

Company Owned Property

There is no doubt one of the most noticeable effects of the credit crunch we have endured for the past 18 months is the impact on property values. The fall in the value of both residential and commercial properties has been quite dramatic, perhaps up to 30% or more, depending what region of the UK you live and work.

It would be all too easy to fall prey to the negative climate that prevails around the country and not least, promulgated by the media, but there can be situations where you can take advantage of the reduced property values. Clearly, it is a buyers market just now, provided you have the liquid funds to buy or if you can extract funds from one of our reluctant high street banks.

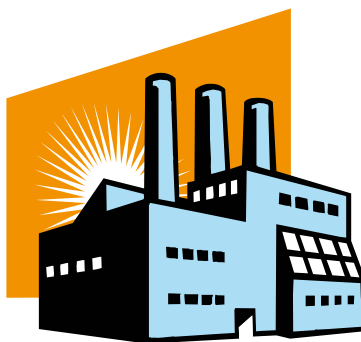
Another situation where some benefit can be taken of the lowering property prices, is where your limited company currently owns the property. A transfer of a property to a director, employee or shareholder, can possibly be done quite tax efficiently where land and property values have fallen.

Why would you want to transfer a property to the individual?

This could be a useful alternative to providing a bonus or dividend at a time when the company does not have cash to do so. Getting a property into the hands of the individual could see substantial Capital Gains Tax savings, if the property values increase in the future while owned by the individual and avoids the always concerning potential double tax effect if the ownership remained with the company. As well as a simple transfer, you could of course consider a sale to the individual to bring some much needed cash into the business, perhaps without realising a tax liability in the company.

A property transfer to an individual will have wide ranging tax implications including, Corporation Tax, Stamp Duty Land Tax (SDLT), VAT, Income Tax and NIC.

Having identified the property to be transferred to the individual, there will be a disposal by the company at market value and it is essential that a formal valuation is obtained before the transaction takes place, to have some certainty and avoid future tax problems. The company will realise a



gain if the market value is higher than the original purchase cost. The gain will be taxed either as a trading receipt or a capital disposal, depending on whether the property was held as trading stock or a fixed asset in the accounts. If a loss is incurred, this could be useful but might be limited to offset against future gains, with that same individual if they are connected.

If the property is not being sold for cash paid by the individual but is to be transferred for 'nil' consideration by way of a bonus or distribution/dividend, what tax effects will arise?

If the property transfer is to be regarded as 'earnings', the property value will be an allowable deduction for the company and the individual will have to pay Income Tax on the value of the property. We will sometimes refer to this strategy as an 'Asset Bonus'. The tax liability in effect becomes the cash cost of acquiring the property for the individual. There will be a liability for SDLT, subject to the amounts involved that the individual will also have to fund.

If the property is transferred in settlement of a distribution/dividend the individual will only pay the higher rate tax on the dividend. SDLT may also be payable in certain situations where the property has an attaching loan, which is also being transferred to the individual shareholder. The dividend route can be a little bit more awkward if there are a number of shareholders with differing levels of interest in the company.

It is critical that the paperwork is properly drawn up to support whichever method is being used, including board minutes and transfer documentation.

So, despite the current economic downturn there can be advantages in moving a property out of the company where there has been a fall in value. It could lead to large tax savings and also help to reward employees or shareholders, at a time when the company would prefer to conserve cash.

If you would like to discuss your own situation please contact our Tax Partner, **Stephen Taylor** or e-mail stephen.taylor@cartersca.co.uk

Tax Free Expansion Profits

What is it they say about "If it sounds too good to be true?"... it probably is, or words to that effect!

This may seem a positive message, a bit 'out of synch' with the current business climate, but there are business sectors still doing very well and despite the surrounding doom and gloom there are still good opportunities out there for achieving success, if you are in the right line of business.

Well, we keep banging on about how it is important that in these difficult times you make sure you

are paying the right amount of tax. We have a new strategy available to us for **new** business ventures, whether this is a completely new start up or an existing business perhaps diversifying or expanding into new products or markets. It is important that the new venture has yet to be started.

It would be possible to create a structure for the new venture involving a limited company and, most likely, a limited liability partnership. The new venture once in a profit generating position, could operate on the basis of having perhaps up to five years or more of **tax free** expansion profits. That

could make a huge difference to your overall tax and cash position.

In this case, it may indeed sound too good to be true but it can be true and it can work provided you have a sound business idea to promote through this restructuring exercise and, of course, it needs to be a profitable cash positive business. If you are planning a new venture or expanding your business into new areas, why not give us a call to see if there is any mileage in using this structure. For more details contact our Tax Partner, **Stephen Taylor**, or e-mail stephen.taylor@cartersca.co.uk

Your Money or The Banks?

There has been a lot of publicity in recent months about the plight of our high street banks and a lot of anecdotal stories about how difficult it is to obtain funding from these banks in the current economic climate. Those businesses that have been able to get a positive response from their bank will find the terms of any new borrowing or facility on much more expensive and restrictive conditions.

