

I N F O C U S

Autumn 2003

UK 200 Group News



This issue coincides with the near completion of our Managing Partner, **Alan Gibson's** year as President of the UK 200 Group.

The City understandably always has reservations about anyone elected to take on the leadership of a trade or professional organisation. We all know of company chiefs who've been tempted by high office and perhaps unwittingly taken their eye off the ball. We are pleased to say Alan has successfully combined his normal active schedule at Winters and coping with the rigours of a challenging year for the accountancy profession - a year in which the quality standards and professional ethics which underpin the UK 200 Group have never been more important.

The year has also had its more interesting aspects, Alan explains - meeting Treasury officials, colleagues from our professional institutes, the media and member firms throughout the UK, many of whom he hopes to welcome at the Group's Brighton conference in November.

Spotlighting our Tax Department



back row - Martin Kirsh, Alan Maynard, Mark Dawes, Kevin Fisher and Roy Bristow
front row - Clare Runeckles, Dawn Garrad, Doreen Liew, Janet Taylor and Allison Broadey.

Between them, they have a wealth of experience - from the completion of personal and company returns to complex

Inheritance Tax, VAT and general tax planning issues.

Their knowledge and

experience has been gained both within the firm (Jan Taylor the longest serving member of the Winters Team - 25 years this year) and also in other fields including the Inland Revenue and Customs & Excise.

For our clients who contact us mainly by post or telephone we hope to have now shown you the face that goes with the voice.

Finally, a quote from our senior tax partner Roy Bristow "there is no such thing as a silly question in tax" sums up our philosophy. So any queries or problems, do not hesitate to ask - email info@winters.co.uk or telephone 020 7919 9100.

Winters seminars

We are putting together a programme of seminars to be held over the next 12 months on a variety of topics. Inheritance Tax Planning will be held in November with VAT and CPD accredited Profit Improvement Workshops for Solicitors taking place later.

If you are interested in receiving details let your usual contact at Winters know or alternatively call Margaret Rolfe, Business Development Manager, on 020 7919 9100 or email margaret.rolfe@winters.co.uk

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Beating the National Insurance increases - We have some suggestions

In April, national insurance (NI) rates were increased for employers, employees and the self-employed. For employers, the rate has been increased to 12.8% from 11.8% and for employees and the self-employed there is an extra 1% charge on all earnings or profits without limit.

An employee earning £30,000 faces an additional NI charge of over £250 in 2003/04 and someone on £60,000 will see the annual cost rise by over £600. On top of this the employer will be paying an extra 1% on all earnings above £89 per week paid to employees. No wonder employers and employees might be looking at ways of reorganising remuneration packages to save some NI. One way of doing this is to consider some form of salary sacrifice scheme. The idea behind this is that the employee agrees to a cut in gross pay (the salary sacrifice) and the employer then uses the sacrificed sum to provide a more NI efficient alternative. Here are some ideas to consider.

Pension contributions paid by the employer to an occupational pension scheme or direct to the employee's personal pension scheme will avoid an NI charge and indeed income tax.

Think about taking additional benefits in kind rather than salary. The employer will still have to pay NI on the majority of these but the employee will suffer only an income tax charge and no NI. In the case of employer provided mobile telephones or home computer equipment within certain monetary limits even the income tax charge is avoided.

The government is keen to encourage employees to take shares in their employer company. If an employee receives unquoted shares that are not readily convertible into cash there is no NI liability on their value. Better still shares received via an Inland Revenue approved share scheme may give tax advantages as well as NI savings.

Having said all of this the Inland Revenue as you might imagine is not terribly keen on salary sacrifice schemes. Consequently it is important to get the paperwork right so that

the scheme is effective. In simple terms, only future salary can be sacrificed. The sacrifice is achieved by varying the employee's terms and conditions of employment so that there is an entitlement to a lower level of cash remuneration and a non-cash benefit.

Whilst such a scheme can be very attractive to both employer and employee, the employee faced with a possible salary sacrifice may wish to consider the effect on:

- their future right to the original (higher) cash salary
- any pension scheme being contributed to
- entitlement to Working Tax Credit or Child Tax Credit
- entitlement to State Pension or other benefits such as Statutory Maternity Pay.

