes at a time of continued uncertainty in the UK economy and great upheaval around the world.

I'm delighted to take on the role and relieved the printers didn't mix up my photo with the one at the top of the page overleaf; although I'm sure I saw that look on a number of faces after last month's budget! On behalf of all at Shipleys I would like to thank my predecessor, Guy Fisher, for his expert stewardship of our firm over the past six years.

for the jobs being lost in the public sector. Another survey showed that although jobs are being created in IT, engineering and finance, recovery is uneven.

On top of this we've had financial crises in Ireland and Portugal, political upheaval in Egypt, Libya and other parts of the Arab world and natural disasters in Australia, New Zealand and Japan with the threat to the environment. Our thoughts go out to those caught up in these events.

The impact on the global economy demonstrates the need

and logical was in practice a huge elephant trap, and in January 1988 I aborted the project" – so nothing new there then – let's wait and see.

Higher-rate taxpayers may be heartened by the Chancellor's stated belief that the 50% rate of income tax is only "temporary". However, it is more sobering to reflect that income tax was originally introduced by William Pitt the Younger in 1799 as a "temporary" solution to beat Napoleon.

Focusing on the fundamentals

We may be in challenging times, but the Shipleys fundamentals remain the same: we will always do our utmost to deliver the best possible service to our clients and bring important issues and opportunities to your attention – as in this issue of *Shipshape*. We value our long-term relationships with our clients and professional contacts, and we are absolutely committed to supporting and developing our people to deliver the services our clients want.

Thank you for taking the time to read my column and I hope you have enjoyed it.

Ken Roberts
T 020 7312 0000
E robertsk@shipleys.com

“Higher-rate taxpayers may be heartened by the Chancellor's stated belief that the 50% rate of income tax is only 'temporary'.”

Differences of opinion

The debate on how to deliver growth for the economy rages on. There's a concern in some quarters that the economy isn't doing as well as hoped. The National Institute of Economic & Social Research estimates it stood still over the past two quarters even before the impact of higher inflation and more spending cuts.


Opinion is deeply divided on the threat of inflation – not least among the Bank of England's Monetary Policy Committee, whose job it is to keep it under control. The base rate was recently held at 0.5%, but experts' opinions on what will happen to it next encompass just about every possibility.

The number of people being hired for permanent jobs slowed in March, casting doubt over hopes that the UK's private sector will create enough vacancies to make up

for constant vigilance and flexibility of planning in light of changing circumstances. Review, refinement and implementation are the keys to success in this context.

Baffling Budget?

The Budget and its effects are always at the forefront of our minds at this time of year and, as ever, there was much to consider in the detail. One area where the Government is looking to do something radical is in simplifying the current tax code by abolishing some outdated reliefs. However, it looks like it might back away from merging Income Tax and National Insurance, perhaps heeding advice from former Chancellor Nigel Lawson who looked into this in the 1980s. He recently said of that time: "...it became increasingly clear that what looked at first sight so elegant

Shipshape by email 
To receive future copies of *Shipshape* by email, please send your details to Clare Schorah at schorahc@shipleys.com

Client profile:

EIS helps to fund new British film

Shipshape talks to Amanda Faber of Big Rich Films about the help Shipleys provided in bringing a great story and a star cast to the silver screen.



Multi-award-winning actor Michael Sheen in Resistance

The growing attractions of EIS

More generous tax benefits announced in the Budget aim to widen the appeal of the Enterprise Investment Scheme.



A new UK film about an alternative World War II history in which Britain is invaded by the Germans shows the benefits of Enterprise Investment Schemes (EISs) as a way for movie-makers to get backing.

That's the view of Amanda Faber of Big Rich Films and producer of *Resistance*, a film she has produced with Richard Holmes with an award-winning cast that's receiving great word-of-mouth reviews even before it's released later this year.

Shipleys advised the film-makers on the EIS and around £915,000 was raised for *Resistance*.

