Killicks Accountants

Tax Planning Strategies

killicks.co.uk | Tel 01623 759 511 | Fax 01623 757 220 | email accountants@killicks.co.uk

Tax Planning Strategies

Contents

- Business Tax Planning
- Personal Tax Planning
- Property Tax Planning
- Identifying & Reclaiming Overpaid Taxes
- Contact Details

Killicks | Accountants

Business Tax Planning

In this section you'll find strategies:

- For new businesses
- For unincorporated businesses
- For cash extraction for the entrepreneur
- On sale of company by an entrepreneur

Killicks | Accountants

Tax planning for new businesses

Scenario	Circumstances	Estimated tax savings
1. Use of LLP as a business structure	Tax losses expected in the early years of trading which can be carried back against other income.	Accelerates offset of losses at 40%/50%.
2. Fund new company with share capital from four or more unconnected persons to facilitate EIS income tax relief	Qualifying new trading businesses with maximum funding of £2m per year.	20% income tax relief up to £500k per year. Ability to roll over gains from previous 3 years (no £500k limit).
3. Use of preference shares or A ordinary shares rather than loans from entrepreneur	Company being funded on a basis disproportionate to ordinary shareholdings. Requirement to withdraw funds at short notice.	Qualifies for 100% IHT exemption after 2 years. Ordinary shares may qualify for income tax relief if they become worthless.

Tax planning for unincorporated businesses

Scenario	Circumstances	Estimated tax savings
1. Incorporation of business into a limited company	Step up in base cost of capital assets allows facilitates tax planning on a future sale. Allows shareholder planning with NR/ND. Profitable business seeking reduction in tax exposure on recurring profits.	18% CGT on sale of capital assets. Reduction in tax on recurring profits from 51% to 22% – 28%.
2. Introduction of a company into the structure as well as a partnership	Introduce corporate partners alongside individual partners. Set up parallel service company to mark up. Set up parallel company to exploit transfer pricing provisions.	Reduction in tax on recurring profits from 51% to 22% – 28%.
3. Change year end of unincorporated business	Move either side of 5th April to take advantage of current year basis of assessment. Acceleration of relief for losses. Deferral of exposure to 50% tax rate.	Defer payment of tax or accelerate relief for losses.
4. Use unincorporated business structure to accelerate offset of losses	New businesses likely to generate tax losses in early years (e.g. property development, hotels). Geared up investments to generate positive cash flow (e.g. active sole trader film schemes).	Accelerate offset of losses at a higher rate of tax.
5. Use partnership to facilitate SDLT avoidance	Using a partnership as a vendor or purchaser in a property transaction to facilitate application of SDLT exemption applying to connected transactions.	4% SDLT.

Cash extraction opportunities for the entrepreneur

Scenario	Circumstances	Estimated tax savings (09/10) rates, for 10/11 add a further 10%)
1. Make loans to directors rather than pay dividends or bonuses	Sale of company pending in medium term to allow unwinding. Keeps options open until 9 months after year end.	Defers income tax and NI in lieu of 2% annual BIK and no CT deduction. Defers 25% tax on dividends and 53% tax on bonuses
2. Payment of contributions to an Employment Benefit Trust (subject to anti-avoidance in 2010 Budget)	Company makes contributions to an overseas EBT, and the trustees appoint cash to sub funds for each director. Funds can be lent to director on an interest free basis if required.	Defers income tax and NI in lieu of 2% annual BIK and no CT deduction. Saves 22% tax overall.
3. Payment of contributions to an EFRBS (subject to anti-avoidance in 2010 Budget)	Similar to an EBT but less suitable where access to a loan back required. Suits clients who are Non-UK domiciled or may emigrate in the future.	Defers income tax and NI in lieu of no CT deduction. Defers 22% tax overall with permanent savings with overseas element.
4. Repurchase of own shares by company	Where preceded by the insertion of a new holding company for commercial reasons. Requires limited number of shareholders who are all directors.	Extracts funds at CGT rates (10%/18%) but without a CT deduction. Saves between 5% and 9% overall
5. Hive down of business by company to underlying LLP	Companies which are quasi partnerships and where senior and middle management can be converted to partners	Reduces NI cost of senior payroll by circa 13%. Flexible incentives