A salary sacrifice should not reduce an employee's cash pay to below the National Minimum Wage.

If you are an employer contemplating a salary sacrifice scheme or an employee wishing to consider the implications of such a scheme please contact Roy Bristow – roy.bristow@winters.co.uk or Kevin Fisher - kevin.fisher@winters.co.uk or telephone 020 7919 9100. The sooner a scheme is in place the sooner you can start to benefit from NI savings.

Plant hire - a change of policy

Expenditure incurred by small or medium-sized businesses on plant and machinery generally qualifies for a 40% first year allowance (FYA). However, there are a number of exceptions, one of which is that FYAs are not due where the equipment is acquired for the purposes of leasing. For these purposes, leasing includes the letting of assets on hire.

Much expenditure by plant hire firms therefore falls within this exclusion. However, the Inland Revenue's view was that FYAs would be available if a service had been supplied

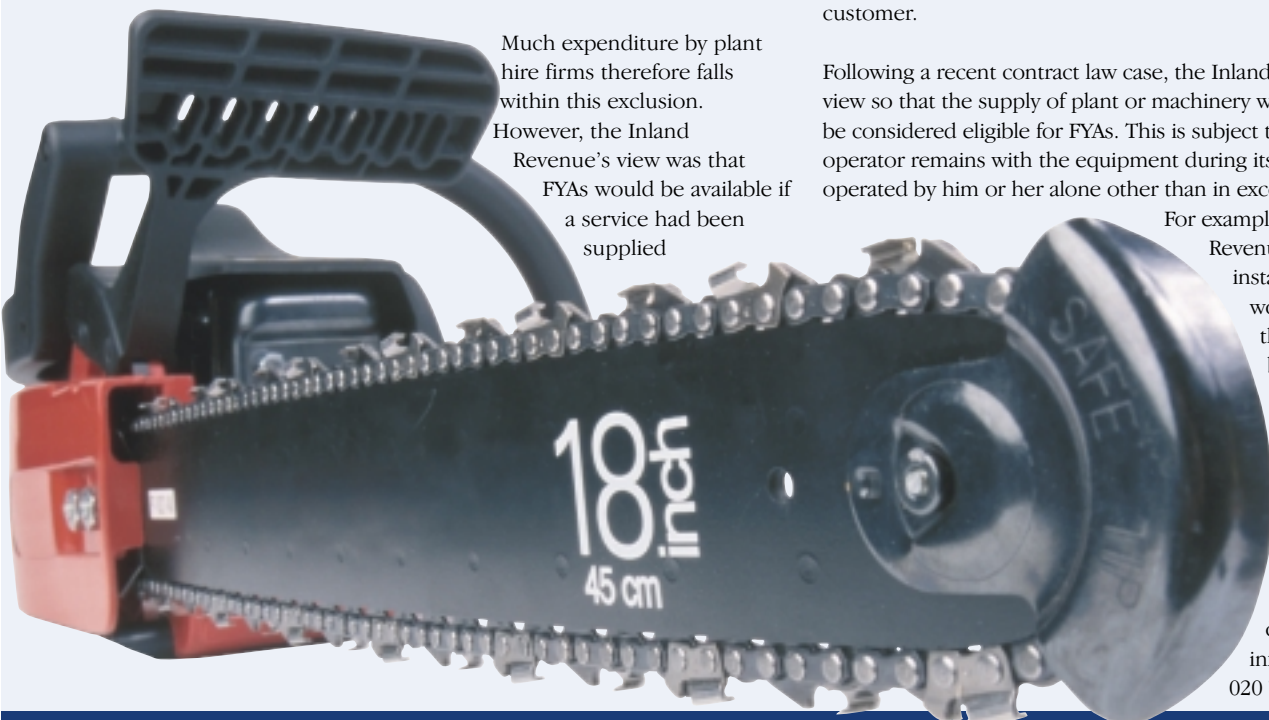
rather than just straightforward hire. Their view was that this could only happen if the plant was hired together with an operator and the plant and operator remained under the control of the operator rather than the customer. In almost all plant hire contracts, standard terms of hire place responsibility for control of the plant and operator with the customer.

