Winter 2013/14

Financial and business intelligence

SHIPSHAPE

Succession planning

Are you prepared?

shipleys LLP

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What's your plan? How does inheritance tax affect you?

Money matters: a checklist for executors

Tax briefs: HMRC targets tax avoidance and evasion

Client profile:

Godrej UK

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Focus on inheritance tax

What's your plan?

Back in the 1970s death duties were so onerous that many estates had to be broken up and handed to the state. It's not quite so bad today, but it is still important to get your affairs in order and plan ahead.

Putting off inheritance tax (IHT) planning is all too easy – it never seems to be the right time. A lot of people also struggle with the concept of IHT, which is understandable. Anything to do with estates sounds a bit remote, while much hard to achieve high levels of income sometimes disrupted IHT rate though potentially it can outlive up 40% of their estate.

IHT currently represents less than 1% of government income. But with the continuing rise in property prices, the ageing population and the fiscal deficit, and more people coming more than ever, a larger number of people look set to be affected and it's no longer just an issue for the very wealthy.

Two important steps to take are:

- get your affairs in order
- plan ahead to minimise exposure
- hold up your good intentions so they don't unravel

IHT example:

	£
This example assumes that the deceased has never made any chargeable or potentially exempt transfers. It also assumes that, through the IHT liability is calculated on the net balance of the estate, no liabilities or personal possessions or one of the properties would need to be sold to be held in.	
Family home	800,000
Personal property (including furniture, car etc)	150,000
Savings bank balances, stocks & shares, pension fund	50,000
Gross taxed (including)	**1,000,000**
Out of deceased (exclusive)	**(200,000)**
Funeral expenses	(10,000)
Mortgage on home	(100,000)
Net estate	**690,000**

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Getting your affairs in order

As a prelude to estimating the potential liability to IHT on your estate, it makes sense to list your assets and liabilities, remembering that anything you owed to a mortgage might need to be covered by a life insurance policy.

Most people should have a will. If you don't, the rules of intestacy will decide who inherits and your assets quickly won't end up in the hands of those you wanted to inherit. Also, if you have a will, it may need to be updated because it has become much more acceptable to marry and it's not as expensive as it once was. If you have assets overseas you might need to make a will in that country as well. It's worth checking the rules of intestacy there to be sure that you have your assets to.

For a 'Personal Affairs checklist' visit our website at: www.shipleys.com/resources/useful-tools

How much IHT will I have to pay?

IHT is currently payable on death at 40% on the value of a person's estate in excess of the nil-rate band (£325,000 in 2012/13). Gifts made during a person's lifetime are subject to different rules.

The tax payable depends on the value of your estate, who you leave it to and gifts which may have already been made.

The value of your estate is determined which are treated favourably for IHT.

- Regrantedting at least 10% of the net estate (after some gifts), which cut the rate of tax based by ability. The tax on the part of the estate subject to IHT reduces to 36%.

Basic planning

Any IHT planning strategies include:

- Giving assets away or reducing what's in your estate.
- Holding assets which are treated favourably for IHT.
- Regrantedting at least 10% of the net estate (after some gifts), which cut the rate of tax based by ability. The tax on the part of the estate subject to IHT reduces to 36%.

Nil-rate band trusts

If has only been possible to transfer an unused nil-rate band to a surviving spouse since October 2007. Previously, on the death of the first spouse it was common for a will to set up a trust into which the nil-rate band is a trust. This avoided increasing the value of the surviving spouse's estate (and, thus, the IHT payable on their death) as the assets held in the trust no longer formed part of their estate. If you have a nil-rate band trust in your will you should review it. A trust may no longer be needed, as the IHT payable is expected to increase in value.

Non-UK domiciliaries

People domiciled outside the UK are only normally subject to IHT on their UK-situated assets (and, if they are deemed to be estate of those domiciled in the UK). There's a cumulative restriction on the amount of the nil-rate band, based on their non-UK domiciled spouse, which increased to £325,000 from 6 April this year. Furthermore, the non-domiciled spouse can also elect to be treated as domiciled in the UK, so the spouse exemption applies, but then all income and their worldwide estate as opposed to just UK assets would be subject to IHT.

Minimising the value of your estate

Life cover

Most employees will have life cover provided by their employer, typically a multiple of their annual salary. By default, on death the proceeds of the policy are paid into your estate and therefore potentially subject to IHT. It's normally quite straightforward to have cover put into a trust so the proceeds are paid to a fund it cover forms part of your estate. This is likely to be especially appealing if you want to leave the proceeds of the policy to benefit not just surviving spouse. For example, the exemption for transfers between spouses or civil partners doesn't apply to unmarried couples.

Gifts

One fairly obvious way to reduce the value of your estate is to give things away while you're still alive. But lifetime gifts are usually potentially exempt transfers (PET) and these are only free of IHT if the donor survives for a further seven years, although a taper relief applies to any tax on the gift after three years. Also, if the donor continues to benefit from a PET, it is treated as a potentially exempt transfer is made within three years of death – so the gift will still be included in the IHT calculation. But any increase in value of the asset given away after the date of the gift is not taken into account. It is taken of the gift where made which is still included in the estate.

