

AAT Tax Update Masterclass 2014

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Timetable for Tax Update Masterclass

- 09:30 – 10:15 Employment income (35 minutes lecture 10 minutes workshop and question session)
-
- 10:15 – 11:10 Self Employment & business tax review (40 minutes lecture 15 minutes workshop with Q&A)
-
- Coffee break 11:10 to 11:25
-
- 11:25 -12:05 Corporation tax (30 minutes lecture 10 minutes workshop and question session)
-
- 12:05 -12:30 Tax planning, tax avoidance and Budget 2014 overview
-
- LUNCH Break
-
- 13:30 – 14:40 Capital tax and property Up-date
-
- HMRC's Tax agent strategy, Discussion and Q&A
-
- ~~Coffee Break 14:40 to 15:00~~
-
- 15:00- 16:30 General VAT update (at basic level with 15 minutes Q&A)
-
- 16:30 CONCLUSION

Disclaimer

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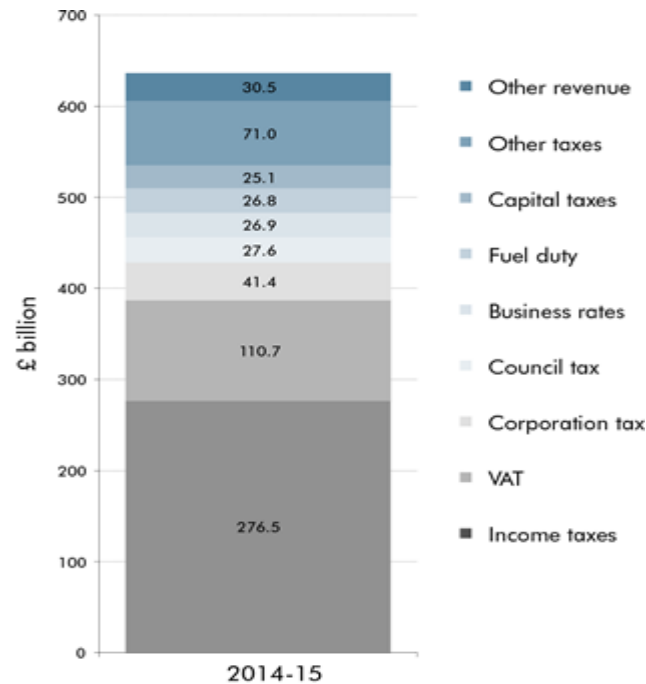
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Taxation receipt analysis by OBR

