The Schmidt Tax Report

Tax, Money & Property

April 2017

I never said, I want to be alone.
I only said, I want to be left alone.
There is all the difference -
Greta Garbo

The Schmidt Tax Report

Tax, Money & Property

Tax

3 News
This month's crop of tax stories hitting the headlines.

5 Editor's Notes
We look at a fantastic tax amnesty and family limited partnerships and discuss whether post-Brexit Britain really could become a low-tax investment paradise. Plus for businesses: employing your children and trade marks.

7 Ask the Experts
One reader's questions regarding the new arrangements for rebasing the cost price of assets

7 Feature: Tax Planning for Dummies, or Capital Gains Tax made simple
Five ways to use capital gains tax to your advantage.

8 Feature: Tax-Efficient Motoring
What can motorists do to lessen the impact of successive governments' assaults on cars?

10 Feature: The Seal Of The Confessional
You can no longer confide in your accountant without fear of his telling the Revenue everything. However, coming clean to the taxman, with your accountant's help, may not be such a Bad Thing.

11 Feature: Marriage: A Debit & Two Credits
We look at three fiscal aspects of marriage.

11 Feature: Spring 2017 Budget Commentary
The few things worthy of note introduced by Chancellor of the Exchequer Philip Hammond in his first (and last ever) Spring Budget.

12 Offshore News
Transferring pensions out of the UK; further attacks on legal privilege; EU tax haven campaigns, fraudsters and beneficial ownership rules; plus more on Panamanian law firm Mossack Fonseca and news from New Zealand, Cyprus, Ireland and Mexico.

Money

14 News
Yet more evidence that active investment is out of fashion, while forestry is going from strength to strength and fees for probate are a-changing.

15 Feature: The Ratios Never Lie
Using ratios to assess whether it is a good idea to buy, hold or sell various asset classes.

16 How Genius Invests For Its Children
A monograph on the unlimited joy of compound interest

Property

17 Property News
From Dublin, on luxury care homes and concerning landlords' energy efficiency and the future of student accommodation.

18 Property Notes
This month's clutch includes rent-a-room relief, the annual tax on enveloped dwellings and something nice for those interested in farmland.

20 Feature: Inheritance Tax 'Hiroshima'
An in-depth look at politicians' attempts to reduce house prices by penalising offshore property investors.

23 Property Opportunities
In the Algarve and across Africa.

Login details for our new site

Please note that back copies of The Schmidt Tax Report are now available online in PDF form via our website: www.schmidtreport.co.uk

The password is all lower case: str

Tax

News

Making Tax Digital update

Although the government has agreed to a one-year postponement, by April next year HMRC intends to launch 'Making Tax Digital' (MTD), which will force the majority of UK businesses to maintain all records digitally and to report financial information quarterly. MTD will be applied to all business, including sole traders, partnerships, small companies and even landlords. Although HMRC claims that the purpose of the exercise is cost cutting, the reality is that the additional information will allow it to accelerate tax payments by business.

Now that MTD is closer to becoming a reality – legislation is expected shortly – it is coming in for considerable criticism. It is believed that HMRC has not properly considered the fact that many small business owners and managers do not currently use computers in their business and are unfamiliar with digital technology. A recent survey by UK 200 Group indicates that 7 out of 10 SME businesses do not use software to manage their accounts. Some 1 in 4 are still using manual bookkeeping methods and over 1 in 10 keep no records at all but keep all their receipts and simply give them to an accountant once a year!

Meanwhile, Lord Hollick, chairman of the House of Lords Economic Affairs Committee, believes that the government estimate regarding the cost of MTD, while a "very elegant piece of analysis and modelling" was wholly unrealistic. The idea, he said, that the initial cost of setting a business up for MTD will be £280 is laughable. While the committee welcomed the opportunity to bring the tax system into the digital age, it raised concerns that the government has not carried out sufficient consultation on the initiative. Lord Hollick pointed out that the committee "struggled in certain sectors to find anybody who knew anything about it".

Buy-to-let update

This month, the initial phase of a process to restrict the amount of tax relief for residential landlords to the basic rate of tax will come into force. As a result of the changes of 6th April 2017, 25% of mortgage interest will be restricted to 20% relief and 50% of interest will be restricted in 2018, with all interest restricted from 2020 onwards. The new rules apply to individual landlords and not to companies, which will continue to receive relief for mortgage interest and other finance costs in the usual way.

Some landlords appear to be selling off their less-profitable properties as a result of the new legislation. The FT interviewed Stephen Johnson, managing director of commercial lending at Shawbrook Bank, who said: "Quite a popular route is to sell down some of the portfolio to pay down debt elsewhere, and potentially sell some of the lower yielding properties. That means areas like London and the South-East and certain types of properties, such

as family homes rather than apartments or flats." Axa did a survey of landlords and found that 10% are planning to reduce their portfolios, while 21% intend to sell off all of their rental properties.

The loss of tax relief will make no difference to landlords without mortgages, who account for a growing number of buy-to-let purchasers. The estate agent Countrywide says the proportion of landlords paying in cash for a property reached 61% in January, the highest since records began in 2007, when it was 41%.

HMRC software issues

It has been reported that HMRC's IT system is not coping well with various recent tax changes, with a result that thousands of taxpayers are likely to overpay their tax liabilities next year. In particular, the changes to the taxation of dividends and savings income seem to be causing the greatest number of calculation errors. For instance, someone with a pension income of £11,000 and interest income of £26,000 should pay tax of £4,000 for 2016/17. But according to one expert, the software used by HMRC's system would incorrectly calculate the tax as £5,000.

HMRC adopts aggressive approach

HMRC is adopting a more aggressive approach towards taxpayers who do not pay disputed tax bills upfront after being issued with an accelerated payment notice (APN). The tax authority is using asset seizures, court proceedings and insolvency to collect the money it says is due. One high-profile case was that of Karen Millen, the fashion designer, who was made bankrupt after failing to pay £6m to HMRC in connection with a tax-avoidance scheme. More than £3bn of tax has so far been collected under the APN initiative that was introduced in 2014 as part of an avoidance crackdown. It was designed to remove the cash flow advantage of holding on to disputed tax – sometimes for years – while cases were investigated and litigated.

National Insurance U-turn on self-employment

Following on from the Budget, the government has made a U-turn on National Insurance for the self-employed. The proposed increase will not now go ahead after Conservative MPs said they would block it when it came before them. It is believed by some experts that this will lead to a rise in the number of people choosing to become self-employed.

Council tax increase

The average increase in council tax in England over the coming year will be 4%. The major increase is a result of pressure on councils struggling financially after sustained cuts to their core grant from central government since 2010. Simultaneously, their social care budgets have come under pressure from an ageing population and additional costs such as the national living wage.

Death-in-service warning

If you are covered by a workplace death-in-service policy, it is important to check to whom the benefit will be paid. If it would be automatically paid into your pension fund then you may like to change the arrangement, as it could end up triggering a lifetime allowance charge. Savings in excess of the lifetime allowance, currently £1m, are taxed at 55%. It is not always clear from the wording of the policy where it will be paid, so it is important to double-check.

Inflation

Rises in the cost of food and fuel have pushed UK inflation to its highest level since September 2013. The consumer price index for February shows prices have risen by 2.3% compared with 2016.

Tax-free childcare

Families with school-age children pay up to a third of their disposable income on childcare, often as much or more than they pay for their mortgages. A full-time nursery place for an under two-year-old on average is £11,000 a year across the UK, rising to £15,000 in London. Which is probably why the chancellor's announcement of a new tax-free childcare scheme (designed to replace the voucher system used by 750,000 families to help cover the cost of nurseries, registered childminders and nannies), which could provide £2,000 per child under 12 per year, was so welcome.

In order to discover whether you are eligible for tax-free childcare, and to register if you are, you should visit a new HMRC website: Childcare Choices. Basically, for every 80p parents put into a special account with NS&I, the government will add 20p up to a total of £8,000 (saved by the parents) per child. So that's potentially £2,000 from the taxpayer – to be used solely for childcare of course.

However, you may only participate in the scheme if you and your partner work more than 16 hours a week and neither of you earns over £100,000 a year (if you each earned £99,999 a year, you'd still be eligible).

The existing Childcare Voucher scheme (which can save parents with children aged up to 15 £1,000 a year) works on the principle of salary sacrifice and will be available until April 2018, at which point it will be phased out. In the interim you can choose whichever scheme is more suitable to your needs.

Non-dom warning

The new Finance Bill reduces the tax benefits offered to UK residents whose permanent home or domicile is outside the UK and makes it harder for them to keep offshore income out of Britain's tax net.

The key change is that permanent non-dom status will be abolished for any British resident who has lived in the UK for at least 15 of the last 20 years. Non-dom status for Britons who return to the UK but claim to have permanent homes abroad will also be withdrawn.

As a result of the changes, many returning/former expats could find themselves being taxed, unexpectedly, on income and gains from offshore trusts or companies. They could also fall into the UK inheritance tax (IHT) net, subject to a 12-month grace period. It is most likely to affect expats who return to the UK unexpectedly, perhaps because a family member is unwell.

A good example of someone who has been affected by the new non-dom status rules is Stuart Gulliver, the HSBC chief executive. He has just lost a court case in which he tried to stop HMRC from investigating how he has kept a tax domicile in Hong Kong since 1999, despite working in Britain for the past 13 years. The 58-year old, who comes from Derbyshire, acquired a tax domicile of choice in Hong Kong after he moved there with HSBC in 1980. This allowed him to keep his offshore income, including that from a confidential Panamanian company, out of the clutches of the UK Revenue.

HMRC has asked him to answer 123 questions and to provide 33 categories of documents about his personal and professional life since 1981. Mr Gulliver did not wish to do so and appealed. However, the Royal Courts of Justice have ruled that he must do as asked.

It is interesting to note that some 83,200 people have advised HMRC that they have a foreign domicile. Of these, some 53,300 use the remittance basis of taxation, which allows them to only be taxed on foreign income and capital gains when they are remitted to the UK.

If you are non-domiciled and resident in the UK, now, more than ever, you ought to be taking professional advice.

Editor's Notes

A wonderful example

Over the last nine months, Indonesia has been experimenting with a new sort of tax amnesty. The project began last July and ended on 31st March. While it was active, some 800,000 tax evaders declared over 4,700trn rupiah ($350bn) in assets, which had previously been hidden from the authorities. To put this into perspective, the amount raised was equivalent to 40% of Indonesia's GDP.