Some lifetime transfers, notably to discretionary trusts, are chargeable transfers, and to the extent they exceed the available nil-rate band, IHT will actually be payable at 20%. This is increased to 40% if the donor dies within seven years.

Many people are reluctant to completely give up access to, or control over, their assets. Some may want to make a gift but continue to benefit from it, for example, by using it as a sort free. This may seem an easy way to reducing IHT. But in these circumstances, known as reservation of benefit, the asset still forms part of the donor's estate, so there is no IHT saving.

Other gifts are specifically exempt without limit, including those to a spouse or civil partner, charities, political parties and approved institutions (such as museums, universities and The National Trust).

Gifts made out of regular, then overlooked expenditure (which are not 'normal expenditure' out of income, and which leave the donor able to maintain their normal standard of living) are also exempt from IHT. Gifts capital. Such gifts can stop the exposure to IHT getting worse. For example, the IHT saving in relation to a sickness with after tax income of £50,000 (perhaps enjoying an skilled salary of £60,000 and a pension of £10,000) and who gives away £50,000 per annum would save IHT of £20,000 after five years ($50,000 x 5 x 40%). There would be a recurring element to the gifts, but the effect of this is offset that the IHT saving is also recurring. Provided there is an upper limit to the exemption, no requirement to live seven years.

Other gifts are exempt without limits – annual gifts out of capital ($5,000); small gifts ($250 per recipient); parental gifts on marriage ($5,000); grandparents' gifts on marriage ($2,500); and other gifts on marriage ($1,000).

Preparing journey to success when issues arise at home

Unless the PET is made within the donor dies within seven years, depending on the previous transfers, IHT may be payable by the recipient, or the IHT payable by the estate is increased because the PET uses up some, or all, of the nil-rate band.

Trusts

Trusts can serve to take out diminishing from the assurance on the life of the donor. This can be matched to the potential IHT exposure (which reduces because of taper relief).

Spending without care!

Giving away the family's financial chief might seem premature, but is a serious suggestion. If 40% of amounts not spent end up in the hands of the taxman this should seriously reduce, or eliminate, any feelings of guilt over the cost of maintaining a lifestyle. The cost is effectively subject to a 40% discount.

Jointly-held assets

Property, if jointly-owned as joint tenants, the property passes to the surviving joint tenant, but it's still included in the deceased's estate for IHT purposes. Holding property in this way does not save IHT – it simply determines who gets your share without the need to refer to your will.

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Shipleys LLP is a firm of chartered accountants and business advisers. *Shipshape* is our regular newsletter for clients and contacts.

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

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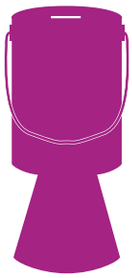
This *Shipshape* in numbers

roughly one in three people die without a will in place

31 January 2015 – deadline for an Entrepreneurs' Relief claim for a qualifying business disposal in the tax year 2012–13



10% of an estate left to charity can reduce IHT to 36%

£3.1bn of IHT receipts collected by HMRC in 2012/13

(according to the Office for National Statistics)

nil-rate band frozen for IHT (currently £325,000) until 2018

30-year legal battle (reportedly) over the estate of legendary guitarist Jimi Hendrix

Viewpoint: Ken Roberts, *Managing Principal*
020 7312 0000 • robertsk@shipleys.com

Live and let die

Taking stock of your financial goals

With the pressures of modern life and business, it's all too easy to lose sight of what all the hard graft is actually for. Work can become all-consuming and for some generations it seems natural to strive to accumulate financial assets and wealth – to keep on running.

But are you a spender or a saver? For some it's all about just living for today and enjoying a great lifestyle. Increasingly this is not confined to comparative youngsters; there's even an acronym for it for the older generations – SKIers – Spending the Kids' Inheritance! At the other end of the spectrum there are those who seem solely focused on accumulating wealth, and for whom no amount will ever be enough.

Somewhere between the two it's more often about being able to provide for oneself and loved-ones, paying off the mortgage and building up a retirement pot to be certain of enjoying the later years of life comfortably without reliance on the state.

Everyone has different priorities but a common issue is uncertainty – how long have I got and how much do I need? There's even a new app that predicts the expected date of one's demise – not on my Christmas list thank you very much!

For your eyes only

Your plan might be to leave your wealth to loved-ones – and you may feel duty bound to do so. But helping your children and passing on your wealth while you're still alive is sometimes a preferable option, particularly given the difficulties the younger generation face in light of the long-term rise in property values. Although the Government has introduced various schemes to help first-time buyers, many will still need assistance from 'the bank of mum and dad'. Helping children or grandchildren invest in their first home, or funding school or university education often comes into the equation.

If you feel you've already provided for your children during your lifetime you might decide to give some or all of your wealth to a charitable cause. But it's also important to evaluate your own needs, particularly with longer life expectancy. The difficulty often lies in deciding what's best to achieve a balance between enjoying your retirement and meeting your own needs over the long term, and ensuring you're satisfied about how, when and to whom your wealth is distributed.

Never say never

For business owners the issues can be even more complex, with the business itself often viewed as a potential retirement fund or something to provide income for future generations.

