

BUSINESS matters

INSIDE THIS ISSUE:

RESEARCH & DEVELOPMENT - TAX CREDITS AVAILABLE

CROSS BORDER TAX STRUCTURES

IS CORPORATION TAX OPTIONAL?

INTRA EC TRADE - GET YOUR HOUSE IN ORDER



cavanagh|kelly



Changes to Trust Legislation WHAT THE NEW TAX REGIME MEANS

welcome

Our long hot summer is at an end and it's time to refocus our energies on achieving success in our business and ensuring all possible development and tax saving opportunities are availed of! We hope you enjoy our latest edition of the Cavanagh Kelly newsletter and look forward to receiving your feedback.

UNLOCK the tax savings within!



For those with commercial property portfolios or currently in the process of acquiring commercial investment properties, particular attention should be paid to the possibility of claiming Capital Allowances. Not only are Capital Allowances claimable on fixtures and fittings, but more importantly there are many items which qualify for Capital Allowances that are within the small physical structure of the building.

These may include electrical installation, plumbing and sanitary ware, fire escapes, fire walls, roller shutters, lifts and lift shafts and more. A carefully constructed Capital Allowance review of a property on acquisition can significantly reduce the acquisition cost. Capital Allowances obtained are offset against rental income, thus resulting in corporation tax savings over the period of ownership.

Before a claim is considered you should be aware that it is restricted to:

- The value (if any) attributed to plant in the contract or,
- The amount claimed by the previous owner or,
- Where no allowances are claimed, a fair value as determined by a surveyor's report.

Capital Allowances are not available in the respect of the purchase of residential property unless the property acquired qualifies as furnished holiday lettings.

Our Tax Department has successfully claimed significant Capital Allowances for our clients and we would encourage all those involved to unlock the tax savings within their investment properties!

Research & Development - Tax Credits available

R & D tax reliefs under the SME scheme are not available for subsidised expenditure. Therefore if a project has received any state aided funding i.e. grant assistance, no expenditure on that project can qualify for the R & D Relief under the SME scheme.

However, if the expenditure meets all the other criteria then, for accounting periods beginning on or after 9 April 2003, the SME can make a claim for relief under the large company scheme.

The claims under the large company scheme give rise to relief at 25% rather than 50% but it's better to avail of this than not claim.

Changes to Trust Legislation...

The new tax regime for trusts came into effect following the Finance Bill receiving its Royal Assent on 19th July 2006.



The existing tax treatment for discretionary trusts will now be extended to cover ALL trusts with the exception of a trust for a disabled person and trusts where there is an Immediate Post Death Interest (IPDI) i.e. will trust.

Lifetime transfers into any trust will now be liable to 20% inheritance tax charge unless covered by the current IHT threshold of £285,000, or Business / Agricultural Property Relief.

In addition there will be a maximum 6% tax charge on (a) the value of the funds held after 10 years and (b) on each extraction of funds from the trust. There is some good news however in that Capital Gains Tax holdover relief is now

available on the gains arising on the transfer of any asset (not just qualifying business assets) into any trust, including an IIP.

The age at which beneficiaries of Accumulation and Maintenance Trusts will become absolutely entitled to capital has been reduced from 25 to 18.

There is however a window of opportunity to alter existing trusts before 6 April 2008 so as to avoid the potential 6% charge cutting in at 18.

The changes also mean that life insurance policies written in trust may no longer be exempt from Inheritance tax. A policy written in trust after 22nd March will give rise to a potential IHT liability if it has a deemed value in excess of the

threshold on each 10th anniversary of signing the trust document. A deemed value will only arise if the life assured has on the 10th anniversary;

- a) died and the proceeds of the policy have not been distributed, or
- b) been diagnosed as terminally ill and a maturity value has been agreed for immediate payment.

If there is no value there is no tax charge.

The proceeds of Life Insurance Policies not written in trust will continue to be fully chargeable on death. Despite all of the changes there are still significant planning opportunities in the use of trusts.

■ ■ Our Tax Department will be giving a seminar on Inheritance Tax and Estate Planning Opportunities in October 2006.

Property Letting - Periods of Vacancy

Under rental income rules, expenditure incurred in relation to the letting of the property can be offset against the income received.

