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Schmidt *Tax* Report

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NEWS

Tax guide 12 times bigger than Bible

The Centre for Policy Studies has found that the word count of *Tolley's* Tax Handbooks has increased by roughly five million words since 2009, doubling its total word count to 10 million, more than 12 times as many words as the King James Bible.

Tax fraudsters jailed

Brian Brader, who fraudulently claimed £1,142,451.91 in VAT since setting up NKB Recycling in September 2010, has been jailed for four years. Osmaan Rashid, 46, from Bradford, who admitted to hiding and transporting the cash for a gang of money launderers in 2013 has also been jailed. Ozcan Donmez, 33, of Braunstone, Leicestershire, who hid his wages from working at his Superfry takeaway shop and failed to declare income on two rental properties to his accountant between 2007 and 2014, evading £137,322.50 in income tax, has been jailed for 28 months. Donmez must pay back the full amount of his crime within three months or face a further two and a half years in prison.

HMRC chases alcohol traders

HMRC has warned that it will be cracking down on alcohol traders who haven't joined the Alcohol Wholesale Registration Scheme by April 2016. HMRC claims that illegal traders are failing to pay £1.2bn in alcohol taxes every year. HMRC has already strengthened its crackdown on illicit cigarette and alcohol trading, with its investigations generating £1.63bn in extra tax during 2015.

Bank bonus scheme declared illegal

A bonus scheme used by Deutsche Bank and UBS to avoid £135m of tax has been deemed illegal in the Supreme Court. The two banks used the scheme to reward staff with bonuses in a way that took advantage of exemptions in the Employment-Related Securities (ERS) legislation. UK-domiciled employees would hold their shares in the scheme for two years and then would only have to pay 10% capital gains tax.

Stagecoach told to stand and deliver

A First-tier Tribunal has found that the Stagecoach group used an artificial scheme to make a loss in one of its biggest companies, in the hope of reducing its overall tax bill by £11m. The transport firm used the scheme while being advised by KPMG. The taxman has collected £485m in tax and interest from 16 other groups that have used similar schemes and has 11 more cases in hand. The schemes date back to 2010.

Sugar tax introduced

From April 2018, soft drinks companies will pay a levy on drinks with added sugar. The levy will apply to drinks with a total sugar content above 5 grams per 100 millilitres, with a higher rate for more than 8 grams per 100 millilitres.

HMRC targets SMEs

The amount of tax raised from inquiries into large businesses fell by 13%, from £4bn to £3.5bn, in the year-end 31st March 2014/15 and as a result it is believed that HMRC will now turn its attentions to SMEs. Accountancy firm UHY Hacker Young commented that "SMEs can be a soft target for HMRC" because budgetary constraints mean small businesses do not tend to have tax specialists in-house, making it harder for them to challenge tax bills presented to them by HMRC that they see as unfair or inaccurate.

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OECD slammed

The Mercatus Centre, part of George Mason University, has issued a report entitled *The OECD's Conquest of the United States: Understanding the Costs and Consequences of the BEPS Project and Tax Harmonization* in which the OECD is criticised because its Base Erosion and Profit Shifting (BEPS) initiative favours "consolidated, uniform, and transparent tax rules", but risks sacrificing compliance, diminishing taxpayer rights and weakening institutional diversity. The OECD's attempt at consolidating international tax rules is described as "costly and ultimately ineffective".

Multinationals explain their tax strategies

At a European Parliament hearing in March, executives from Google, Apple, McDonald's and Ikea explained their tax practices to MEPs. Cathy Kearney, for example, Apple's vice president for operations, who is based in Cork, vehemently defended the Silicon Valley firm's tax practices. "We've paid every cent of tax that's due in Ireland. We don't feel that there has been state aid involved, and we look forward to that outcome happening at the end of the day and being vindicated in that view." Adam Cohen, Google's head of economic affairs in Europe said: "We are absolutely in line with what other multinational companies are paying."

Editor's Notes

Budget 2016

"Beware the IDS of March," tweeted Jane Merrick of the *Independent* after the Secretary of State for Work and Pensions, Iain Duncan Smith, forced the Government to do a U-turn over Budget plans to reduce disability payments. The whole furore had the effect of diverting public and media attention away from the rest of the Budget, which was a shame because it contained some interesting provisions to anyone who, like John Maynard Keynes, believes that "the avoidance of taxes is the only intellectual pursuit that carries any reward".

In recent years, I have become reluctant to say too much about the Budget speech until the Finance Bill has passed into law, the Treasury and HMRC have issued their various statements and explanatory notes and the tax-planning profession has had time to assess, as it were, the damage. This year is no exception. To my mind, it will be months before the potential loopholes and benefits arising from yet more fiddling with the tax system become clear. Still, in the interim there are a few measures that are worthy of consideration.

Capital gains tax (good news)

The most exciting announcement made by the Chancellor relates to capital gains. In order to encourage individuals to invest in shares the current basic rate, 18%, and higher rate, 28%, will be reduced to 10% and 20% respectively. Unfortunately, gains made on buy-to-let or holiday property will be excluded.

Entrepreneurs' relief (good news)

Entrepreneurs' relief, the scheme that allows officers and employees of a company who own 5% or more of its equity to enjoy a reduced 10% tax rate on capital gains up to a lifetime limit of £10m, has been modified. Last year, the Chancellor sought to close a loophole whereby shareholders owning less than 5% of a company could pool their stake and – between them – claim the 10% rate. This disadvantaged some genuine joint venture partners whose position has now been rectified.

Investors' relief (good news)

The Chancellor has introduced something called investors' relief, which I think will prove very popular in the years ahead. Basically, it works like entrepreneurs' relief, only you don't have to be an employee or officer of the company to qualify. Where it applies, capital gains will be charged at 10%. To qualify the investor must have purchased a newly issued share having been acquired by the person making the disposal on subscription for new consideration, be in an unlisted trading company, been issued after 17th March 2016 and be held for at least three years from 6th April 2016. Again, the £10m lifetime limit applies.

Corporation tax (good news)

The Chancellor made further cuts to the corporation tax rate. It was supposed to fall to 19% from 2017 and 18% from 2020. Now, from 1st April 2020, it will fall to 17%.

Rent and trading income (good news)

If you earn less than £1,000 from rent or trading you no longer need to make a declaration or pay any tax on profits. While this is hardly generous it has been mooted that where one person is, for example, running a small online business by redirecting sales to family members and/or friends it will be possible to defer larger sums.

ISAs (good news if you can understand the rules)

A new 'lifetime ISA' it to be launched offering adults aged between 18 and 40 the opportunity to receive a 25% bonus if they save up to £4,000 a year. So, if a couple saves £8,000 they will receive a £2,000 bonus. Taxpayers can make contributions and benefit from the bonus until age 50. They will be able to buy a first home at any time from 12 months after opening the account, or withdraw funds tax-free from age 60 for use in retirement. The limit for property bought using lifetime ISA funds will be £450,000. The overall annual ISA subscription limit will be increased to £20,000 from 6th April 2017.

Non-monetary trading income (bad news)

Trading or property income received in non-monetary form is to be included when calculating income tax and/or corporation tax.

Property development (bad news)

Non-resident property investors will now find it very difficult to escape profits on UK gains. Basically, the rules on taxing profits derived from land in the UK will be subject to tax whether the taxpayer is UK resident or not and will not depend on the existence of a 'permanent establishment' here.

Company loans

If you borrow money from your company instead of taking remuneration or a dividend, the company will now suffer a substantial tax charge. Corporation tax will be payable at 25% for loans to participators, repayable when the loan is repaid. From 6th April 2016, the tax rate will rise to 32.5% to reflect the policy that this should mirror the dividend upper rate.

Employer National Insurance (bad news)

Termination payments of more than £30,000, which are subject to income tax, will also be subject to employer National Insurance contributions.

Employee share schemes (bad news)

There will be an individual lifetime limit of £100,000 (previously there was no limit) on gains eligible for capital gains tax (CGT) exemption through the employee shareholder status.

A sacrifice worth making

If you don't earn so much money that the idea of saving a few thousand pounds appeals to you, then consider the benefits offered by the salary sacrifice scheme. The idea behind the scheme is to encourage employees to put money into their pension or to support some other activity of which the Government approves, such as putting children into care so that a parent can return to work. The scheme itself is very simple. If an employee agrees to switch a portion of his or her salary from cash to an approved non-cash benefit then both employer and employee will enjoy tax savings.

What sort of non-cash benefits? Pensions, childcare vouchers and bicycles (for the cycle to work scheme) are the most popular options and result in both income tax and NI savings. Indeed, the *Financial Times* recently calculated that for someone on an annual salary of £60,000 non-cash benefits of £4,260 would result in tax savings of £1,260. For someone earning £180,000 a year, then, non-cash benefits of £13,230 would result in tax savings of £4,230. The fact is the scheme is of greatest value to the people who probably need it the least. Employees whose bonuses or pensions are linked to their salaries should approach the scheme with caution but for many others it could well be worth the effort.

Rent-a-room relief rises

As of 6th April this year the amount of income you can earn – tax free – from renting out a room in your house is rising from £4,250 to £7,500. I suspect that few people taking in a lodger to help pay their mortgage or rent ever give a moment's thought to declaring the income. Whereas, I suspect there may be a small, but significant, number of taxpayers who use the relief as a way of accounting for cash income. Anyhow, the fact remains that a £7,500 tax-free allowance is worth having. All the more so, as Bath Building Society now offers a Rent a Room Mortgage, which takes into account any income generated by a tenant.

£36,000 tax-free a year?

