TAX PLANNING CHECK LIST

2022-23

HIGGINSON & CO LTD

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INTRODUCTION

The following check lists are not exhaustive – each taxpayer's circumstances are unique. However, the following check lists will rekindle the grey matter.

Use them to remind yourself of the planning opportunities that are available.

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INCOME TAX – PLANNING CHECK LIST 2022-23

- To lower the impact of higher rate tax (or marginal rates), consider sharing ownership of income producing assets with your spouse, especially if your spouse pays no income tax, or tax at lower rates.

- Similarly, consider sharing ownership of income producing assets with your adult children (over 18 years. Your children, whatever age, can earn up to £12,570 this tax year without paying income tax. Transfers of certain assets may create a CGT liability and so planning is key.

- If you have a pension scheme, take advice from your pension's advisor on the level of contribution you should make this year. The maximum you can pay in is £40,000 unless you pay tax at 45% in which case the annual limit could be as low as £4,000.

- There are no limits to the amount of gift aid donations you can make as long as not more than four times your tax bill for the year. These contributions extend your basic rate tax band and are an effective strategy for avoiding the higher and marginal rates of income tax. Charitable donations are also one of the few remaining reliefs that you can carry back, in certain circumstances, to the previous tax year.

- You can transfer up to £1,260 of your personal allowance to your spouse if you don't earn enough to fully utilize this allowance against your own earnings. You can only do this if their income is between £12,570 and £50,270.

- If you are provided with a company car and your employer pays for your private fuel you should consider repaying this private fuel cost to your employer in order to avoid the punitive car fuel benefit charge. This will also save your employer National Insurance charges.

- A further consideration for company car drivers is to discuss changing your vehicle for a lower CO_2 emissions model. The car benefits charge increases in direct proportion to these CO_2 ratings.

- Don't forget to use your ISA allowance. In this way you can invest up to £20,000 in the current tax year and any interest earned will be tax free.

- There are a number of specialist investments you can make that are qualifying deductions for income tax purposes. They include: the Enterprise Investment Scheme, investments in certain Social Enterprises, Seed Enterprise Investment Schemes and Venture Capital Trusts. You will need to consider the commercial risks as well as the tax advantages.

- Don't forget that the State Pension is treated as taxable income for tax purposes. You are paid without deduction of tax. If your total income (including your State Pension) exceeds £12,570, this may produce unwelcome bills from the tax office at the end of the tax year.

Please note that some of the allowances and tax rates and bands will be slightly different if you pay income tax in Scotland.

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CAPITAL GAINS TAX (CGT) PLANNING CHECK LIST 2022-23

- Make sure you utilize your annual tax-free allowance of £12,300. Consider selling assets, shares for example, that can be sold within the tax-free allowance.

- If your chargeable gains are likely to exceed the £12,300 limit, are there any assets you can sell at a loss to reduce the total gains below the tax-free limit? It is no longer possible to sell and buy back shares to facilitate this planning option: the so-called "bed and breakfast" arrangement.

- If you are contemplating the sale of your business make sure you have arranged your affairs such that you can claim Business Asset Disposal Relief. This will potentially allow you to make qualifying gains of up to £1m and only pay CGT at 10%.

- As the level of your taxable income, for income tax purposes, will affect the rate of CGT you will pay, investigating ways to reduce your income tax earnings may save you CGT as well as income tax.

- A gift of chargeable assets to your spouse does not create a CGT charge.

- Your spouse and children also qualify for a separate tax-free allowance of £12,300. Transferring assets between family members can reduce overall CGT liabilities if considered before a sale.

- It may be possible to claim other reliefs to reduce your potential liability to CGT. These could include rollover and hold-over gains reliefs. If you are likely to make significant capital gains during 2022-23, please contact us for advice as soon as possible so that we can explore available strategies for minimizing your CGT bill.

- Although the sale of your main home is generally free of CGT, if you have let the property for any time during your period of ownership, or if you have made significant use of the property for business purposes, then there may be a CGT liability when you sell. If you are affected, make sure you take advice on this issue.