Why was it so successful? The terms were beyond generous. Assets declared in the first three months were taxed at just 2–4%, compared with the individual income-tax rate of up to 30%. Those declared in the next three months were taxed at 3–6% and those in the final three months at 5–10%. The government collected additional revenue of 125trn rupiah, equivalent to less than 3% of the total assets declared.

Some governments and the OECD have been highly critical of the plan, on the basis that it rewarded those who had failed to pay their tax. However, its supporters counter that it has done much to help the Indonesian economy both in the short term and – as the money is spent and invested – in the medium to long term, too. Moreover, it may do much to widen the country's tax base. Only 30m people out of a labour force of 118m are registered with the Tax Office and only 10m of them file a tax return regularly.

How I wish other governments would see the sense in such a scheme. It is, to my mind, the most efficient way to end the black economy and put tax havens out of business.

Family limited partnerships

Last month, we wrote about a useful and popular alternative to a family trust: the family investment company (FIC). As we explained, FICs are basically bespoke private companies that allow families to define how specific family members (through varying rights attaching to shares or the number of shares in issue) will benefit. The directors and shareholders of an FIC are normally family members. As with trusts, the structure of the FIC can enable parents and grandparents to retain control over assets, while accumulating wealth in a tax-efficient environment and facilitating future succession planning.

I am grateful to the professional reader who wrote in and suggested that, instead of a company, in many cases a partnership could be more appropriate. A family limited partnership (FLP) is a limited partnership and holds assets on behalf of a family in accordance with the terms of the partnership agreement. Assets are typically transferred to the FLP from the first generation, and the partners cannot normally withdraw capital or transfer their interest. The partners will typically consist of family members whose liability is limited (Limited Partners) and a General Partner. While the partnership should be operated as a business with a view to profit, it can hold a range of investments, provided they are actively managed. The General Partner deals with all management issues (e.g. it may determine the division of income and capital between the Limited Partners) and will typically be a private limited company owned by the first generation. Although the General Partner has unlimited liability, the appointment of a limited company to act as General Partner shields its owners from liability. The General Partner typically only has a small interest in the FLP's assets. The Limited Partners have an interest in the bulk of the capital and entitlement to income and have no involvement in day-to-day management issues.

FLPs are transparent for tax purposes, meaning that the partners are assessed to tax on the income and gains of their partnership interests. This can be more attractive than, for example, the use of a private limited company, where there are two points of taxation: the company itself is liable to corporation tax, and the shareholders are liable to income tax on any distributions and capital gains tax (CGT) on the disposal of shares.

In addition, the more prohibitive IHT regime, which has been applicable to most trusts since 2006, does not apply to FLPs. This regime imposes a charge to IHT on creation of any trust during one's lifetime, at each ten-year anniversary and on the distribution of assets from the trust. This regime is seen by many as an unfair restriction on the ability of a family to preserve and protect its wealth for future generations. Although the transfer of assets to an FLP is chargeable to IHT (as are subsequent transfers of partnership interests), IHT (as with a company) only becomes payable if the transferor dies within seven years of making the transfer.

It is, obviously, important to ensure that the FLP structure is not viewed by HMRC

as solely a method of avoiding the IHT regime.

FLPs benefit from flexibility. The first generation can choose to give the second generation (and/or subsequent generations) a partnership interest immediately or to transfer an interest to them at a later stage. In addition, and if it is felt appropriate, certain partners can be appointed as directors of the General Partner. This may encourage their participation in the partnership and in family matters generally.

Incidentally, FLPs may also provide useful asset protection on divorce because the court does not usually have the power to vary partnership agreements.
Are there any disadvantages? There is always the possibility that one or more of the partners could sell their interests in the partnership. In order to overcome this, the partnership agreement could be drafted to restrict Limited Partners from disposing of their interest or shares.

FLPs could operate as a collective investment scheme and may therefore be subject to regulation by the Financial Services Authority (FSA). If it is necessary to appoint an FSA authorised investment manager and operator, this is likely to result in increased running costs. However, if the FLP is located in another jurisdiction, such as the Channel Islands, it may be possible to avoid FSA regulatory attention.

Incidentally, it is possible for the application of the tax regime in relation to trusts to be minimised in a number of circumstances, for example where the value of trust assets is below the value of the nil rate band or where they qualify for business and/or agricultural property relief. In such situations, it may be preferable to use a trust rather than an FLP.

FLPs can be useful tax-mitigation vehicles and can provide an effective way of preserving wealth for future generations.

Will the UK become the Singapore of Europe?

When Theresa May was explaining Britain's position vis-à-vis its exit from the EU, she made it clear that if Europe tried to impose punitive terms we would fight back by setting "the sort of competitive tax rates and the policies that would attract the world's best companies and biggest investors". In other words, the prime minister threatened to turn the UK into a low-tax Singapore of the West. Not so relevant from a tax perspective, she coupled this with an implicit suggestion that Britain's defence and intelligence contribution to Europe may also be at risk if the EU failed to be reasonable.

How exactly would Britain turn itself into a low-tax jurisdiction? One possibility is that we would further reduce corporation tax, which is currently set to drop to 17% by 2020 (coincidentally the same rate as in Singapore). Another possibility is that the UK would duck out of the EU's corporate tax avoidance directive which is due to be enacted by the end of 2018. This policy is designed to reduce the scope for multinationals to move profits artificially to the lowest-tax jurisdictions. By not enacting it, the UK might then be able to create incentives to encourage multinationals to direct royalty income through the UK. If the UK wished to be especially aggressive, it could follow Malta, which has a high corporate tax rate (35%) but gives rebates to foreign held corporations so that the effective rate is just 5%.

A future UK government angry at being offered a poor EU exit deal could also reduce taxes for high-net-worth individuals (HNWIs), especially those not domiciled in Britain. However, this rather flies in the face of recent policy, which has been to force HNWIs to pay extra tax or leave.

All in all, threats of turning Britain into a tax haven may turn out to be somewhat hollow.

Why not put your children to work?

Have you ever considered employing your children? Children, like adults, are entitled to an income tax personal allowance of £11,000 a year. If, therefore, you pay your son or daughter anything up to this amount it is tax-free in their hands and a tax-deductible expense for your business. There are, of course, other advantages to bringing your children into your business. It will be an excellent opportunity to show them what you do, give them responsibility, educate them about money and provide them with financial and other skills that they certainly won't learn in school.

However, you should bear in mind that the minimum legal age at which a child can be employed is 13. At that age he or she may only work part-time and there are restrictions on both the amount of work possible and its timing. For example, working before seven a.m. or after seven p.m. is not allowed and nor is working in school hours. Note that National Insurance is not payable until the age of 16. From 16, by the way, children can work on a full-time basis of up 40 hours per week. National Insurance will, however, be payable.

Incidentally, if you pay members of staff less than £5,824 per year each there is no need to operate a formal PAYE scheme.

Finally, in order to make employing your children legal, from HMRC's point of view, it is vital that they actually do some work! It would be tax fraud to make payments and claim them as a tax deduction if no work was actually done. Moreover, it is advisable to pay their wages into a separate bank account that is controlled by the child.

Trade mark tax planning

Thinking of starting a new business? A canny bit of medium-to long-term tax planning would be to register the trade mark separately, either in your own name or in the name of a close family member with a low or non-existent income.

In the short term you could license the trade mark to your business for an annual fee, which would be an allowable expense and could be (depending on the amount) tax-free in the hands of the recipient.

Then, assuming the business was successful, you could consider selling the trade mark to the business. The business would be able to amortize the cost. You ought, by all rights, to be able to pay tax on the sale as a capital gain rather than as income. This could prove to be an extremely useful tax saving.

Ask The Experts

I have some questions regarding the new HMRC arrangements to rebase to their market value on 6th April 2017 the cost price of assets held by those Non-Domiciled UK Residents who will become UK deemed domiciled for all UK taxes on that day.

The questions that I have are as follows:

Q1. In some of the articles I have read it seems that there was a requirement that the rebasing only applies to individuals who have paid the Non-Dom Remittance Basis Fee at least once in the past. However, in other articles I have read it seems that this requirement regarding the Remittance Basis Fee may have been dropped altogether. Can you please clarify if this is required or not?

A. In order to be able to rebase offshore assets, the individual must have paid the remittance basis charge at least once in any Tax Year prior to 6th April 2017.

Q2. On which assets does the rebasing apply? I am aware that the assets must be non-UK and directly held, but does it apply to:

- Precious metals?
- Equity funds?
- Non-reporting funds (the gains on which are subject to income tax and not CGT)?
- Bonds?
- Bond funds?

A. Rebasing will only apply to offshore assets on which gains would be chargeable to CGT and not income tax, so rebasing would not be available in respect of the non-reporting offshore funds. On the basis that all of the above assets mentioned, with the exception of the non-reporting funds, would fall chargeable to CGT, they would, therefore be available for rebasing, although some bonds (e.g. gilts and qualifying corporate bonds) are exempt from CGT so the election would not be relevant to them. The offshore asset must have been personally held offshore since 16th March 2016, or, if later, the date that the asset was acquired.

Q3. Is it indeed the case that it will be possible to select the assets to which rebasing applies (e.g. only to those showing a gain)? If so how will this work in practice, will there be a time limit in which to make such an election?

A. Yes, an irrevocable election can be made on an asset by asset basis for rebasing to not apply within four years after the end of the tax year in which the disposal occurs.

Q4. Is the ability to carry forward any capital losses incurred in 2016/17 or earlier years affected in any way?

A. Up to 5th April 2017, a remittance basis user was able to claim relief for an offshore loss if an irrevocable 'capital loss election' was made. When an individual becomes deemed domiciled under the new rules, the election will fall away and the capital losses previously made (and not previously offset) will be available to set against future capital gains. However, the election *must* have been made to claim the losses.

M. G.-P., via email

Tax Planning For Dummies, Or Capital Gains Tax Made Simple

There's no getting away from the fact that our tax system is horrendously, indeed atrociously, complicated. Despite the efforts of the laughably named Office of Tax Simplification, the rate at which our tax system is getting more complex is headlong, and may even be increasing. Every Finance Act since the current government took over has been over 600 pages in length, and you only have to compare these new Acts of Parliament with the rules that were being made as little as thirty years ago to see that those drafting the law have a terrible case of verbal diarrhoea.

So tax is complicated; and there's not getting away from it.

But that's not the same as saying that there's nothing you can do that's simple and easy even for the layperson to understand. So, as an antidote to the above rather depressing (if accurate) picture of our legal system, let's look at some really easy tax planning you can do – and we've chosen CGT as our subject matter here.