It is not surprising that in the family company situation this can result in a trawl round any family members or friends who may have 'spare' funds to lend to the business to tide it over as an alternative to bank funding. Clearly, that type of family lending brings all sorts of risks with it and the terms of any 'soft' loans need to be clearly established at the outset, as with any formal bank lending.

There are tax implications for borrower and lender. Provided the money has been loaned to a qualifying trading business and is used by that business for its own trade, amongst other important conditions. Firstly, the lender will have to pay Income Tax on any loan interest paid by the company, assuming

of course the 'soft' family loan has been given on commercial terms. Secondly, the borrowing company will be able to claim the interest paid as a tax deductible expense.



If the lender has initially borrowed the money from his / her own bank to onward lend to the family member or friend, it is important that the loan is given direct to the business and not the business owner or shareholder, otherwise no tax relief will be available on the interest paid to the bank. That could be an expensive mistake.

As the high street banks have found to their severe cost, sometimes things don't work out well and the business venture is not successful and, consequently, the loan is never repaid. If structured properly, it should be possible for the

lender to claim a capital loss for the loan written off.

If you need assistance with seeking funding for your business or have already secured funding but want to check the tax implications, please call your usual Carters contact.

Gordon Lindsay Retiral

Gordon Lindsay retired from the partnership on 30 April 2009. However, his expertise will not be lost to the firm as he is continuing to work as a Consultant. After training as a CA in Dundee, Gordon joined the Cupar practice of James Murray and Company in 1974.

In April 2006, James Murray and Company merged with Carters and Gordon continued as a partner in Cupar in the enlarged firm. Although a general practitioner, Gordon was particularly interested in the agricultural sector and counted many farmers amongst his clients. We are sure that all those who know Gordon will, like everyone at Carters, wish him a well deserved rest from his labours – although he will continue to labour on Tuesday, Wednesday and Thursday mornings.



Team News

We are pleased to announce that our tax colleague, **Gavin Nurse**, has been promoted to Assistant Manager in our Tax Department. Gavin is based in our Dunfermline office and takes day to day responsibility for our tax compliance services. Gavin can be contacted on 01383 733224 or by e-mail gavin.nurse@cartersca.co.uk



Mum's the word for two of our Glenrothes team, **Faye MacDonald** and **Kirsty Cassells**, who have both left to go off on maternity leave. Both have bravely worked far on into their pregnancies and, to be frank, we are quite relieved they have left the premises to take things easy before their due dates. We wish them both well.

We are also delighted to wish all the very best to our Tax Manager, **Lindsay Ferguson**, who got married on 20 June. The new Mrs McKeever and husband, Colin, are enjoying a well deserved holiday before moving into their new home in Dunfermline.

We have two new team members in Glenrothes, **Ellenor Howard** who has joined our admin team and **Sarah Hogg** who has joined our accounting team as a trainee. Also, we have a new team member in Dunfermline, **Claire Jenkins** who has joined the admin team.

Tax Credits: Are you Missing Out?

Most people think you have to have children to qualify for Tax Credits or you have to be on a really low income. This is not always the case. Tax Credits are split into two elements, Working Tax Credits and Child Tax Credits.

Working Tax Credits are available, subject to income limits, to people working at least 16 hours per week regardless of whether they have children. You could also be entitled to more money if you work 30 hours or more per week.

Obviously to qualify for the Child Tax credit element, you have to have at least one child but you don't have to be working.

People over 16 but under 25, only qualify for Working Tax Credits if they have a child, or a disability, otherwise they have to be over 25 and working at least 30 hours per week.

Tax Credits are calculated on the basis of household income. So if you are living as a couple you have to claim based on joint household income. If you are a lone parent then you could be entitled to more tax credit.

To qualify for maximum Tax Credits' taxable income has to be less than £6,420 and this is why most people think you have to be on low income to qualify but the following example shows it is not always the case.

A tradesman's profits from his joinery business are £25,000 and he wants to buy a new van and some equipment which will cost £20,000. He is married with two children and his wife stays at home to look after the children. For tax purposes the cost of the van and equipment attract 100% tax relief in the year, so his taxable profits are £5,000 (profit £25,000 less van and equipment £20,000). As his taxable income is below £6,420 for the year, he would receive £9,540 in Tax Credits. This is almost half the cost of the van and equipment.

Tax Credits are usually paid from the date of the claim but payments can be back dated by three months. This means that if you want to get Tax Credits for the full year from 6 April 2009, your claim should have been submitted by 5 July 2009. If you are already in receipt of Tax Credits and wish to renew your entitlement, you have until 31 July 2009 to submit your form.

You may be entitled to Tax Credits or there may be ways we can help you maximise your entitlement with some careful planning. Speak to **Gavin Nurse** (gavin.nurse@cartersca.co.uk) or your usual contact person. Act now or you may be losing out.



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