Cash extraction opportunities for the entrepreneur (continued)

Scenario	Circumstances	Estimated tax savings (09/10) rates, for 10/11 add a further 10%)
6. Segmentation of cash into parallel company	Surplus cash in business which owners wishes to extract for asset protection purposes.	Extracts cash into parallel corporate without any further tax charge. Saves 25% tax.
7. Growth linked incentive plan (subject to anti-avoidance in 2010 Budget)	Businesses not keen to provide share incentives to management. Similar concept to phantom share scheme but with a corporation tax deduction. Requires 1 to 3 year to accrue value.	CGT for individual with corporation tax deduction.
8. Payment of dividend whilst shareholder Non-UK resident	Shareholder willing and able to remain outside the UK for at least a year. Certain overseas countries only.	25% income tax saving.
9. Payment of bonuses offset by generic income tax shelters	Where other planning not appropriate. Willingness to invest and possibly spend time with other business activities.	Defers or avoids income tax but not NI.

Tax planning opportunities on sale of private company by entrepreneur

Scenario	Circumstances	Estimated tax savings
1. Last minute management incentive scheme to reward loyal service (subject to anti-avoidance in 2010 Budget)	No share incentives in place and/or held by wrong parties. Otherwise thinking of rewarding from post tax proceeds.	Conversion of proceeds from income to capital for management (saving 36% tax). Creation of corporation tax deduction (28%).
2. Sacrifice of sale proceeds in lieu of corporate contributions to an EFRBS	Stripping of cash balances pre-sale to capture value. No further contributions possible to approved pension scheme.	18% less CGT to pay on exit with possibility to avoid tax on drawing of benefits depending on circumstances.
3. Obtaining additional value for corporation tax deductions triggered by sale	Existing or new share incentive arrangements. Sacrificing of sales proceeds in lieu of charitable contributions or bonuses.	28% of deductible amounts added to sale price of company.
4. Taking loan notes in lieu of cash	Purchaser willing to provide bank guaranteed loan notes.	Deferral of 18% CGT or avoidance in some cases.
5. Structuring the receipt of earn out rights	Sale proceeds dependent on future performance (unascertainable at present).	Deferral of 18% CGT or avoidance in some cases.
6. Extraction of any assets not required as part of sale	Could include private assets, business not being sold, property portfolio or cash pot.	Reduces 18% CGT on exit.
7. Maximize Entrepreneur's relief	Small shareholdings below 5%. No shares held by spouse.	Up to £80k CGT savings per person.

Personal Tax Planning

In this section you'll find strategies on:

- IHT for UK doms with non-business assets
- General income tax for UK resident/domiciled individuals

Killicks | Accountants

Inheritance tax planning opportunities for UK doms with Non-business assets

Scenario	Circumstances	Estimated tax savings
1. Sell to spouse for debt and gift receivable	Can be applied to any asset including family home.	40% IHT saved if death arises more than 7 years following gift.
2. Carve out value into a finance company which qualifies as a business	Property investment company. Serial entrepreneur who is currently funding several activities including investment businesses.	40% IHT saved if death arises more than 2 years following restructuring.
3. Freeze existing value and gift future increases	Creation of A shares in company. Introduction of partner in partnership. Grant of option over asset.	40% IHT saved on growth in value.
4. Restructure existing borrowings to secure over non-business assets	Existing borrowings secured over assets which are not subject to IHT.	Immediate 40% IHT saved if death occurs.
5. Convert business loans into preference shares	Existing director's loans to businesses.	40% IHT saved if death arises more than 2 years following restructuring.