- CGT payable on chargeable disposals after 5 April 2022 and before 6 April 2023 will be due for payment 31 January 2024. If you delay the disposal until after 5 April 2023, any CGT due will be payable a year later, 31 January 2025. Theoretically, you could delay a disposal by one day (from the 5 April 2023 to the 6 April 2023) and it would extend the amount of time you would have to pay the tax by 12 months. Exceptionally, gains on disposals of certain residential property need to be reported to HMRC within 60-days of the sale and any CGT due on the sale would need to be paid within the same 60-day period.

- Review all the assets you own that are currently worth less than you paid for them. Should you dispose of them and make use of the capital losses? Which would be the best tax year to register the loss? This could include a claim to treat shares as having no value (a negligible value claim).

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INHERITANCE TAX (IHT) PLANNING CHECK LIST 2022-23

- Make sure you have an up-to-date Will. Dying without a Will can cause all sorts of problems for your surviving family as well as affecting your estate's IHT liabilities.

- If you own assets in excess of your available IHT exempt threshold, consider transferring assets into trusts or make lifetime gifts in order to reduce your family's exposure to IHT. The timing of creating a trust can be critical and can have significant tax implications. So, take advice sooner rather than later.

- Make the most of the annual gift exemptions. You can only carry forward the £3,000 unused annual allowance for one year.

- If you make regular gifts, say a contribution to grandchildren's school fees, in excess of the £3,000 gifts allowance, you may still avoid any IHT charge on the excess if you can demonstrate that the gifts were made out of your disposable income. i.e., you do not have to dig into your saving to make the payments. Keeping accurate records of your gifts and disposable income is a key factor in claiming this relief.

- If you own a business, take advice on the potential IHT risks and the availability of Business Property Relief. This planning should probably be combined with consideration of the continuing ownership and control of your business after your death.

- If possible, reduce your exposure to IHT by transferring assets out of your estate. Bear in mind that these transfers, lifetime gifts, may not fully reduce your IHT liability until the 7-year period after that gift is made has expired.

- It may be possible to transfer the ownership of your interest in a business without losing control. You will need to take specialist advice.

- You can reduce the rate of IHT on some assets from 40% to 36% if you leave 10% or more of your estate to charities.

- If your estate includes significant property holdings this may mean that your executors have to sell property in order meet IHT payable. It may be prudent to leave instructions on which property(ies) to sell.

- If your circumstances change, for example, if you divorce or re-marry, make sure you make a new Will and reconsider your IHT planning to make sure it is still relevant to your changed circumstances.

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BUSINESS PROFITS REVIEW CHECKLIST

ACCOUNTS:

- Make sure you have depreciated your fixed assets, equipment and vehicles, at a realistic rate. You don't want the written down value of your assets to exceed their market value.
- Write off any bad debts.
- Write off any slow moving or obsolete stock. Consider an on-site auction or similar to get rid of it.
- Make sure that you have not capitalised any replacement equipment that should have been written as repairs or written off equipment purchases that should have been capitalised.
- Take a good look at your cut-off procedures. Are all your supplier invoices received and posted? Have you invoiced customers for work you have not delivered yet?

PROJECTIONS TO THE END OF YOUR TRADING YEAR:

- Base your sales projections on known factors: orders received, consistent with past or repeat sales.
- Base you cost projections on current fixed costs, rents, wages and salary costs, and additional costs that you feel need to be included. Be realistic.
- Factor in expenditure on capital equipment that you feel must be acquired to maintain sales or production at the required levels.
- Make sure that apart from creating profit and loss and balance sheet forecasts, you also prepare a detailed cash flow forecast.

CONSIDER THE RESULTS. Do the results:

- Show an overall improvement or worsening of your financial position.
- Reveal a healthy cash flow.
- Point to deteriorating market conditions, falling demand for your products or services. How will this affect your planning for the immediate future and your longer-term goals?
- Point to improving market conditions, rising demand for your services. Are you in danger of over-trading?
- How will your business investors, your bankers, react to the projected results?
- Is your business providing you with an adequate return for your capital invested in the business and are you properly remunerated for the time you spend in the business?

ACTION PLAN:

Based on the answers to these bullet points you will need to draw up an action plan. Included in this plan will be scrutiny of your business tax position – consideration of these tax issues are listed separately in the following section.