If you are disciplined and have a high degree of control over your finances it is now possible to earn a quite substantial sum tax free thanks to the combination of the £11,000 annual personal allowance, £1,000 annual trading income relief, £11,100 annual CGT allowance, £6,000 personal possession allowance (available on the sale of personal possessions) and £7,500 annual rent-a-room relief. That comes to £36,000. Earn the rest of your money from the sale of shares and enjoy the new CGT rates of 10 and 20%.

Fab result

In general, I think it would be fair to say that most tax cases end with rulings that favour HMRC. From time to time, however, the courts do decide in favour of the taxpayer and when it happens it is a cause for much celebration. Fab Cleaning Management Limited always completed its tax returns on time, paid its tax on time and generally behaved in a responsible way. Only it transpired that it had been using the wrong tax codes resulting in an underpayment of PAYE over three years. When the error came to light, HMRC demanded penalties and interest. The company appealed to the First Tribunal and won. The judgment could have wide-reaching effects as, in some respects, it places the responsibility on HMRC for ensuring that the correct amount of PAYE is paid.

When the taxman comes to call

Since 2009, HMRC has been allowed to make unannounced inspections of business premises providing the inspection is approved by a tribunal or is conducted by an 'authorised officer'. An inspection can only occur if it is reasonably required to check a person's tax position and can only include the premises, business assets on the premises and business documents also on the premises.

When the new rules were introduced, assurances were made that there would be no abuse. However, I have heard more and more stories of unannounced visits where HMRC takes advantage of shock tactics to scare a business owner into cooperating. It is a very intimidating experience to have, say, five HMRC officers suddenly turn up at your business demanding to see everything and talk to everyone.

I would, therefore, recommend ensuring that all your staff are aware of the following:

- HMRC is not allowed to inspect records over six years old, legally privileged material and tax papers

on continuing appeals.
• HMRC is not allowed to conduct a search, only to make an inspection.
• HMRC is not allowed to interview the person subject to the notice or their staff.

The first thing HMRC inspectors must do when they arrive is hand over a copy of the notice permitting the unannounced visit together with a copy of the HMRC factsheet: *Compliance Checks: Unannounced visits for inspections – CC/FS4.* Time must be allowed to read it.
It must be pointed out that you are within your rights to refuse the visit if:

• it is a particularly bad time (business is very busy or out of hours);
• appropriate information is not available (perhaps because it is kept elsewhere);
• it is in some other way unreasonable.

Inspectors cannot make you comply with the visit unless they have a search warrant. If you were in any doubt regarding a visit, you would be well advised to say that it is unreasonable and then take professional advice. You could also, perfectly reasonably, ask HMRC to wait while you seek advice from your professional adviser.

Do not allow HMRC to intimidate you into making a decision you may subsequently regret. You don't want to obstruct Revenue inspectors, but do not assume that giving them what they want will make them go away. Generally, the opposite is true!

You don't have to leave a tip

Different members of our editorial team hold different views regarding the desirability of Brexit. We also hold differing views regarding what will happen to the economy if Britain pulls out of Europe. However, there is a scenario that appeals to everyone regardless of their attitude to Brexit. In it, Britain leaves the EC and transforms itself into a lower-tax jurisdiction where enterprise thrives and to which business from all over the world is attracted. In such a scenario, the politicians and media stop their endless and unfair criticism of businesses and individuals who so arrange their affairs as to legally pay the least possible amount of tax. A scenario that puts me in mind of a 1960s Morgan Stanley advertisement, which was headlined: "You must pay taxes. But there's no law that says you have to leave a tip."

Loss Mining

Facing a possible large capital gains tax (CGT) bill? Have you considered mining for possible available losses to offset against the gain, and reduce the CGT?

Let's put the basic CGT rules in context. The tax is charged when you sell one of a range of chargeable assets, of which the most frequent classes found in practice are shares in companies, properties (other than one's own home, which is exempt), business assets, like goodwill, and other intangibles and a range of other permanent investment type assets and intangible rights. Some assets are specifically exempt from CGT, and the most frequently found examples of exempt assets are cars and government stock.

Correspondingly, where you make a loss on selling any of the chargeable assets listed above, that loss is broadly speaking available for offset against the gains. In the sphere of CGT, which is where it differs from income tax, there is only a current year offset and a carry-forward relief, though. Capital losses can never be carried back from a later tax year and offset against capital gains in an earlier tax year.

Negligible value claims

One way in which a capital loss can be established is if you can put in a claim that an asset has become a 'negligible value'. Without this rule, you would need actually to dispose of an investment etc. at a loss in order for the amounts of relief to be triggered for CGT loss purposes. But some assets never actually get formally disposed of. For example, you may have some shares in a company that has ceased trading, lamented by all and is worthless. You can't claim to have disposed of the shares, because you still own them. However, there's no doubt you have a loss there, and the 'negligible value' rules enable you to claim it. There's been a certain amount of dispute about what the word 'negligible' means, with some people under the impression that it means that an asset has become worth less than 5% of what it cost. Actually, the word out on the judicial street is that the meaning is much stronger than that. The asset needs to be worth 'next to nothing' for a negligible value claim to be available.

Of course, it's all very well using a glib phrase like 'next to nothing'. But what does this actually mean? As far as we can see from looking at the decided cases, the phrase is very nearly synonymous with 'nothing'. Certainly if there is any chance of getting hard cash for the asset, it looks as though you'll have problems passing this very stringent test.

Claiming the loss

What's the time limit for claiming CGT losses?

If a loss arose any time after the introduction of CGT but before 6th April 1996, there's actually no time limit at all for making the claim. And here's where some serious 'loss mining' may be possible, with a review of your whole financial history perhaps throwing up cases of unsuccessful investments very many years ago, whose significance you hadn't previously realised. Having lost the money, and, as you felt, learnt your lesson, you were keen to put this episode behind you. But dredging up the dead past, in this particular context, could be highly advantageous.

One difficulty which taxpayers often face, of course, when loss mining, is establishing sufficient evidence, or even recovering the basic information to calculate the amount of the loss, after a significant lapse of time. If the worst comes to the absolute worst, no doubt you should estimate the loss to the best of your ability and memory; but this is a difficult call when it comes to persuading a potentially sceptical Inspector of Taxes.

For this reason, even if you can't see the immediate significance of a lost investment, because you have no immediately imminent capital gains that you expect, it's a very good idea to establish the evidence, perhaps making up a 'pack' of back-up documentation, and calculating the loss sooner rather than later. Having calculated it, there's no harm in actually claiming it for carry forward on your next tax return, even though you've no gain to offset it against yet. The longer ago the loss event is, the more difficult it becomes to establish the loss effectively.

Post self-assessment losses

With losses arising after 5th April 1996, there is a time limit, and this is now four years from the year in which the loss arose. So, as you read this, it will now be too late to claim any losses that have not previously been claimed in any of the tax years 1996/97 to 2011/12 inclusive. Remember, though, that you have options, and flexibility, when it comes to the timing of a negligible value claim. If an asset, say, became of negligible value in the tax year 1996/97, but you'd never done anything about claiming it, all would not necessarily be lost. If you still had the asset now, or at least you still had it no more than two tax years ago, you could claim the negligible value event in the later year rather than the earlier year, because this later year would still be in time.

We've made the point that capital loss relief is fairly restricted, being only claimable against current and future capital gains. Income losses can be much more flexible in the available relief, subject to caps and restrictions. For example, an income loss can be carried back at least one year. Are there any situations where we can actually turn a capital loss into an income loss?

Capital into income

We can think of two. First, if you have held a property for investment, but it has lost value, it may be possible to justify a claim that you have appropriated it to the trading stock of a development trade. If you do this, the loss, by way of a special claim, can be turned into an income loss, forming part of the overall losses of the property development trade. As we've commented elsewhere, the question of whether you are actually investing in property (and therefore within the CGT code) or trading in property (and therefore within the income tax code) can be quite a vexed one. However, if the reality of the situation is that you have changed from being an investor, as far as that particular property is concerned, to being a developer, bringing the loss within the more liberal income tax regime is the correct thing to do.

Share loss relief

The other way of turning a capital loss into an income loss is to use a special relief provided for subscriptions of shares in unquoted trading companies. If you have lost money on such shares, and the company has carried on a qualifying trade during its existence, the loss can be offset against your other income – and not just gains – and can be carried back one year or offset in the current year. Note the detailed requirements, though:

- You must have 'subscribed' for the shares. So if you make a loss on the shares you have acquired from someone else, unfortunately this doesn't count.
- The company must be unquoted.
- The company must have carried on a trade, and moreover this must have been a 'qualifying' trade.

The list of qualifying trades is the same as for Enterprise Investment Scheme (EIS) relief. One way of shortcutting the complete list of such trades is to summarise the rules by saying that trades generally qualify unless they are related strongly to the holding of land (e.g. farming, nursing home, hotel etc. businesses) or are one of the three so-called fiscal lepers: dealing in shares, land or commodities.

These shares may in fact have qualified for income tax relief under EIS when you acquired them. This will be the case if you and your associates have less than 30% of the company between you, and have actually entered a claim for the relief. Your loss, in this instance, is reduced by the amount of income tax you had back at the start as a result of the EIS relief applying to the share subscription.

To sum up, loss relief can arise in unexpected places and at unexpected times. The thing is to be aware of these things and not just write them off to experience. Instead, try using them to your fiscal advantage.

Inheritance Tax: 'Smuggling' The Family Wealth

The idea of smuggling nowadays has two possible connotations: the romantic picture of 18th-century freebooters sneaking in brandy for the parson and lace for the lady under cover of darkness, and opposed ineffectually by the generally hated excise officers of the day, and the much less romantic, and unsavoury, modern trade in goods and even people in white vans and other sorts of conveyance. But the type of smuggling we're talking about here doesn't have

any criminal connotations, and doesn't comprise tax evasion; instead, it's something which the whole plan of inheritance tax (IHT) makes a simple and logical tax-saving strategy. Let's look at a few straightforward examples of this, in the form of case studies.