1. Use your allowances

The main CGT allowance, of course, is the annual exemption, which relieves capital gains of just over £11,000 a year per person from tax. This is one of those 'use it or lose it' reliefs: it isn't carried forward to the next year if you don't make any gains.

Often, of course, there are gains you can bring about easily by taking simple action – like selling some or all of a tranche of blue-chip shares. If you realise the gain in this way within your annual exemption, and then you buy more shares (either in a different company or more than 30 days after the sale), you will effectively have achieved a tax-free uplift in the base cost of your assets for CGT purposes.

2. Loss timing

Generally speaking, capital losses can be offset against capital gains, either in the same year or by carrying forward to subsequent years. But be careful not to 'waste' any available losses. Let's take a simple example of what we mean.

Bertie has invested £20,000 in Tax Avoidance Limited, a company set up to market aggressive tax schemes. Unfortunately, the main directors have been caught by HMRC and are now in prison. So the company's shares aren't worth anything.

When Bertie realises this, he shrugs his shoulders and reasons that at least, as a consolation prize, he's able to claim this loss of £20,000 against the sale of another small shareholding, where he's crystallised the modest profit of £15,000.

But the problem with doing this is that he's thereby 'wasted' the available annual exemption for the year, which would have left very little of the £15,000 gain taxable in any event.

Instead, he does something really rather clever. He gathers the evidence together, sufficient to prove that the shares in Tax Avoidance Limited actually had become of negligible value last tax year, and is therefore able to claim the 'negligible value' loss in respect of those shares for the preceding tax year.

This brings into effect the rule that losses brought forward need only be used to reduce the gains in a later tax year to the amount of the annual exemption. So by timing his loss claim in this way, only about £4,000 of his loss gets offset against the gain on the shares this year and the balance of the losses are carried forward to relieve similarly in future years.

3 Entrepreneurs' relief

This is a very valuable relief against CGT, and is given to those who have met the following simple three criteria for the preceding 12 months:

- They are disposing of a trading business or a trading company.
- If it is a company, they have at least 5% of the shares; they are an employee of the company, if it is a limited company.
- If you qualify for entrepreneurs' relief on the sale of a business, your tax rate is a maximum of 10%, whereas if you don't qualify it's likely to be 20%.

So remember the following straightforward rules, in order to maximise the availability of this relief:

1. Don't have members of your family owning less than 5% each of the shares in your trading company.
2. Don't have a family member owning shares in your company who isn't an employee or officer of the company.
3. Don't introduce new shareholders into your company, or partners in your partnership, less than one year before you sell it.
4. Don't allow your company to diversify to non-trading activities, like holding investment properties, and thus lose its status as a 'trading company'.

4. Exempt assets

Some types of assets are quite simply exempt from CGT. Investing in these therefore seems like a good idea! We're not particularly promoting the purchase of fixed-interest stocks, which are CGT exempt in most circumstances, because these are probably just as likely to go down as they are to go up in today's volatile investment environment.

But think about cars, for example. Cars are completely CGT exempt, and while the reason for this as a general rule is obvious, because most cars depreciate, there are, of course, glowing exceptions to this general rule. The classic or collector's item car can increase hugely in value as it gets older and examples of its particular type become scarcer. We knew one example of an individual who bought a particular type of Aston Martin in the 1950s who was offered 200 times what it cost him by a collector in the 1990s. And all tax-free. (Look out for doing this sort of thing too often, though, and being branded as a 'car dealer', whose profits are liable to income tax.)

As well as cars, there are antique clocks. These count as 'machinery' and are therefore outside the scope of tax on the basis that they aren't plant and machinery on which business capital allowances are claimed. As with cars, investing in clocks which are likely to increase in value is perhaps something of a specialist area, but remember that the results of auctions can very often be found out from information available on the Internet.

As well as clocks, there are similar exciting profits to be made from investing in watches, particularly certain high-profile Swiss makes. What's more, they tell the time!

5. The joys of FHLs

Furnished holiday lettings are peculiarly favoured by the CGT rules. While their wings have been clipped very considerably as far as income tax is concerned (e.g. with losses on FHL no longer being generally available for offset against other income), most of the CGT reliefs, introduced many years ago to encourage our home holiday market, are still intact.

If you sell an FHL property at a profit, you should qualify for entrepreneurs' relief in normal circumstances (so long as you've resisted the temptation of running the business through a limited company). So your tax on disposal would be 10 and not 28%.

Also, FHL qualifies for rollover relief so that if you have made a gain on selling a trading asset you can roll over the amount concerned against purchasing an FHL property. This is likely to be particularly attractive for people who have just sold out their business and are looking for some kind of spare time occupation.

Tax-Efficient Motoring

Despite the extraordinarily aggressive attempts by various governments at social engineering through the tax system, car usage in this country seems to be going up and up. For some, it's a necessity. Our apology for a public transport system (which is very expensive to use) makes driving a car, for many, not an option so much as something for which there is no alternative.

Some sorts of tax on motoring are either virtually or absolutely impossible to avoid. These include the irrecoverable VAT on buying a car (irrecoverable even if you're a business) and the fuel duty element, which makes up such a high proportion of the cost of a litre of petrol. Other sorts of tax are slightly more pliable, though. This is what we'll be looking to discuss in what follows.

Social engineering

One perfectly valid approach to the government's attempts to force us to do things the way they want is simply to go along with them. Rather than kick against the pricks, you can consider, for example, driving a tax-favoured vehicle, like a hybrid, that churns out much lower figures of CO_2 per kilometre than your average car.

You'll see the impact of this particularly strongly if you are a 'company car' driver, that is your employer (or your own company if you are in business on your own account, and run it through a limited company) owns the car and makes it available for your use.

This leads us on to the really rather bizarre and perverse way in which company car drivers are taxed. Instead of attempting to arrive at a figure something close to the value of the actual benefit the employee/director is receiving, the current system (which we inherited from Gordon Brown) takes the list price of the car when new and multiplies it by a percentage that gets greater and greater the more CO_2 the car churns out.

So you can play the game by the government's rules, by driving a low-emission car, perhaps a hybrid. In the current year, for example, the percentage of list price on which you're deemed to be taxable is 7% if the CO_2 emissions don't exceed 50 grams per kilometre. The taxable figure increases as the emissions level increases, with a maximum rate of 37% (for petrol cars) which applies at 200 grams per kilometre and above. There is a 3% diesel surcharge.

Everyone's a winner

For a limited period only, now, there's also an incentive for the employer (your own company if you are an owner-managed business) to acquire an energy-efficient car, which is a new car that is either electrically propelled or has a 'low CO_2 emission' (i.e. emissions of less than 75 grams per kilometre). The carrot offered us by HMRC for cars like this is that their acquisition by the employer is eligible for a 100% write-off of the expenditure in the first year under the 'first year allowances' code. But hurry: this is only available for expenditure before 1st April 2018.

Avoid 'salary sacrifice'

A recent casualty of the total war between HMRC and the business community is 'salary sacrifice' schemes, whereby an employee agrees to take a pay cut in return for receiving some sort of benefit in kind. There are a few (very few) exceptions to the new rule, but basically you will end up being taxed on the value of the benefit in any case, with effect from the new tax year. This includes the provision of company cars, so employers will need to stop offering their employees this choice of alternative reward.

Do note, though, that this doesn't apply where there isn't a choice given, and where the new employee is simply wooed by the prospect of having a nice company car.

Let me tell you a story

The essential thing to remember, when considering planning to reduce your tax burden, is that there are many ways to skin a cat. We'll try to illustrate some of these ways by taking a few case studies, where names have been changed to protect the innocent.

The first one relates to David Smith, who runs his own company manufacturing fake widgets. He drives an S Class Mercedes, and his wife Betty drives a gas-guzzling Chelsea tractor. They're both much too sensible to consider, even, running these vehicles through the company. In both cases they'd be looking at a staggering 40% of list price each year: in the case of the Mercedes this would mean David being taxable on an imaginary benefit of £30,000 per annum, and in Betty's case a figure not much below this.

Instead, they run their cars personally, and when they do a journey on business charge the company an HMRC-approved mileage rate. Staggeringly, after many years of inflation, this is still at a maximum rate of 45p per mile, going down to 25p over 10,000 miles a year. Yet another example of stealth tax.

All the same, despite the fact that David's and Betty's cars both cost over a pound a mile to run in reality, this is better than the alternative of suffering an arbitrary scale charge on the use of these vehicles as company cars. David and Betty have a single daughter, Susan, who is 18 and has just gone up to university. Because it's fashionable to help out the kids these days, Susan's parents decide not just to help her with the costs of the university fees and accommodation but also to buy her a little car to run about in. They choose an energy-efficient car for her with a low list price, at £9,500.

In conjunction with his accountant, David works out that it's going to be immensely lucrative, in tax terms, to run this car as a company car. Even though the rules apply the tax charge to him, rather than Susan, and it's hence worked out at the 40% income tax rate, the family is still massively quids in.

Let's do the calculations. A list price of £9,500, multiplied by the applicable rate for a very low emissions car of 7% gives a benefit-in-kind charge, taxable on David, of £665. At his 40% income tax rate, this amounts to a tax charge in his self-assessment of £266, and there is also an employer's National Insurance charge, payable by the company, of just under £92. So the total cost, in terms of money going out of their coffers to HMRC, is about £350.

Now consider what the tax would be had David and Betty taken the money as income from the company, in order to buy the car personally for Susan to drive. At £9,500, they would have effectively needed to take income (say in the form of dividends) of over £14,000, suffering higher rate income tax on that dividend of just over £4,500.

But that's not all. In order to run the car, you need to tax and, particularly, insure it. Susan, at age 18, is an expensive proposition as far as insurance is concerned, even though she's a girl and not a boy. After getting a range of quotes, they can't find anyone who will insure her for less than £1,500, and the way they've arranged things, this £1,500 can be paid by the company, and claimed against its corporation tax bill as part of the expense of remunerating its directors, without giving rise to *any* additional tax other than the £350 we've mentioned.

The Travelling Salesman

The rules Gordon Brown introduced are particularly hard on those who have to drive cars in order to do their job. If you're a salesman whose customers are spread all round the country, you can easily be running up high mileages each year, way over the rate at which the 45p reimbursement is available.

So you could end up being seriously out of pocket, receiving 25p per mile

reimbursement for a car which actually costs four times that to run or alternatively receiving a higher reimbursement and paying tax on it.

