



We are a team of independent Specialist Tax Advisors who work with:

- Accountants
- Solicitors
- Businesses
- Individuals

Further details can be found on our website:

www.eavesandco.co.uk

Potential CGT Rise



Taking early professional advice can save money!

Following the election the new Government has indicated an intention to increase the rate of capital gains tax for non-business assets, although final details have yet to be given.

It may be worth considering the best course of action where significant gains are outstanding. Although no one really wants to accelerate a tax bill, we calculate that based on current average rates of return, it would take 25+ years to recoup the additional tax!

Double Tax Relief for Companies

The Courts have also looked at the rules on double tax relief and found in the taxpayers favour, in the Bayfine UK case dismissing a claim by HMRC that unilateral relief was unavailable.



Two recent cases on residence show the importance of taking specific advice.

Planning can be important to demonstrate that a taxpayer fulfils (or fails!) all the complex conditions on tax residence. In the case of *Tuberville v HMRC*, a

Residence Case Round Up

taxpayer began a contract with an employer in the US and was subsequently made redundant. He made various trips to the UK and Monaco following the termination. HMRC argued that he had not made a sufficient break from the UK to lose tax residence. However, the tribunal found that he had broken his ordinary pattern and the UK was therefore not his residence 'for settled purposes as part of the regular order of his life'.

On the other hand, in *Karim v HMRC* an individual born in Tanzania, who then lived in both the UK and Portugal was held to have remained "ordinarily resident" in the UK, despite taking up employment in Portugal, because of continuing family and business links. Both of these cases show that the result comes down to the specific facts of a case and not simply counting days.



Charity Run

Congratulations to Phil Eaves, Paul Eaves' son, who has recently completed his 100km; finishing in a respectable 13 hours and 4 minutes.

Phil has already raised over £1,000 for Queenscourt Hospice and it's still not too late to donate at:

www.justgiving.com/Phil-Eaves

Many thanks to all who have sponsored him.

Don't Submit Returns Early?!

A recent case (John Cameron v HMRC) found in favour of HMRC regarding an election to carry back gift relief which was made in an amended tax return. HMRC refused the claim saying that such a claim could only be made in the original return.

The tribunal agreed with HMRC's reading of the legislation and stated that the fact that the deadline for the original return had not passed was irrelevant. They stated that if he had waited until 29 January to submit the original return in a complete form he would have been able to claim relief.

Whilst an extreme example, the case does show the importance of ensuring that returns are complete and final before they are submitted.

Eaves and Co have written a response as part of the Government's consultative process regarding proposed legislation on "Deliberate Wrongdoing by Tax Agents". The legislation as it is currently proposed appears to make the provision of virtually any tax advice an act of "deliberate wrongdoing". An example, of the ridiculously wide scope of the draft legislation may be shown by the following pieces of advice which would be caught by the proposed legislation, which are acts of "deliberate wrongdoing", as defined?

- Eat take away chips – not homemade salad
- Save money – give up smoking – no more tobacco duty
- Cycle to work – you will save on petrol duty

Bizarrely, only the first of these pieces of advice is not a so called act of deliberate wrongdoing under the draft legislation! We have responded to HMRC, stating that the proposed rules should be withdrawn and rewritten from scratch.

Helicopter Benefit

Antique Buildings Ltd owned a helicopter which was provided for personal and business use to a director. HMRC argued that Class 1A NICs were due on the full costs with no allowance for the business usage.



The company were successful in their appeal as the amount chargeable to tax was under the benefits code and not a reimbursed expense. Prior to 6 April 2006 the all or nothing rules with regard to NICs did not apply to these payments.

The case highlights the importance of getting contracts of service correct to avoid problems and to take tax advice on specific points.



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