Tax Planning

An Introduction to Tax Planning

Tax planning is the legal process of arranging your affairs to minimise a tax liability. There are more than 200 such provisions specifically written into tax law.

Examples range from simply choosing a year-end date early in the tax year to maximise the period from earning profit to paying tax, to arrangements to shelter an appreciating asset from inheritance tax.

Tax evasion is different, it is illegally reducing your tax, such as falsifying figures or not disclosing income. This carries serious penalties which can include a criminal prosecution.

A problem arises when the law is unclear, so it is not obvious whether a tax planning scheme is within the law or not. For this reason, there have been three significant developments.

We have seen an ongoing approach to artificial tax avoidance which stands between avoidance and evasion. This was probably most accurately defined by a previous Paymaster General who said that: "Artificial avoidance schemes are those where they create economic distortions, provide commercial advantages over compliant taxpayers, redistribute tax revenues in an unfair or arbitrary manner, or represent an abuse that conflicts with or defeats the will of Parliament".

These must be disclosed and are closely examined to see if they are legal. Even if they are, it is likely they will be closed in the next Finance Act, sometimes with retrospective effect.

A list of 'hallmarks' of tax avoidance schemes has been published. If any of the following are found in a scheme, it is likely to be challenged as artificial tax avoidance:

It sounds too good to be true

Artificial or contrived arrangements are involved

It seems very complex for what you want to do

There are guaranteed returns for apparently no risk

There are secrecy or confidentiality agreements

Upfront fees are payable or the arrangement is on a no win/no fee basis

The scheme is said to be verified by a top lawyer or accountant but no details of their opinion(s) are Provided

The scheme is said to be approved by HM Revenue & Customs (it does not follow that this is true)

Tax benefits are disproportionate to the commercial activity

Offshore companies or trusts are involved for no sound commercial reason

A tax haven or banking secrecy country is involved without any sound commercial reason

Tax exempt entities, such as pension funds, are involved inappropriately

It contains exit arrangements designed to sidestep tax consequences

It involves money going in a circle back to where it started

Low risk loans to be paid off by future earnings are involved

The scheme promoter lends the funding needed.

From April 2013 a General Anti Abuse Rule (GAAR) was enacted which enables HM Revenue & Customs to take action to counter any abusive avoidance activities without making specific legislation to close the schemes down individually. Where HM Revenue & Customs wish to challenge an arrangement under the GAAR the detail will be considered by a GAAR panel of tax professionals to advise whether the arrangements are abusive or not.

If you would like more information or to arrange a free, no obligation meeting please contact Adrian Stallard at our Taunton office on 01823 286274 or email adrian.stallard@lentells.co.uk