Case Study 1: Intelligent will writing

Mrs Micawber realises she is nearing her end, and longs to rejoin her beloved Mr Micawber, who died many years ago. They had their wills drawn up in the absolutely 'standard' format which married couples tend to adopt: on first death of the couple, the entire estate goes to the surviving spouse. In the event of the other spouse having pre-deceased the person drawing up the will, the estate is shared out amongst the children equally.

When the will was drawn up, however, those children were still young and dependent on their parents. Now they're grown up, have made their respective fortunes, and have children or even grandchildren of their own.

From the IHT-planning point of view, it makes very little sense for generation two, so to call it, to be enriched by a bequest from Mrs Micawber. So, acting on advice, she changes her will so that her grandchildren receive the legacy equally. That is, it skips generation two and passes down to generation three.

This is obviously sensible planning, because IHT tends to bite once in every generation; but arranging for one generation to be missed out completely saves one opportunity for the Revenue to take a 40% bite out of the family's inherited wealth.

Case Study 2: Shutting the stable door

Unlike Mrs Micawber, old Mr Dombey didn't think to review the terms of his will, and unfortunately the family have now had to put on their blacks for him. Returning from the funeral to the traditional Reading of the Will, they find, not unexpectedly, that the deceased has left his whole estate to his son. It wouldn't be so bad, but Mr Dombey Junior is actually himself already very ill, and realistically one fears for his survival.

Plus, as in the case of Micawber, he really has no need for the wealth that his father has bequeathed him. He's done quite nicely himself, thank you very much.

So the upshot, in IHT terms, is that this bequest is likely to be hammered twice by a 40% levy: first on Mr Dombey Senior's death and, second, after what may be only a few years, on Mr Dombey Junior's death.

Since Mr Dombey Senior died without revising his will, it's now too late to do anything about it. Or is it? In fact, what Mr Dombey Junior can do, within the two-year period following his father's death, is execute a deed of variation of the will. This deed of variation is duly executed, and the wealth passes down from generation one to generation three in the same way as Mrs Micawber's did.

Under the special IHT rules for deeds of variation, the parties concerned put in a claim that it should be treated as if the bequest to generation three had been made by the deceased himself, rather than by Mr Dombey Junior. Hence, again, we've had the opportunity of skipping a generation and removing one charge to IHT.

Case Study 3: Perfect trust

Mrs Fritillary is nervous and very anxious about what she should be saying in her will. Like Mrs Micawber, she is a widow whose old will (still in force) provides that her estate, which includes what she has inherited from her late husband, is to be shared equally between her three children.

Her dilemma is that, while she sees the merit of skipping a generation, by leaving her estate over the heads of her children, so to speak, to her grandchildren, the grandchildren are very young and at least one of them has the appearance of turning out badly. So, no matter what IHT planning suggests, she's very reluctant to change her will.

The answer for her is to introduce a trust for the grandchildren instead of an absolute bequest to them. In this way, those who are too young or unsuitable for any other reason to receive large legacies can be benefited at the discretion of some carefully chosen trustees.

Her solicitor, when discussing this idea with her, points out that the trust need not be narrowly restrictive in benefiting generation three only. Again subject to the trustees' discretion, generations four, and even five and beyond, can be included as potential beneficiaries. It can be left to the trustees, at the time, to decide who gets what, but the only stipulation Mrs Fritillary does make is that her estate should go equally down the lines of her three children: this is known as the per *stirpes* rule.

The big benefit of this trust arrangement is that, whilst the amount of IHT on her death is exactly the same (because bequests to trusts are taxable at the same rate as bequests to children) the wealth itself does not go to swell the taxable estates of the children or even the grandchildren etc.

In order to avoid this being much too good to be true, though, the legislation has introduced a tax charge that applies to trusts, known as the '10-year charge'. This is because trusts themselves do not die but can carry on for a very long time – well over a century under current rules.

So, instead of the wealth being charged to tax at 40% on the death of every generation, the trust pays tax at a rate broadly equivalent to 6% every 10 years.

The idea of this 6% rate is that it is equal to a 20% charge every 33 years, which is the traditional idea of how long

a generation is. Twenty per cent was the rate of tax on lifetime gifts when the predecessor of IHT, which was called 'capital transfer tax', was first introduced in 1974.

So, arguably, the 10-year charge, although a burden, is more advantageous than having the wealth held in the direct names of individuals. If those individuals keep the wealth until they die, then you would, all other things being equal, be looking at 40% tax every 33 years, instead of the 20% tax every 33 years, which is the general effect of holding the wealth in trust.

Of course, things aren't quite as straightforward as that, because there is the possibility of individuals giving away their wealth seven years or more prior to their death, with a resultant 0% IHT charge on the passing of their particular generation. However, suffice it to say that the 10-year charge is not the unmitigated disaster, arguably, that a number of people feel it is. And remember that it doesn't apply to business property or agricultural property, which pass the tests for 100% relief: nor does it apply to the first generally £325,000 of the value in the trust, in most circumstances and using current rates.

Making The Best Of The New SDLT Rules

Most people who have any interest in owning property in the UK are aware that the Chancellor is bashing property investors round the head at the moment in an effort to cool the market. Having, with his immediate predecessors, basically ruined pensions as a way of providing for one's retirement; and having seen, in consequence, a massive growth of the buy-to-let sector, he has now decided that buy-to-let investors are evil and to be discouraged. Perhaps if there hadn't been all of those repeated raids on pension schemes, starting with Gordon Brown's celebrated abolition of tax credits in 1997 and followed by all kinds of subsequent caps and restrictive rules, we wouldn't be in the situation where buy-to-let investors are purportedly now making it hard for first-time buyers to get on the property ladder. But the response of the Government to this arguably Government-created problem isn't to stop meddling but, predictably, to meddle even more.

In the Autumn Statement on 25th November 2015, the shock announcement came out that buy-to-let investors were going to be hammered with an additional 3% stamp duty over and above what other purchasers of property have to pay. Just as a reminder, the 'normal' rates of stamp duty land tax (SDLT) for buying residential property are:

£0 to £125,000	0%
£125,000 to £250,000	2%
£250,000 to £925,000	5%
£925,000 to £1.5 million	10%
Above £1.5 million	12%

So, for purchasers of so-called additional residential properties, these rates go up to 3, 5, 8, 13 and 15% respectively. Given that a lot of us are old enough to remember when stamp duty on property was just 1%, the idea of paying 15% of a property's purchase price, particularly in London where £1.5 million doesn't actually buy you very much these days, is a truly revolutionary change in the direction of much greater taxation.

And the additional rate SDLT is extremely wide ranging in its impact. Anyone who buys a property that is not their main residence but a 'dwelling' will be hit with the surcharge. There are one or two chinks of light, and reliefs, which we will come on to; but the anticipated relief for property developers and companies owning more than 15 properties has been dropped in the event. So all companies, now, are subject to the additional charge – even if the property which the company is buying is going to be its shareholder's main residence.

If there are two or more joint purchasers of a residential property, the higher rate will apply to the whole purchase if even one of them has another property.

All this is on top of the previous 'enveloped dwellings' legislation, which imposes a 15% SDLT charge on any purchase by a company where the property isn't going to be used for a letting or development business by that company but is going to be used, perhaps, as a residence of one of the shareholders.

So a naive observer may be led to the conclusion that, contrary to the presumed intention of this change, it is actually highly inflationary. You know what property owners are like: if they have to pay 3% extra on buying a property, they're jolly well going to charge 3% extra when they sell. They are also going to put rents up for tenants.

So we desperately need some of these chinks of light we mentioned above. There aren't many, but for what it is worth, here they are:

1. The 3% rate doesn't apply to properties that cost less than £40,000.

2. If you buy a new property to be your main residence, but you haven't yet sold your previous home, the additional rate will bite in the first instance. However, if you sell your old residence within 36 months, you can claim back the extra SDLT. No doubt HMRC, in its usual fashion, will leap forward with its chequebook open, keen to let you have the money back with the minimum of delay!

3. If you are buying six or more properties in one go, the old relief that enables you to elect for these to be

treated as commercial (and therefore not subject to the new higher SDLT rates) will still apply. So this obviously favours the idea of thinking big where residential buy-to-let investment is concerned.

4. You don't pay the higher SDLT rates if the property you are acquiring is the only one you will own – even if it isn't, and is not going to become, your main residence. So consider this situation where you have a family of five: mother, father and three children (who need not necessarily, it would seem, be adult children). If father buys five buy-to-let properties, he will obviously be paying the higher rate of SDLT. If, however, each family member buys their own, the higher rate does not seem to apply. Of course, this has to come with the health warning that we are talking about rules which are not yet on the statute book: only in the form of proposed law in the Finance Bill 2016. However, as things currently stand, it does seem that the 'properties for kids' way of approaching building up a buy-to-let property portfolio may just pay dividends in reduced SDLT.

The Business Column

Building on shifting sands

The metaphor of building, when you apply it to planning and setting up a business, may actually be inappropriate. One isn't so much building on the shifting sounds of ever-changing legislation – particularly tax legislation – as trying to hit a moving target. Every Budget, it seems, major changes come through which have the potential to alter fundamentally the choice of business structure. So this month I thought I'd consider where we were with regard to choosing a structure which suits your particular business in the wake of a bewildering series of Budget changes. Hold on tight!

If you ignore the 'minority interest' business structures, like trusts and self-invested personal pensions (SIPPs), you're really looking at a choice between two, or perhaps three, alternative structures.

First, there's the sole trader, partnership or limited-liability partnership (LLP), which definitely form a group as far as tax planning is concerned.

