

the bottom line

SELF INVESTED PERSONAL PENSIONS (SIPPs)

What is a SIPP?

A SIPP is a pension plan where the policyholder has a substantial responsibility in selecting the fund's investment portfolio. At present a SIPP can only invest in cash, gilts, unit trusts, publicly traded shares and most commonly, commercial property.

What are the changes from 6 April 2006?

However from 6 April 2006 these restrictions are due to be significantly relaxed. The rules will then allow SIPPs to invest in other assets including fine wines, antiques, stamps, vintage cars, yachts, private shares and most notably residential property both in the UK and overseas.

With effect from 6 April 2006 the new legislation will also allow greater levels of annual contributions which can be up to 100% of earnings with an earnings-cap of £215,000. This will rise to £255,000 by 2010/11. Contributions will continue to receive relief at the individual's highest rate of tax; however there will be an overall cap on the value of the fund of £1.5 million rising to £1.8m. A SIPP will also be allowed to borrow up to 50% of its fund value to purchase new investments. So, for example, a SIPP with a value of £150,000 could borrow £75,000 and purchase a property costing up to £225,000.

Welcome to the Autumn edition of "the bottom line" our taxation and accountancy information newsletter. This edition deals with self invested personal pension schemes, penalties, tax errors, tax credits, the new construction industry scheme and News in Brief.

How can a SIPP be of benefit in the purchase of a second property?

As mentioned above the relaxation of the investment rules mean that for example a SIPP could be used to purchase an overseas or UK holiday home. Effectively the purchase will be out of gross earnings although as the property will be held as a pension investment anyone using it will be required to pay market rent (or be taxed on the benefit). All income generated will need to be paid directly into the SIPP. As far as the UK is concerned, subject to certain conditions, taxes will not be payable on the rental income. However, the position regarding overseas taxes for non UK properties will need to be carefully considered and will depend on the country of investment. It is worth noting that this type of investment is available in over 20 countries although full investigation will be required to achieve maximum tax efficiency.

What happens when you retire or die?

When you reach retirement you will not necessarily have to sell any property owned in the pension as the rules regarding the purchase of an annuity are also being relaxed. On death the assets can be passed on to dependants where they are part of a family SIPP.

To conclude

We believe that with the changes in the legislation there are real opportunities for planning for all types of investments. If you would like further information on this please do not hesitate to contact us and we would be happy to recommend an independent financial advisor.

PENALTIES ON TAX ERRORS

HMRC are taking a different attitude to accounting errors in company accounts that result in tax underpayments. Whereas the Revenue would previously have been content to settle for a technical adjustment to the accounts, they are now seeking penalties of up to 100% of the value of the unpaid tax, although typically it is around 25%. Inspectors will commonly seek penalties where they consider that insufficient care has gone into the preparation of accounts although the new penalties apply irrespective of that and involve cases where there were complex accounting and tax rules involved, where mistakes were made and issues were confusing.



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TAXATION OF HUSBAND AND WIFE COMPANIES AND PARTNERSHIPS

In the Winter 2004/05 edition of 'the bottom line' we provided details of the way in which HMRC were using existing legislation to challenge the apportionment of income between a husband and wife in a business and hence minimising tax liabilities. This development was as a result of 'the Artic Systems' case which has now been taken to the High Court, with the Revenue's case being upheld.

The taxpayers have now appealed to the Court of Appeal and it is likely that if this is unsuccessful that it will be taken to the European Court of Justice. The outcome of the current appeal is unlikely to be heard until 2006 and the problem is how to 'self assess' in the meantime for 2004/05 as the returns need to be filed by 31 January 2006. The advice being given by the professional accountancy bodies is to:

- I. Consider whether the facts of the case apply to your situation;
- II. If yes either:
 - Self assess on the basis that the legislation applies, or
 - Self assess as if it does not apply but adequately disclose the position adopted and facts of your situation.

We will of course discuss this in detail with our clients if we consider that this applies to you. However please do not hesitate to contact us if you have any queries.

TAX CREDITS - CURRENT ISSUES

If a couple separates or one partner dies, a tax credit award becomes invalid as the family unit has altered. The tax credit office must be notified within three

months of the change and a new claim submitted. Otherwise the old claim will be 'overpaid' and the individual will receive a demand for settlement of the overpayment. This contrasts with ongoing claims where prior year overpayments are reclaimed proportionately over several years.

The Civil Partnership Act comes into effect on 5 December 2005. However even if a same sex couple do not register as a civil partnership there are changes to the calculations of tax credits for such couples. A cohabiting, same sex couple will need to notify a change in circumstances if tax credits are claimed, leading to a reassessment of any working tax credit or child tax credit either of them claims.

NEW CONSTRUCTION INDUSTRY SCHEME

HMRC have just announced that the new scheme which was due to be implemented from April 2006 will be delayed until April 2007. This delay is apparently to allow the industry more time to prepare for the changes. During this period HMRC have stated that they will step up the level of advice and compliance activity within the industry. Given this promise of increased activities we would remind clients that the new scheme which will now be effective from April 2007 requires a declaration to the effect that the contractor has considered the employment status of each individual detail on the return and has satisfied himself that the contract under which returned payments are made is not a contract of employment. Such change in status may in turn result in HMRC reappraising whether individual subcontractors should have been treated as employees in the past. Assessments to Income Tax and National Insurance for prior years are likely to result in some cases. Construction businesses will need

to review the terms of engagement and employment status classifications of all workers before 6 April 2006 as if the new monthly returns are incorrect there can be a penalty of up to £3,000. If returns are not filed there is a £300 penalty with a further possible £60 per day outstanding. There is now more opportunity for less honest workers to exploit the system. Subcontractor's details will only be checked through a Revenue Contact Centre and so the less scrupulous will only need a name and NI number to be paid gross. The business that makes the payment runs the risk of a £3,000 payment for an incorrect return. Workers that wish to receive gross payments will need to qualify under a tighter compliance test although the qualifying period has been reduced from three years to one. Non compliance or late submission of any tax returns may result in losing the right to be paid gross and consequently payments will be made with 18% tax deducted.

NEWS IN BRIEF

Fuel Rates

New mileage rates have been introduced from 1 July 2005 for cars with cylinder capacity exceeding 2000cc. These rates reflect recent increases in fuel prices and are used for drivers to reimburse the cost of private fuel to ensure that no fuel benefit arises when the employer continues to bear the cost of the fuel, and to reimburse business miles to drivers of company cars. The new rates are 16p per mile for petrol cars, 13p per mile for diesel cars and 10p per mile for LPG cars. It is anticipated that if fuel rates continue to rise that future increases will be forthcoming in the near future.

Contacts:

For further information about the issues raised in this newsletter or if you would like to find out about the range of services that we can offer, please contact Stephen Dabby, Morisha Christy, Tony Sian or Nick Nicolaou.