

# Botting & Co Ltd News

January 2008

[www.bottingandcoltd.co.uk](http://www.bottingandcoltd.co.uk)

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## TAX DEADLINES

### 1 January

Corporation tax due for small companies with accounts to 31 March 2007.

### 18 January

PAYE & NIC due for month to 5 January, and for 3<sup>rd</sup> quarter 2007/08.

### 22 January

Electronic payments of PAYE for month to 5 Jan must reach HMRC.

### 31 January

Final instalment of income tax and CGT due for 2007/08, plus first instalment of income tax for 2008/09. Must submit personal tax return for 2006/07, or receive £100 fine.

### 2 February

Forms P46(car) for quarter ended 5 January must reach HMRC.

### 19 February

PAYE & NIC due for month to 5 Feb.

### 22 February

Electronic payments of PAYE for month to 5 Feb must reach HMRC.

### 28 February

Any unpaid tax due for 2007/08 attracts automatic 5% surcharge.

### 19 March

PAYE & NIC due for month to 5 March.

### 20 March

Electronic payments of PAYE & NIC for month to 5 March must reach HMRC

### 31 March

Corporation Tax return due for year end 31 March 2007.

### 1 April

Corporation tax increases to 21% for small companies. Annual Investment Allowance of £50,000 comes into effect.

### 5 April

Last day for individuals to dispose of assets to use indexation allowance and taper relief.

## Sharing or shifting business profits

From 6 April 2008 it will be far more difficult to reduce your tax by paying dividends or profit shares to less active members of your company or partnership. Proposed new law on income shifting potentially affects nearly every partnership and company that has more than one shareholder, whether the individuals concerned are husband and wife, other relatives or simply friends. If you make a bigger contribution to the business than others, HMRC can say you have *shifted income* away from yourself to be taxed on shareholders or partners who play a less active role in the business. You will have to pay tax on the amount of shifted income, and the less active business partner or shareholder will be treated as having never received that shifted income.

Although the new income shifting law will only affect profits paid out from 6 April 2008, those profits may have been earned by the business many years earlier. So now may be a good time to clear out undrawn profits from your business, as long as this doesn't push you into the higher tax bracket, or reduce the cash needed for the business.

You, as the taxpayer, will have to judge if you have shifted income away to other business partners or shareholders, and how much income you should confess has been shifted to reduce the total tax paid. There will be no way to check with HMRC whether the right amount of shifted income has been assessed, or if the income shifting rules apply at all. HMRC will find it very difficult to police this new legislation, as they will need to open an enquiry into every business that they suspect of income shifting. The law will thus be enforced by fear and uncertainty, or not at all.

If you want to continue to pay profit shares or dividends to less active partners or shareholders from 6 April 2008, you may need to justify the amount paid according to the recipient's contribution to the business. This contribution could be measured by:

- the amount and type of work done
- the individual's responsibility for making key decisions for the business
- the capital contributed to the business
- the business risk taken on, such as a personal guarantee of a business loan

Talk to us about your plans to distribute profits in 2008 and we can help you decide if the new income shifting law might apply to your business.



**Small investors  
must earn a  
profit share**

## Tax Tip

If you have a joint bank account the interest arising on that account must be split equally between the account holders, and reported on both of their tax returns. If all of the interest is reported on one person's return you may have to pay penalties for submitting an incorrect tax return.

## Botting & Co Ltd News

Tony and all the staff at Botting & Co hope that you had a very enjoyable Christmas and we wish you good health and prosperity for 2008.

This newsletter is written for the general interest of our clients and is not a substitute for professional advice. Please contact Botting and Co Ltd before taking any action.

## Should you delay selling on retirement?

Selling a business is never a quick or easy process. It can take months or years of planning and negotiations. The recent announcement that business asset taper relief and indexation allowance will be abolished, to be replaced by a flat 18% rate of capital gains tax from 6 April 2008, has thrown a spanner into many of those sales plans. The 18% rate sounds low, but the combined effect of indexation allowance and taper relief can currently wipe out the gain on assets that have been held for many years.

When you have held assets or small company shares for 20 years or more, the indexation allowance deductible on the disposal of those assets can be very valuable. If you are planning to sell your business you will lose the value of any indexation allowance if the sale happens after 5 April 2008. However, you can preserve the indexation allowance if you transfer the assets to your spouse or civil partner, or in some cases to a trust. This transfer will give you more time to finalise the details of the ultimate sale. However, there are many other implications of such a transfer, so it must be considered carefully.

## Changes in the law for small companies

Company law is changing to make the regulations that govern companies more suited to today's business practices. For example from 1 January 2007 all companies must state their registration number, registered office and the country of registration on the company websites, order forms, letters, and emails. If your standard email sign-off does not include these details, you need to revise it as soon as possible.

From 6 April 2008 small private companies will no longer need to have a company secretary. Your current company secretary can resign from that date, but someone else will still have to deal with all the Companies House forms.

Also for all accounting periods that begin on and after 6 April 2008 the time limit for submitting a final set of accounts to Companies House will be shortened from ten months to nine

## Your Will is still valid

A big change to inheritance tax (IHT) for married couples and civil partners was made on 9 October 2007. From that date up to £600,000 of the estate left by a widow or widower can be exempt from inheritance tax, if the first spouse to die did not use all of their exempt IHT band. This normally happens if the first person to die leaves everything to the surviving member of the couple.

Until 9 October 2007 the standard advice for couples with more than £600,000 of assets was to use the exempt IHT bands on both deaths by leaving assets valued up to the exempt band (currently £300,000) to someone other than the spouse. This was normally achieved by using a discretionary Will trust which would be activated on death. Now the standard advice is to



**Review  
your Will  
regularly**

There was a rumour that retirement relief worth up to £100,000 would be introduced to help those who were selling their whole business, but this has not been confirmed. The Chancellor Alistair Darling promised the CBI he would release details of new capital gains tax reliefs, by 18 December 2007. But now those reforms will not be announced until at least mid January 2008. This doesn't give you much time to plan a business sale before 6 April 2008.



**Don't be rushed into a sale**

Every business sale can be structured in several different ways such as; sale of the assets by the company, sale of the shares of the company, or exchanging shares for share or bonds in another company. The sale may also be timed before or after the changes to capital gains tax to be introduced on 6 April 2008. All these options need to be considered and calculated.

Come and discuss your plans with us so we can work out the tax implications of delaying a disposal, or making an intermediate transfer to your spouse or a trust.

months. However, the filing period will run to the end of the corresponding month rather than to the corresponding day of the ninth month. So accounts to 30 April 2009 must be filed by 31 January 2010. You will still be able to file abbreviated accounts that exclude details of the profit you make and the dividends you pay to shareholders.

Privacy concerns for both directors and shareholders have also been addressed. From 1 October 2009 you can use a service address for the publicly available director's address details. Although you must provide Companies House with your private residential address, this will be kept on a private secure register. The addresses of shareholders in private companies will not be required to be included on the company's annual return, so those address details will also be kept secret.

leave everything outright to the surviving spouse, who can then make lifetime gifts to reduce the IHT on their own estate, and make full use of both IHT exempt bands.

Your Will may contain provision for a discretionary trust, which may not now be necessary. Your Will is still valid, but you could consider changing it slightly. You don't have to completely rewrite your Will. You can just add a legal note, known as a codicil, which instructs your executors to ignore the provisions to set up a discretionary trust.

However, it is a good idea to review your Will every few years to make sure you have included all your new grandchildren, and that your choice of executors is still appropriate.