Over against this, there is the limited company structure, where you basically make up an imaginary 'person' distinct from the people who own and are driving the business, and treat it as if it were a real person.

Finally, there is what you might call a hybrid of the partnership/LLP and company structures: a partnership or LLP in which a limited company is one of the members. This third option is one which, if you have been reading *The Schmidt Tax Report* for a number of years, you will know we have very much favoured in the past, bringing, as it does, many of the advantages of both structures without the disadvantages. All that's changed now. But to what extent? I will look to answer that question in what follows.

1. The 'simple' structure

For want of a better description, I am describing sole traderships, unincorporated partnerships and LLPs as 'simple' structures. This is because the individuals who comprise the sole trader, the partners or the LLP members are taxable directly on the profits of the trade. It makes no difference whether the money is retained within the business or paid out: tax is payable as the profits accrue in the accounts. As we'll see, this is fundamentally different from the limited company structure.

For a start, sole traders, partners and LLP members pay income tax (assuming they are UK resident and it is a UK trade) at their marginal income tax rates, which could be as high as 45%, and this is regardless, as I say, of whether they take the money out of the partnership or not. So, as far as that goes, this is definitely a minus point – a black mark against the simple structure.

I should make the point that I am talking here about trading businesses, not investment portfolios, and another consequence of setting up your business in the simple format is that your share of the trading profits is also subject to National Insurance (NI). This is currently at a rate of 9% up to about £40,000 income per person per year, and 2% above that. Again, this is a minus point, as limited companies don't pay NI.

On the other hand, the regime for running cars on the business is likely to be much more favourable in a partnership, LLP etc. This is because, unlike the company situation, you only effectively pay tax on the actual (estimated) private use of the cars, not on the business use.

Another benefit of the non-limited-company arrangement is that you can bring in key individuals as partners, and save paying 13.8% employer's NI on their earnings. This is an area where there have been recent changes, which apply to LLPs but not partnerships. The changes are that, to be treated as self-employed and therefore outside the employer's NI regime, an LLP member needs to pass any one of three tests:

- He must have a set amount of capital invested in the business; or
- He must exert a significant influence over the way the LLP is run; or
- He must have a variable element of income which is at least 20% of his total expected income.

So this is likely to be only for senior, important people within the business: not the cleaner or the tea lady. Having said that, lots of businesses these days are very much 'top end loaded', that

is there is little administrative/junior presence on the staff payroll, but the profits of the business are generated by a team of highly paid individuals who work on their own initiative. An LLP with these individuals as members instead of employees could well be the optimum structure.

2. The limited-company structure

Proponents of limited companies will obviously make quite a lot of the fact that a company doesn't pay the 9% (dropping to 2% over a certain threshold) NI charge on its profits. However, a recent change has made this less of an advantage, because, for those who are going to take the profits out of the limited company as personal income, there is a choice between remuneration (which actually has much higher rates of NI) and dividends. And here is where the sting in the tail is. A new 'dividend tax' has been unveiled which basically adds another 7.5% tax to the income tax that is paid by shareholders on receiving dividends. So the advantage of companies from this point of view is so much the less. You may save 9% NI, for example, by passing your income through a limited company and then paying it out to yourself as a dividend: but you have to pay 7.5% of the net equivalent of this back to the taxman after all, as dividend tax. (This is subject only to a £5,000 per person overall exemption for dividend income each year.)

When your income gets into the higher reaches, above £40,000, the dividend tax is actually a disadvantage: because 7.5% on the dividends is obviously much worse than 2% NI on the self-employed income. So a limited company's benefit evaporates here for those who extract all of the income from the business each year to live on.

In some cases, though, the owners of the business don't strip it bare of its profits each year: either because they can't (because the business needs working capital) or because they don't need to. So you have the phenomenon of 'warehousing' profits within a company.

The benefit of this, of course, is that companies only pay tax at 20%, and this rate is now set to come down to 17% over a period of years. All the time the money stays in the company, the higher rates of personal tax aren't due.

One of the bewildering range of changes announced very recently is the proposed rules against 'phoenix' arrangements, and against 'money boxing' (which is perilously close to the concept of 'warehousing'). These new changes aren't yet in place as I write; however, they don't actually permanently prevent you from rolling up profits within a company: they just mean you have to watch your step and avoid using this device in too artificial or manipulative a fashion. A company that just builds up reserves over a long period and then is ultimately sold or wound up will probably not be caught by these unpleasant new rules.

Also in favour of the company arrangement is the possibility of being able to extract money from the company in forms other than as income. For example, if you have an asset outside a company, and can transfer it into the company without undue capital gains tax implications, this creates the ability to draw down the value without incurring income tax.

When considering whether to use a company, also, don't forget the range of tax reliefs that are only available to companies. These include R & D relief, under which you can claim up to 225% of your R & D expenditure against tax; intangible assets relief, under which you can claim the write-off of intangible assets you have acquired (but not goodwill since a recent change blocked this); and relief for losses on 'loan relationships'. So if your business does a lot of R & D, or is about to acquire an intangible asset like software or asset trademarks, patents etc. (but not goodwill) your hand could effectively be forced in making your choice of business structure: in favour of setting up as a limited company.

I have mentioned the company-car rules above in the context of the simple structure, and made the point that usually the rules are very unfavourable to running your business as a company, because of the fact that you are taxed on your private use of a company car, which is regardless of how little you actually use it on private journeys, and how much you might use it for business. Sometimes, though, this works the other way round and the company-car rules can actually be advantageous: the best example is where there is a car which is environmentally friendly, and therefore has a low company car tax scale rate, and is used (counterintuitively) largely or wholly for private motoring. The tax charges are the same whether you use your car 100% privately or only 1%.

3. The company-in-partnership structure

And now we come to the joker in the pack: a hybrid of the simple and company structures, made up of a partnership or LLP in which a company is one of the partners/members. This is a structure which has received a lot of attention from HMRC recently (obviously not good news for the tax planner), and some people, reading this, may be wondering whether I can possibly still be plugging these structures as sensible, or even possible arrangements. But it's as well not to overreact, instead considering dispassionately where we are with the company in partnership structure following all the recent changes.

Certainly before this current Government took over the helm, there was a lot going for the hybrid structure and very little to say against it, except for its complexity. It had the ability to give you the best of both worlds, in that the flexibility and self-employment status of a partnership could be

combined with the low corporation tax rates which, frankly, are the main advantage of the company structure for most businesses.

But this structure has, as I've said, received a bit of a pummelling from our friends at Somerset House recently, with two particular body blows aimed, apparently, at rubbing out the structure completely:

- The 2014 rules, which made it more difficult to attribute profits to a limited company partner in the year end split; and
- A truly vicious rule, introduced in March 2015, to the effect that a company's membership of an LLP would in all circumstances be treated as an investment activity rather than a trading activity – thus ruling out entrepreneurs' relief on any sale or winding-up of the company unless it had very substantial trading activities outside the sphere of its LLP membership.

Following a certain amount of gentlemanly furore raised by the tax profession, but still surprisingly, the second of these body blows has actually been more or less completely withdrawn, in the March 2016 Budget. Somebody within the Revenue office obviously thinks that the Revenue went too far in March 2015, and I can't disagree with them, if so.

This still leaves us with the restrictions on profit allocation, of course, which are a major problem following the 2014 changes. In order to allocate any of your partnership profit to the company partner, you now have to justify such allocation commercially, by reference either to the physical activities performed by the company (excluding those of the partners themselves in the capacity of directors of the company) or by reference to the capital that the company has invested in the partnership. Still, this doesn't actually rule out the company-in-partnership structure in many cases – because it will be possible, in fact, to justify such a profit share. What's more, the new rules don't prevent the company raising an invoiced charge to the partnership/LLP – even a charge for the services of the main director, who is also a partner.

Of course, many real-life situations will be borderline or positively unfavourable to the hybrid structure. For example, in some cases, the individual partners will still end up paying a lot of higher-rate income tax, because of the restricted ability to allocate profits to the company partner. But sometimes even paying a bit of higher-rate tax is better than submitting to the shackles of employer's NI and the punitive company car taxation in a company.

Where to from here?

Obviously, in any kind of general consideration of the pros and cons, like this one, I can't end up by making any firm recommendations, because it's going to depend on the circumstances of each business. It's likely to be very much a balancing act between the various pros and cons which I've listed above.

Both the simple and the company structures bring with them the ability to spread income between members of the family (by making other family members shareholders or partners as the case may be), and both are subject to the potential of an attack from HMRC under *IR35* – where a personal service company or partnership is interposed into what is fundamentally an employment relationship between an individual and the user of that individual's services. So neither of these is a factor deciding between the two.

The most likely difference, in practice, which will be the deciding factor in making the decision, is the question of whether it is possible to retain profits in the company or whether, on the other hand, the individuals need to draw all of those profits out year on year as they accrue. It's then just a case of looking at what sort of level of profits you are talking about, to decide whether you would prefer to pay NI on the self-employed profit share or the 7.5% 'dividend tax'.

It may not be an easy decision, but hopefully the above summary of where we are now with regard to the legislative changes will be a useful guide in making the decision.

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You And The Revenue

Pleased to meet you?

Whatever your views on the merits or otherwise of business networking, the taxman seems to be all for it, at least when he's got his hooks into you during an investigation. Almost invariably, at least at one stage of a Revenue inquiry into a person's tax affairs, and usually right at the beginning, the taxman will request a meeting with the taxpayer.

Is this just because he's a nice, sociable guy and wants to get to know his customers better so he can serve them to the best of his ability? Well, not quite.