Neither of these options makes any sense at all from the tax-planning point of view, so is there any way of escaping from this financial disaster scenario?

One way of doing so would be, if the individual had any clout in the matter, by setting up the business in the form of a limited-liability partnership (LLP) rather than a limited company. If the individual qualifies to be treated as self-employed for tax purposes (there are certain criteria to be met), the whole regime dramatically changes.

Instead of paying through the nose for doing purely business mileage, the whole cost of running the car can be put through the books of the LLP and a proportion (perhaps very small) simply disallowed in calculating the taxable profits of the LLP, to account for the private mileage percentage.

If you are running your car predominantly on business, the LLP route is very far ahead of the company route in terms of the effects on the taxation of car use.

'Flash' cars

Then there's Steve. His interest in cars goes far beyond them as a simple method of getting from A to B. His most recent acquisition is a red Maserati which makes a tremendously satisfying noise when you sit at a red traffic light revving it up.

Of course, Steve doesn't use a car like this on business, or only very rarely. So why are we talking about it in an article on tax planning?

To understand the significance of the ownership of a car like this to tax planning, you need to think about the way partnership accounts, in particular, are drawn up. Where there is an asset which is within the partnership (or LLP) that is used partially for business purposes and partially for non-business purposes, the full value of the asset nevertheless gets reflected in the balance sheet. So let's say Steve gets a valuation of his posh sports car at £220,000. Let's also say that he runs his business through an LLP, in which he, his wife and a limited company they control are the members. By introducing the car into the LLP as an asset, he gets credited with the £220,000 value, and can therefore draw out the proceeds tax-free. (There's a lot more to this example than that, of course, but to avoid irritating the Revenue we'll leave a lot of the accountancy points to your imagination, or further research with your accountant or tax adviser.)

Racing cars

One stage beyond Steve is Graham, who has a serious, almost semi-professional, interest in car racing. He sees a state-of-the-art car available for sale, and it so happens that the money is lying around in his business which would enable him to make his dreams come true, and buy it.

There's just one problem. That business is a limited company, and taking the colossal sum of cash out of the company, in order to buy the racing car, would be crippling in terms of the resultant income tax charge.

One of the things Graham wants to do with the car, though, is use it as a form of free advertising for his company, which provides scaffolding for large construction projects. So it makes sense to keep the money within the company and have the company buy the car, which it then proceeds to paint with its colours and conspicuous advertising.

Mark this: Graham doesn't drive the car himself, because to do so would probably let him in for an eye-watering benefit-in-kind tax and National Insurance charge. But the car is driven, at actual events, by a driver who isn't an employee of the company, and Graham is able to attend the events and drool over the performance of 'his' racing car.

What about the cost of running the car? Well, sponsorship of sporting events is a bit of a hot potato, as far as the relationship between the taxpayer and the Revenue is concerned. The Revenue will almost always try to argue that sponsorship of this sort is outside what is allowable as a tax deduction, because it isn't incurred 'wholly and exclusively' for the purposes of the business. The element of private enjoyment someone like Graham would get out of running his own racing car precludes it from being a business expense.

There are, of course, grey areas and borderline cases in the whole area of the deductibility of sponsorship, but even if you've got a pretty clear case of non-allowability, as in Graham's case, there's still the huge benefit of being able to afford to buy the car, and run it, without needing to be in the top tax bracket personally in order to do so.

The Seal Of The Confessional

Devotees of old-fashioned drama will be well aware of the rule that a Catholic priest isn't allowed to divulge anything said to him during confession, no matter what outside pressure is placed on him. We're not talking about confessing your sins to Father O'Grady here, though, but what you can and can't tell your accountant.

This is an area of our tax system where there have been dramatic changes in recent years, introduced thanks to Mr Blair's mantra of being 'tough on crime'. What this mantra has translated itself into is major infringements on private legal rights. Twenty years ago, you could have gone to your accountant and confessed to having £1 million stashed away in an offshore account that had never paid the tax it should have. In those days, your accountant, if he was ethical, would have advised you to disclose the concealed income, and would probably have had to resign as your accountant if you refused to do so.

But the point is that his duties ended there. Not so now.

When the Berlin Wall came down, all kinds of state records famously became available: neighbours and friends found out that people they had trusted, and talked to freely, had all the time been informing the secret police of everything they were told. This obviously destroyed a lot of family relationships and friendships. But this horrendous situation is one we're put very much in mind of by Mr Blair's 'informers' charter'. The accountant is now obliged, if he finds out you've committed an offence, to grass on you straight away to those who purportedly investigate 'serious crime'.

What's more, he's not even allowed to tip you off that that's what he's done.

So the answer to the question 'What can you tell your accountant?' is: nothing! (There is an exception to this simple answer, which we'll come on to.)

The same definitely isn't true about lawyers. If you go and own up to a guilty secret to your solicitor, your revelations are covered by a statutory protected form of secrecy know as 'legal professional privilege'. Lawyers are in fact the only people who enjoy this immunity from blabbing: accountants don't, and nor do priests, doctors or anyone else whom you may think it would be safe to confide in.

There was a recent attempt, on the part of accountants, to extend privilege to those advising on tax. After all, if your tax adviser is an accountant by qualification rather than a lawyer, you're still talking about exactly the same issues, and for the same reasons, as you would talk to a lawyer. In a sense, the accountant who specialises in tax is a kind of specialist lawyer in any event.

But the court before whom this apparently eminently reasonable argument was placed would have none of it. An accountant is an accountant, and evermore shall be so. Pleas on the part of the accountancy bodies to have privilege extended to them have fallen on deaf ears.

Perhaps we should have said at the very beginning that we don't, of course, condone tax evasion or criminal activity. (Hopefully that should have gone without saying.) But this principle of moral rectitude isn't inconsistent with the rule that lawyers enjoy, which is that they can hear blood curdling confessions from their clients without having to run straight off to tell PC Plod about it.

Seriously though, if you have a tax skeleton in your cupboard – perhaps a large one, which wakes you up in the middle of the night sweating – what should you do about it, if you can't go and see the accountant in the morning and make a clean breast of it without being afraid of the knock on the door on the subsequent night?

Fortunately, in our view there's a get-out clause for those who have decided to get rid of that skeleton, and simply want to do so as cheaply and easily as possible.

There are all kinds of reasons you might come to this conclusion. It may have seemed a good idea at the time, for example, to salt away proceeds from business activity without declaring them for tax purposes, but you have to think about the question 'What is money for?' If it has to be salted away in a bank account somewhere outside the UK – a bank account which is increasingly in danger of being notified to HMRC under the growing trend towards international cooperation between the various tax Gestapos – and you can't bring that money into the UK in any substantial amounts without raising questions, what an earth, you might think, is the good of having that money?

By contrast, if you make a full disclosure and pay your tax, whatever money you're left with is 'clean' and can actually be used to buy those things that money is so useful for acquiring.

And there's a strong incentive in the system (although it won't be strong enough for some people) to come clean, however 'dirty' you've been up to now.

This is the rule that penalties for under-declaration of tax can, in some circumstances, be reduced to nil. Here's how you do this.

You go and see an accountant who you think is both competent and a man or woman of integrity. You tell them absolutely everything. You provide them with full details, to the extent that you've kept them, of all of the money which has found its way into your offshore bank account (or whatever) and where it came from, and when.

The accountant then produces a detailed report which calculates your back tax liability, making estimates to the best of the accountant's ability where the detailed records simply aren't available any more, and presents the back tax on a plate to HMRC. It's as simple as that.

If this disclosure is both full and followed up by full cooperation with HMRC's correspondence and if the disclosure is entirely unprompted by any communications from the taxman – that is if the taxman knew nothing about it beforehand – then you will probably be in only for the tax itself and interest (currently running at the unprecedentedly low rate of 3%) running from the dates on which the tax should have been paid.

Even if this takes a huge chunk out of the money you actually managed to save, you can comfort yourself with the reflection that this, for practical purposes, makes it unthinkable that HMRC would ever actually prosecute you, that is take criminal action against you.

And the important point, here, is that the accountant who is instructed to make a full disclosure to HMRC does not need to grass on you in advance. This is for the simple reason that you have now turned over a new leaf and are no longer a danger to him.

Alan Pink FCA ATII is a specialist tax consultant who operates a bespoke tax practice, Alan Pink Tax, from offices situated in Tunbridge Wells. Alan advises on a wide range of tax issues and regularly writes for the professional press. Alan has experience in both major international plcs and small local businesses and is recognised for his proactive approach to taxation and solving tax problems. Alan can be contacted on (01892) 539000 or email: alan.pink@alanpinktax.com. His book, The Entrepreneur's Tax Guide, is on sale from Head of Zeus for £20 and from all good bookshops.

Marriage: A Debit And Two Credits

What, if anything, is our government doing through the tax system to support the institution of the family, to which they play such lip service?

Well, we've thought of three important respects in which marriage can radically affect your tax liability, and it just so happens that two of these are in favour of marriage, in general terms, and only one of them is against. Here goes.

1. One main residence

It's perhaps a relic of the old times, when cohabitation was comparatively rare, that there is a restriction which applies to married couples but not to unmarried couples (OK, read or 'civil partners' throughout), and that is the rule relating to exempt main residences for CGT purposes. An unmarried couple can get a real advantage in that they can have not one but two exempt 'main residences' at the same time, even if, as a question of actual fact, they are living together. The way this can be brought about is by using the 'main residence election.' If you have two residences, for example a house in the country and a flat in town, one of the properties could be owned by one partner and the other by the other. Because they are both residences, even though only one is in fact the 'main' residence, the owner of the other property has the ability, subject to time limits, to elect that the other one be treated for CGT purposes as if it were their main residence.

So this is an example of how one couple can have two main residences; and it's not available to couples who have gone through the religious or secular ceremony of marriage. Bear in mind, in this example, that the implication of the above principle is that it is less advantageous, from the tax point of view, if both partners have a joint interest, say, in each property. Only one of these properties can be the main residence of each individual.

2. Interspouse transfers

Here's the first of our two credits. For CGT purposes, any transfer of assets between husband and wife is treated as made at such a value that neither a gain nor a loss arises. Effectively, therefore, the asset is transferred at its original cost. So there is no tax to pay if you were, say, to equalise your holding of assets like shares and investment properties.

By contrast, an unmarried couple would trigger a capital gain based on the market value of the asset concerned, and end up with a 'dry tax charge', that is a tax charge when there is no real 'profit', and possibly no cash, out of which to pay the tax.

