

e-news

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The Pre-Budget Report 2009 – What it Means for You

The Pre-Budget Report of 9 December did not contain any real surprises for individuals, but we wanted to point out 3 planning opportunities which might be relevant to you.

Inheritance tax

The Chancellor announced that the nil rate band for Inheritance Tax (IHT) will not change next year, and is to be frozen at £325,000. What this means is that the amount which passes free of IHT on death remains at £325,000 whereas the Treasury had previously advised it would increase to £350,000.

There has been a lot of discussion in political circles about IHT, and whether a Conservative government will commit to their promise of increasing the threshold to £1M.

Whilst we can't predict whether we will have a new government in the course of next year, or what they would do with the IHT rates, it is clear that the government need to raise more through taxes rather than less. It is more important than ever to look at your personal situation, and to take advice on whether there are ways you can minimise the IHT which might be due at your death. People are not always aware of the options which are available to them, and an advisor really can add value.

If you would like to discuss this in more detail, please contact your usual advisor, or Sue Hunter on 0131 247 1054, or at sue.hunter@morton-fraser.com

Furnished holiday lets

The rules relating to Furnished Holiday Lets ("FHLs") are due to change from 6 April 2010. Essentially, this means that current advantageous tax treatments available to owners of such properties will no longer be available.

Currently, the FHL rules allow landlords of furnished holiday properties, (so defined when certain conditions regarding letting requirements are met), some of the tax treatments which are available to traders. FHL landlords are treated as though their qualifying FHL business is a trade for the following purposes:

- Income loss relief;
- Capital allowances;
- Landlords Energy Saving Allowance (LESA);
- Certain Capital Gains reliefs ; and
- Relevant earnings when calculating the maximum relief due for an individual's pension contributions.

However, from 6 April 2010, FHL owners will no longer be eligible for the following Capital Gains Tax ("CGT") reliefs:-

- Entrepreneur's relief (which reduces the taxable gain on the sale of a business from 18% to an effective 10%);
- Roll-over relief (which allows gains arising on the sale of business assets to be deferred if the proceeds of sale are re-invested into other business assets);

- Specific hold-over relief for business assets (which allows the accrued gains arising on a lifetime gift of property to another individual to be deferred and assumed by the donee).

In addition, losses from FHLs will not be able to be set against other income (e.g. other trading or employment income); capital allowances will no longer be available (instead there will be wear and tear allowance at 10% of the rental income received in the tax year), and income from FHL will no longer be "relevant earnings" for pension purposes.

In view of the changes, individuals may wish to crystallise a capital gain on a FHL prior to 6 April 2010 in order to take advantage of the CGT reliefs which will be repealed after this date and our tax team would be happy to advise further in this regard. It may also be a good opportunity to consider other issues at the same time, such as Inheritance Tax planning and the potential to maintain tax reliefs by qualifying as a trade. In particular, it is relevant to note that Inheritance Tax relief (via Business Property relief) may still be available in some circumstances, subject to HM Revenue and Customs' approval. Such availability will depend on "the level and type of services provided to holiday makers."

For further information please contact Heidi Poon on 0131 247 3188, or at heidi.poon@morton-fraser.com

Pensions - Special Annual Allowance Charge

The Chancellor announced in the last budget that, from 6 April 2011, higher rate income tax relief for pension contributions would be removed for those with incomes in excess of £180,000. Relief would also be tapered for those with incomes between £150,000 and £180,000.

Additionally, 'anti-forestalling' measures were introduced for those with 'relevant' income of at least £150,000 in the current or previous two years. These measures restricted higher rate tax relief on pension contributions where the individual increases their pension contributions above the amount they were previously paying on a regular basis, and the total contributions exceed £20,000 in the tax year (or in some cases £30,000).

The new measure announced yesterday reduces the relevant income threshold at which the anti-forestalling rules apply from £150,000 to **£130,000** per annum.

Importantly, individuals who previously expected to fall outside the anti-forestalling rules, because their relevant income fell below, or was expected to fall below, the £150,000 threshold in all tax years 2007/08 to 2010/11 inclusive, will now potentially be caught if:

- their relevant income in one of those years is at least £130,000;
- additional pension savings are made over and above their current normal ongoing regular amounts; and
- the total pension savings made by them or on their behalf exceed £20,000 (or £30,000 in some cases).

These individuals should seek advice.

The widening of the anti-forestalling net takes effect from 9 December 2009. It will not apply to those with an existing pattern of normal ongoing regular pension savings (i.e. made at least quarterly), provided these continue to be made at least quarterly and the rate at which they are paid is not increased. These protected contributions will therefore continue to be eligible for higher rate relief.

Anyone now caught by the rules, having previously been unaffected, will not be charged in respect of any one-off lump sum payments or other non-protected pension savings made before today, however these will eat into their £20,000 (or £30,000) special annual allowance.

If you are affected by these changes or other aspects of yesterday's Pre-Budget Report please contact Chris Ness on 0131 247 1101, or at chris.ness@morton-fraser.com.