If our own experience is anything to go by, what he's most likely to want to do is:

• Browbeat you about how serious the situation is (which you probably don't need to be told anyway).
• Read you a lecture about all the onerous obligations the law puts on you in return for your temerity in daring to be in business or own assets.
• Fish for information that you or your accountant are unlikely to give away in the more guarded sphere of correspondence.
• Generally, cow you into submission.

Attentive readers may have missed an important omission from the above list: this is the omission of anything which is actually in the slightest bit useful or advantageous to you as the taxpayer, as opposed to helping HMRC.

Even for the thicker-skinned amongst us (probably less common than is generally made out) this is likely to be an ordeal, and an unpleasant experience. So, in view of the fact that it doesn't actually seem to do you any good, why should you attend the meeting with HMRC?

The Revenue has, of course, anticipated this reluctance, and, without actually admitting the truth – which is that it has no legal right to require you to attend the meeting – inspectors like to imply, repeatedly and at length, that penalties will be greater if you don't cooperate, and that, by implication, failing to attend the meeting is failure of cooperation. There seems, incidentally, to be a very unpleasant custom HMRC has recently adopted of browbeating the taxpayer who is unlucky enough to be investigated in the very first letter. Repeated references to the penalties that will be charged are made at the same time as an admission, in the letter, that the Revenue hasn't yet found out anything that is definitely wrong with the tax return!

But let's have a look at the penalty regime, and see how much it is actually justified for the taxman to use this as a stick to beat you in the interview room. The table gives the percentage penalties you are likely to be in for in various circumstances, and the percentages are based on the amount of tax the inquiry uncovers. So if, for example, you are guilty of a deliberate and concealed irregularity, but you think better of this later on and tell the Revenue about it without prompting, you are likely to get away with a penalty of 30% or not much more:

	Careless (%)	Deliberate but not concealed (%)	Deliberate but not concealed (£)
Maximum	30	70	100
Minimum: prompted disclosure	15	35	50
Minimum: unprompted disclosure	Nil	20	30

This summary (derived from the Finance Act 2007) doesn't, you will note, make any reference to 'cooperation' as such. Nevertheless, the taxman may claim that, by refusing to attend a meeting, you are cutting yourself off from the ability to enjoy the maximum abatement of penalties for disclosure.

But surely, the question of whether this is the case depends on the extent to which a meeting is actually useful in providing HMRC with the disclosure it wants.

We think there's a definite mismatch here between what the Revenue says and what it actually wants to achieve from a meeting. Make no mistake about it: Revenue investigators are highly trained in the matter of handling meetings, in a way your average taxpayer, or even their accountant, is not. There are numerous instances in our own experience of the trained taxman running rings round the taxpayer and their accountant, eliciting all kinds of admissions and concessions that they wouldn't have dreamed of doing if the matter had been being dealt with by correspondence. No wonder the taxman is so keen on meetings.

So what response can we make to the strongly implied threat that refusing to attend a meeting – as is your legal right – will probably have the effect of increasing the penalties you pay?

One good response to the threat of penalties, it seems to us, is to make the point, which will be true in almost all circumstances, that it is more efficient to deal with a lot of detailed questions about a person's business or financial affairs, probably going back over a number of years, by way of written questions and written answers. If you are asked how many PAYE employees you had in your business five years ago, for example, how likely are you to be able to give an accurate answer? A meeting doesn't advance this cause at all, and therefore it is strongly arguable, in most cases, it seems to us, that the correspondence route is actually a more efficient way of dealing with the Revenue's concerns quickly. It is certainly likely to be a much more accurate way.

Perhaps, though, you as the taxpayer have a sneaking feeling that it is cowardly of you to shy away from a meeting with the 'enemy'. Surely, the best results in life are usually achieved by facing problems rather than running away from them? That may well be true in general terms, but, to put it in the form of an analogy, is it more sensible to enter a tiger's cage unarmed, or stay outside and talk to the tiger through the bars? This may be one of those cases where your natural inclination (to shirk meeting the Revenue) and your actual financial interests are pointing in the same direction.

A compromise HMRC seems to accept on occasions is having a meeting solely between the accountant or tax adviser and the taxman. True, this frustrates Hector the Inspector of his wish to read a *de haut en bas* lecture on

the actual or likely shortcomings of the taxpayer under inquiry; but it does enable him to tick a number of his procedural boxes, and may just give the accountant a hint as to how strong HMRC's case actually is. So we would give a cautious amber light to this idea if the accountant or adviser were robust enough to stay in his client's corner and not succumb to the temptation to drift in the direction of the Revenue's point of view.

But are there actually any situations where you would *want* to meet HMRC?

Perhaps there are a few. In the old days, for example, when the Revenue wasn't so obviously instructed (as it is now) to raise the maximum possible tax regardless of the rights and wrongs of the situation, you had a situation of occasions when HMRC (or its predecessor: the Inland Revenue) would arrive at a sensible compromise between the two opposing views of the Revenue and the taxpayer, and this sort of horse-trading, as it was perilously close to becoming, was obviously best done between individuals talking face to face over a table. After all the recent vicious and wholly unjustifiable attacks on the Revenue on the grounds of 'sweetheart deals' by people who know nothing whatever about the reality of the situation, however, HMRC has retreated into its shell and now insists on following a rigid litigation and settlement strategy that basically allows inspectors little or no leeway to reach a sensible compromise. However, just occasionally, there may be scope for disagreement on a technical point to be decided in favour of the taxpayer, and if the taxman seems to want to signify this agreement in a meeting, why not go along with him?

The only other situation where one would actually seek out a meeting with HMRC, in our view, is the situation where there is genuine uncertainty on the law, probably in a situation where we are not looking to do any kind of aggressive or even non-aggressive tax planning, and one wants to assess what the Revenue's view on that vexed technical point may be. Even here, the usefulness of meetings has become much less in recent years, with the increased specialisation of tax and therefore the difficulty of finding a person in the Revenue who actually knows anything about the question you are asking. Sometimes it seems as though, to quote a well-known phrase, the lights are on in the Revenue but there's no one home.

Ask the Experts

Q. Can a Charity that runs a Gym register for VAT and claim back any input tax on expenses such as the rent, telephone etc. without its income being subject to VAT?

If so, can the expenses claim include the previous 6 months period prior to registration?

G. P. via email

A. A charity which carries out trading activities is liable to register for VAT in exactly the same way as any other business. So if the trading income was more than £82,000 (£83,000 after 5th April) the charity would be obliged to register for VAT. If the turnover was less than £82,000 the charity could register voluntarily in the same way as any other business.

In working out its turnover for this purpose the charity would not include non-business income such as donations and grant funding.

Once the charity had registered for VAT it would have to charge VAT to its customers and reclaim VAT on its costs (including that on services used in the previous six months).

If you are suggesting that the charity's objectives are the provision of a gym free of charge to its beneficiaries, then the charity would appear to have no taxable activities so cannot register for VAT and therefore cannot recover the VAT on its inputs.

In certain circumstances supplies to charities can be zero rated in the first instance rather than standard rated. The charity needs to give a declaration to the supplier and the relief only applies to:

- medical and scientific equipment, motor vehicles and computer software
- charity advertising
- goods or services for disabled people.

More on this relief can be found at www.gov.uk/vat-businesses/charging-vat-to-charities.

Q. I own a property worth approximately £450,000 it cost only £5,000 in 1969. This value is all in excess of the IHT free allowance after other bequests. My wife is most likely to die after me since she is much younger.
At present she will get ownership when I die. Does my Estate have to pay any tax? If not, can any tax due on the property be rolled over till her death?

J. D., via email

A. There is no IHT on gifts between husband and wife. So the property will pass to your wife free of IHT and then will be taxed as part of her estate when she dies. Her executors will then have the option of paying the tax over 10 years if it takes time to sell the property or the property is left to a beneficiary and is not sold.

Q. I refer back to your tip of the week last October "tax at 28% or 10%? You choose…"

I have a remarkably similar situation. We purchased our primary residence 8 years ago and it came with 5-acre field (single entry on the land registry

register). The field for many years stood empty costing us money to maintain, but in the last 18 months we have let it casually to a local farmer for him to keep sheep on for £720 a year. The field has a very obvious infill plot at one end and I am about to progress planning permission for this.

I also own a Print Mail Fulfilment trading business that has been trading for 18 months. Are you saying in your article that if I separated the field from our main house and gardens with a separate title I could then sell the field to the business, obtain planning permission, contract a builder to build the house, sell it and pay 10% CGT tax? Are there any pitfalls to watch out for? Are any rules being bent or is this quite legitimate?

T. W., via email

A. What we were suggesting doesn't work if you are trading through a company. It would only work if you were a sole trader. This is because entrepreneurs' relief is not available to a company. In your situation you would have to dispose of the land to the company. This would be deemed a disposal at market value which would create a capital gain in your hands and that would be taxed at 28% because at that point the field would not be used for trading. If the company then obtained planning permission and developed the house, the resulting increase in value would be taxed at 20% in the company's hands.

There is something called an 'associated disposal'. This would allow you to keep the field outside the company and claim entrepreneurs' relief when it was sold provided:

- the field had been used for the purpose of the company's trade for at least a year leading up to the sale;
- you were also selling at least 5% of your shares in the company, winding it up or gifting them to someone else and reducing your participation in the business.

Q. **I want to buy a car that costs £70k or less. I can buy it myself and pay outright or take the incentivized finance. However, I am thinking that maybe a company purchase initially would be more efficient. I have:**

A. A Ltd Company I am paid from, wages & dividends (the usual scenario)
B. A Ltd Company that is VAT registered that I am not paid from but a director & full shareholder of. This company is VAT registered. This has regular monthly rent income and the cash to buy the car. No one is paid from this company
C. A Ltd Company that is not VAT registered that I am not paid from and also a director & full shareholder of. This one is not VAT registered. This has regular monthly rental income too and the cash to buy the car. No one is paid from this company.