3. IHT exemption

Arguably, this is the big one. Providing the recipient spouse is UK domiciled, any transfer on death by the other spouse is exempt from IHT. Even if the recipient is non-UK-domiciled, they can elect, if they choose, to be treated as UK domiciled for the purpose of claiming the relief.

This clearly opens the door to considerable opportunities for tax planning, to say nothing of the reassuring feeling that both spouses have that they will not be faced by a big tax bill on the death of the other.
Particularly where there is a wide disparity in the ages of the couple, it is quite likely to be possible to adopt the approach of retaining your assets, rather than giving them away during your life to save IHT, and then leaving it to your spouse, after your death, to make lifetime gifts if she (and it's normally she) does not have the need for such wealth; for example, perhaps the survivor won't need or want to live in such a large house.

So muted approval for the effects of the tax rules on the incentive to marry. If they are serious about the family being a good thing, they should perhaps change the rules relating to the capital gains main residence relief we're complaining about. But, knowing the government, the way they probably would do this would be by denying to unmarried couples the one advantage that they had!

Spring 2017 Budget Commentary

The Chancellor's Budget speech delivered on 8th March was to be his first, and last, Spring Budget, as henceforth we will move to an Autumn Budget and a Spring Statement.

Thankfully, there was not a lot in this Budget to affect individuals from a financial planning perspective as much had been heralded in earlier statements, but a couple of things slipped under the wire.

1. The dividend allowance

Just as everyone had got their ducks in a row to take advantage of the £5,000 dividend allowance announced in the Summer 2015 Budget, which took effect from 6th April 2016, the Chancellor decided in this Budget to reduce the allowance to a mere £2,000 from April 2018. Apparently, this decision was driven by the government's desire to reduce the attractiveness of incorporation, which brings with it the opportunity to be remunerated via dividends rather than salary, as the former results in a lower tax take for the Revenue. Quite how this had become such a huge problem in only 12 months is by the by. Nor does it explain the further reduction in corporation tax (and the proposed, then quickly abandoned, plans to increase National Insurance contributions for the self-employed to bring them more in line with employees), but then when did logic ever feature at the top of the list?

Once again, asset location – which I have written about in a previous issue – comes to the fore. The introduction of the £5,000 allowance increased the threshold at which using a low-cost investment bond wrapper was more tax efficient than holding the assets within a taxable investment account, so the lowering of the allowance moves those goalposts once more.

Similarly, the amount of assets which could feasibly be held within a taxable account where the level of dividend income is within the new allowance will also have reduced – subject, of course, to the overall yield. For example, it would take a portfolio of £250,000 yielding 2% to produce the current dividend allowance amount of £5,000. From 2018/19, we're looking at just £100,000 yielding 2% to cover the reduced allowance.

It's worth mentioning that with bond yields at such low levels, it may now be worth rethinking your ISA strategy. Historically, we have tended to hold bond assets within our clients' ISAs to benefit from the income tax reclaim on interest payments and the fact that the interest income is tax-free. Equities may in some cases now be yielding more than bonds, and with the reduction in the dividend allowance, the argument for holding equity investments within the tax-free ISA environment may now be gathering steam.

2. Individual savings accounts (ISAs)

The ISA allowance increases in 2017/18 to £20,000. This is a decent chunk of money and it makes sense to maximise your ISAs as much as possible. For parents and grandparents wanting to save for children and grandchildren junior ISAs (JISAs) are also a tax-efficient savings vehicle. Subscriptions increase to £4,128 per child in 2017/18.

3. Pensions

I don't think there can be a planner in the UK who doesn't dread the next round of tinkering to be announced with every Budget statement, and this one didn't disappoint. We already knew about the reduction in the money purchase annual allowance from £10,000 to £4,000 that comes into effect on 6th April and applies in circumstances where an individual has chosen to access their pension benefits flexibly, but following the significant changes announced to the qualifying recognised overseas pension scheme (QROPS) regime last autumn, the last thing we were expecting was further legislation in that area. The announcement that a 25% tax charge will be levied on funds transferring to a QROPS with effect from 9th March 2017 therefore came as a complete surprise.

Legislation will be introduced in the Finance Bill 2017 so that:

- Transfers to QROPS requested on or after 9th March 2017 will be taxed at a rate of 25% unless at least one of the following applies:
- both the individual and the QROPS are in the same country after the transfer
- the QROPS is in one country in the EEA (an EU Member State or Norway, Iceland or Liechtenstein) and the individual is resident in another EEA after the transfer
- the QROPS is an occupational pension scheme sponsored by the individual's employer
- the QROPS is an overseas public service pension scheme as defined by regulation 3(1B) of S.I. 2006/206 and the individual is employed by one of the employers participating in the scheme;
- the QROPS is a pension scheme established by an international organisation as defined by regulation 2(4) of S.I. 2006/206 to provide benefits in respect of past service and the individual is employed by that international organisation.
- UK tax charges will apply to a tax-free transfer if, within five tax years, an individual becomes resident in another country so that the exemptions would not have applied to the transfer.
- UK tax will be refunded if the individual made a taxable transfer and within five tax years one of the exemptions applies to the transfer.
- The scheme administrator of the registered pension scheme or the scheme manager of the QROPS making the transfer is jointly and severally liable to the tax charge and where there is a tax charge, they are required to deduct the tax charge and pay it to HMRC. This applies to scheme managers of former QROPS that make transfers out of funds that have had UK tax relief, if the scheme is a QROPS on or after 14th April 2017 and at the time the transfer to the former QROPS is received.
- Payments out of funds transferred to a QROPS on or after 6th April 2017 will be subject to UK tax rules for five tax years after the date of transfer, regardless of where the individual is resident.

In terms of planning, the effective date of 9th March meant the stable door had effectively already been bolted before the announcement. What this does mean is that QROPS will in the future be used as originally intended, that is for those current UK residents who intend to retire abroad and wish to take their pension benefits with them.

Summary

I suppose we should be thankful for the small mercies that there weren't yet more changes to the lifetime allowance and that, for a change, the announcements will have a more limited impact from a financial planning perspective than in previous years. Nevertheless, pensions in particular remain an absolute minefield, with a regime in place today which is significantly more complicated than that which existed before we embarked upon the path of 'pensions simplification' in 2006 – and having been familiar with the old regime and its complications I never imagined myself saying that! High earners and those with significant pension benefits would do well to seek professional advice to ensure (a) that they do not unwittingly breach the rules and (b) that they ensure they protect the benefits built up to date as much as possible via the various forms of fixed and individual protection available.

Carolyn Gowen is a Chartered Wealth Manager and Certified Financial Planner at award-winning City-based wealth management firm Bloomsbury. She has been advising successful individuals and their families on wealth management strategies for over 25 years. Carolyn can be contacted on email at truewealth@bloomsburywealth.co.uk or by calling 020 7965 4480

Offshore News

Pension risk

British citizens living overseas and non-domiciled UK residents both face a potential 25% tax charge if they move their pensions out of the UK. New rules were introduced in the last Budget which mean that the charge will be levied when almost any retirement fund is transferred outside the UK. There are exceptions, but they are few and far between.

Interestingly, individuals outside the European Economic Area looking to transfer a UK pension via a QROPS are actually most at risk of triggering the charge. Anyway, if you are considering transferring your UK pension you should seek expert financial advice. Be wary of unscrupulous firms claiming to have a way of avoiding this new charge.

Loss of confidentiality

Three years ago, a British High Court ruling meant that a firm of solicitors was not in breach of the Data Protection Act by refusing to provide information to an interested party (a beneficiary of a trust) on the grounds of proportionality, legal privilege and improper purpose. Basically, the legal firm Taylor Wessing was trying to stop the beneficiary of a discretionary trust from fishing for information that could, in turn, lead to litigation. However, in February of this year the UK Court of Appeal overturned that High Court decision. As a result the appellant will be able to obtain what would otherwise have been confidential information. It is clear that this court case *(Dawson-Damer vs. Taylor Wessing LLP)* weakens legal privilege.

The EU is at it again

The European Union is preparing yet another list of tax havens. Letters have been sent to 92 different jurisdictions informing them that they will be screened with a view to inclusion on a future black list of jurisdictions refusing to comply with good tax governance standards. Interestingly, amongst those the EU wrote to were the United States of America and Switzerland. Countries will be judged by three different risk factors: transparency and information exchange, the existence of preferential tax regimes and a zero-rated or non-existing corporate tax rate.

Nonagenarian escapes prison

Serge Dassault has been found guilty of tax fraud by a French court but as he is 91 years old he has not been sentenced to a jail term. Instead, he has been fined €2m and given a five-year ban from public office. Dassault is believed to be France's third wealthiest person with an estimated net worth of over €13bn.

New EU beneficial ownership rules

The right to access beneficial ownership registers is currently restricted to government authorities and professionals (such as journalists) who can demonstrate a legitimate interest in the information. However, last month the Economic and Monetary Affairs and Civil Liberties Committees of the European Parliament voted to amend the relevant legislation so that EU citizens may now access registers of beneficial owners of companies. The legislation has also been extended to include trusts and other types of legal arrangements having a structure or functions similar to trusts. Parliament as a whole must now give the go ahead in the March plenary sessions for MEPs to start three-way talks with the EU Commission and Council.

8% flat rate amnesty

The Mexican government has offered taxpayers an 8% flat rate amnesty on funds repatriated to the country providing that (a) all repatriated funds remain invested in Mexico for at least 24 months and (b) funds that are currently being investigated or audited by tax authorities are not eligible.

Mossack and Fonseca arrested

Jurgen Mossack and Ramon Fonseca, the senior partners and founders of the Panamanian law firm Mossack Fonseca, have been arrested in Panama as part of an investigation into corruption in Brazil. The law firm was the victim of hacking in 2016 during which some 11.5 million files from the firm's database were made public. These files included extensive financial information about HNWIs and public officials in respect of more than 250,000 offshore companies and trusts.

New Zealand tightens up disclosure

The New Zealand Parliament has tightened up disclosure obligations for resident trustees of foreign trusts. For the first time trustees must register such trusts with the tax authorities and provide the name of the trust, details of each settlement and the name, email address, physical residential or business address, jurisdiction of tax residence and taxpayer identification number of every settlor or controller of the trust. In the case of discretionary trusts details of each beneficiary or class of beneficiary must be provided. Also copies of trust deeds and any amendments must be filed annually. The amount of period allotted for compliance is just 90 days.