The movie's story is set in 1944 when, after failed D-Day landings, a German counter-attack lands on British soil and within a month half of Britain is occupied. The stars of the story include Andrea Riseborough (*Brighton Rock*), Tom Wlaschiha (*Brideshead Revisited*) and multi-award-winning Michael Sheen.

Amanda had no previous experience of financing a movie using the EIS so found advice from Shipleys "incredibly helpful". That assistance included instructions on what needed doing at each stage in the EIS process, such as arranging share certificates, tax clearance for investors and obtaining the relevant tax reliefs.

"You need to be very careful to abide by the rules about who you can show the EIS offer document to, and to make sure that investors qualified for the tax reliefs, and Shipleys were flawless at this", says Amanda.



With Shipleys help, a series of presentations were staged around the country to potential investors. Eighty-six eventually got on board, each making a minimum pledge of £5,000 with a handful investing more.

But Amanda explains that this was no easy task, taking over a year to complete. "The key was probably getting to know people from the area in Wales where the film is set. I was overwhelmed with the enthusiasm and support from locals who live close to the Olchon valley where the film was shot," she said.

Although the Harry Potter movie success story led to a change in the EIS rules so that only one scheme per film is now permitted, Amanda is convinced EISs are the way forward to get people behind British films.

The obvious attractions of EIS for investors include tax relief, but the producers of *Resistance* were also keen to involve investors as much as possible in the film – with visits to the set, giving them props to keep and even offering them roles as extras in period costume.



The tax reliefs make an EIS attractive for investors.

The Enterprise Investment Scheme (EIS) now has more generous benefits and potentially applies to a wider range of companies. Those businesses looking at their funding options should consider whether it might apply to them.

The EIS was introduced in 1994 with the aim of assisting small unquoted trading companies to raise capital. It does this by providing a range of tax reliefs to investors who purchase newly issued shares in qualifying companies.

The changes to the scheme announced by George Osborne in his Budget last month are some of the measures intended to put "fuel back into the UK economy". The scheme is certainly being made more attractive, although implementation of some of the proposals will be deferred until 6 April 2012 so that EU approval can be obtained in relation to state aid rules.

What tax reliefs are available?

Investors get an income tax credit, capital gains on the EIS shares can be exempt and the amount subscribed may be used to defer other gains.

The income tax credit was increased from 20% to 30% of the amount subscribed in the Budget for shares issued on or after 6 April 2011. This credit can be offset against tax otherwise due, or to get back any repayable tax credit (such as tax paid through the PAYE system, but not the tax credit on dividends or bank interest).

Where certain conditions are met, if the EIS shares go up in value and are sold for a profit after more than three years, the gain on their disposal is exempt from tax.

Capital gains tax deferral may be given where another capital gain is made by the investor in the period beginning two years before and ending three years after the EIS shares are issued. The other capital

accountants, city traders and such like are generally excluded.

Budget changes

In addition to boosting the income tax relief to 30% from 6 April 2011, the changes planned for 6 April 2012 include increasing the maximum subscription individuals can make in a tax year from £500,000 to £1 million, lifting the annual maximum

“ In addition to boosting the income tax relief to 30% from 6 April 2011, the changes planned for 6 April 2012 include increasing the maximum subscription individuals can make in a tax year from £500,000 to £1 million.

gain is reduced by the cost of the EIS shares and deferred until they are no longer held.

Are there many conditions?

Yes, quite a few, but that's not to say that it's hard to qualify. The individual must not be connected with the company and eligible shares must be issued fully paid for cash by a qualifying company. The individual must hold the shares and the company must continue to qualify and carry on a qualifying trade for three years.

The scheme applies to many different types of trading companies but generally not to service or investment companies, so property developers, lessors, lawyers,

a company can raise from £2 million to £10 million, and allowing companies with gross assets of £15 million and up to 250 employees to qualify (this is £8 million and 50 employees at present).

If you would like help assessing your eligibility for EIS funding please speak to your usual Shipleys contact.