But what happens to the expenditure incurred when the property is without tenants?

- If you are genuinely trying to find tenants and are not using the property for private use or a use unconnected with the rental business, the expenses will continue to be allowable for tax purposes.
- This period can last up to three years providing the above conditions continue to be met.

HMRC Special Unit



INTRA EC TRADE - Get your house in order!

HM Revenue and Customs currently have a special unit set up to deal with EC Trading.

As a result HMRC can now match EC sales from your EC Sales Lists with Intrastat purchase returns of other EC registered traders, and if they don't match then an enquiry will be raised.

It is important to maintain good records to backup your EC Exports in order to deflect any responsibility for VAT which ultimately lies with you - If you cannot prove the export you may be still liable for the UK VAT.

When you export to someone for the first time the following records must be maintained:

- Where possible try to get a copy of the EC traders VAT Registration Certificate as this would only be available to the actual trader.
- If you do not have a copy of the VAT Registration Certificate, check with HMRC on 0845 010 9000 that the VAT Registration Number given is valid and that it refers to the trader's name and address you have. Get a call reference number for this call and keep a note of it on file.

Upcoming Events

Call our office on:
028 8775 2990
for information on
future events

Inheritance Tax Seminar

In conjunction with PFC our independent financial consultants, our seminar will deal with the estate planning and IHT opportunities under the new trusts legislation.

Thursday 12th October 2006
in the Linen Green
Moygashel.

Construction Industry Scheme changes

The new Construction Industry Scheme changes come into effect on 6th April 2007; these workshops explain the main points of the new regime.

Friday 17th and 24th November 2006
at our Dungannon offices.

Friday 1st December 2006
at our Magherafelt office.

Employment Matters

In response to client queries on employment matters we have set out below some basic guidelines on common areas of concern.

Giving references

They must be honest, fair, and not misleading or malicious. Always ensure that you have facts to substantiate any comments you make. You must ensure that the employee knew about the matters you refer to - if they don't the employee may sue.

Contacting a sick employee

You are entitled to contact an employee, whether they are on short term or long term sickness, being sensitive to the given situation. You have a right to know how the employee is progressing during their absence and to have some indication of how long the absence might last. Remember – keep it friendly!

Flexible work request

An employee has a right under flexible working law to make a request, but you are under no obligation to agree to it. It must be considered and only turned down if you have a good reason and have followed the procedure set out in the legislation. Documentation should be kept to support all rejected requests and ensure that any rejection is fully justified. An employee may make a sex discrimination claim in some cases.

Advertising Vacancies

Vacancies don't have to be advertised internally and externally, but it is good practice to advertise internally whenever possible.



Dependant's Leave

Case law confirms that employees have a right to time off to deal with an immediate emergency only – not for an ongoing problem. You can ask that annual leave be used for recurring problems.

ADVICE TIP

Remember - when in doubt, The Labour Relations Agency (LRA) offer very helpful free advice on all employment and personnel matters. They can be contacted on:

(028) 9032 1442.

REDUCE YOUR ENERGY COSTS

Business and domestic customers can reduce their energy bill with NIE by paying by direct debit. Customers who pay quarterly will receive a 4% discount, and monthly customers will receive a 3% discount – Do the sums – its better value than a few days extra credit!

For the Industrial, Commercial, and SME sectors there are alternatives to NIE.

One such alternative is ESB, who have been active in the Northern Ireland market since 1999 to the extent that it is now the largest independent provider of energy in the market. Potential savings of between 4-7% can be achieved by switching to ESB depending on the sector and usage.

For further information contact ESB Independent Energy on: 028 9051 1246 or www.esbie.ie

Energy Savings...