Do you want to sell, keep a share of the business, or keep control within the family? Do you want to stay involved or hand it over completely? Will selling the business provide financial security for your family? Family-owned businesses have traditionally sought to pass on ownership to the next generation and 'keeping it in the family' often becomes an overriding concern to existing owners, sometimes to the detriment of the business.

Alternatively, passing on a business can inject new ideas and vigour and other family members might have the determination to make it more successful. But can the business sustain the whole family? Does the next generation even want to be involved? Do they have the skills and motivation to drive the business forward? Are there suitable roles for all interested family members? Do they get on or will there be conflict? It might be that they would be better off gaining experience elsewhere first, which could benefit the business in the long run.

The key is being clear about when you want to retire and pass on the reins – so examining all the options and having a plan involving every family member is likely to give you a clear vision of the future.

Never say never again

Succession or inheritance planning is one of those things that's easy to put off until it's too late. It can also be harder in practice than in theory to give things away during your lifetime – many people find it difficult to face the tough decisions required, and some children will never ask for or accept help. Others will say "it's not my problem", although in reality they may not be comfortable with a chunk of family wealth going to the taxman.

So it's vital to have a plan when it comes to passing on your assets, whether it's a business, cash or property. All of this needs to be set out in a will so it's clear to all what your intentions are, otherwise your estate will be governed by the rules of intestacy and the people you want to benefit may get nothing, or end up in an unnecessary family dispute. With the right expert advice and a bit of forward thinking, making a will doesn't have to be as daunting as it may sound.

Giving it all away

Of course everyone is different and one size won't fit all. You may choose to buy an Old Master and donate it to the National Gallery or put the lot on a horse – it's your prerogative to do with your hard-earned money as you see fit. Give it some thought and make sure you're actually realising your goals and passing your wealth to those you want to benefit from it. But don't forget, it's not just about the money – it's just as important to have some enjoyment along the way. I'm off with the SKIers shortly – and I don't mean the snow!

These and related issues are the focus of this issue of *Shipshape*. We hope you find it helpful.

£5,727 per annum for state pension for a single person

IHT represents less than 1% of government income

What's your plan?

Back in the 1970s death duties were so onerous that many estates had to be broken up and handed to the state. It's not quite so bad today, but it is still important to get your affairs in order and plan ahead.

Putting off inheritance tax (IHT) planning is all too easy – it never seems to be the right time. A lot of people also struggle with the concept of facing up to their own mortality. And strangely, many astute investors, who work hard to achieve high levels of income, sometimes disregard IHT even though potentially it can swallow up 40% of their capital.

IHT currently represents less than 1% of government income. But with the continuing rise in house prices, particularly in London and the South East, and more people owning more than one, a larger number of people look set to be affected and it's no longer just an issue for the very wealthy.

The important steps to take are:

- get your affairs in order
- work out your potential exposure
- find out what your options are to mitigate it
- update your will (or make one if you haven't already).

Getting your affairs in order

As a prelude to estimating the potential liability to IHT on your estate, it makes sense to list your assets and liabilities, remembering of course that liabilities such as a mortgage might well be covered by a life insurance policy.

Most people should have a will. If you don't, your estate will be subject to the rules of intestacy and your assets probably won't end up in the hands of those you want to inherit them. The market for help with writing a will has become much more competitive in recent years and it's not as expensive as it once was. If you have assets overseas you might need to make a will in that country as well. It's worth noting that not all countries allow you to choose who you leave your assets to.

For a 'Personal Affairs checklist' visit our website at: www.shipleys.com/resources/useful-tools

How much IHT will I have to pay?

IHT is normally payable on death at 40% on the value of a person's estate in excess of the available nil-rate band. It can also be payable during a person's lifetime on certain gifts.

The tax payable depends on the value of your estate, who you leave it to and gifts which may have already been made.

There are numerous exemptions and reliefs to consider when calculating the value of the estate. Transfers to spouses and civil partners are usually exempt, so if on death the whole estate is left to the surviving spouse, there is no tax to pay. Nowadays the nil-rate band on the death of the second spouse is increased to reflect the proportion of the nil-rate band unused by the first spouse, so double the standard £325,000 nil-rate band may be available, i.e. £650,000.

Non-UK domiciliaries

People domiciled outside the UK are only normally subject to IHT on their UK assets (compared with the worldwide estate of those domiciled in the UK). There's a cumulative restriction on the assets a UK domiciliary can transfer to their non-UK domiciled spouse, which increased to £325,000 from 6 April this year. Furthermore, the non-domiciled spouse can also elect to be treated as UK domiciled so that the inter-spousal exemption applies, but then of course their worldwide estate as opposed to just UK assets would be subject to IHT.

IHT example:

	£
Family home	850,000
Second property	250,000
Personal possessions (jewellery, furniture, car etc)	50,000
Savings (bank balances, stocks & shares, pension fund)	200,000
Total	**1,350,000**
Nil-rate band (including that of deceased spouse)	(650,000)
Taxable @ 40%	700,000
Tax payable	280,000

This example assumes that neither spouse had previously made any chargeable or potentially exempt transfers (see page opposite). In this example the IHT liability is significant and more than the bank balances and the value of the stocks and shares, so personal possessions or one of the properties would potentially need to be sold to fund it.