Pensions....

How will you be affected by the latest changes?

Yet more alterations to pensions rules for employers and employees might leave some bemused. Shipshape helps you understand what to do.



The shake-up of the pension rules that took effect back in April 2006 was supposed to have made things much simpler. Since then, though, even those in the pensions industry could be forgiven for becoming confused, such has been the vast number of announcements and amendments. Some proposals even found their way onto the statute books but were then repealed before actually being implemented!

In general, pension rules are now less generous, which seems at odds with the idea of encouraging individuals to make provision for their own longer-term financial security and to be less reliant on the State. This affects both employers and their staff.

Employers' obligations

At present, businesses with five or more employees are required to offer stakeholder pensions. In practice this amounts to little more than setting up a 'shell scheme' and telling employees that they can pay into a money purchase pension arrangement. The employer is not obliged to pay anything in.

From October 2012, however, new Personal Account arrangements are being phased in. These will require businesses to set up a pension scheme for their staff, moving towards a default position where the employee contributes 3% of their salary and the employer contributes 4%. The tax

relief on the employees' contributions equates to an extra 1% so that total contributions amount to 8% of salary.

Employees must be automatically enrolled in the arrangement although they can then choose to opt out (in which case the employer isn't required to make further contributions). If employees do opt out, the employer will be obliged to enrol them again within three years.

“ In general, pension rules are now less generous, which seems at odds with the idea of encouraging individuals to make provision for their own longer-term financial security and to be less reliant on the State. This affects both employers and their staff.

The staged implementation of this arrangement is designed to allow employers some flexibility. For example, by making contributions to an employee's pension in lieu of a salary increase. Our advice is to plan for this change now to avoid a sudden rise in payroll costs.

Tax relief for pension contributions

Until two years ago, personal contributions of up to £235,000 were tax deductible at the individual's top rate of tax. Rules introduced in April 2009 then aimed to limit tax relief on excessive new contributions to the basic rate. But from 6 April 2011

the maximum contribution that can be made with tax relief available at the individual's marginal rate has been reduced to £50,000 per annum. Where this limit is exceeded, any excess is taxed at the individual's marginal rate.

There are provisions to carry forward up to three previous years' unused allowances. Also, transitional provisions announced when the new

rules were proposed last October mean that those who contributed more than £50,000 in the year ended 5 April 2011 should now speak to their pension adviser. There may be a window of opportunity to change the pension input period end date, which can give you more tax relief in 2010/11.

Wide-reaching rules

The new pension rules are wide-reaching and affect the following:

- **The self-employed (including partners in a limited liability partnership):** contributions to

personal pension policies and retirement annuity contracts.

- **Company directors and employees:** payments into personal pension plans, contributions met by deduction from pay, employers' contributions to defined benefit schemes and benefits accrued in defined benefits scheme met by employers.

Final salary schemes

Many directors and employees who are in final salary schemes (where their pension is linked to their final salary and the number of years of service, rather than the contributions made to their pension pot by them or their employer) may be completely unaware that they can be caught by the new rules.

Take the example of an employee with 20 years of service in a '60ths' scheme, who gets a pay rise from £81,000 to £90,000. The value placed on their pension fund was $20/60 \times £81,000 \times 16 = £432,000$ (the factor of 16 was previously 10 and is laid down in the new rules).

Allowing, say, 3% inflation on the £432,000 (to enable a comparison with the value a year later) results in a figure of £444,960. The following year, however, the pension valuation calculation is $21/60 \times £90,000 = £504,000$.

The increase of £59,040 exceeds the £50,000 limit mentioned above

and the excess of £9,040 is taxable. The employee is required to declare this income on their tax return and, if they are a 40% taxpayer, the additional tax due is £3,616. This is a personal tax liability, although in some circumstances it can be paid out of the scheme.

Salary sacrifice


Where company directors and employees make pension contributions from their net pay, employers should consider offering employees the opportunity to sacrifice part of their gross pay in favour of increased employer pension contributions.