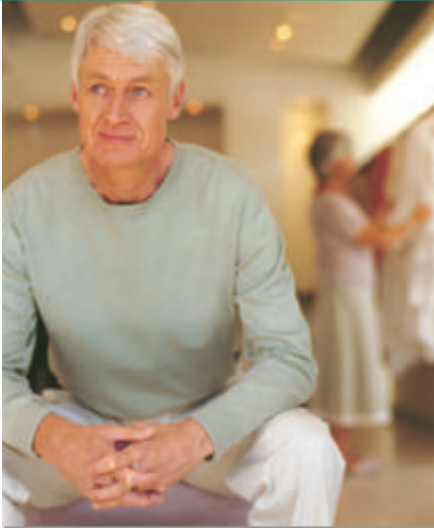
Energy Saving Help for Small Businesses

Invest NI and NIE have recently set up The Small Business Energy Saving Scheme, which provides grant assistance for installation of specific energy saving equipment. Eligible technologies include high efficiency motors, variable speed drivers, pipework insulation and heat recovery equipment. Grants are available to small and medium sized businesses and provide funding of up to 25% of project costs. Minimum amount of grant available is £1,000, to a maximum of £5,000. This means that projects must cost a minimum of £4,000.

To apply, contact the Energy Section at Invest NI on: 028 9069 8868.

Is Corporation Tax optional?

tax planning



Pension's planning seems to have slipped from the agenda as the dust of 'A' day has passed, however pension planning should still be top of the tax planning options.

- Up to £215,000 or 100% of your net relevant earnings in this tax year 2006 / 2007 can be contributed to a pension scheme - owner managed businesses which are capable of voting their own remuneration packages can easily plan to make the payment of Corporate Tax optional - this is potentially relevant for those approaching retirement where the company gets full tax deduction for the pension contribution made and the director can take the tax free 25% value out of the pension fund almost immediately.
- Companies should be aware however that the pension contribution must fit the 'wholly and exclusively for the business' test, in that the contribution must seem reasonable remuneration for the work done.
- With careful consideration and proper documentation, pension's planning opportunities are certainly alive and kicking! For further information contact Mairead Moohan in our Tax Department.

staff news

Cavanagh Kelly raise over £3,000 for local charities

Fun Run supports local charities

Over 20 staff participated and helped in the Ulster Society's 10km fun run held in Armagh raising money for Cancer Research NI, Guide Dogs Association, Moy and USCA Benevolent Society.

On what proved to be an extremely hot day, Barbara Wilson from Moy, whose guide dog Cyder had recently died started the race. Peter Mc Grath and Cathal O'Neill both of Cavanagh Kelly finished first and second in less than an hour, with everyone else finishing a little later. Medals were presented by Wendy Williams of Cancer Research to all who completed the course.

The money raised will go a long way towards sponsoring a guide dog for a year, and supporting a number of cancer research groups working within NI.

We would like to thank everyone who sponsored the staff for these very worthwhile causes.

Exam Success

Congratulations to the following staff who have been successful in their recent professional exams.

Chartered Institute of Taxation Exams	• Aevene Daly
ICAI - Professional 3 Exams	• Aisling Doyle • Sean Cavanagh
ICAI - Professional 2 Exams	• Ciara Mallon
IATI - Admission level	• Sarah Sloan
IATI - Foundation level	• Yvonne Canavan • Emma Hughes
Certificate of Proficiency in Insolvency	• Clive Thompson

New Starts - Welcome

- Noreen Rafferty
- Michelle McKillion
- Colm McGrath
- Emma Hughes
- Lidia Sadej

Cross Border Tax Structures

Corporation tax can indeed be a factor in considering where to locate. Is your company currently doing business or planning on doing significant business in the Republic of Ireland? If so you should look closely at the corporate structure that may deliver a tax break.

Corporate Tax rates in the Republic of Ireland are now only 12.5%. However to ensure your company avails of this rate and is not caught by a double tax charge you must ensure your company achieves Republic of Ireland residence.

To do this the company must have:

- a permanent place of business in the Republic (such as offices, distribution centre, manufacturing base)
- be seen to carry out all business decisions in the Republic (i.e. through board minutes etc. demonstrate control residing in state)
- and finally have at least one Republic of Ireland director (not shareholder) who must have some executive responsibility.

Companies at the marginal rate can save over 20% in Corporation Tax on profits earned. In addition the return of profits to this jurisdiction can be achieved very tax efficiently, especially where the trade is of a project nature, such as property development.

It is of course important to remember that adding another group company or associated company will reduce the U.K. corporation tax bands which may increase the tax charge of the existing companies.