Basic planning

Key IHT planning strategies include:

- Giving assets away or reducing what's in your estate.
- Holding assets which are treated favourably for IHT.
- Bequeathing at least 10% of the net estate (after exemptions, reliefs and the nil-rate band) to charity. The tax on the part of the estate subject to IHT reduces to 36%.

Nil-rate band trusts

It has only been possible to transfer an unused nil-rate band to a surviving spouse since October 2007. Previously, on the death of the first spouse it was common to leave an amount equal to the nil-rate band to a trust. This avoided increasing the value of the surviving spouse's estate (where only a single nil-rate band would apply on their death) as the assets held in the trust no longer formed part of their estate. If you have a nil-rate band trust in your will you should review it. A trust may still be a good idea if the settled property is expected to increase in value.

Minimising the value of your estate

Life cover

Most employees will have life cover provided by their employer, typically three times their annual salary. By default, on death the proceeds of the policy are paid into your estate and therefore potentially subject to IHT. It's normally quite straightforward to have some or all of this paid directly to someone else, so that it never forms part of your estate. This is likely to be especially appealing if you want to leave significant assets to someone who is not your surviving spouse. For example, the exemption for transfers between spouses or civil partners doesn't apply to unmarried couples.

Gifts

One fairly obvious way to reduce the value of your estate is to give things away while you're still alive. But lifetime gifts are usually potentially exempt transfers (PET) and these only become exempt if the donor survives for a further seven years, although a taper relief applies to any tax on the gift after three years. This means that no tax will necessarily be saved if a potentially exempt transfer is made within three years of death – as the gift will still be included in the IHT calculation. But any increase in value of the asset given away after the gift was made will be outside the estate. It is value of the gift when made which is still included in the estate.

Some lifetime transfers, notably to discretionary trusts, are chargeable transfers, and to the extent they exceed the available nil-rate band, IHT will initially be payable at 20%. This is increased to 40% if the donor dies within seven years.

Many people are reluctant to completely give up access to, or control over, their assets. For example, giving away the family home or holiday home but continuing to use it rent-free. This may seem an easy way to sidestep IHT. But in these circumstances, known as reservation of benefit, the asset remains in the donor's estate, so there is no IHT saving.

Other gifts are specifically exempt without an upper limit, including gifts to 'qualifying charities', political parties and national institutions (such as museums, universities and The National Trust).

One noteworthy but often overlooked exemption is for gifts which are 'normal expenditure' out of income, and which leave the donor able to maintain their normal standard of living without dipping into their capital. Such gifts can stop the exposure to IHT getting worse. For example, the IHT saving in relation to a widower with after tax income of £50,000 (perhaps enjoying an old final salary scheme) and annual expenditure of £20,000, who gives away £30,000 per annum could save IHT of £60,000 after five years (£30,000 x 5 x 40%). There must be a recurring element to the gifts, but the effect of this is often that the total given away can be significant, and there is no upper limit to the exemption, or requirement to live seven years.

Other gifts are exempt within limits – annual gifts out of capital (£3,000), small gifts (£250 per recipient), parental gifts on marriage (£5,000), grandparents' gifts on marriage (£2,500), and other gifts on marriage (£1,000).

Potentially exempt transfers within seven years of death

Where a PET is made and the donor dies within seven years, depending on the previous transfers, IHT may be payable by the recipient, or the IHT payable by the estate is increased because the PET uses up some, or all, of the nil-rate band.

Life cover

It can make sense to take out diminishing term life assurance on the life of the donor. This can be matched to the potential IHT exposure (which reduces because of taper relief).

Spending without stint!

The idea of 'spending without stint' might seem provocative, but is a serious suggestion. If 40% of amounts not spent end up in the hands of the taxman this should seriously reduce, or eliminate, any feelings of guilt over expenditure perceived as extravagant, if the cost is effectively subject to a 40% discount.

Jointly-held assets

Where property is owned as joint tenants, the property passes to the surviving joint tenant, but it's still included in the deceased's estate on death for IHT purposes. Holding property in this way does not save IHT – it simply determines who gets your share without the need to refer to your will.

Holding assets with favourable IHT treatment

Business Property Relief
The value of assets which qualify for Business Property Relief (BPR) is discounted for IHT purposes by either 100% or 50%, but only usually once they have been held for two years.

Relief at 100% applies to interests in unincorporated businesses and unquoted shares in trading companies (excluding trades of property and share dealing). In this context, AIM and PLUS/OFEX shares are treated as unquoted. This relief often applies to shareholdings in family companies, including minority interests.

What investments qualify?

Enterprise Investment Scheme (EIS) and Seed Enterprise Investment scheme (SEIS) investments qualify for BPR once held for two years. Choosing the right opportunity is key. Some are designed to preserve capital rather then generate income or increase in value. This may be acceptable in view of the 40% IHT saving – quite apart from any income tax benefits.

It's worth noting that BPR can apply to lifetime transfers, not just on death. This means that BPR assets (100% rate) which are given away will not be treated as a PET, so it doesn't matter whether the donor survives for seven years or has made other gifts. If a family company is to be sold so that cash can be given to children or grandchildren, it may be worth first transferring the shares to the intended beneficiary (or a trust for their benefit) and for the recipient to make the sale. This avoids the gift of cash, which would be a PET, and effectively replaces it with an exempt transfer.