Apart from simplifying the employee's tax position by avoiding complicated PAYE code adjustments to get the right higher-rate tax

relief, both the employer and employee will be better off because of national insurance (NI) savings. For employees, that's often a 2% NI saving, and as much as 13.8% for the employer. Some employers choose to give their saving back to the employee by contributing an equal amount to the employee's pension. It's a useful way to improve employee benefits without actually increasing costs.

Larger pensions

In addition to the annual limit on tax-free inputs, there is a 'lifetime limit' on the value of the pension fund which can benefit from favorable tax treatment. This has been reduced from £1.8m to £1.5m, to take effect on 6 April 2012. Any excess is taxed at 25% (or 55% if drawn) and will not then be subject to tax as income.



Summary
The result of these changes is that it will no longer be easy to shelter profits in a bumper year by contributing to an approved pension scheme. Employers are urged to get up to speed with the rules to take advantage of the opportunities that do currently exist. Make sure you have budgeted for the effect of the new Personal Account rules.

Budget snippets

Some things you may have missed in the Budget.

Inheritance tax and charitable giving

The Budget proposal that, subject to consultation, for deaths after 5 April 2012, a bequest of at least 10% of the amount subject to tax at 40% will cut the tax rate to 36% is clearly generous. The effect is to give the donors (effectively those who would otherwise inherit the amount bequeathed to charity) tax relief on the 'donation' at 76%.

Aspects to be clarified include the position of 'failed' potentially exempt transfers, non-domiciled testators with UK assets, property passing by survivorship to joint tenants and property deemed part of the estate of the deceased because of a reservation of benefit.

There could clearly be practical difficulties in ensuring that the 10% test is met. There is no mention of 'marginal relief'.

New generation of Enterprise Zones

The Boots campus in Nottingham will be the site of the first of 21 new Enterprise Zones announced in the Budget.

The zones will have simplified planning rules, super-fast broadband connections and tax breaks to encourage businesses and job creation. Two other zones in Liverpool and Manchester have also been announced.

Boris Johnson has said London's zone will be in the Royal Docks, and he has been given approval by the Treasury to apply for more zones. Croydon and Tottenham may be chosen. The Treasury confirmed that all the zones would be up and running from April 2012.

Entertainers deemed to be employees for NIC purposes

Following the decision in the First-tier Tribunal case involving ITV Services Ltd, HMRC has declared that Class 1 national insurance contributions (NIC) will be sought in respect of all Equity contracts (rather than 'all rights' contracts) from 6 April 2011, despite the fact they might have previously been regarded as falling outside of the existing regulations.

Controlled foreign company tax reform

The controlled foreign company (CFC) regime is to be reformed, with new rules being introduced in Finance Bill 2012. A consultation document describing the new regime will be published in May 2011, with draft legislation in the autumn for inclusion in Finance Bill 2012

Loans to employees

The official rate that has applied since 6 April 2010 to determine the benefit

of free loans to employees (and also the pre-owned asset charge on chattels and intangibles) is frozen at 4% for 2011/12 tax year, subject to review in the event of significant rate changes.

Childcare vouchers

The tax saving for employees who join their employer's 'Supported Childcare' scheme after 5 April 2011 will be limited to the equivalent of the basic rate. Those who had already joined their employer's scheme before 6 April 2011 will not be affected by these changes unless they leave the scheme or their employment.

Pension benefits

For those who are able to draw pension benefits the new 'drawdown' available from 6 April 2011 appears to offer the ability to draw the whole fund, for those with at least £20,000 annual pension income. But, of course, such drawdown is subject to tax as income.

Income shifting post Arctic Systems

Nothing was said about this in the Budget, and there is nothing relevant in the Finance Bill.

Further information on these rates is available on our website at www.shipleys.com

Are you up to speed on the new bribery laws?