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SELF-EMPLOYED TAX REVIEW CHECK LIST 2022-23

- The income tax you will pay for 2022-23 will based on your profit, or share of profits, for the trading year ending in the tax year. However, you will have made two payments on account for 2022-23 (January and July 2023) based on your profits for the preceding year. Accordingly, if your profits are increasing you will likely have underpaid tax for 2022-23 and any balance owing will be payable 31 January 2024. If your profits are decreasing, you can elect to make smaller payment on account. Either way, having your estimated trading figures available, to forecast your 2022-23 tax payments, means you have ample time to request reductions in payments on account or save to meet any balance due January 2024.
- Every self-employed person is entitled to earn £12,570 during 2022-23 without paying income tax. If your projected profits (or share of profits), assessable, are lower than this amount your personal tax allowance (or part of the allowance) may be wasted. To avoid this, you can defer claims for capital allowances, or perhaps defer refurbishment or other non-recurring costs to increase your taxable profits and fully utilize your personal tax allowance. These adjustments will tend to push tax relief on deferred expenditure into future years.
- If your share of profits looks as if it will breach one of the thresholds and push you into higher, marginal rates of tax (for example: loss of child benefit if income exceeds £50,000, loss of your personal allowance if your income exceeds £100,000, or a reduction in the amount of pension relief you can claim if your income exceeds £240,000. To counter these risks, you could consider bringing forward capital investments, in plant, equipment or commercial vehicles and claim additional capital allowances.
- Self-employed farmers, who can experience significant variations in the level of profits achieved, should take advantage of the extended averaging rules that entitle them to average their profits over a five-year or two-year period for 2022-23.
- In planning for tax payments, based on profits assessable for 2022-23, business owners should be aware that generous tax allowances are still available for qualifying capital expenditure. The Annual Investment Allowance allows you to claim a 100% write off for expenditure after 1 January 2016, up to a £200,000 limit. This limit was increased for a temporary period now extended from 1 January 2019 to 31 March 2023 at £1m. This is a useful adjustment device to reduce taxable profits and save tax, whilst maintaining published profits in your profit statement.
- Class 4 National Insurance is based on the level of business profits: 10.25% on profits between £9,880 and £50,270, and 3.25% on profits over £50,270. Any reductions you can achieve in your taxable business income will also reduce this significant NIC charge.
- The Autumn Statement 2016 changed the rules for the VAT Flat Rate Scheme. All users of this scheme should crunch the numbers to see if they qualify as a limited cost trader. If they do, a flat rate of 16.5% must be applied and this may preclude the advantages of registering for the scheme.
- Finally, readers should take a look at our check list for individuals' subject to income tax, as all of the comments made will help self-employed persons reduce their tax liabilities.

And don't forget, you pay tax on the profits you make, not the drawings you take from your business!

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LIMITED COMPANY TAX REVIEW CHECK LIST 2022-23

- Incorporated businesses are taxed at corporation tax rates, currently 19%, and any profits retained in the business will be subject to no additional tax charge. This final point illustrates one of the major advantages of running a profitable business inside a limited company structure. If you are self-employed you may want to consider the benefits of incorporating your business. NOTE: from 1 April 2023, corporation tax rates for profitable businesses may see an increase in rates from 19% to 25%.
- Shareholders should review any plans in place to deal with succession, especially, smaller family businesses. This review should consider personal circumstances, changes in the company's financial status, and changes in tax legislation.
- Shareholders should also review shareholder agreements to ensure they still reflect the intentions of signatories.
- Form 2022-23 shareholders' dividends up to £2,000 can be drawn tax free. Would it be possible to issue shares to adult children and provide them with a tax-free income?
- Review the active participation of director/shareholder family members. Is there an opportunity to employ a spouse or child; or provide taxable benefits?
- Directors who have overdrawn their loan accounts with the company should consider taking a dividend to clear the loan (if reserves are available) or otherwise repay the loan within nine months of the trading year-end. In this way the additional (albeit temporary) 33.75% corporation tax charge can be avoided.
- Directors with semi-permanent deposits on loan to the company, may be advised to charge the company interest. Basic rate income taxpayers can receive up to £1,000 in interest tax free, higher rate taxpayers £500.
- As corporation tax rates are low, currently 19% and increasing for highly profitable companies to 25% from 1 April 2023, there is an argument to consider deferring claims for tax relief on qualifying capital investments to later years if this saves tax at the higher 25% rate. There should also, of course, be bona fide commercial reasons for the investment.
- Another consideration, if significant capital expenditure is considered for 2022-23, claim the generous 130% Super Deduction before this allowance is withdrawn 31 March 2023. This allowance is only available to companies.
- The tax on-costs of running a company car fleet – class 1A National Insurance for instance – as well as the tax implications for participating employees, may provide sufficient justification for a change in strategy. For example, could the company lend employees funds to buy their own cars and pay them a tax-free business mileage allowance to cover running costs? There are also compelling tax savings if car fleets convert to using electric vehicles.
- If projected profits forecast a temporary dip, or a loss in the short-term, could the company's accounting period be extended to embrace the loss and average down the taxable profits for the preceding period?
- If projected profits are forecasting a downturn in profits, how will this affect director/shareholders' remuneration in the coming months; will there be sufficient retained profits to maintain regular dividend payments?
- Be sure to consider the funding of corporation tax payments that will need to be made nine months and one day after the company's accounting year-end date.