Relief at 50% applies to land used in its trade by a company controlled by the landowner, or by a partnership in which the land owner is a partner.

Excepted assets
The value of any relevant business property which is attributable to 'excepted assets' doesn't qualify for relief. Assets must either have been used for the purposes of the trade, or be held for such use in the future. Problems therefore arise with assets such as investment property held by a trading business (e.g. a flat above a shop), or cash surplus to the company's requirements for its trade. HMRC's view is they're excepted assets unless earmarked for 'some palpable business purpose'. The company may therefore need to be able to demonstrate that unused cash balances are being accumulated for trade purposes. HMRC's internal manual says: "decisions in this area need to be commercially sensible and realistic and bear a measure of consistency with the means adopted for the valuation of shares".

Agricultural relief
Agricultural relief operates in a similar way with relief at 100% if vacant possession is held or obtained within 12 months, otherwise it's at 50%.

Woodlands
Woodlands are not agricultural property – the value of the trees may be left out of account for IHT purposes on death, until disposal, provided that the deceased either owned them for at least five years before death, or acquired them through gift or inheritance. This relief may only be claimed if the woodlands are in the EU (including the UK), Iceland, Liechtenstein or Norway.

Keeping an eye on it

The potential liability to IHT should be considered in relation to investments, as this can be more significant than income or capital growth. Making a will is the best way to ensure that your assets end up with those you want to inherit them – and there may be options to minimise the taxman's share. Don't put it off!

Digital afterlife

It's not just physical assets that you may want to consider but digital effects too. In an increasingly digital world, more and more of us use the internet to download and purchase music, for example. The question, which has arisen lately, is who owns this when you die? Music and books you buy and download online, from companies such as Amazon and Apple, are actually licences giving you access to them, but no one inherits these when you pass on, unlike a hardback book you've bought. Other considerations are passwords for online banking, Facebook and Twitter accounts, for example.

Mind the gap!

Government efforts to balance the books focus on tax

Following some notable successes, the Government is furthering its efforts to close the tax gap – the difference between the revenues that HMRC estimates should come in, and the total actually collected by them.

Tax evasion and avoidance by businesses and individuals contribute to the tax gap, along with error, failure to take reasonable care, non-payment, legal interpretation, the hidden economy and criminal attacks on the tax system.

HMRC's campaigns

HMRC was granted £917m from the Government to tackle evasion, avoidance and fraud from 2011/12. This has led to a number of what HMRC calls 'campaigns' aimed at closing the gap. These vary from encouraging the filing of tax and VAT returns, to investigations focusing on specific industries or sectors. Current targets include residential landlords and healthcare professionals.

Campaigns focused on increasing the disclosure of offshore funds have raised some £633m. One report calculated the 2012/13 tax receipts from compliance investigations into SMEs to be £565m, up 31% on the previous year.

The Connect system

A £45m investment has been made by HMRC in its data collection and analysis system known as 'Connect'. This has been used in some of the campaigns. It draws information from a number of government systems and open sources such as business websites and eBay.

This could mean cross-referencing DVLA and Civil Aviation Authority records of car and plane purchases with income reported to the tax office. Gas SAFE registration details were used in the campaign targeting plumbers. It also helps HMRC identify businesses in a given area, which report significantly different financial performance from the local average.

HMRC has a team of 150 specialists designing search profiles and looking for patterns to investigate. A total of 3,000 tax officers are currently using the systems, with a further 32,000 about to be trained.

International clampdown

On the international front, more and more information exchange agreements are being made. The UK has recently announced a number of agreements, including with the Isle of Man and South Africa. The latter is joining the UK-launched pilot scheme for the automatic exchange of tax information, along with France, Germany, Italy and Spain.

There have been more reports of exchanged information leading to action. For example, HMRC acted on information it received about UK residents holding accounts in Jersey and Switzerland. Also, as part of an investigation into HSBC's alleged role in helping wealthy clients in Belgium hide their money from local tax authorities, police in Belgium have raided the homes of around 20 people who hold Swiss accounts with HSBC's private bank.

What next?

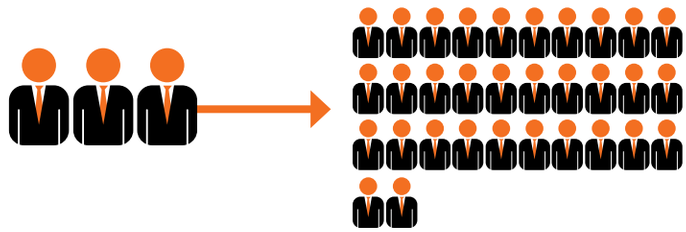
HMRC seems determined to close the gap. Hopefully, the new approach will mean they are more likely to focus on those with something to hide. However, the possibility of being subject to a random tax enquiry still remains.

Fee protection service

No-one welcomes close scrutiny from the tax office, which can be costly and time-consuming. The burden of tax compliance is on the taxpayer, with automatic penalties if you don't file and pay on time. Therefore, it may be worth considering our fee protection service designed to cover clients in the event of a tax enquiry.

If you sign up to this service Shipleys will deal with any HMRC enquiries on your behalf for a fixed annual fee, rather than charging on the normal basis of our time spent.