New rules about bribery will have far-reaching implications for businesses, especially those that trade overseas, but fears that they might be too strict seem to have been allayed.

The Bribery Act 2010 was expected to come into force in April, but businesses will now be given until 1 July before it takes effect.

Justice Secretary Kenneth Clarke said the Act would be implemented in a "workable, common sense" way and the Government has been keen to stress it does not expect "genuine hospitality" or similar expenditure to fall under the act.

The Act introduces the following four offences into UK law:

- **bribing another person**
- **being bribed**
- **bribing a foreign public official**
- **failure by a commercial organisation to prevent bribery.**

A company faces an unlimited fine if anyone acting for the company is found guilty of bribery, and guilty individuals could go to prison for ten years. Directors can be personally liable if it's found they consented to an offence but did not commit bribery themselves.

Companies and non-profit organisations are advised to identify areas of their operations that could be most exposed to the risk of bribery and to develop guidelines, policies and procedures to prevent it. These should include guidance on giving and receiving gifts, sponsorship, political donations, corporate hospitality, expenses, facilitation payments and relationships with agents, contractors and distributors.

VAT News

Flat rate scheme

In true David and Goliath style, a recent VAT tribunal case has demonstrated that even a small business can take on the might of HMRC and win!

The case related to the workings of the flat rate scheme (FRS), which is designed to be a simple method of calculating the net VAT due each quarter by applying a fixed percentage to all income of a business (both VATable and non-VATable).

The taxpayer in question maintained substantial cash balances in its bank accounts in order to enhance its balance sheet. Despite paragraph 6.2 of VAT Leaflet 733 confirming that interest earned from a business bank account should be subject to FRS, the company was prepared to challenge the matter in court, as it wanted to exclude the bank interest from the amount subject to VAT.

HMRC argued that when the company placed money on deposit at the bank it was making a 'loan' to the bank and the interest was payment for that service and should therefore be subject to FRS VAT.

The tribunal accepted that this could be a reasonable explanation of the relationship between a bank and its customers but concluded nevertheless that the interest income should not be subject to FRS VAT.

It has been confirmed that HMRC will not be appealing this decision, so affected businesses can rely on the judgement. Although Leaflet 733 was updated in April, paragraph 6.2 has not been changed and still indicates bank interest should be included. The FRS has an eligibility threshold of £150,000.

Yachts, aircraft and real estate – private/non-business use

Some changes were made at the beginning of the year to VAT laws that affect the VAT treatment of certain assets bought by a business where there is an intention that the asset will be used for both business and non-business purposes (including private use).

The assets affected are land, property, aircraft, ships, boats or other vessels bought on or after 1 January 2011. Any VAT incurred on the acquisition of the asset will have to be apportioned and the business will only be allowed to recover the proportion that relates to VATable business use. So, the option of recovering all of the VAT using the 'Lennartz' mechanism will no longer be available.

Changes have also been made to the workings of the capital goods scheme (CGS) so that it now covers changes to the business and non-business use proportions as well as the taxable and exempt-use proportions. In addition, the list of assets covered by the CGS has been extended to include aircraft, ships, boats or other vessels costing £50,000 or more.

VAT returns – electronic filing

If you are not already filing your VAT returns electronically you may want to sign up for the e-filing service sooner rather than later as it is likely that the law will be changed to make it compulsory for everyone to file online from April 2012 onwards.

For further information about any of the above topics, please speak to your usual Shipleys contact or our VAT team.

Red tape round-up

HMRC business records checks begin this year

Checks by HMRC to make sure SMEs are keeping proper records (which were expected to get underway in the second half of this year) appear to have already begun.

HMRC will visit 50,000 SMEs each year for four years as part of a programme of business records checks (BRCs), which will review the adequacy and accuracy of business records of an SME, ie anyone involved in running a businesses with an annual turnover of less than €50m and less than 250 employees.