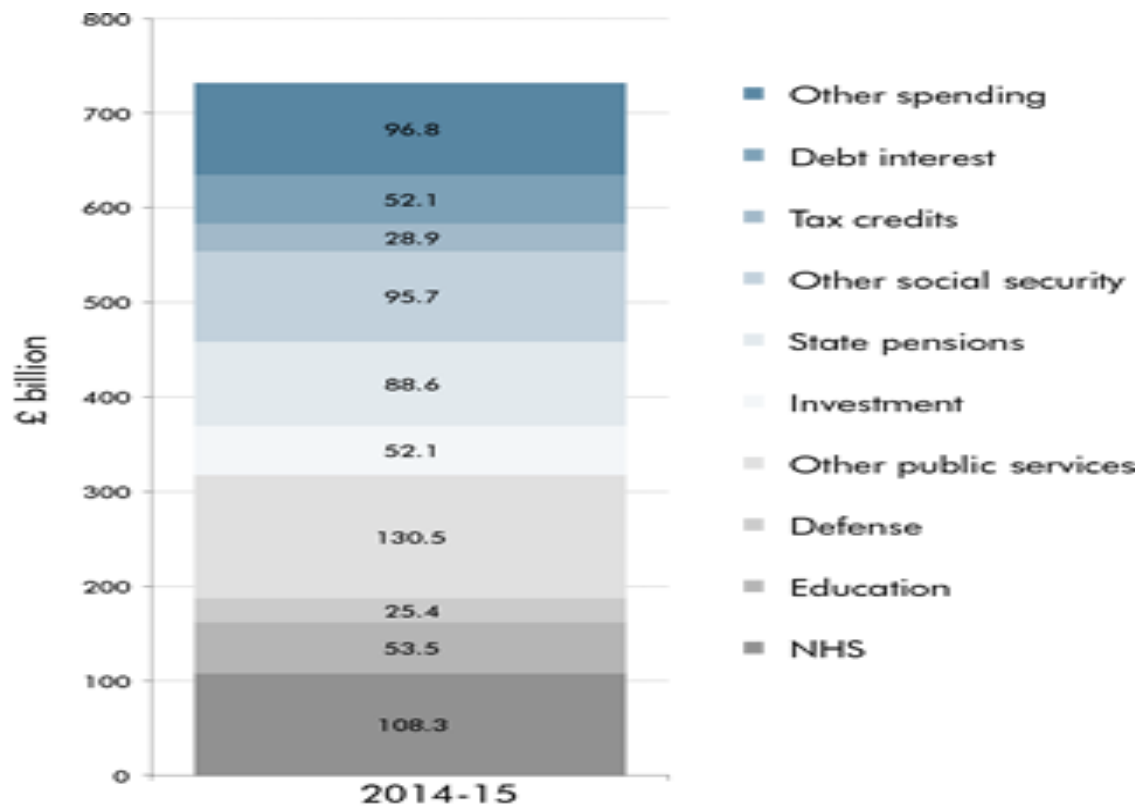
£648 bn in 2014/15



Source: OBR, HMT

Public Spending analysis 2014/15

£732 bn



Deficit
£84bn

Source: OBR, HMT



Personal Tax and employment

- Raising the PA to £10k for 2014/15 and £10,500 for 2015/16 – a Lib-Dem inspired measure? That will please many conservative voters;
- Squeeze in the BR band means 1 million more people since 2010 pay 40% tax – classic fiscal drag;
- Marginal rate on loss of PA is 62%
- Child benefit clawback marginal rates higher for those on over £50,000
- Sensible planning will focus on those at rate change borders??

Rates and bands

	2013/14	2014/15	2015/16
PA	9,440	10,000	10,500
Basic Rate	32,010	31,865	31,785
Higher Rate Threshold	41,450	41,865	42,285
Top rate	45%	45%	????

Salaries 2013/14 (br band 32010)

Salary	PA	Taxable	at 20%	at 40%	Total tax
20000	-9440	10560	2112	0	2112
30,000	-9440	20,560	4112	0	4112
40,000	-9440	30,560	6112	0	6112
50,000	-9440	40,560	6402	3,420	9822
60,000	-9440	50,560	6402	7,420	13822
70,000	-9440	60,560	6402	11,420	17822

salaries 2014/15 (br band 31865)

Salary	PA	Taxable	at 20%	at 40%	Total tax	
20000	-10000	10000	2000	0	2000	
30,000	-10000	20,000	4000	0	4000	
40,000	-10000	30,000	6000	0	6000	
50,000	-10000	40,000	6373	3,254	9627	
60,000	-10000	50,000	6373	7,254	13627	
70,000	-10000	60,000	6373	11,254	17627	
100,000	-10000	90,000	6373	23,254	29627	
120,000	-0	120,000	6373	35245	41627	60% rate

NIC rates and thresholds

• Class 1	2012/13	2013/14	2014/15
• Employees			
• Lower Earnings Limit	£107pw	£109pw	£111
• Primary threshold			
• Weekly limit	£146pw	£149pw	£153pw
• Annual limit	£7,605pa	£7,755pa	£7956
• Upper Earnings Limit			
• Weekly limit	£817pw	£797pw	£805pw
• Annual limit	£42,475pa	£41,450pa	£41865pa
• Rates applied	12%/2%	12/2%	12/2%
• Employers			
• Secondary threshold			
• Weekly	£144pw	£148pw	£153
• Annual	£7,488	£7,696	
• Rate above ST	13.8%	13.8%	£13.8%

