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THE PORK BARREL*

A Trotman Taxation periodical helping internationally mobile people stay informed about key U.S. and U.K. taxation matters.

* The term "pork barrel" seems originally to have appeared in the early 20th century as a measure of present and future prosperity ("*I hold a family to be in a desperate way, when the mother can see the bottom of the pork barrel*" as one mid-century author wrote). In contemporary political terms it has negative connotations – "pork barrel" legislation refers to the allocation of government money to projects in the legislator's own constituency. At Trotman Taxation Services we have no comment to make on the allocation of tax funds – however, we are committed to ensuring that each of our clients pays the minimum legal amount of tax and that the bottom of the pork barrel is far from the reach of the tax man.

Highlights

- Non-residents owning UK property to be subject to Capital Gains Tax form April 2015
- Main home final period CGT exemption reduced from 36 to 18 months
- Dual contracts under scrutiny (again)
- Fixed share salaried partners in LLPs may be treated as employees
- Partnership profit / loss reallocation where there is a corporate partner
- Pension annual lifetime allowances reduced
- Pension age increase
- Increase in Personal Allowance
- Married couples / civil partners tax break
- Tackling tax avoidance

UK TAXATION – THE AUTUMN STATEMENT

On 05 December 2013 Chancellor of the Exchequer, George Osborne, delivered his 4th Autumn Statement. Here we summarise some of the highlights of his speech.

Capital Gains Tax on sales of UK residential properties by non-residents

Currently UK taxpayers who are not-resident and not-ordinarily resident are not subject to Capital Gains Tax (CGT) on the disposal of UK property (subject to temporary non-residence rules). From April 2015, CGT will be imposed on future gains made by non-residents who sell residential property in the UK. For many non-residents the impact of this charge will depend upon the tax regime in their country of residence and the terms of any double tax treaty with the UK. It is unclear at this stage whether rebasing will apply (under rebasing only the portion of any gain from April 2015 onwards would be taxed). There will be a period of consultation before this comes into effect and one result of this may well be a withholding mechanism to ensure compliance.

Capital Gains Tax on Principal Private Residence – final period exemption

The final period exemption that allows for the exclusion of the gains relating to the last 36 months of ownership of a Principal Private Residence has been reduced to 18 months.

Dual Contracts and Non-domiciled taxpayers

For individuals with dual contract arrangements new provisions are being considered by HMRC to prescribe which of such arrangements are artificial. Dual contracts have been used by non-domiciliaries as a mechanism of avoiding tax on employment income relating to foreign duties. It seems that this issue continues to attract more HMRC scrutiny.

Partnerships and National Insurance Contributions

HMRC is currently consulting on whether fixed share salaried partners in Limited Liability Partnerships should actually be treated as employees for taxation purposes. They may be required to move onto payroll so that PAYE and NIC would be deducted from their income.

Changes to Partnership profits reallocation

The excess profits of a corporate partner are to be allocated to an individual where the profits are considered excessive and the individual partner has the power to enjoy the whole or part of the corporate partner's profit or there is the option to enjoy them at a later point. Furthermore, income tax and capital gains reliefs on losses will be denied to an individual partner if the main purpose of allocating the loss to the individual partner, instead of the corporate partner, is for the individual partner to gain the relief.

The aim is to tackle the practise of allocating excess profits to corporate partners, where they are subject to lower rates of taxes.

Annual and lifetime allowance on pension contributions reduced

From 06 April 2014, the annual allowance on pension savings will be reduced to £40,000 a year (from the current £50,000 a year) and the standard lifetime allowance will be reduced to £1.25 million (from £1.5 million).

Pension age increase

The pension age is to increase to 68 for people in their 40s and 69 for people in their 30s to keep in line with life expectancy. However, pensioners will be able to make voluntary National Insurance Contributions to improve pensions in later life.

Personal Allowance and Annual Exemption

The personal income tax allowance will increase to £10,000 from 06 April 2014. From 06 April 2015 it will continue to increase by the Consumer Price Index (CPI) measure of inflation. The annual exemption on capital gains will increase to £11,000 from 06 April 2014 and £11,110 from 06 April 2015.

Married couples/civil partners tax break

With effect from April 2015, a new tax break will enable married couples and civil partners to transfer up to £1,000 of their income tax personal allowance between themselves. This will be mostly beneficial for basic rate taxpayers whose spouses/civil partners have little or no income. This will not apply if either individual is a higher or additional rate taxpayer.

Tax Avoidance

Tightening the measures on tax avoidance, tax evasion, fraud and error was to be expected. The Chancellor recognized that the wealthiest taxpayers make the biggest contribution to the UK budget (with 30% of income tax being paid by 1% of taxpayers). However, those who avoid paying their fair share of tax are to be scrutinized and penalized. New powers are to be introduced to help clear the backlog of some 65,000 old avoidance cases. Equally the Government wants to crack down on "contrived contracts" whereby employment agencies attempt to disguise employed individuals as self-employed. Other measures were also announced including a change to the controlled foreign company rules.

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