I can alter around wages and even directorships if necessary, I would think. I am thinking that maybe the VAT registered company could buy the car on some kind of lease with option to purchase in it and pay the monthly sum for a period of time whilst the car has its major devaluation period. It could then purchase it from the lease company and I could, if I wished, purchase it from the Ltd Company myself.

My thinking is that the major devaluation is borne by a company and maybe even the VAT saved if leased? I read that if you are a director or earn over £8,500 a year you must pay the benefit-in-kind taxes.

So, a main question please is: could I come off the VAT registered company as director (it does nothing but collect one rent anyway, pay myself, say, £500 a year wage), buy the car (your advice on how to buy it, please), pay the monthly charge if on lease or pay the cash amount if not and then buy it into my own name somehow?

I obviously am only trying to be tax efficient, not evasive and don't want to end up in a stewards enquiry over it all as it's not worth it. It's just that both company B & C have income that could possibly be partly better used than corporation taxed and sit there. Really they are all associated companies as registered at same address/same director (at present) etc.

S., via email

A. VAT incurred on the purchase of cars is not recoverable unless the car is being used in a trade such as car hire or as a taxi where the use by the trader is 100% for business. So it makes no difference VAT-wise whether the car is owned by you personally or one of the VAT registered companies.

With effect from 6th April 2016, the £8,500 limit is being dropped so all directors and all employees regardless of what they earn will be taxable on benefits in kind.

There aren't actually any provisions to tax shareholders who are not directors or employees on benefits in kind but if HMRC took the point they could seek to assess you on the value of the car as an in-kind dividend on your shares. Or if you resigned your directorship but another member of your immediate family remained a director, then they would be assessed on the benefit in kind instead of you.

So if the car is held in one of the companies you are unlikely to avoid a benefit-in-kind charge.

However, if the car will depreciate a lot in the first couple of years your plan to acquire it in a company may still be a good idea. You will be liable to a benefit-in-kind charge in the first two years and will then be taxed on the market value of the car at the point it is given to you, or you could buy it from the company for that value and avoid the tax charge. You will need to work

out the benefit-in-kind charges based on the cost and CO_2 emissions from the car and compare the tax on this with the devaluation to decide whether you think the tax an acceptable price to pay.

The Offshore Column

"New Zealand," said Barry Humphreys, "is a country of 30,000 million sheep, three million of whom think they are human." Lewis Black was no kinder: "If the people of New Zealand want to be part of our world, I believe they should hop off their islands, and push them closer." Bear Grylls, on the other hand, was more generous: "There is only one word for New Zealand: epic!" I'm with Mr Grylls. New Zealand is a fantastic country and from the point of view of anyone interested in international tax planning it offers some incredible benefits.

Perhaps the most important point to make is that New Zealand is very much a part of the onshore world. It is white listed by the Organization for Economic Cooperation and Development (OECD) and is no more considered a tax haven than, say, France or Sweden. It has 37 double taxation agreements and is a member of the World Trade Organization (WTO). Moreover, it is politically stable and has a well-developed market economy. There is very little corruption in New Zealand and, as part of the British Commonwealth, it has a common law system largely founded on British law. Obviously, it is not a member of the EU and therefore isn't subject to any EU regulations.

So, where do the tax benefits come in? The New Zealand Government, conscious of the need to diversify its economy, has passed various tax laws designed to encourage overseas investment in or through the country. Tax-efficient vehicles include LPs, foreign trusts and finance service companies. It is also possible to re-domicile a company currently resident in another jurisdiction. Finally, New Zealand does not impose inheritance, wealth or capital gains taxes.

New Zealand companies

A company is resident if it is incorporated in New Zealand, its head office or centre of management is in New Zealand or control of the company by its directors is exercised in New Zealand. Resident companies are taxed on worldwide income; non-resident companies are taxed only on New Zealand-source income.

Until 2015, a correctly structured New Zealand company would pay no tax in New Zealand as long as it was established and owned by non-residents and did not do any business in the jurisdiction. However, as a result of the Companies Amendment Act 2014, all New Zealand companies must have a resident director or a director with a residency connection in New Zealand. Existing companies incorporated before 1st May 2015 had to appoint at least one director who met these residency rules by the 28th October 2015. Clearly, if the New Zealand-based director or officer is in any way managing or controlling the company, its residence may be called into question. It is important, therefore, to ensure that a non-resident New Zealand company is definitely being managed and controlled from elsewhere.

New Zealand financial service companies

New Zealand financial service companies are permitted to provide financial services to both private individuals and corporations worldwide. Such companies may engage in a wide range of banking activities, although they can't use the word 'bank' or any of its derivatives in their name. To be formally registered as a financial service provider in New Zealand, a local director and office are required to run it and manage its services – not just in New Zealand but worldwide. Once a company is managed (i.e. controlled) in New Zealand, it becomes liable for New Zealand tax. However, with careful structuring, a non-New Zealand resident can use a New Zealand financial service company and still avoid most local tax. Why would you go to the bother when you can set up a similar type of company somewhere, such as Panama? There is no doubt that a New Zealand address and office is going to add credibility to any financial service provider.

New Zealand limited partnerships

To quote one expert: "New Zealand's relatively new limited partnership regime aims to provide a convenient, flexible and internationally recognised structure encompassing some of the best features of both companies and partnerships." A limited partnership (LP) is a corporate structure with separate legal personality (similar to a company), which offers limited liability to investor partners. An LP has full capacity to carry on or undertake any business or activity, do any act or enter into any transaction both within and outside New Zealand. Crucially, an LP has a pass-through tax treatment in New Zealand, which means that the tax consequences of the partnership's activities flow directly to the investor partners. There is no separate layer of corporate tax.

Note, at least one of the partners in the LP must either be a New Zealand-resident individual or company. However, non-resident partners will not be taxable in New Zealand, providing the LP is not in receipt of any New Zealand-sourced income. This makes New Zealand LPs particularly attractive for international wealth structuring or collective investment purposes, as they can provide a tax-neutral vehicle for investors from different countries.

New Zealand foreign trusts

A New Zealand foreign trust, also known as a New Zealand offshore trust or a New Zealand non-resident trust, is a

legal entity established and owned by a settlor, a non-resident of New Zealand whose assets are held and under management of a New Zealand-resident trustee. This New Zealand-resident trustee must manage the assets in accordance with the details outlined in the trust deed, under the instructions of the settlor for the benefit of an intended beneficiary or beneficiaries. A properly structured New Zealand foreign trust is a unique asset protection and business management investment vehicle that offers a number of benefits to foreign investors seeking confidentiality, low-level information disclosure and offshore security.

It is worth remembering that, unlike many other trust jurisdictions offering tax neutrality to trusts established by and for non-residents, the New Zealand foreign trust regime is based predominately on deliberate tax concession rather than a contrived legislative framework intended to create a new industry for the economy. Note that it is also possible to set up a discretionary trust in New Zealand. Under the terms of such a trust, the trustee is given wide discretionary powers as to when, how much and to which beneficiaries the income and capital of the trust should be distributed. Such a form of trust is useful where, at the time of creation of the trust, the future needs of the beneficiaries cannot accurately be determined and are likely to change over time. The beneficiaries are not regarded as having any direct legal rights over any particular portion of the trust fund but only a right to be considered to benefit when the trustee exercises his discretion. It is also possible to create fixed interest in possession trusts, accumulation and maintenance trusts, revocable trusts and charitable trusts.

Where the settlor of the trust is resident outside New Zealand, the trust will be exempt from assessment in respect of New Zealand tax on income and capital gains arising outside of New Zealand. Accordingly, the trustee may make distributions out of a trust fund established in New Zealand without any withholding tax or deduction for New Zealand income or capital gains tax.

Re-domiciling companies to New Zealand

The New Zealand Company's Act 1993 allows a limited-liability company incorporated outside of New Zealand to transfer its registration and thus re-domicile to New Zealand, providing the legislation of the overseas jurisdiction allows the overseas company to re-domicile to another country. Why would you do such a thing? Providing there are no adverse tax effects to the switch, the core advantage is that you are moving your business to a reputable onshore jurisdiction with tax laws that make it very attractive for international tax planning. The one thing to check if you are planning to do this is that control of the company remains outside of New Zealand.

Income Tax & Capital Gains Tax For Trusts Post Budget

The Chancellor's Autumn Statement last November and his Budget speech on 16th March introduced a number of changes to both income tax and capital gains tax (CGT) which took effect from 6th April. We take a look at some of these changes, how they affect the trustees of different types of trust and the potential planning opportunities which arise as a result.

What are the changes?

Personal savings allowance

From 6th April 2016, a personal savings allowance (PSA) has been introduced which applies to savings income.

The PSA has initially been set at £1,000 for basic-rate taxpayers and £500 for higher-rate taxpayers.

Trustees will not receive the PSA. However, banks and building societies no longer deduct tax on interest payments and this will have an impact on trustees holding interest-bearing accounts as part of the trust's assets.

In 2016/17, only gross payments of interest will be made by banks and building societies. However, George Osborne announced in the March Budget that the Government intends to change the tax rules so that income from other interest-bearing securities such as OEICs, authorised unit trusts, investment trusts and peer-to-peer loans may also be paid without deduction of income tax from 6th April 2017.

Taxation of dividends

From 6th April 2016, the 10% dividend tax credit for individuals ceased and has been replaced by a tax-free dividend allowance of £5,000 a year.

New tax rates above that allowance apply and these are:

- 7.5% for basic-rate taxpayers
- 32.5% for higher-rate taxpayers
- 38.1% for additional-rate taxpayers.