Innovate in Cyprus

If you are not an EU or EEA citizen, you may be interested to know that Cyprus has launched a highly creative residency plan designed to attract entrepreneurs from outside Europe. The programme can be accessed by both individuals and groups and its benefits include:

- full residency for up to two years;
- the ability to extend your residency ad infinitum if your business is a success;
- the option of family reunification if your business is a success;
- freedom to employ non-Cypriot staff without the prior approval of the labour division.

The criteria are relatively easy to meet and can be summarised as:

- availability of a minimum of €50,000 of capital;
- an innovative and creative business plan;
- an office registered in Cyprus where the management and control of the company must take place;
- a reasonable knowledge of Greek and/or English.

Some 150 residence permits are available as part of the programme's launch. Cyprus is, anyway, an extremely attractive place to launch a business. The corporate tax rate is 12.5% but it is possible with relatively basic tax planning to reduce this to a considerably lower rate. Cypriot companies are free to function in almost any sector and can carry out everything from manufacturing to banking and from property investment to IT licensing. The economy, incidentally, is growing after several years of stagnation and the political environment is stable. Although Greek is the national language, a high percentage of the population speaks English.

Irish eyes are smiling

The day after the Brexit referendum the Irish government's website became so overloaded with visitors wanting to know about residency and citizenship that it kept crashing. It is one thing to consider applying for an Irish passport but quite another to go through with it. In fact, since the end of last summer the number of British citizens applying to become Irish has nearly trebled. The predominant reason for this is, of course, that Irish citizenship, unless things change very dramatically, also provides EU citizenship. So if you hold an Irish passport you will be able to work anywhere within the EU and to travel without visas to 172 different countries around the world.

However, there are many advantages over and above simply obtaining an Irish passport. This is particularly true if you are not domiciled in Ireland. This is because Irish tax is based on residence and domicile. The residency rules are pretty simple. Spend more than six months (183 days) in Ireland during any one tax year and you will be considered an Irish resident. On the other hand, if you are coming and going on a regular basis you can basically spend up to 140 days a year in Ireland without becoming tax resident (that is to say you can do 280 days over any two years). Incidentally, if you are on Irish soil for even a moment that day will count towards the total. It takes three years in order to cease to be ordinarily resident in Ireland. However, if you have no Irish income and decide to leave, your tax liability will, to all intents and purposes, be zero.

Anyway, the real benefit of the Irish tax system is that while those who are resident and domiciled in Ireland are liable to pay tax on both their worldwide and local income and gains, those who are resident but not domiciled only pay tax on Irish income and on a remittance basis.

As tax levels in Ireland are high this is an important distinction. The marginal rate of income tax for employees is 52% and 55% for self-employed. Capital gains are subject to tax at 33%.

By the way, there is no remittance charge, unlike the UK.

Are there any catches? One possible area of concern may be Irish capital acquisition tax (CAT). CAT is levied on gifts and bequests and is payable by the recipient rather than the donor. There are various lifetime tax-free group thresholds and certain reliefs but normally speaking it is charged at a flat 33%. Note potentially exempt transfers (PETs) on gifted assets do not exist for IHT purposes. CAT will be applicable if either the donor or the recipient of a gift or an inheritance is resident or ordinarily resident in Ireland or the asset is located there. Clearly, this could result in a substantial tax bill for non-domiciliaries moving to Ireland. If you are non-domiciled and wish to avoid any exposure to Irish CAT then one approach is to not reside in Ireland for one in every five consecutive years.

Other benefits of moving to Ireland include:

- Irish companies can trade throughout the EU without barriers.
- Post-Brexit, Ireland is English-speaking.
- Dublin and Cork are only 1 hour's flight from London.
- Ireland operates a common law jurisdiction.
- Ireland has double tax treaties with 72 countries.
- The corporate tax rate is just 12.5%
- There are generous grants for relocating your business to Ireland.

Money

News

Racing returns

James Weatherby was appointed as secretary of the Jockey Club in 1770 and for the next 220 years or so the company he founded focused on providing publishing, research registration, administration and other services to the horse-racing industry. However, in 1994 the business secured its first banking licence from the Bank of England and since then has been offering private banking services both to those engaged in horse racing and to a wider audience.

Nowadays, you have to have a net worth of, more or less, at least £3m in order for them to consider taking you on as a client.

Most private banks are keen to push their clients into active investment as this offers more opportunities for fees and charges. Weatherby's was, until recently, followers of this strategy. However, earlier this year the bank began to urge its clients to put their money into low-cost passive funds. This makes Weatherby's the first private bank to come out strongly against active money management, dealing another blow to an industry already under attack. The bank believes that active fund managers are simply not worth paying for.

Solid gains

According to the property consultant Strutt & Parker, forestry has been the highest-performing asset class in the UK over the last three years when compared to commercial property, residential property, equities and bonds. Indeed, total returns have been running at close to 15%.

From a tax perspective there are clear benefits to investing in forestry. After just 24 months, commercial forests are entitled to 100% business property relief, gains are tax-free and there is relief on inheritance tax (IHT). Indeed, as an effective IHT-planning tool, it is difficult to beat a forest. If you are young and don't expect your heirs to need your bequest for many years you can opt to plant your own woodland. On the other hand, if you feel your demise may be more imminent and your heirs' need greater in the short term then you can buy mature woodland that is close to being ready to harvest.

What about the practicalities of investment?

Interestingly, Brexit may be good news for forestry investors. Britain imports around 80% of the wood it consumes and if sterling remains weak then prices are likely to rise. Moreover, the Forestry Commission believes that there will be a 30% decline in timber availability in the UK after 2030. This was due to the Budget of 1988 that ended some of the tax incentives associated with planting.

Having said this, there are still generous subsidies available for establishing new forests. Planting costs are likely to be between £1,200 and £1,500 an acre. However, as much as 90% of this could be covered by government grants.

In terms of investment period, the minimum time to maturity obviously varies from species to species. Sitka spruce takes around 35 years; western redcedar, 40 years; Douglas fir, 55 years; Scots pine, 70 years; and oak, 120 years. On the other hand, the relative values of timber can make the wait worthwhile. Currently, Sitka spruce is worth around £7,000 an acre; Douglas fir, £9,700; and oak, £20,243. Interestingly, western redcedar and Scots pine have both fallen from favour and are worth only around £4,500 an acre.

Profit is not, however, the only motive for woodland investors. For example, although Scots pine takes a long time to reach maturity, it does attract a great deal of wildlife compared to many other species. Sitka spruce, incidentally, has the ability to grow quickly and in poor soil. It has fewer branches, too, meaning fewer knots.

The cost of woodland varies dramatically according to the type of trees, its location and its maturity. Other facilities – such as a house or sporting rights – may also affect the price.

Probate fee warning

In February of this year, the Ministry of Justice announced that the fee structure relating to grants of probate for deceased estates would be changed. Instead of the existing flat fees (£155 for a solicitor and £215 for a personal application), costs would be linked to the value of the estate. Estates worth £50,000 or less will pay no fee, but estates worth over £2 million will pay £20,000. This change is subject to parliamentary approval but is expected to take effect from the end of May.

The issue with the new regulations (apart from the increased cost) is that the fee has to be paid before executors have access to a deceased's assets. Many banks and investment managers may, it is hoped, agree to lease the fees prior to the grant of probate but if they don't, executors or family will have to fund the fees and claim them back from the estate at a later date.

Incidentally, the fee structure is tiered. So the fee for a £2 million estate is £12,000, but the fee for a £2,000,001 estate is £20,000.

The Ratios Never Lie

Investors are always told that past performance is no guide to future performance (or words to that effect). This is only partly true. Knowing how an investment or investment class has performed in the past can help one make one's investment decisions. In particular, knowing average returns over the short, medium and long term is invaluable. After all, without this data we would not be able to choose between different asset classes.

One set of data I often return to is that of ratios, that is to say how much of one item – say oil – is required to purchase another item – say property. These ratios are a good way of assessing whether an asset class is priced cheaply or expensively and whether it is a good idea to buy, hold or sell.

I have looked at this subject quite recently but as prices have been doing strange little dances (some involving leaps, others dives) over the past few months I thought it would be worth looking at again.

The last time I looked at the topic I was interested in gold and also was only able to get my hands on figures for the last 15 years. Last month, however, a property journalist called Peter Hemple very obligingly published an article looking back 20 years and widening the research to cover such investment classes as shares, property, oil and gold.

When I wrote about gold last year, the historic ratio between it and oil was approximately 15. In plain English, if you wanted to buy one ounce of gold you would require 15 barrels of oil. Owing to falling oil prices, by the beginning of January 2016 that ratio had soared to 32. What has happened since?

At the time of going to press you would now need around 20 barrels of oil to buy one ounce of gold. This is still above the historic ratio (15) but obviously closer to what one might expect. This, incidentally, takes into account the fact that sterling is hovering at a 30-year low against the dollar.

In fact, oil may be looking cheap at under $60 a barrel. This is not because of increased demand but rather because of reduced supply. Over the last few months, oil-producing countries that are members of OPEC have agreed between them to dramatically cut production in order to try to push the price up. Indeed, since the end of December oil has jumped by about 20%.

Interestingly, oil is still relatively cheap when considered against other investments. Looking at ratios again, against the FTSE 100 one would expect oil to be closer to $67 a barrel, against UK property and also gold $80 a barrel and against London property $100 a barrel! If one averages all four ratios then the expectation would be that Brent should currently be priced at a little over $80 a barrel or some 30% more than its current price.

Switching to the UK stock market, the interesting thing is that it has performed very badly when compared to other international stock indices. Over the last 20 years the FTSE 100 is up 72.4%. However, over the same period the French CAC is up 109%, the American S&P 500 is up 202% and the German DAX is up 297%. Compared to the other investments, the FTSE 100 is undervalued by about 15%.

When it comes to UK property, residential property prices are closer to what the historic ratios indicate than any other investment asset. Indeed, they are just 3.9% overvalued. London property, on the other hand, would appear to be overvalued. What of gold? It is only 6%

more expensive than the ratios suggest it should be.

What does all of this suggest in practical terms? Back to Peter Hemple. He believes the ideal trade for 2017 is to re-mortgage all your London property (assuming you have some!) and invest the money in oil. Every seven years or so the ratio between London property and the price of oil goes over 8 (as it is now) and that by "holding or preferably re-mortgaging your London property and using the funds to buy oil at a US dollar price on any of the trading exchanges you might expect to earn a return of 92.4% on average over the following 12 months!" However, he rather spoils this suggestion by also pointing out that it is a relatively high-risk play. Still, perhaps the ratios never lie!