Please visit www.shipleys.com/fps or speak to your usual Shipleys contact if you would like more information.



A total of 3,000 tax officers are currently using the systems, with a further 32,000 about to be trained.

Crackdown continues on tax avoidance and evasion

The Government has announced two new campaigns to take action against tax avoidance and evasion. One focuses on landlords failing to disclose rental income. The other is action to "stop people avoiding tax" by using 'compensating adjustments'.

Partnerships and service companies

The first target of the latter campaign appears to be the long-standing arrangement whereby a professional firm might hive-off certain functions into a service company it controls. The company charges the partnership with, say, 100% of its costs but it is taxed as if it charged 105% of its costs, despite charging less. A 'compensating adjustment' means that the partnership is allowed tax relief on the 105%. For some reason the Government finds this objectionable, as a means to avoid tax on the 5% margin at a rate of perhaps 24%.

Excessive leverage

The second target is the "excessive leverage" of companies by individuals. An individual might make a loan at a rate of 15% to a company under his or her control but the transfer pricing rules limit tax relief for the company to an interest rate of 5%. There is then a 'compensating adjustment' to the individual so that he or she is taxed only on that 5%. If the individual's marginal rate is 45% and the company's 23%, there is a saving of 22%.

The Government proposes withdrawing the ability of individuals to claim these 'compensating adjustments' where the counterparty is a company. However, the Government has said: "... as there is no intention that these changes should adversely affect commercial arrangements, there will be a short opportunity for discussion on the policy proposals before the legislation comes into effect."

Employee shareholders

HMRC has published guidance on the tax rules for 'employee shareholders', the new employment status, which became available on 1 September 2013.

Employee shareholders have different employment rights to other employees. They renounce employee rights in exchange for between £2,000 and £50,000 worth of shares in their employer or a parent company.

Gains on up to £50,000 of shares will be exempt from capital gains tax, and the first £2,000 of share value that employees receive under the new status will be free from income tax and NIC when they acquire the shares.

Before an individual agrees to be an employee shareholder they must receive advice from an independent adviser on the terms and effects of the employee shareholder agreement.

For more detailed information, visit: www.hmrc.gov.uk/employeeshareholder/ and https://www.gov.uk/employee-shareholders

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PAYE Real Time Information (RTI)

The new PAYE system of reporting in real time requires employers to report payments to employees and the deduction of tax to HMRC when a payment is made. As a temporary relaxation before 5 April 2014, employers with fewer than 49 employees are permitted to report on a monthly basis instead, no later than the end of the tax month in which the payments are made.

Non-domiciled remittances

HMRC is writing to non-domiciled taxpayers who have adopted the remittance basis to explain how extensive the definition of a remittance to the UK is. HMRC uses some vivid examples, which only serve to illustrate how absurd the regime is and how difficult, if not impossible, it is to comply.

Perhaps the most difficult area is where the remittance of overseas income or gains is via a 'relevant person'. This includes a husband, wife, civil partner, someone the individual is living with as husband, wife or civil partner, a child under the age of 18 and even a grandchild under 18.

The examples given by HMRC include bringing into the UK an asset bought abroad with "your foreign income". A note at the end mentions that there are exceptions, without identifying them. These include clothing, footwear, jewellery and watches if they are for the personal use of a 'relevant person'.

Pensions

The lifetime pension allowance will be cut from £1.5m to £1.25m from 6 April 2014. Provided no further contributions (or for defined benefits schemes, a 'benefit accrual') are made from that date, individuals can elect to maintain the existing maximum.

VAT corner

e-switch

Exceptions to compulsory VAT return e-filing: taxpayers score a significant victory

The switch from paper returns to compulsory e-filing was completed last year and allows only a very limited number of businesses to escape the requirement. The main category exempted is "practising members of a religious society or order whose beliefs are incompatible with the use of electronic communication".

The meaning of this exception was explored in a recent case involving the owners of a beekeeping business who are members of the Seventh Day Adventist Church. The Tribunal found that the church does not entirely shun the use of computers and in that respect the taxpayers failed to prove their case. However, the Tribunal concluded that the requirement to use online filing breached their rights under the Human Rights Act, so the taxpayers scored a significant victory.

In some other cases, HMRC recognised that some taxpayers may not have access to or be unable to use a computer and suggested some alternatives:

1. Use the local library
2. Use computers owned by friends or family
3. Employ an agent to file on your behalf
4. Visit an HMRC enquiry centre

However, the Tribunal said these are not viable alternatives as 1 to 3 breach the Human Rights Act and number 4 will no longer be available following the closure of most of the enquiry centres.

So far there has been no reaction from HMRC. Other businesses wishing to revert to paper returns may find their application refused, so would need to appeal.

Storage facilities

VAT law changed in 2012 to make it compulsory, regardless of the option to tax position, to apply VAT to 'self storage' services. This description is somewhat misleading and was recognised by HMRC in a revised Information Sheet (10/2013), which says that VAT applies to the letting of any premises used for the storage of goods, i.e. it is not confined to recognised self storage providers.

For landlords not subject to an option to tax, it means that they need to know what their tenants use their buildings for. If it is storage of goods the landlord is obliged to account for VAT on the rent. It makes sense to have a mechanism requiring tenants to notify a landlord of any storage use. If the property is used for other purposes as well as storage, the VAT position will depend on the main use.

