Hammonds

The new 50% income tax rate

From April 2010, where an individual's income is above £150,000, his or her marginal income tax rate will increase to 50%. This will be accompanied by a partial withdrawal of income tax relief on pension contributions for these high earners, which will make effective planning for the new regime particularly difficult.

Planning opportunities

Mitigating the effect of the new 50% rate of income tax will involve a combination of making the most of the current 40% rate while it is still available and identifying what action can be taken on an ongoing basis.

In addition to considering accelerating payments (such as bonuses and share scheme maturities) so that they are paid before 6 April 2010, some high earners may consider deferring income (particularly share scheme payouts) in the hope that the top rate of income tax will be reduced in the future.

The most attractive planning technique is to allow executives to receive some of their employment income in the form of capital, subject to capital gains tax at no more than 18%. There are a limited number of ways of achieving this. These include:

- arranging for executives to receive an interest in shares which is structured to be of little value when it is received (when it is subject to income tax) but which will become valuable if the company performs very well. This can be a free-standing new share scheme or can be added to existing schemes; and

- using HM Revenue & Customs approved share options as an additional benefit in kind, possibly on a salary sacrifice basis. The value of shares under option is limited to £30,000, but this can still be a useful tool as the profits can often be entirely free of tax.

We can ensure that both of these methods are available to quoted and unquoted companies.

Pensions

Income tax relief for pension contributions in respect of earnings over £150,000 has already been restricted, in many cases capping the amount on which full tax relief is given to £20,000, although existing regular contributions can continue. These rules are highly complex and are expected to continue to April 2011 when a new regime is proposed that will limit tax relief to the basic rate for anyone earning more than £150,000. There is a limited opportunity to make contributions before 6 April 2011 that benefit from the full tax relief.

Our experience

Our Tax Strategies team can advise on the impact of these changes and provide assistance on implementing planning to mitigate its effect. For more information about this and other tax issues relevant to employees, please contact:

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