We are glad to advise on this and other Corporate tax structures, and should you have any queries please contact Catherine Doris in our Corporate Tax Department.

We have set out below the Republic of Ireland Corporation tax rates.

RATES OF CORPORATION TAX - GENERAL

Standard Rate	Higher Rate
12.50%	25%

— Standard rate - applies to trading activities.

— Higher rate - passive income i.e. interest, rental & any non-trading activities.

RATES OF CORPORATION TAX - PROPERTY DEALING & DEVELOPMENT

Non Residential Land	Residential Land	Developed Residential	Developed Non Residential	Construction Services
25%	20%	12.50%	12.50%	12.50%

CAVANAGH KELLY SEMINAR SUCCESS

Insolvency Seminar

The insolvency department has held another successful series of seminars for over 70 professionals covering the changes introduced by the harmonisation of legislation in NI with the rest of the UK i.e. bankrupts being discharged after one year, fast track administrations etc. The crackdown on unfit directors continues, and the seminar covered the pitfalls to be aware of.

The team also highlighted the implications of the new student loan regime and the effect this will have for graduates in the future.

If you would like any further information, please do not hesitate to contact Alison Burnside.

Roads Seminar

On the 18th of May Des Kelly addressed a seminar in Parkanaur House, Dungannon on the tax implications for those individuals and companies affected by the proposed vesting of land, arising from the construction of the new A4/A5 Road.

The Seminar was attended by a cross section of interested parties including those directly affected by the scheme, members of the legal profession and local elected representatives.

Des advised on the opportunities to reduce tax arising from the timing of payments, nature of payments, and the ownership and use of the land/property.

National Minimum Wage (NMW)

There are three levels of minimum wage and the effective rates from 1st October 2006 are as follows:

- £5.35 per hour for workers aged 22 years and older
- A development rate of £4.45 per hour for
 - Workers aged 18-21 years inclusive
 - Workers aged 22 years and above, starting a new job with a new employer and doing accredited training
- £3.30 per hour which applies to workers under the age of 18 who are no longer of compulsory school age.

The National Minimum Wage does not need to be paid to apprentices who are under the age of 19, so those who start an apprenticeship at age 16 or 17 and continue at age 18 will not need to be paid NMW until they reach their 19th birthday.

38 Northland Row
Dungannon
BT71 6AP

Tel: 028 8775 2990
Fax: 028 8775 2909
Email: mail@cavanaghkelly.com
Web: www.cavanaghkelly.com

17 Church Street
Magherafelt
BT45 6AP

Tel: 028 7930 2988
Fax: 028 7930 2980
Email: info@cavanaghkelly.com
Web: www.cavanaghkelly.com



Beware of ROI PAYE Tax Trap

If you have a UK resident employee working on a contract in ROI for more than 60 days in the tax year, you are now required to pay that employee under the ROI PAYE system.

To avoid this liability it is essential that you rotate your employees on all ROI based contracts.



Employed or Self-Employed under the revenue spotlight

From April 2007 changes will be introduced to the Construction Industry Scheme (CIS), which will include a renewed emphasis on the application of the correct employment status.

To qualify as self employed, a worker must satisfy the following conditions on a job by job basis:

- Be able to decide what work is performed, how it is performed and when.
- Have the authority to hire others and pay them.
- Have the right to send another individual to do a job rather than carry out the work personally.
- Supply the materials and equipment required and bear the additional costs of overruns. The financial risk rests with the worker rather than the main contractor.
- Have the ability to negotiate a price for the job and be paid that agreed amount regardless of any overruns / early completion.

All contractors that are paying subcontractors will be required to sign a declaration on their monthly return stating that none of the subcontractors qualify as employees. Contractors should contact us if they have any concerns about the status of their workers.

We are going to run CIS workshops for our clients in November and December outlining the consequences of the new legislation changes.

PARTNERS:

J.J. Cavanagh B.A. Dip. Ed. F.C.A. M.A.B.R.P.
D.A. Kelly B.Sc. (Econ) F.C.A.

Whilst every effort has been made by Cavanagh|Kelly to ensure the accuracy of the information contained in this newsletter it cannot be guaranteed and neither Cavanagh|Kelly or any related entity shall have any liability to any person who relies on the information thereon.