Following a recent contract law case, the Inland Revenue has changed its view so that the supply of plant or machinery with an operator will now be considered eligible for FYAs. This is subject to the proviso that the operator remains with the equipment during its use and that it will be operated by him or her alone other than in exceptional circumstances.

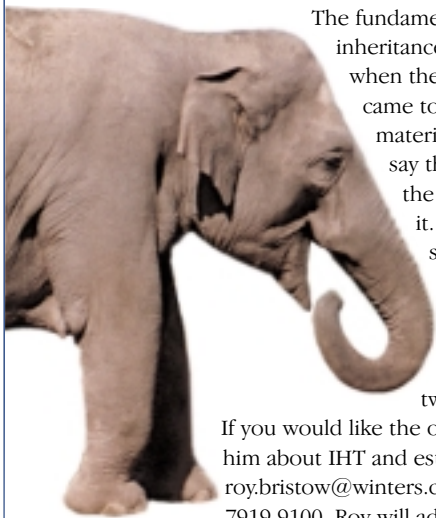
For example, according to the Inland Revenue, the delivery and installation of a generator would not be regarded as the provision of a service but the supply of a digger with a driver would be. FYAs will also be due on scaffolding used by scaffolding companies where it is constructed by the providers.

For further information contact our tax team on info@winters.co.uk or call 020 7919 9100.

For further information on any articles contained in this newsletter please contact us on 020 7919 9100 or email info@winters.co.uk



Inheritance tax update Farmhouses, elephants and Eversden!



The fundamental reform of inheritance tax (IHT) expected when the Labour government came to power has never materialised. That is not to say that life is quiet on the IHT front - far from it. The continuing stream of court cases is testament to that.

Roy Bristow brings you up to date with two important areas.

If you would like the opportunity to talk to him about IHT and estate planning, email roy.bristow@winters.co.uk or call 020 7919 9100. Roy will address this subject at our forthcoming seminar on IHT Tax Planning.

Farmhouses

An article in The Times in January this year suggested that the special IHT relief available to farmers - agricultural property relief (APR) - was under attack. The Inland Revenue denies this. Nevertheless it has recently taken three cases to the Special Commissioners on the somewhat vexed issue of what constitutes a farmhouse for APR purposes and plans three further cases before the end of the year. In order to qualify for APR a farmhouse must be shown to be 'of a character appropriate' to the agricultural land. In order to determine whether this is so in any given case a series of tests has been established.

- 1 Is the house appropriate by reference to its size, content and layout with the farm buildings and the particular land being farmed?
- 2 Is it proportionate in size and nature to the requirements of the farming activities conducted on the land?
- 3 Does it meet the 'elephant' test? Although it is difficult to describe a farmhouse you know one when you see one.
- 4 How would the 'educated rural layman' describe the property?
- 5 How long has the house been associated with the land in question and has there been a history of agricultural production?

Eversden - latest estate planning 'wheeze' is blocked

One of the downsides of making lifetime gifts of capital is the inability to continue to enjoy the income from the capital if the gift is to be effective for IHT. However, a scheme has been available based on the decision in a case called Eversden. This permitted continued enjoyment of the income so long as the capital was first passed by way of an IHT exempt gift to the individual's spouse.

Not surprisingly, the government has acted to block this perceived loophole with effect from 20 June 2003. However we can assist with other planning opportunities that can be used to mitigate future IHT liabilities.

Research and development (R&D) - improvements and issues

In 2000, an R&D tax credit was introduced for small and medium-sized companies (SMEs). SMEs can claim tax relief on 150% of qualifying R&D costs or, if the company is loss making, claim a cash refund equal to 24% of the expenditure (but capped at total PAYE and NIC payments made in the year). The scheme was extended to large companies in 2002 enabling them to claim relief on 125% of qualifying expenditure but not providing for a cash refund alternative. A number of beneficial changes have been made to the schemes in this year's Finance Act. These include:

- the annual threshold for expenditure to qualify is reduced to £10,000 (from £25,000) which should help in particular SMEs spending relatively modest amounts on R&D
- qualifying expenditure now includes the costs of workers paid through a third party which should help the IT industry where paying workers through an agency is very common
- the calculation of qualifying staff costs has been simplified.