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PROPERTY BUSINESSES – THE LEGAL FORMALITIES CHECK LIST

Documents that you need to maintain, most of these are required by legislation, so penalties may apply if you don't comply:

- Building and landlord insurance
- Gas Safety Certificates
- Energy Performance Certificates
- Electrical Installation Reports and Certificates
- Smoke detectors on each floor
- Carbon monoxide detectors if required
- Copies of tenant's references
- Tenants' agreement to receive communications by email
- Proof that tenant has right to rent in the UK (copy passport for example)
- Household inventory
- Register your property business with HMRC
- Tenants contact details
- Protect deposit within 30 days of receipt
- You are required to respond to written complaints within 14 days of receipt, in writing
- Inform tenants prior to a property inspection

Provide tenant with:

- How to Rent – the checklist for renting in England
- Guarantors Agreement – if required
- Assured Shorthold Tenancy Agreement
- Information regarding Deposit Protection Scheme
- Serve the correct form of notice to end tenancy
- Tenant should sign a list of deductions made from rent deposits
- Return whole or balance of deposit at end of tenancy

Many landlords use the services of letting agencies who would no doubt ensure that you are compliant…

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- If the current legislation stays in place, review your exposure to the changes in income tax relief for finance charges including mortgage interest. This is a must-do for all affected buy-to-let landlords.

- Review any replacement furniture and equipment to ensure you will qualify for the Replacement or Domestic Items Relief (RDIR). Remember, if you sold the replaced item(s) you must deduct any proceeds of sale when calculating your entitlement to RDIR. This relief only applies to the replacement of existing items not the purchase of new items.

- If you are buying a buy-to-let residential property, consider allocating a nominal amount in the contract for any second-hand furniture left in the property. In this way, if you subsequently replace the furniture, you can write off all the expenditure under the RDIR. If you do not allocate sums in the contract, you will have no legal claim to the furniture and you will not be able to claim RDIR when you replace it. This strategy will also save you Stamp Duty Land Tax (Land & Building Transaction Tax in Scotland and the Welsh Land Transaction Tax) as this is not applied to the cost of furniture.

- Consider making a joint property election with your spouse to vary the split of any rental income in a proportion other than 50:50. This is a useful device to allocate income to the spouse with spare allowances or that is taxed at lower income tax rates. Property must be jointly owned to benefit from this strategy.

- In certain circumstances it may be beneficial to incorporate your property business. However, great care should be taken in planning to see if this is feasible and if stamp duty and CGT on-costs can be legitimately avoided.

- Make sure that you amend your Will if you have acquired or disposed of rental properties since your last review.

- Consider employing family members to assist with the management of your property interests. If there are sound commercial reasons for doing this, you should be able to make a successful claim against your tax. In this way you can reduce your exposure to higher rate tax and provide your family with additional income subject to deduction of tax at lower rates.

- Transfers of property (or a part interest) between spouses are generally free of CGT and IHT charges. This may enable you to direct rental profits into the hands of the spouse taxed at lower rates. Planning is key as in certain circumstances this may trigger a stamp duty charge.

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