In the long run, landlords may find it simpler to make an option to tax rather than have the administrative burden of keeping track of what their buildings are being used for.

Pre-registration expenditure

When a business is being set up the question of VAT registration arises sooner or later, but few people give consideration to the optimum start date.

UK VAT law allows VAT to be recovered in respect of business expenditure incurred pre-registration, but there are limits. If the VAT relates to a supply of services the time limit is six months pre-registration, whereas the time limit for goods is four years (provided they are still on hand at time of registration).

Some recent cases show that the distinction between goods and services is not well understood. In one case the owner of the business incurred a lot of expenditure on fit out costs and assumed that the four-year time limit would apply, as much of the expenditure related to the installation of prefabricated units. Unfortunately the invoices showed that the prefabricated units were acquired on a 'supply and install' basis and so amounted to a supply of services. As a result, the much shorter six-month time limit applied.

In many cases it is possible to backdate the registration to enable more of the pre-registration VAT to be recovered, but this needs to be considered before the application is lodged.

Sweet smell of success

Ben Hammersley, finance director of Godrej UK, tells Shipshape about the company's recent success stories, plans for future growth, and taking on the big brands.

Godrej Consumer Products (UK) Ltd, known as Godrej UK, is a sales, marketing and distribution business, specialising in beauty and personal care products. It owns and distributes several well-known brands including Cuticura, Soft & Gentle, Bio-Oil, Riemann P20 and Pro:Voke Touch of Silver.

The company was founded as Keyline Brands in 1990 and was owner-managed until 2005 when it was acquired by the consumer products division of the Godrej Group, a large Indian conglomerate with listings on the Mumbai Stock Exchange. Keyline was Godrej's Consumer Products' first overseas acquisition, but they now own many companies around the world, particularly in developing markets.

Godrej UK's strategy is to distribute on behalf of strategic partners and to acquire brands which they see have strong growth potential. "We buy brands from companies who no longer want them," explains Ben Hammersley. "We have an excellent record of turning around unloved brands and making them popular again."

For example, the company recently bought the Soft & Gentle brand from Colgate-Palmolive at the end of last year. "As a smaller company we are able to concentrate our energy on reinvigorating the brand. It is working and should allow us to almost double our turnover from where we were in 2011/12."

Investing in people

Ben explains that the Godrej Group is "very hands-off" and allows the management team to run the business fairly autonomously. In the past two and a half years the number of staff has increased from 33 to 54. "Our approach is to invest in good people upfront to help drive further growth. We are clearly seeing returns from getting good people early enough."

Despite the challenging economy in recent times, the company has grown significantly. In the past two years the business has seen double-digit topline growth and even better profit growth, despite challenges in the consumer products industry.

"The customer has become even more savvy, they are buying ever more on promotion, and we are competing against the big boys like Unilever, P&G and Reckitt Benkiser. It's a huge performance for a company of our size to have achieved that kind of growth."

Ben puts the company's success down to a combination of excellent supplier and customer relationships, which allow them to "overplay their size", with "an innovative and entrepreneurial" approach to their thinking. For example, the company has engaged in original social media activities and developed unique new products by working with technology companies.

The company intends to continue its growth through further targeted acquisitions and continuing to grow its existing brands. "As we get bigger we will face various new challenges," says Ben. "Shipleys is helping us to look at how we integrate new brands and making sure we do maintain good processes as we grow."

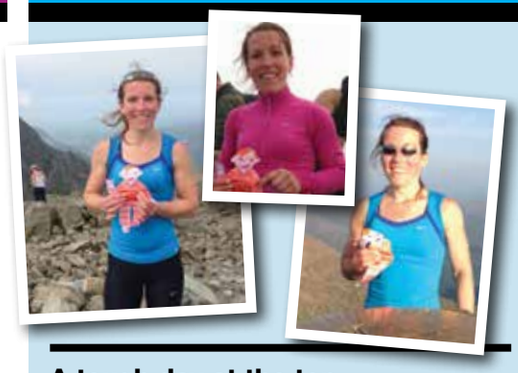
How has Shipleys helped?

"Shipleys has been our auditor for more than five years and has excelled at delivering to our very short reporting deadlines," says Ben, who explains that as Godrej is part of a listed company it has to follow quarterly reporting in addition to the usual annual audit. "There has been good staff continuity and they have always completed the Group reporting requirements within two weeks of a period end, which is very challenging for any company to achieve."

www.keyline-brands.com

Godrej | UK

"As we get bigger we will face various new challenges. Shipleys is helping us to look at how we integrate new brands and making sure we do maintain good processes as we grow."



A tough day at the top

During the summer, Cat Seddon, a business adviser in our Godalming office, successfully completed the Three Peaks Challenge. As part of a team of 27 she walked the three highest mountains in Scotland, England and Wales – Ben Nevis, Scafell Pike and Snowdon – all within 24 hours. Together they raised £34,000 for Breast Cancer Campaign.

"It was so hot as it was the beginning of the heat wave," says Cat. "It was probably the hardest thing I've done!"

shipleys LLP Alumni

Where are they now?