The maximum penalty for failure to maintain business records is £3,000. Although HMRC has stated it does not intend to use the full penalty every time there is BRC failure, their own projections of the expected revenue to the Exchequer suggest otherwise.

Don't be hooked by fraudsters' phishing

Fraudsters are emailing taxpayers and pretending to be HMRC to get hold of sensitive personal information like usernames, passwords and credit card details.

The practice, known as phishing, has prompted HMRC to issue clarification that it never emails taxpayers regarding tax rebates or for bank or PayPal details.

Advice on HMRC website includes a reminder to "never disclose your personal and/or payment information in reply to an email that may look like it's from HMRC, you may well be revealing your details to a fraudulent website".

Some of our clients have been in contact to let us know that bogus emails are in circulation. *Shipshape* has seen one of the emails in question, which was set up so it seemed to be from the HMRC.

It appeared to give details of a tax refund and included a link to be used to submit a refund request, allowing two to three days in order to process it. If you receive one of these emails, talk to Shipleys first before doing anything.

Electronic payment of PAYE/Class 1 National Insurance

HMRC is continuing its 'hard sell' of electronic payment of PAYE/Class 1 National Insurance contributions, but processing PAYE by cheque through the post is still allowed for smaller companies.

Employers with 250 or more workers have been notified that electronic payment is mandatory. HMRC stops short of that with smaller firms but still "recommends" they abandon postal delivery.

It says the benefits of paying electronically include better security, better control of money, certainty about when your payment will reach HMRC and it allows payment at a convenient time – if you use direct debit, internet or telephone banking or debit or credit card over the internet.

For more information, go to www.hmrc.gov.uk/payinghmrc/pay.htm.

Changes to Class 2 NI payment dates

From April 2011, payments of Class 2 National Insurance contributions are due on 31 July and 31 January.

For those who make payments by internet or telephone banking, CHAPS, Bank Giro, Post Office or post, there will be just two bill reminders in October and April.

For those paying by direct debit, collection of monthly payments will now stop and restart in August, so that six payments will have been made in the run-up to January 2012. For more information, go to www.hmrc.gov.uk/payinghmrc/class2nics.htm.

Self-assessment penalties

Penalties for both the late filing of your self-assessment tax returns and for late payment have changed. From April this year if returns are one day late the fine is £100.

If three months late, the charge is an automatic daily penalty of £10 up to a total of £900. On six months the penalty is 5% of the tax due or £300 (whichever is the higher amount).

After a year it's again 5% of the tax due or £300, but in serious cases there's a higher penalty of up to 100% of the tax due.

If payment is late after 30 days, six months and a year, the penalty is 5% of the tax still unpaid.

For more information, go to www.hmrc.gov.uk/sa/deadlines-penalties.htm



Offshore trusts expert Tony Mitchell appointed a principal

Tony Mitchell, who is responsible for the day-to-day running of our trust team in London, is to become a principal of Shipleys LLP. He will be taking a more active role in seeking out opportunities for the department's growth and development.

In recent years, Tony has developed particular expertise in offshore trusts and companies with UK interests. With rising UK tax rates fuelling demand for planning and ever-more complex legislation, this has become an increasingly specialised area.

He has more than 25 years' experience delivering specialist trust advice, administering estates and day-to-day administration for wealthy families and offshore entities. This ranges from tax compliance, accounting and 'family office'

administration for a range of UK and offshore trusts and charities, to advising on very complex trust and estate planning strategies for UK and non-UK domiciliaries. "Trusts and estates is very much a people-oriented area of practice exposing you to the foibles and oddities of human nature," says Tony.

Tony trained with accountants Touche Ross (now Deloitte) in their trust department. After obtaining a law degree, he qualified at the Bar in 1984 before joining City law firm Charles Russell. He had a period as trust manager with accountants Cooper Lancaster Brewers before joining Shipleys in 2000.