Trusts also pay the 38.1 % rate. Where dividend income is received within the standard rate band of £1,000, the trustee rate will be the basic dividend rate of 7.5%. Where a settlor has created more than one trust the standard rate band is shared equally amongst them (except that if one settlor creates five or more trusts then each gets a standard rate band of £200). The £5,000 dividend allowance does not apply to trustees.

What are the implications of these changes for trusts?

Discretionary trusts

Income tax rates paid by trustees on interest will continue to be 20% within the standard rate band and 45% on the balance.

Where income is received gross, with no tax credit, tax will be paid by the trustees. Where trustees have previously only received income at a level within the standard rate band and with a tax credit, this will mean that in the future they will have to complete the Trust and Estate Tax Return and pay the appropriate level of tax, i.e. 20% on interest and property income and 7.5% on dividends.

Don't forget that interest distributions from collective investment schemes such as OEICS and unit trusts will continue to be paid with a basic rate tax credit at least until 6th April 2017.

The above applies to discretionary trusts and any other trust where none of the beneficiaries has a right to income. If the trustees do distribute income to a beneficiary, that beneficiary will be assessed on 'trust income' at their marginal rate with an appropriate tax credit for the tax which the trustees have already paid, although it is important to note that the PSA and dividend allowance will not then be available to offset against this trust income.

Interest-in-possession (IIP) trusts

Where a beneficiary has a right to receive income (via a IIP), that income retains its status, so the beneficiary is taxed on interest or dividends according to their personal liability to tax and they will benefit from the PSA and the dividend allowance.

Of course, if the trustees of an IIP trust actually receive gross interest or dividends (with no tax credit after 6th April), they will have a basic rate liability at 20% on interest and at 7.5% on dividends, but the beneficiary receives an equivalent tax credit. Therefore, ideally any gross interest and any dividend income should be paid directly to the beneficiary. This way the trustees will not have to submit their own tax returns.

Capital gains tax (CGT)

The March Budget announced a welcome reduction to the CGT rates and these reductions apply to trustees as well as individuals.

The previous rate of CGT for trustees was 28%. Since 6th April 2016, this rate has reduced to 20% except for carried interest and for chargeable gains on residential property (i.e. property other than that occupied by a beneficiary where principal private residence relief may be available).

The annual CGT exemption for trusts will normally be £5,550 in 2016/17. This will be reduced according to the number of trusts created by the same settlor but will never be less than £1,110.

These changes took effect for disposals made on or after 6th April 2016.

What actions should trustees consider in light of these changes?

Trustees of discretionary trusts who wish to avoid paying income tax on their own account, especially where up to 5th April they had not needed to submit returns because the trust income was covered by the standard rate band, could consider appointing an interest in possession to a beneficiary who is a basic-rate or non-taxpayer, although this would of course need to be subject to taking all the circumstances into account.

Alternatively, if there is no requirement for income on the part of the beneficiaries then the trustees could consider reinvestment into non-income-producing assets.

Trustees of IIP trusts should ensure, wherever possible, that any trust income is mandated directly to the beneficiary entitled to the IIP rather than being routed via the trustees' bank account if they wish to avoid submitting their own returns.

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Spread Betting

Huge profits of 100%, 200%, 300% or more in a matter of days. Minimal capital investment. No tax to pay on gains. The benefits of spread betting are trumpeted far and wide by the companies offering to take your money. What they play down, of course, is the risk. And yet, if you approach this opportunity as a gamble and not as an investment, it may have a useful (if limited) role to play in your finances.

Spread betting was originally invented as a way of gambling on the outcome of sports events, but in the 1980s a number of financial service companies began to use it as a way of making money from market movements.

It allows you to bet on the rise or fall of an asset without actually owning it. You can get exposure to a market instantly with a relatively small sum of money when compared to, say, buying the actual asset. What's more, there is no commission to fork out for, no stamp duty on dealing and no tax to pay on the winnings.

If you feel that the London property market is about to collapse. Or that gold is going to double in price. Or that oil is going to recover – but you get the idea. The point is you can gamble on everything from shares to commodities and from bonds to property. Crucially, you don't actually have to buy the underlying asset you want to trade. All you do is take a view on the prices offered by the spread

betting provider as to whether the price will rise or fall.

How it works

A spread betting firm will predict where an individual share or market will stand at a future date or period. They won't name a specific price but rather an upper and lower range. This range is referred to as 'the spread'. You can then bet on the spread in one of two different ways: if you expect the share or market to be above the spread, you can buy at the high end; if you expect the share or market to be below the spread, you can opt for the low end.

This is best explained with an example. Suppose a spread betting firm is quoting a spread of $112 to $122 a barrel for crude oil during July 2017. If you feel this is a bit pessimistic (ha ha), you may decide to bet at the high end, staking £100 for every dollar it goes above $122. At any time before the end of July, you can close your bet and take your gain or settle your losses. Let's say you are right and the index climbs $5 to $127 a barrel, at which point you close the bet. You will collect £500 (£100 for each $1 over the $122). Let's say, on the other hand, you are wrong and the market falls $5 below the top end of the spread to $117 ($122 less $5). Your error of judgement is going to cost you £500.

Unlike fixed-odds betting, the amount won or lost can be unlimited as there is no single stake to limit any loss. However, it is usually possible to negotiate limits with the bookmaker. A stop loss will automatically close the bet if the spread moves against the gambler by a specified amount. A stop win will close the bet when the spread moves in the gambler's favour by a specified amount. Spread betting has moved outside the ambit of sport and financial markets (i.e. those dealing solely with shares and futures) to cover a wide range of other markets, such as house prices. In a falling stock market, financial spread betting can also be used by investors as a means of hedging against predicted losses in a portfolio of shares.

Understanding the jargon

- **Going long:** 'Going long' means betting that the price of an asset (for example a share or some other commodity) will rise.
- **Going short:** 'Going short' means betting that the price of an asset (for example a share or some other commodity) will fall.
- **Points:** The size of the point will vary according to the asset you are betting on. With shares, for example, each point might equal a penny. For property, it might refer to a market index. Spread bets are always settled up in 'points'.
- **Margin and margin calls:** When you place a bet, you will be asked to put down a deposit. The deposit is referred to as the 'margin'. A typical margin is about 10%. If it looks like your losses will exceed the deposit /margin you have made, the betting company will ask you to put up more money. This is referred to as 'a margin call'. If you don't meet margin calls then the broker is likely to close out your position.
- **Controlled risk bet:** If you are risk adverse then you should always look for a 'controlled risk bet' or 'guaranteed stop loss order'. Both these allow you to limit your risk because the broker commits to closing your position at the specified price. You will pay extra for this – it is reflected in a bigger spread. However, it is a price well worth paying for peace of mind, particularly in the commodity markets.
- **Maturity date:** You can choose to close your bet at any time before it expires. The expiration date is referred to as the 'maturity date'.
- **Rollover:** If a bet hasn't worked out as you had hoped many brokers will offer you an opportunity to 'rollover' to a later date. There is normally a charge for this.
- **The spread:** This refers to the gap between the bid and the offer price.

How to double your money

As the old investment adage goes, the only way to double your money safely is to fold it and put it in your pocket. You should never bet more than you can afford to lose. However, if you are drawn to the idea of spread betting then my advice is to hunt down the less popular bets. True, less liquid bets will result in wider spreads, but equally your odds of banking a decent win are that much better. Finally, never bet for the sake of it. Wait until something you feel really strongly about comes along.

Equity Or Property?

Although our editorial policy might be considered contrarian, in so far as we prefer alternative to conventional investment, we never lose sight of the relative returns offered by each. In particular, the stock market has always provided better long-term returns than property. Below we explain by how much and in what circumstances.

Barclays recently published an Equity Gilt Study that considered prices for each over the last 116 years. We'll ignore the gilts, which provided pathetic returns, but instead focus on shares. The average share market growth varied dramatically depending on what period one examined:

- Over a period of 116 years equities returned 5%.
- Over 50 years equities returned 5.6%.
- Over 20 years equities returned 3.7%.
- Over 10 years equities returned 2.3%.
- Over the course of 2015 equities returned –0.1%.

These figures suggest that equities are best treated as a very long-term investment. At least 20 years appears to be required to see the average higher rate of return. Incidentally, the figures quoted show real returns, i.e. the annual rate that the asset class

grows (or shrinks) over any particular period after inflation. To give you a comparison with cash, you would have earned: 0.8% over 116 years, 1.45% over 50 years, 0.9% over 20 years, –1.1% over 10 years and –0.7% in 2015.

So far as equities are concerned, incidentally, capital returns are – not to beat about the bush – rubbish if you don't re-invest your dividends. An investment of £100 in shares in 1899 would have only been worth £191 in real terms at the end of 2013 based on capital growth. If, however, all the dividends arising from that initial investment had been reinvested, the total value of the portfolio would have soared to £28,386 over the same period.

What happens if we look at a shorter term and if we also include a comparison with property investment? Research from finance services group True Potential offers some interesting insights. It looked at two periods: 1985 to 2014 and 2000 to 2014.

For equities (total return including dividends) over the last 30 years the gain would have been around 9.9% and over the last 15 years it would have been in the region of 4.1%.

For UK residential property over the last 30 years, the gain would have been around 5.7% and over the last 15 years it would have been in the region of 5.8%.

While equities always produce better returns, when interest rates are low investors often opt for bricks and mortar, which generally produce higher yields.

In conclusion, UK equities produce a higher total return compared to cash and property but deliver a more variable outcome year on year. It must also be remembered that one of the benefits to be had from falling share prices is the ability to reinvest dividends at cheaper prices, which in turn drives a better financial outcome and preserves wealth in real terms.