NIC rates and thresholds (2)

	2012/13	2013/14	2014/15
Class 2			
Rate	£2.65pw	£2.70pw	£2.75pw
Small earnings limit	£5,595	£5,725	£5,885
Class 4			
Lower profits limit	£7,605	£7,755	£7,956
Upper profits limit	£42,475	£41,450	£41,865
Rates	9%/2%	9%/2%	9%/2%

The additional rate of tax

- As announced in Budget 2012, the additional rate of tax has dropped from 50p to 45p when taxable income exceeds £150,000
- Does it bring in the money? Research suggests not
- Political and press backlash? Called the millionaires tax cut!!
- Why not scrap completely and bring the top rate of tax back to 40p rather than 45p from 2013? This would be a welcome simplification

Changes to pensions – DC more attractive

- Who is likely to be affected? Grey voters
- Individuals whose UK tax relieved pension contributions are greater than £40,000 a year from April 2014 (very few in reality) or
- whose total UK tax relieved pension savings are near to or more than £1.25 million. (again few in reality)
- Compulsory annuity going
- Drawdown increased
- Access at Marginal rates
- Retain tax free lump sum of quarter fund value

The government is allowing changes to DC schemes from 27 March 2014:

- cutting the minimum income requirement to access pension savings flexibly (flexible drawdown) from £20,000 to £12,000,
- raising the capped drawdown limit from 120% to 150% of an equivalent annuity, which means:
 - for someone aged 65 with a pot of £100,000, they would be able to take an additional £1830 from their pot, before tax
 - an individual contributing 8% of their salary to a pension each year whilst earning an average salary of £25,000 from age 20 to retirement at 65 would have accumulated a pension pot worth around £185,000. Under the new capped drawdown limit they would be able to withdraw an extra £3,390 from their pot this year, which would then be subject to their marginal rate of tax. Or From April 2015, they could take the whole amount, subject to their marginal rate of tax
- Increasing the size of the total pension savings that can be drawn down entirely and taken as a lump sum to £30,000, without incurring the 55% tax charge.
- increasing the size of a small pot that can be taken as a lump sum, regardless of total pension wealth, five-fold to £10,000, benefitting an additional 32,000 people
- increasing the number of small personal pension pots that may be taken as lump sums from two to three. For example an individual with three personal pension pots of £7,000, £8,000 and £9,000 will now be able to take these as a lump sum of £24,000 rather than having to annuitise and receive around £1,300 a year

Structuring the Remuneration Package

- Ensure the remuneration package offered:
- Helps to retain your key employees;
- Meets their needs in a tax efficient way;
and
- Makes them feel appreciated and appropriately rewarded



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Changes in the Pipeline

- Employee share schemes
- Employee child care
- Company car regime increasing
- Pensions
- Beneficial Loans
- “False” self employment
- HMRC aggressive challenges include
 - Training exemption
 - Pool cars

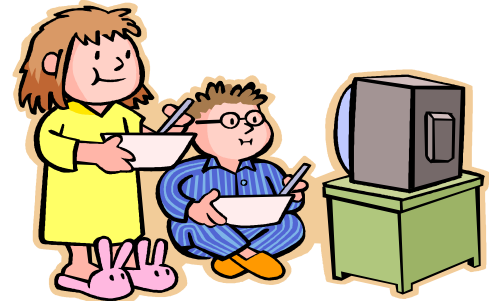


Benefits

- Anything provided to an employee in the course of their employment
- Value of benefit either:
 - Money's worth, or
 - Cost to the employer
- Certain specific benefits have beneficial tax treatment