In the press

Steve Foster was quoted in an article in *ACCA Accounting and Business* magazine that discusses the career path open to accountants in industry and practice. He talks about his experiences in both areas. And Steve also contributed an article in *Modus*, the business magazine for members of the Royal Institute of Chartered Surveyors, which looks at the different options to incentivise young talent from a financial viewpoint.

Jay Sanghrajka was quoted in BNA International's *Tax Planning International European Tax Service* publication in an article about the agreement between Switzerland and the UK to start negotiations on introducing a withholding tax on interest earned on secret Swiss bank accounts held by wealthy UK taxpayers.

Business development director Stuart Dey was quoted in an article in *ACCA Accounting and Business* magazine giving advice to tax practitioners on how to cope with the busy month of January.

European tax surveys

The 2011 update of annual surveys of how different taxes on businesses and individuals compare across Europe has now been published.

Carried out by the European Region of AGN International, the worldwide association of separate and independent accounting and consulting firms, the surveys provide interesting comparisons and trends from year to year and from country to country.

Spanning both EU and non-EU countries in the wider European region, they examine taxes as they apply to corporates, parent companies, salaries, social security, expatriates, VAT, gifts and inheritances, and the self-employed.

The statistics provide useful pointers to tax saving opportunities or pitfalls. These surveys should not be used as the basis for taking or refraining from action and in every case specific local professional advice should be taken.

For further information and full survey results, visit the AGN Europe website, www.agn-europe.org.

What's all the fuss about 'disguised remuneration'?



New rules have come into force to bring an end to 'disguised remuneration' involving trusts such as Employment Benefit Trusts (EBTs) and Employer Financed Retirement Benefit Schemes (EFRBS).

The changes, which were confirmed in the Budget, impose PAYE income tax and National Insurance Contributions (NICs) on transfers, distributions and benefits, including loans from "trusts and other intermediate vehicles". This includes EBTs and EFRBSs, although it is not restricted to them.

The rules are intended to counteract large bonuses (otherwise taxable at 50%) being converted to loans to an employee or director at low or nil tax rates. These were popular with high earners such as footballers, entertainers, computer contractors and directors of highly profitable private companies.

Around 5,000 employers and 50,000 staff will be affected by the clamp down, according to Treasury estimates.

The new rules apply to any means of paying or rewarding employees and directors through third parties with rewards or recognition by way of

assets or loans referred to as a "relevant arrangement".

Key points to consider are as follows.

- **Loans taken from an EFRBS or EBT on or after 6 April 2011 will give rise to an income tax charge.**
- **Loans taken between 9 December 2010 and 5 April 2011 will not give rise to an income tax charge, provided those loans are repaid before 6 April 2012.**
- **There is no tax charge for existing EFRBs and EBTs set up prior to 9 December 2010 where the funds remain within the trust. The tax charge arises on money or assets leaving the trust whether absolutely or by way of loan.**
- **Sums or assets "earmarked" for employees or directors by trusts will be regarded as payment of income provided by the employer.**
- **Assets provided to employees and directors by trusts will be regarded as a payment of income by the employer.**

Clearly, this type of tax planning will be more difficult in the future as the legislation is intended to prevent the use of such vehicles for reducing the income tax liabilities of high earners. However, HM Revenue & Customs has issued guidance in an attempt to reassure people that it will continue to allow situations where such vehicles are used for genuine deferred remuneration or employee share schemes.

Anti-avoidance provisions condemned

The European Commission has condemned two of the UK's tax anti-avoidance provisions: the 'transfer of assets abroad' provisions which attribute income to UK residents for income tax purposes; and the provision that attributes gains of 'close' offshore companies to UK resident shareholders for capital gains tax purposes. We await the Government's decision.

Detailed advice should be obtained before taking action, or refraining from taking action, as a result of information in this newsletter.

Shipleys LLP is not authorised by the Financial Services Authority but we are able in certain circumstances to offer a limited range of investment services because we are licensed by the Institute of Chartered Accountants in England and Wales. We can provide these investment services if they are an incidental part of the professional services we have been engaged to provide.