From chartered accountant to turf accountant

Photo courtesy of Betview magazine

Dominic Ford trained with Shipleys and qualified as a chartered accountant before leaving the firm in 1993. Dom has subsequently enjoyed a successful career in the leisure industry, including with Conran Restaurants as group financial controller. He went on to become group finance director of Gala Coral, before leaving to set up his own small chain of bookmakers, Roar Betting, in 2006. The company was Betview Independent Bookmaker of the Year for 2013.

Former audit senior joins Big Four

Mark Michel, who left Shipleys in September 2012 to join Baker Tilly, has now been appointed by Ernst & Young as an audit executive.

Get the facts on European tax

AGN International, the association of separate and independent accounting and consulting firms, of which Shipleys is a member, has published its annual surveys comparing the various tax rates and other useful data on individual countries across Europe. Available on the AGN website, the surveys cover parent companies, salary taxes, self-employment, corporate tax, social security, gift and inheritance tax and VAT.

This is a valuable resource for anyone wishing to compare the tax situation in different European countries or wanting detailed information on the relevant tax regimes.

www.agn-europe.org/tax/index.html

Updates from Shipleys

Shipleys has put together statutory residence flowcharts to help you determine whether you are a resident for income tax and capital gains tax purposes. Our recent updates for charities include a look at how they are expected to apply accounting rules, details of the new Charities Aid Foundation (CAF) bank and a reminder about gift aid and digital giving. There is also a financial services focus on the rules around capping bonuses and the Alternative Investment Fund Managers Directive now that it's in.

Visit our website to download the full articles and to find out more.

Exam success

Many congratulations to Leigh Wicken, Adrian Savery and Richard Lockington on passing their final exams to become qualified chartered accountants.

An executor's checklist

Key things to remember

When someone passes away there are many decisions and arrangements to make. Below is a reminder of the various actions to take.

1. The death certificate

A death needs to be registered within five days. Get at least ten copies of the death certificate to send to banks, building societies, stockbrokers, insurance companies etc. They will then be able to confirm the balance on the accounts and the value of any pension benefits and life policies at the date of death.

2. Check if there is a will

Find the will, which may involve writing to the deceased's solicitor or making a search of a will depository, for example the one run by the Probate Service. If there is no will then the intestacy rules will apply.

3. Paying the funeral costs

Funeral costs can be paid by a cheque drawn on the deceased's bank account if you go along in person with the invoice, death certificate, copy of the will and identification. The average cost of a funeral is £3,000 and includes funeral director fees and the local authority burial fees. This may all be covered if there was a pre-paid funeral plan.

4. Who to inform

The Government's new 'Tell Us Once' service, available through most councils, covers various government services on your behalf, including council tax, state pension and benefits, passport and driving licence. The Child Benefit Office must be informed within eight months of a parent or child dying. www.gov.uk/tell-us-once

5. Telling the taxman

HMRC needs to be notified at an early stage and the deceased's personal tax position at the date of death must be agreed. Any income and capital gains during the period of the administration of the estate must be reported and any tax due paid.

6. Apply for a grant of representation

This will allow you to deal with the deceased's assets and settle their liabilities. A grant of representation may not be necessary if the deceased held their home as a joint tenant or had a joint bank account, as the assets automatically pass to the surviving party. Consider a deed of variation to pass assets down to the next generation or to save IHT.

7. What to do with property and assets

Secure the assets, particularly any unoccupied property. Obtain two formal valuations by RICS qualified surveyors of the deceased's property, particularly where IHT applies. Prepare an inventory of other assets such as jewellery, vehicles, boats, antiques, works of art and collections, and obtain valuations.

8. Paying IHT

If IHT is payable then banks and stockbrokers will pay HMRC directly before the grant of probate is issued. The IHT liability will need to be agreed with HMRC and for certain assets, such as property, this can be payable over ten years. Obtain professional advice if the estate is complex or you are unsure of the rules.

9. Transferring funds

Open a bank account to transfer funds held by the deceased to avoid mixing them with your own funds.

10. Protecting yourself against liability

Pay the deceased's liabilities after placing a 'statutory notice in the press' and wait two months for any claims. This will protect you against being personally liable for any future claims.

11. Distributing the assets

Find the beneficiaries and distribute the assets in accordance with the will, preferably within one year of death.

12. Administration requirements

The beneficiaries will need to be provided with information to show how the estate's assets and liabilities have been accounted for. The executor initially has to pay income tax on the estate's untaxed income. When the net income is distributed, the beneficiary must also be provided with an income tax certificate in order to be able include the income during the period of administration on his or her personal tax return.

Money you might be entitled to:

Bereavement allowance – you can claim this if you are a widow, widower or surviving civil partner between 45 and state pension age.

One-off tax-free lump sum of £2,000 – if your husband, wife or civil partner dies and they paid NICs and were under state pension age.

Widowed parent's allowance – if you're widowed and below state pension age and have at least one dependent child.

For further information, please contact one of our offices:

London
10 Orange Street
Haymarket
London
WC2H 7DQ
T +44 (0)20 7312 0000
E advice@shipleys.com

Godalming
3 Godalming Business Centre
Woolsack Way
Godalming
Surrey GU7 1XW
T +44 (0)1483 423607
E godalming@shipleys.com

www.shipleys.com