How Genius Invests For Its Children

When you are earning it, it has the power to make you very rich. When you are paying it, it has the power to make you very poor. Albert Einstein described it as "the greatest mathematical discovery of all time". It is the reason banks, building societies, credit card companies and other financial institutions make so much profit from lending money. And it is the reason ordinary investors can make themselves rich simply by doing nothing. It is a fiendishly simple concept that will need no introduction to *Schmidt* readers: compound interest.

Since the government widened the number and variety of tax-free saving options for younger investors – ISAs, junior ISAs (JISAs) and so forth – it has become possible for older investors to use a combination of compound interest and these investment vehicles to provide for their long-term wealth.

This is best explained with an example.

Imagine you have a new baby child or grandchild and open a JISA on his or her behalf and pay in the maximum amount (currently £7,008) once a year on his or her birthday for 10 years. Assume, moreover, a reasonable 5% annual return over the term of the plan. On your child or grandchild's 70th birthday the fund would be worth a staggering £1.9 million.

You don't have to invest as much, of course, and who knows what the state of the world (or tax law) will be in 70 years. The key point is that compound interest and tax-free saving achieves mighty returns.

Property

Property News

Dublin's fair city

Savills Ireland, the international property firm, says that between now and 2022 Dublin will add some 136 new office buildings, totalling over 12 million square feet to the city's existing stock. Job growth is currently running at 3.3% in Dublin and is forecasted to continue at more or less the same pace for the next few years. Savills, incidentally, hasn't allowed in its predictions for a major influx of exiles from London when the UK leaves the EU. Last year, PwC surveyed senior decision makers in the city of London to try to discover which were Europe's most appealing financial centres. Dublin came second behind London. According to PwC if London loses its passporting rights (the process by which financial firms based in one EU country can sell their products and services freely to all the others) then Dublin would become the number-one spot.

There may be plenty of office space in Dublin but there is a definite shortage of residential property. Ever since the crash in 2008, the number of properties available in Dublin has remained more or less static. Prices, on the other hand, have been slowly but steadily rising. Last year, prices went up by 6% in the Irish capital with some areas going up by as much as 10%. Prices, incidentally, are still around a third off their 2007 peak. The Irish government believes that some ten to twelve thousand new residential units will be required every year for the foreseeable future.

Compared to London, Dublin property prices are still incredibly reasonable. Fifty thousand euros will get you a small but nice terraced house in Ballsbridge (the Kensington & Chelsea of the city). Three million euros will buy you a large, beautiful period townhouse. Given that demand is rising and supply is falling behind, it is a fair bet that Dublin property will remain an excellent medium-to long-term investment.

Luxury care homes

Berkley Care Group, the residential care expert, has opened seven luxury care homes in the last year. Each has all-day restaurants, gyms, spas and chauffeur-driven Mercedes as part of the facilities. The cost of living in one of these homes can be anything up to £100,000 a year. This, however, is as nothing compared to Chelsea Court, Britain's most expensive nursing home located on the Kings Road, Chelsea. Here a luxury suite could cost you as much as £156,000 a year. The home is, incidentally, designed for patients with dementia, which is why services include individually tailored memory improvement training, physiotherapy programmes and escorted trips to the opera and art galleries. The care home has a restaurant and bar that would do justice to any boutique hotel. The demand for upmarket care appears to be growing at an unprecedented rate. There is

a huge shortage of availability. Interestingly, existing care homes appear to be selling at around 12.5 times their underlying earnings, almost close to their pre-2007 peak.

Attention all landlords

In less than a year some buy-to-let landlords could find that it has become illegal for them to grant new tenancies or renew existing tenancies if their properties are not considered sufficiently energy efficient.

Energy performance certificates (EPCs) were introduced in 2007 as a way of assessing the energy efficiency of buildings. Properties are graded from A (optimum efficiency) to G (poorest efficiency). Residential properties that fall into the bottom two categories (F and G) can no longer be let from 2018. Moreover, all buy-to-let landlords will need to comply by 2020, although commercial landlords have until 2023 to meet the legal requirements.

It can be quite expensive to upgrade properties to the new approved energy-efficient levels. The Green Building Council, for example, estimated that it would cost £1,421 on average to move from an F and G category to an E category. Of course, the new levels of efficiency should reduce energy bills. However, in most cases these benefits will be enjoyed by tenants rather than by landlords.

The sort of improvements that need to be made, incidentally, are the addition of double glazing, loft insulation and draft excluders.

The UK student market

Knight Frank, the property consultant, has just released its *2017 Student Market Review*. Perhaps the opening sentence of the Knight Frank report says it all: “There is competitive market tension for prime operational assets with aggressive bidding from North American private equity firms and institutions in particular.”

Apparently, some £3.1 billion was invested in the UK purpose-built student accommodation (PBSA) market in 2016, more than double the levels seen in 2013 and 2014.

While total spend last year was lower than the record £5.1 billion seen in 2015, it demonstrates that demand for PBSA remains strong. However, it must be pointed out that portfolio acquisitions accounted for around 60% of the total investment.

The average price per bed in the UK is £84,457. Interestingly, however, the price ranges from £29,933 in the West Midlands to £144,112 in the Greater London area. Despite the element of economic uncertainty resulting from Brexit, Knight Frank feels that the higher education sector will be unaffected by economic cycles or political turmoil. Moreover, the company describes it as a structurally undersupplied market.

What about the all-important yields? The Knight Frank yield guide showed that at the end of 2016 yield was running between 4.5 and 5.5%. The most popular place to study remains London, followed by Edinburgh, Coventry, Manchester and Birmingham.

Of course, two factors may affect the long-term value of student accommodation in the UK. First, if Britain suffers a hard Brexit it is possible it will become harder for European students to study in the UK. Also other factors that could affect student accommodation yields include a general downturn in the world economy and increased competition from other countries. However, a weak pound is obviously likely to have a beneficial effect on investment value.

Property Notes

Rent-a-room relief update

In last month’s issue of *The Schmidt Tax Report* we mentioned that it was possible for short let landlords to take advantage of the rent-a-room relief provisions, which currently exclude the first £7,500 a year of income from tax.

However, shortly after the newsletter went to print we came across an ominous statement in the Budget Red Book:

Rent-a-room relief – the government will consult on proposals to redesign rent-a-room relief, to ensure that it is better targeted to support longer term lettings. This will align the relief more closely with its intended purpose, to increase supply of affordable long term lodgings.

In plain English, it appears that the government has it in for professional property owners who are using Airbnb and other similar sites to let spare rooms or entire properties for short periods.

There have always been certain restrictions when it came to rent-a-room relief. For example, it can’t be claimed when the space is not a furnished room (i.e. not a garage or shed), is let as an office rather than for residential use or if the home is not occupied by the landlord. Moreover, rent-a-room relief cannot be claimed by a partnership. Interestingly, HMRC is happy for the relief to be used even if your letting activity is clearly a business or trade. So, for example, a homeowner who uses part of their property to run a guesthouse or bed-and-breakfast business can still take advantage of the rent-a-room relief.

Still, there is no getting around the fact that if the provisions are appreciably altered many private short let landlords will be caught.

Could the furnished holiday letting (FHL) rules provide an alternative form of tax mitigation? The key advantages offered by FHL are that when you come to sell the property you could qualify for rollover, holdover and entrepreneurs’ relief. Sadly, since 2011, FHL operators have no longer been able to offset letting losses against total income. Still, these losses can be carried forward against future income from the same source, so the situation isn’t all bad.

Anyway, if you can let your property under the FHL rules you may not mind so much any loss you suffer under the, as yet to be revealed, new rent-a-room relief rules.

Enveloping confusion

On the days when the government isn’t making life miserable for landlords it often seems to be intent on torturing owners of second properties, such as holiday homes. Indeed, if you own more than a single residential property you now face a host of extra tax charges, including the additional 3% stamp duty land cost and, for landlords, the loss of the 10% wear and tear allowance and the loan interest restriction for rentals.

If all of this were not bad enough, so-called non-natural persons also suffer an increased stamp duty land tax (SDLT) cost of 15% if the property value is £500,000 or above. A ‘non-natural person’ refers to a company, a partnership with a corporate member or a collective investment scheme.

Perhaps the real killer in all of this is the annual tax on enveloped dwellings (ATED). When this tax was initially launched, it only applied to properties worth £2 million and above. The figure has since fallen to £1 million and now stands at £500,000. Any non-natural person holding a residential property valued at £500,000 or more must complete an online ATED return or relief form every year. This is true, even if no tax is due. It is to be remembered, of course, that since the 6th April 2015 non-natural persons have been subject to capital gains tax (CGT) on the sale of any UK residential properties.

Finally, you may be wondering what happens if you are caught by both the ATED and non-resident CGT regimes. The answer is that ATED always takes priority. You will still have to file a tax return for non-resident CGT but at least you only pay tax on one or the other.

Good news for owners of farmland

As anyone who owns a small to medium-sized farm will tell you, it is a business fraught with difficulty. Whether or not one makes a profit is often determined by external factors and, bluntly, luck. There are also a great deal of regulations and rules. However, partly in recognition of the difficulties involved and partly in recognition of its value, the government has traditionally given all sorts of tax incentives to those involved in agriculture, including business property relief and agricultural property relief. Also, as discussed in previous issues of *The Schmidt Tax Report*, it is often possible to obtain entrepreneurs’ relief on capital gains made when selling land.

Unfortunately, many of the available reliefs are voided if the farmer ceases to farm. This can occur without the farmer realising it. One group especially at risk are those who rent their land out for grazing – a common practice for farmers who have more land than they wish to use or who want a guaranteed income. In this regard, a First Tier Tribunal recently gave a very useful decision that will help to clarify the CGT position for many farmers.

The decision related to the CGT position on grass lettings and what constitutes trading or investment activities by the landowner. In this particular case the landowner grew grass, supplied fertilizer, maintained fences and drainage, supplied water and cut the weeds and hedges. So, although they rented the land to another farmer who could both graze it or take silage from it, they were still considered to be farming rather than simply passively letting the land out. This judgment will be of great comfort to many farmers hoping to reduce their CGT bills in the future.

Inheritance Tax ‘Hiroshima’

Although it’s been surprisingly little publicised, the government has just done something really terrible to offshore investors in UK property.