However, the most difficult aspect of the schemes is often determining what expenditure qualifies. That which does is limited to:

- staff costs - so long as they are directly and actively involved in the R&D
- costs of 'consumable stores' - ie material and equipment used in the R&D
- certain sub-contracting costs if the business retains the right to the knowledge that is produced.

Additionally, expenditure will only qualify if the primary objective of the research activities is innovative or creative in the fields of science or technology undertaken to extend knowledge. The application for a patent for a new product is always helpful in this regard. Furthermore the project must be undertaken in a systematic way and there must be demonstrable technological or scientific uncertainties as to its outcome. For example, the Inland Revenue accepts design, construction and testing of a pre-production prototype as typical of qualifying research whilst market research will not qualify.

Kevin Fisher confirms that deciding what does and does not qualify is never easy. It may be easier in certain sectors than others; for example the pharmaceutical industry tends to experience fewer problems with the relief than the computer software industry. The Inland Revenue is aware of these difficulties and is looking at ways of clarifying the definition of qualifying R&D. In the meantime please contact Kevin, kevin.fisher@winters.co.uk or any member of our tax team, info@winters.co.uk or telephone 020 7919 9100.

Business in Southern Spain - An Opportunity for Growth

Roy Bristow, Winters Tax Partner, says that Costa del Sol is now one of the most cosmopolitan areas of Europe. Current forecasts show an estimated foreign population of some 2 million people by the year 2010.

This has colossal implications for the local business community, particularly the professional and service sectors. Undoubtedly, there is massive growth potential, and businesses must deliver ever-higher standards to satisfy an increasingly sophisticated market. Unsurprisingly more and more businesses are owned and run by Northern Europeans and this trend is set to continue.

Other encouraging trends are also evident, for example:

- The business-to-business sector is expanding
- The number of franchise opportunities is increasing
- Spanish banks are becoming more responsive and pragmatic

- Informal networks of investors and other business forums are beginning to emerge

The opportunities for entrepreneurs and investors look promising indeed.

- Buying or starting a business
- Expanding or restructuring a business
- Investing in or backing a business
- Improving business performance
- Selling a business

If you would like to find out more about the opportunities for doing business in Spain please contact Roy Bristow, roy.bristow@winters.co.uk or telephone 020 7919 9100.

Winters and ASEC Management Consultants, S.L. part of the Asesoría Económica, S.C. group – are members of the UK 200 Group and International Association of Practising Accounting IAPA.



Staff news



Congratulations and our best wishes go to **Andrea Granger**, one of our Audit Managers, and **Farrukh Mirza** following their wedding at The Elvetham in Hartley Wintney, Hampshire on Saturday 12 July 2003. We wish them well for the future.

Exam success



Bara Harrington, a member of our audit team, is now a qualified Chartered Accountant after passing her ACA finals on 29 August 2003! Well done Bara!

Advance notice for employers

By 2010, all employers will be required to file their end of year returns (forms P35 and P14) electronically either via the internet, using electronic data exchange or by using an intermediary such as a payroll bureau or agent.

Electronic filing will only be compulsory initially for the largest employers - those with at least 250 employees. They will have to file electronically from 2004/05. At the other end of the scale employers with fewer than 50 employees will not have to comply until 2009/10. However to encourage smaller employers to embrace the new system sooner rather than later, those with fewer than 50 employees choosing to file electronically from 2004/05 could be in line for financial incentives of over £800 in the five year period from 2004/05 to 2008/09.

If you would like further details on this please contact Kevin Fisher; kevin.fisher@winters.co.uk or our Payroll Department, info@winters.co.uk

Charitable giving

The government continues to amend the rules on charitable giving to encourage us to do more of it. We provide a brief summary of the recent and forthcoming changes.

Payroll giving

The government's 10% supplement has been extended for one further year to 5 April 2004.

Gift Aid

Higher rate taxpayers can now get the benefit of higher rate relief a year earlier by electing to carry the donation back to the previous tax year.

Unwanted tax repayments

From April 2004 it will be possible to redirect certain tax repayments to a charity. Perhaps not likely to be the most popular initiative ever!



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