General income tax planning for a UK resident/domiciled individual

Scenario	Circumstances	Estimated tax savings
1. Wrap investment income into more tax efficient structure	Transfer of income bearing investments into UK company in partnership or absolutely. Transfer of income bearing investments into an offshore insurance bond. Consider having offshore bond owned by offshore company.	Reduction of income tax from 50% to 28% prior to extraction. Deferral of income tax until drawn or permanent avoidance if taxpayer emigrates.
2. Tax efficient investments	Invest in EIS qualifying companies (up to 30% interest) to the tune of £500k per year. Invest in Venture Capital Trusts up to £200k per year. ISA and MIP planning.	Under EIS scheme 20% income tax avoidance plus deferral of any Capital Gains over last 3 years (normally 18%). Under VCT scheme 30% relief.
3. Make personal pension contributions	Funding capacity within various rules including total scheme value of £1.65m.	Targeted reduction of income tax by 40% with 30% tax on withdrawal of benefits.
4. Use of EU finance company	Serial entrepreneurs who are financing a number of entities and can manage a finance business overseas.	Reduction of income tax from 50% to 0% if income rolled up, or 25%/35% if extracted.
5. Accelerate charitable donations under Will during lifetime	Excess assets during retirement.	Reduction of income tax from 50% to 0%. Avoidance of 18% CGT.

Property Tax Planning

In this section you'll find strategies on:

- Opportunities on purchase of investment properties
- Sale of property investment held within a company
- Extraction of investment properties from a private company
- Structures for property development, dealing or house building

Killicks | Accountants

Property tax planning opportunities on purchase of investment properties

Scenario	Circumstances	Estimated tax savings
1. Obtaining tax relief for part of the capital cost not qualifying for capital allowances	Split purchase between a leasehold premium and residual freehold. Vendor indifferent to receiving part of proceeds as income rather than capital and property to be held for long term.	9% of qualifying expenditure in NPV terms.
2. Maximizing capital allowances on buildings	Acquiring property with significant plant content or qualifying refurbishment envisaged.	Will vary according to circumstances.
3. Stamp Duty Land Tax (“SDLT”) mitigation (various opportunities)	An acquisition of a property attracting SDLT.	Up to 5% of purchase price.
4. Acquisition by LLP rather than a company	Any acquisition of a property regardless of type.	28% less CGT on sale (compared to company).
5. Acquisition by a non-UK resident company	An acquisition of a property regardless of type using an EU based company.	18% less CGT on sale and 40% less income tax on rent (compared to LLP ownership).
6. Acquisition by a Jersey private unit Trust	Any acquisition of a property regardless of type using a special purpose trust based in Jersey.	Avoidance of SDLT on subsequent sale.

Sale of property investment held within a company

Scenario	Circumstances	Estimated tax savings
1. Hive down property to new LLP owned by company and shareholders	Needs to be done prior to property reaching sale value.	23% on any increase in value compared to asset sale and extraction on liquidation (51% less 18%).
2. Sale of company rather than property	SPV owning property with no other assets.	3.5% SDLT. No direct tax savings.
3. Dividend strip company and sell shares and receive repayment of loan	SPV owning property with no other assets. Sale of shares in SPV property investment company by group.	28% corporation tax on sale of shares. No protection of pregnant tax at company level.
4. Export vendor company prior to sale	Migrate company-owning property abroad without a tax charge on export or sale.	28% corporation tax on sale of property. No protection at shareholder level unless foreign element.
5. Sale of property by company with gain offset by deductions	Bonus planning. Corporate film schemes. Contributions to approved or unapproved pension schemes.	28% corporation tax on sale of property. No protection at shareholder level unless foreign element.
6. Sale of property by company to connected LLP purchaser	Restructuring involving extraction of property to more tax efficient structure. Also applicable to sales to third parties by temporarily connecting vendor/purchaser.	4% SDLT. No direct tax savings.