Keep An Eye On Fund Charges

If you invest in managed funds (such as unit trusts) your main concern is likely to be the overall performance of your investment. However, the unit price is only half the story. The charges your fund managers levy will have a significant impact on your returns. Here is a quick summary of the charges a typical fund will levy:

- An annual management charge, which on average is 0.85% for an actively managed fund.
- The cost of transactions – in other words the buying and selling of different assets, including trading fees, commissions and stamp duty reserve tax. The last study available into this indicates costs of around 1.8%.

As an investor in a unit trust or other managed fund, you could easily be losing 2.5% a year in costs. It is for this reason that so many investors choose to invest in the stock market via ETFs or other trackers where fees are often 0.5% or less but the returns identical.

Buy-To-Let Tax -Saving Strategies

As a private investor who has purchased buy-to-let properties with the help of bank and building society finance, I was obviously annoyed when the Chancellor of the Exchequer announced, last summer, that I would no longer be able to claim tax relief on my interest payments over and above the basic rate of 20%. True, the interest relief is to be phased out over four years but – still – it is going to have a very real effect on my bottom line. The key points to be borne in mind are:

- The new rules only affect residential property businesses.
- The legislation applies not just to buy-to-let mortgages but also to any finance costs incurred by a residential property letting business. In other words, if you borrow money to make repairs or an improvement, you will still be hit.
- The new rules do not, currently, apply to companies. If you hold your residential properties inside a corporate structure, there should be no restriction to the tax relief you can claim on interest payments. Although, I suspect that at some later date companies involved in buy to let may be hit by the same rules.

Of course, I must admit that because interest rates are so low the new rules are not going to make my buy-to-let investments unprofitable. But what if interest rates start to rise? I can remember when secured loans cost 15% and I am not that old. Anyway, I thought it might be useful to provide a quick summary of the various ways in which landlords can minimise the effects of this tax increase.

Make sure you are claiming all your expenses

Many landlords making a good return on their properties often fail to claim deductible expenses such as the use of their home, motor expenses, capital allowances on equipment and cars, travel and subsistence costs and telephone, broadband and other IT expenses. Also, could you pay property management fees to a third party including a company you own, a family partnership or a spouse, partner or other family member? Providing such management fees are paid on an arm's-length basis and do not exceed a normal commercial rate, they are fully deductible. Basically, what I am saying is: can you make up the loss by some other means?

Increase your rent

Whether you will be able to make up the difference by increasing the rent will depend on how commercial the current rate you are charging is, as well as other factors such as the risk of losing a good tenant. I estimate a 3% rent increase would compensate me for the loss of interest relief.

Postpone tax-deductible expenses

Those taxpayers who expect to be in a higher tax bracket when the new regulations kick in would be well advised to postpone tax-deductible expenses until that time. This way they will be able to enjoy higher tax relief. Predominately one would want to postpone repairs that are immediately tax deductible rather than improvements which are only tax deductible (if at all) when the property is sold.

Put money into your pension

Now could be the time to invest extra money into your pension. How much? More or less half the level of your buy-to-let finance interest. In other words, if in 2020 you pay £1,000 of buy-to-let interest, you should put £500 into your pension to replace the tax relief you are currently enjoying.

Sell the property

It is extreme, I know, but I have considered selling those buy-to-let properties against which I have borrowings and re-investing the capital in commercial property or possibly furnished holiday rentals. It's extreme but perhaps the era for holding residential property is over. I do feel that I am a soft target for future governments' tax increases.

Enter into a joint venture

Like many other buy-to-let landlords, I have used finance to leverage my investment. Now I am wondering whether I would be better off entering into joint ventures. So, instead of debt, I would have partners and we would share the income according to our stake in each property. Providing the partnership agreement made it clear how the partnership would work, I can see no downside and lots of upside to this strategy. It would remove the worry of rising interest rates and it would mean that the loss of tax relief on borrowing would make no difference. I am not sure that it wouldn't come to the same thing in terms of long-term profit. I am playing with the figures at the moment.

Convert property for other uses

Could any of your properties be converted into furnished holiday lettings or even turned into commercial space? It would mean interest could now be claimed in full.

Switch your borrowing

Could you secure your borrowing against another asset? I am considering switching my borrowing around so that it isn't secured against my residential properties.

Transfer property to a spouse or family member

Does your spouse, partner or other family member have unused personal tax allowances? Could you switch the ownership of any of your properties so as to take advantage of these allowances and thus reduce your tax?

Switch to a corporate structure

Companies are exempt from the change, and so using a company for all future investments, and even switching existing investments to a corporate structure, has to be a possibility. A word of caution, though: moving property into a company without incurring a tax charge requires specialist advice. Moreover, once your property is in a corporate structure, any change in tax legislation in the future may mean you are worse off.

The Importance Of Adding Value

In America, owning rental property qualifies as a business so long as you do it to "earn a profit and work at it regularly, systematically and continuously". There are several tax cases confirming this, not least *Curphey v. United States* (1980). Mr Curphey, a doctor, owned six rental apartments in Hawaii. He used a bedroom in his own house as an office, personally managed his rentals, sought new tenants, supplied furnishings, cleaned and otherwise prepared the units for new tenants. The court decided that these activities were sufficient to place him in the business of real estate rental. Moreover, you don't have to do all the work yourself. You can employ a manager or management company and still qualify as a business.

Here in the UK, unfortunately, things are very different. HMRC's default position is that property is, essentially, a passive investment. As such, landlords lose out on all sorts of tax benefits given to those running an active business. It is difficult for property investors to claim business property relief, entrepreneurs' relief, the new lower rates of capital gains tax and – as discussed above – interest on their borrowings. Nevertheless, there are lots of exceptions. For example, if you are in the business of furnished holiday lettings your position becomes much stronger. Ditto if you rent fully serviced offices. The golden rule is that the more you do, the greater your chances of taking advantage of various extra tax reliefs.

UK Investment Opportunities

The first quarter of 2016 has not produced any dramatic surprises for

British property investors. However, as we approach the EU referendum the market is getting a little jittery, with potential buyers waiting to see what will happen.

In many respects, British residential property investment can be divided into London and the South-East… and the rest. As London rental yields continue to fall, more investors have started looking at 'the rest' and, in particular, the North. Leeds, for example, has seen solid growth since the New Year. Sheffield is another area experiencing a strengthening demand.

London opportunities 2016

The best opportunities are outside the best areas and include:

- Newham. Newham, to save you searching for it on a map, is the borough that contains both the ExCel Exhibition Centre and London City Airport. In 2018, Crossrail will open, and this is likely to push property prices upwards at a much faster rate.
- Croydon. It is all change in Croydon, once considered one of the dullest and least-appealing areas of south London. If not exactly hip, it has become considerably hipper. Moreover, two new large shopping centres have added to its appeal. In relation to the rest of London, prices still represent value.
- Camberwell. Prices in Brixton have become so high that buyers are now looking at neighbouring Camberwell. Plans to extend the Bakerloo line to Camberwell could make it even more attractive.
- Whitechapel. Heavily bombed during the last world war and then rebuilt with ugly post-war council housing, Whitechapel prices have been low compared to the rest of the Tower Hamlets area. However, there are some beautiful period Victorian houses and even some highly attractive ex-council property. Worth a look.

UK property opportunities 2016

In 2015, the best postcode performers, in terms of yield, outside London were:

- S1: 11.5%
- BD1: 9.02%
- G21: 9.02%
- MK9: 8.89%
- G2: 8.81%
- SO17: 8.62%
- G44: 8.38%
- B18: 8.28%
- LS6: 8.19%
- G40: 8.16%.

The best opportunities are, therefore, likely to be:

- Birmingham – especially Winson Green and Hockley.
- Glasgow – almost everywhere!
- Bradford – one of the UK's best-kept secrets and fast becoming a young and vibrant town with a good cultural mix.
- Southampton – anywhere near one of the four universities now offering the best prospects for buy to let with over 55,000 students enrolling each year.
- Milton Keynes – the fastest-growing city in the country. Its population has quadrupled over the last 50 years.
- Leeds – now the second largest financial district in the UK attracting young professionals who don't want to move to London.
- Sheffield – the city centre is currently returning an astonishing 11.5% yield.

Overseas Investment Opportunities: Venice

Last November, I was invited to a dinner party in Florence where I sat next to the manager of a Canadian hedge fund. He was in Italy buying up property and other assets. At that point he had purchased several vineyards, two hotels, several palazzos and swathes of apartments – not just in and around Tuscany, either. He had bought in Rome, Milan and Venice. Before going home he planned to buy in Bergamo, too, because it is served by Ryanair. His view, that Italian property represents an excellent long-term investment, accords with my own. In particular, I would like to recommend Venice for the following reasons:

- Prices peaked in 2006, remained steady until 2008 and then fell by 30%. Many experts feel that they have now bottomed out.
- Traditionally, Italians used to hold on to family properties even if it was a second or third home. After seven lean years, many families have changed their attitudes.
- Wealthy Italian entrepreneurs have suffered badly since 2008 and many who managed to hold on to personal assets are finally having to let them go.
- The Italian property market as a whole is showing signs of recovery. Last year sales increased by 50% on 2014.
- Sotheby's reported that sales enquiries during 2015 – in Venice alone – increased by 20%.
- The city still retains its romantic allure for wealthy and international buyers. As one expert said: "A palazzo in Venice is a piece of art like a Picasso painting. There is a limited number and no new buildings are being built."
- The Venice rental season lasts almost all year round. Short-term rental yields are in the region of 6–8%.

Obviously, there is always a danger of flooding during acqua alta (high water). This occurs around a dozen times a year. A flood barrier project should be completed by 2020, but in the meantime it is always worth considering purchases on the first floor or above. The minimum investment you will probably need to make is between €250,000 and €300,000, which should buy you a one-bedroom flat in one of the quieter areas of the city.

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