Ever since Mr Osborne was made Chancellor of the Exchequer, an unremitting war has been waged against those who pour money into the UK by buying UK property. No doubt the reason for this is that it is an attempt at social engineering: Mr Osborne was trying to affect the market value of UK property to prevent it from increasing at the stratospheric rates it has done recently. The problem with this sort of market manipulation, particularly when enforced by the kind of strong-arm tactics we’re going to come on to describe, is that its effects are actually incalculable. There is a tendency for the market to swing dramatically the other way, to a far greater extent than the government meddlers were intending. We’ll have to see what happens to UK property.

The five ‘hammer blows’

The above is put fairly strongly, of course. This is a magazine about tax planning, and, to misquote Newton, every government action has an equal and opposite taxpayer reaction (OK, perhaps not ‘equal and opposite’). So there are things you can do about the particular recent assault on the inheritance tax (IHT) treatment of property. But first, it’s a case of ‘know your enemy’.

The five hammer blows we’re talking about are:

- The ‘annual tax on enveloped dwellings’, a kind of super ‘rates’ bill which applies to any residential property held within any kind of envelope, including a limited company and not part of a letting or development business. This has already applied for some years, but now has the low starting threshold of property worth £500,000 or more;
- CGT on residential property owned by

non-residents, with effect from 6th April 2015. This is a tax charge which even the deeply socialist government that introduced CGT in 1965 didn't want to impose.

- The 3% SDLT 'surcharge' on people buying any property which was not their home.
- The 'Clause 24' or 'Osborne Tax', under which, starting from 6th April 2017, tax relief for interest paid on buy-to-let mortgages is being phased out over four years for higher-rate income tax purposes.

- The extension of IHT to assets owned by non-UK domiciliaries, which are not UK assets but derive their value from UK residential property.

The fifth hammer blow

Up to and including 5th April 2017, non-UK investors could hold their property, and typically did, through an offshore trust structure, which basically comprised trustees 'at the top' who were usually non-UK-resident (although this isn't essential), who then held the shares in a non-UK-incorporated company, which in turn owned the UK property. This was deliberately designed to use the rules relating to 'excluded property' in the IHT code.

Excluded property is outside the scope of IHT, as its name suggests. The purpose of the rule is to translate into IHT terms the general 'territorial' principle of tax which applies to all other taxes as well. If a person is non-UK-domiciled (in the context of IHT, this means not domiciled in the UK) and the asset in question is also not in the UK, there's no IHT. A similar rule applies to assets held in trust where the person who put those assets into the trust (the 'settlor') was non-UK-domiciled at the time the trust was made, and where the asset concerned is non-UK-sited.

So if you wanted to hold a UK-sited asset, which would be chargeable to IHT on your death even though you were non-UK-domiciled, you escaped the tax easily by 'enveloping' the UK property in a foreign company: thus converting your UK asset into a non-UK asset.

It is this rule the government is now changing, despite having been quite happy to take foreign investors' money, so to speak, ever since IHT was invented in 1974. For chargeable events (mostly this will mean deaths) after 5th April 2017, the shares in a company, or other kinds of indirect interests, that derive their value from UK residential property will not be excluded from IHT any more.

A slight problem

The comment has already been made that this is likely to be a quite difficult new tax charge to enforce. Sheikh Al Mohammed may have an indirect interest, at a number of stages removed, in a Guernsey company which owns a substantial slice of London's West End. But how, precisely, is HMRC going to know when the sheikh has shuffled off this mortal coil? Of course, his executors have a duty, under UK law, to return the new tax charge that will become due. But even if they know about this new tax charge, how will HMRC know if they don't tell them?

Leaving that aside, which is the UK government's and HMRC's problem and not the taxpayer's as such, what, if anything, can people like the sheikh do in the wake of this tax Hiroshima?

Evasive action

First, IHT can of course be planned for in other ways, for example by making lifetime gifts which the donor survives by seven years. If the offshore domiciliary is getting on in years, but feels he is good for at least another seven, the IHT charge can be avoided, or at least postponed, by making a gift of the property concerned to younger members of his family. Even if the gift turns out to be liable to CGT under the second of the hammer blows we mention above, this may be a comparatively small tax charge since non-residents (including non-resident holding companies) are only liable on the gain in value of a property since its 6th April 2015 value.

Second, if there are reasons which make it difficult or undesirable to give it away, consider refinancing the property and giving the cash drawdown on the new loans to other individuals in your family. (Unfortunately, it doesn't look as though putting the money on trust is an answer, because the cash drawn down appears to be also excluded from the definition of 'excluded property' in these circumstances.)

Third, bear in mind that the tax charge relates only to UK residential property and not to other sorts of UK-based assets, and therefore UK commercial property is still outside the tax charge. Again, there may be the ability to change the mix of a non-domiciled person's investments in UK property, from residentially to commercially based, without that process of selling old properties and buying new properties triggering an excessive amount of tax on capital gains. There are some cases (although commercial considerations are obviously very important) where it may even be possible to convert residential property into commercial property without making any sale, and therefore without triggering any CGT charge.

Property Opportunities

The secret Algarve

If you are interested in investing in a holiday property with potential for both an excellent annual income and capital gain then consider the benefits offered by the 'secret' Algarve.

Eastern Algarve is very undeveloped when compared to the 'golden triangle' that exists between the central resorts of Vilamoura and Quinta do Lago. This is in part due to the fact that a major part of the eastern coastline is dominated by the Ria Formosa Natural Park. This national reserve can never be developed, forcing property investors inland. Not that coastal properties aren't available on the stretch between Olhão and Vila Real de Santo António. To give you a feel for comparative prices, the average per square metre cost in eastern Algarve was around €3,000 last year compared to €6,000–€8,000 per square metre further west. Most interesting of all, prices in eastern Algarve have barely increased since the 2008 financial crisis.

If one were looking for a particularly interesting investment opportunity, one might consider Tavira, an historic town. It is located on a river and has a dramatic ruined castle and a quaint historic town centre. Moreover, prices are incredibly reasonable in this particular area. You can buy a ruin with land for as little as £40,000, and a four-bedroom villa could cost you as little as £300,000. Note that the Portuguese economy is beginning to perk up. Unemployment is falling and the economy is beginning to grow again.

Into Africa

Between 2000 and 2014, after decades of disappointing performance, the African economic growth ran at some 5% per year. Since 2014, growth has slowed somewhat. In 2015, it fell to 3.4% and, in 2016, it dropped to 2.1%. This year, it is expected to be just 1.5%.

Of course, the problem with these figures is that they cover the entire continent and thus do not highlight the divergence between the growth rates of commodity-importing and commodity-exporting countries. The major oil exporters, in particular, have been affected by low oil prices, but more resilient growth rates have been seen in oil-importing countries. Indeed, Nigeria and Angola, Africa's two largest exporters, have actually been in recession during the last year. So where is future growth likely to occur? Interestingly, Ethiopia, Tanzania, Ivory Coast and Senegal are all expected to achieve 6% or more GDP this year. A host of other countries – including Mozambique, Namibia, Madagascar, Niger, Mali, Togo, Benin and Sierra Leone – are expected to make between 4 and 6% growth.

In particular, the persuasive long-term investment case for sub-Saharan Africa has drawn increased numbers of international investors to investigate opportunities within the region over recent years. Investors' appetite for sub-Saharan real estate was highlighted in 2016 by the announcement that the UK-based emerging-markets specialist Actis has raised $500 million for its third African property fund.

So where is the money going? The retail property sector has probably been the major focus for development activity within Africa over the last decade, causing the shopping mall concept to take root in an increasingly wide range of major African cities. Development has been driven by the growth of the continent's consumer markets and the expansion of domestic and international retailers, particularly the leading South African supermarket chains such as Shoprite and Pick 'n Pay. The Kenyan capital, Nairobi, has the greatest volume of modern retail floor space in sub-Saharan Africa, after South Africa.

Another sector that has emerged as a growing focus for new development is that of logistics. Over the last decade, modern commercial property development within sub-Saharan Africa may have concentrated on the retail and office sectors with logistics development being more limited. However, there is a growing recognition that the region's key cities are undersupplied for modern logistics space. Development activity is burgeoning, supported by demand for high-quality space from retailers and consumer goods manufacturers.

We have written about residential property yields in Africa before. To give you a feel for the sort of private residential yields possible, Algeria offers 7.5%, Angola 11%, Botswana 6%, Cameroon 7.5%, Chad 8%, Ivory Coast 8%, the Democratic Republic of the Congo 12%, Egypt 7.5%, Equatorial Guinea 9%, Ethiopia 8%, Madagascar 12%, Kenya 5%, Mali 10%, and so forth. Obviously, prime residential yields tend to reflect risk, which is why South Africa is only really offering 5.5% against the Democratic Republic of the Congo's 12.5%.

Perhaps the key point we want to make is really that whereas in the past Africa was seen as high risk compared to Europe possibly, the way the world is going, with its high levels of growth it may be the better property investment bet.

TWO FREE BOTTLES OF PORT

Introduce us to a new subscriber and we'll send you a bottle of port each

If you know of anyone who could be interested in subscribing to the Schmidt Tax Report now is a very good time to make the introduction.

In addition to all the benefits that come from subscribing to the UK's longest established, plain-English tax newsletter anyone you recommend will benefit from:

- A free trial issue
- Immediate free access to our 'Ask the Expert' service
- A 50% reduction for the first year – a saving of £99

Moreover, if your introduction results in a new subscriber to the Schmidt Tax Report we will be delighted to send you and our new subscriber a bottle of port each.

To take advantage of this offer please email us through the details of anyone you would like to introduce and we will send them a free copy of the newsletter. If they decide to proceed we will send you both your free bottle of port

Email: info@wentworth-publishing.co.uk

Please note that in order to claim your two free bottles of port whoever you recommend must take out and pay for a minimum, one-year, half-price subscription worth at least £99. Once the payment has gone through a bottle of port will be sent to you and a bottle to your friend. We reserve the right to withdraw this offer at any time. Offer limited to five new subscribers per existing subscriber. We will choose the port when the time comes.

The Schmidt Tax Report

Web: www. schmidtreport.co.uk Email: info@wentworth-publishing.co.uk

It is our intention to be as accurate in fact, detail, analysis and comment as possible. However, the publishers and their representatives cannot be held responsible for any error in detail, accuracy or judgement whatsoever. The Schmidt Tax Report is sold on this understanding. The STR is commissioned and published by Pink Consultants LLP, Unit 5, Hurricane Way, North Weald, Epping CM16 6AA © Wentworth Publishing Ltd 2017. All rights strictly reserved. This publication may not be lent, hired, reproduced (in any way whatsoever) or re-sold. This information is authorised for personal consumption only. Registered at The British Library - ISSN 2047-1785.