Extraction of investment properties from a private company

Scenario	Circumstances	Estimated tax savings
1. Purchase for cash by a partnership between the shareholders	Properties not standing at a gain in current market. Equity and/or bank borrowing available to fund transaction.	28% combined tax on future growth. 4% SDLT on transfer can be avoided.
2. Transfer of properties to a newly formed LLP between the company and the shareholders in exchange for capital contribution	Properties standing at a gain in current market. Limited additional equity and/or bank borrowing available to fund transaction.	28% combined tax on future growth. 4% SDLT on transfer can be avoided.
3. Spinning off properties into a parallel company by way of a de-merger	Value of trading business dominated by value of property investment portfolio. Shareholders wish to retain properties on a future sale of trading business.	Largely asset protection benefits rather than tax. Less tax on a future exit from the residual business as value reduced.
4. Transfer of properties into a SSAS or EFRBS by way of a contribution in kind	Funding capacity within pension scheme (approved or unapproved) for sufficient individuals. Could contribute over a number of tax years if required.	46% tax deferral on future growth. Where contributions deductible the base cost of the property reduces corporation tax at 28%.
5. Transfer of properties overseas at cost relying on EEC anti discrimination rules	Large gains on current market values even in current market. Overseas connections of shareholders make it practical to control from overseas. Shareholders Non UK resident or domiciled.	28% corporation tax on current value and future growth. 18% CGT for shareholders if overseas element

Structures for property development, dealing or house building

Scenario	Circumstances	Estimated tax savings
1. Limited Liability Partnership between individuals	Allows early losses (if any) to be relieved against other income of the partners. More tax efficient than a company where profits distributed regularly rather than at end of project.	5% overall tax savings compared to a company. Accelerates the offset of any tax losses.
2. Limited Liability Partnership between trustees of children's trusts	Where the client is happy for only future generations to benefit from the activities. Better suited to land dealing than development.	21% saving compared to LLP or 26% saving compared to company. Inheritance tax efficient.
3. EU resident company without a permanent establishment in the UK (e.g. Hungary, Cyprus)	Effective management and control must be carried out overseas. Needs economic substance in the overseas location.	Avoids UK corporation tax at 28% but CGT of 18% still payable on extraction unless shareholders have overseas connections.

Identifying & Reclaiming Overpaid Taxes

In this section you'll find strategies for:

- VAT
- Business Rates
- Corporation Tax
- R&D Credits
- Income Tax
- Overseas Holiday Lets

Killicks | Accountants

Identifying and Reclaiming Overpaid Taxes for Private Clients/Private Companies

Scenario	Circumstances	Estimated tax savings
1. Recovery of previously sticking VAT	• Businesses that have significant expenditure on Royal Mail (e.g. professional firms, catalogue companies). • Gaming Industry specific issues. • Business meals expenditure (e.g. hotels, leisure parks with machines etc). • Businesses incurring VAT in EU territories.	15% or 17.5%.
2. Business Rates	• Partly occupied property (due to phasing, disuse etc). • Empty property (brand new property not yet in use or old property not fit for habitation).	Up to 100% of rates bill.
3. Corporation Tax reclaims under EU Treaty	• Receipt of overseas dividends. • Suffering of withholding taxes. • Trapped overseas losses.	Up to 100% of tax suffered or value of losses claimed.
4. R & D credits	• Small and medium sized businesses can now claim R&D on indirect costs.	Enhanced tax relief or cash repayment.
5. Income Tax reclaim on overseas dividends	• Individuals with foreign dividends received in three years to 5 April 08.	10% of gross dividend.
6. Overseas holiday lets in EU	• Overseas letting business previously treated as investment can now be treated as a trade for a limited time.	CGT at 18%, Income tax losses at 40%, CGT taper relief at 10%.

Killicks | Accountants

Killicks Accountants

33 | 35 | 37 Kingsway
Kirkby-in-Ashfield
Nottinghamshire
NG17 7DR

Tel 01623 759 511
Fax 01623 757 220
email accountants@killicks.co.uk

killicks.co.uk

The information and rates on tax are correct and the time of issue of this document. However, these can change at anytime and hence no reliance or actions should be taken by any party at any time based on this document or the information contained within it, without the specific and individual professional advice of Killicks.