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The times they are a-changin'

Whether it's the eventual impact of Brexit in whatever form it does, or doesn't, take or a general election with a possible change of government, the times are indeed changing. In the words of Bob Dylan, "keep your eyes wide, the chance won't come again" – and this may be your last opportunity to plan for certain eventualities.

Set against a backdrop of annual budgets and changes in the political environment, the tax landscape is forever in a state of flux. However, certain aspects of our tax system seem particularly vulnerable to change at the moment and this bulletin highlights several areas where it is possible to plan ahead with some careful thought. If you would like to discuss the contents of this bulletin, please get in touch with your usual contact at Meridian, or one of the contributors to this bulletin.

Protected settlements for non-UK domiciled individuals

by Jon Croxford, partner

The tax rules for non-UK domiciled individuals changed significantly in 2017 when new legislation brought them fully within the scope of UK tax once they have been UK resident for 15 years. As a quid pro quo, however, the concept of "protected settlements" was introduced.

The protected settlement rules mean that a non-UK domiciled individual can establish an offshore trust prior to being deemed domiciled (after 15 years of residence in the UK), and provided the trust is not subsequently tainted in some way, the trust can retain very significant tax advantages. At the same time, a little known tweak to the tax rules has made the income tax advantages of such trusts even greater.

As things stand, therefore, a protected settlement can allow the largely tax free roll up of investment gains and income with no requirement for the individual to be claiming the remittance basis of taxation or paying the remittance basis charge. Only UK source income and capital gains on UK situated real estate are subject to UK tax. In addition, with some careful planning, the assets of such trusts (other than UK residential property) can remain totally outside the scope of UK inheritance tax.

It is not hard to imagine that a change of government would see the end to this but, even if these rules survive for some period, bear in mind that protected trusts can only be established before the non-domiciled individual has been UK resident for 15 years. Where relevant, this is an opportunity which must not be overlooked.

Advance planning for emigration

by Natasha Smith, partner

More people talk about emigration for tax reasons than actually go ahead with it, and this is for good reason. The realities of the upheaval required and the necessity to emigrate to somewhere with a suitably attractive tax regime make it a very difficult decision. Nevertheless, it does seem that more people are seriously considering this option at the current time.

In 2013 a statutory residence test was introduced which, despite its complexity, did away with a lot of the uncertainty around what it took to become non-UK tax resident. It is, therefore, now possible to make emigration plans with a much clearer idea as to what is required but this planning is best done well in advance and not in the week or two before the departure date, as has been known to happen!

As mentioned, it is of course necessary to emigrate to a territory with an attractive tax system. This will be a very personal choice. The joys of island living, whether in the Channel Islands or further afield, are not for everyone. Apart from the well known low tax territories, there are opportunities to take advantage of tax systems in countries such as Italy which has recently introduced beneficial tax rules for immigrants which are very close to our own non-domicile rules.

It is worth bearing in mind that it may be necessary to be non-resident for more than five years if UK tax on capital gains and income derived from closely held companies is to be avoided. Even then, certain classes of UK source income, such as UK rental income, will remain fully within the scope of UK tax and it may be worth considering the use of an offshore holding vehicle to reduce the rate of tax.

Inheritance tax relief for business assets

by Vicki Bennett, partner

The radical reform to our inheritance tax system has been mooted for some time now, possibly with the introduction of a new annual wealth or property tax. Regardless as to the ultimate outcome, it seems quite likely that the coming years will see changes to the current relief for qualifying business property which can provide an effective exemption from inheritance tax. Given that shares in a private company can be a relatively illiquid asset, the prospect of a 40% charge to inheritance tax on their full value is not attractive.

In 2006 the tax regime for trusts was changed to limit what could be added to a lifetime trust free of inheritance tax. Up to that point, many families used trusts to hold large parts of their wealth and to pass this down the generations without undue tax charges and, often more importantly, largely protected from the financial and marital position of the beneficiaries.

Nowadays, it is much harder to transfer such significant amounts into trust, often limited to an amount equivalent to the inheritance tax nil rate band of £325,000 per person or £650,000 for a couple. However, shares in private trading companies or other assets qualifying for 100% business property relief, can still be transferred tax free into trust regardless as to their value. There are also potential opportunities to enhance a family's entitlement to entrepreneurs' relief.

This is a golden opportunity which may not be with us for much longer if Bob Dylan is proven right and the times are indeed a-changin'.

For further information, contact Jon Croxford on 01675 442430
email: jon.croxford@meridianpc.co.uk
www.meridianprivateclient.co.uk

Meridian Private Client LLP, Wood Rydings Court,
Packington Lane, Little Packington,
Warwickshire CV7 7HN