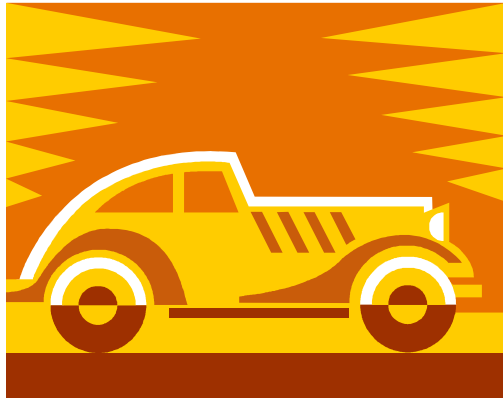
DVD provided to an Employee

- Value of the benefit:
- $MV \times 20\% = £15 \times 20\% = £3$
- Apportionment to reflect actual usage:
- $£3/365 = £0.01$ (approx)
- Associated tax and Class 1A charge is therefore negligible.



Company Cars Comparison

- Cost to 40% Taxpayer:
- Ford Mondeo £3,805



- Toyota Aygo £1315



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Company Car Comparison

- Capital Allowance Deduction to Employer:
- Ford Mondeo £3,571 (20%)
- £1448 (8%) but
- 114g/km CO2 £18,100
- 1.6 Duratorq TDCi (115 PS) Mondeo
- £3258
- Toyota Aygo £7,200



Company Car Comparison

Table 1 Ford Focus specifications

*After April 2012 , the lower rate of capital allowance falls from 10% to 8%

** After April 2012, the rate of allowance will fall from 20% to 18%

Engine	Maximum Power PS (kW)	CO2 Emissions (g/km)	Fuel Consumption in mpg (L/100 km)	Max Speed (mph) *	0-62 mph 2012/13 (Secs)*	WDA**	2013/14 WDA*
1.6 Duratec Ti-VCT (105 PS)	105 (77)	136	47.9 (5.9)	116	12.3	20%	8%
1.6 Duratec Ti-VCT (125 PS)	125 (92)	149	44.1 (6.4)	120	11.7	20%	8%
1.6 Duratec TDCi (95 PS) (Start-Stop)	95 (70)	109	67.3 (4.2)	120	10.9	100%	18%
2.0 Duratec TDCi (163 PS)	163 (120)	134	54.3 (5.2)	134	8.9	20%	8%



Table 2: Comparison of real depreciation against tax allowances

Type of car	New	Year 1	Year 2	Year 3	Year 4
Small Family (Ford Focus 1.6) RV	£12500 100%	£7500 60%	£6400 51%	£5250 42%	£4150 33%
Capital Allowances 2012/13 WDV	£12500 100%	£10,00 80%	£8,000 64%	£6,400 51.2%	£5120 41%
Capital Allowances 2013/14 WDV	£12500 100%	£11500 92%	£10580 84.6%	£9734 77.9%	£8955 71.6%

Table3 : Comparison of taxable benefit for employees with company cars

suggest <http://www.green-car-guide.com/>

Type of car ²⁰	New	2011/12	2012/13	2013/14	2014/15
Small Family (Ford Focus 1.6) cost List price	£12500 £16,100	£1610 (10%)	£1932(12%)	£2093 (13%)	£2254(14%)
Tax cost basic rate 109 gm/km CO ₂		£322	£386.4	£418.60	£450.8
Tax Cost Higher rate 109 gm/km CO ₂		£644	£772/8	£837.2	£901.6
1.6 Duractec Ti-VCT (125 PS) 149 g/km	£12500 £16,100	£3059 (19%)	£3220(20%)	£3381(21%)	£3542(22%)
Tax Cost basic rate 149 gm/km CO ₂		£611.8	£644	£676.2	£708.4
Tax Cost Higher rate 149 gm/km CO ₂		£1223.6	£1288	£1352.4	£1416.8

Company cars and Fuel benefit

Focus 149g/km Fuel £4774
Equivalent to 822 gals or 36213 miles

Company car mantraps

- Whitby and others £74K
- Stamford Management
- Cooper & others (Leaside Timber Ltd)
- Vasili v Christiansen
- **G R Solutions**



Company cars and Fuel benefit Trap

- Pool Cars
- Industrial Doors Ltd
- Vinyl Design Ltd



- (1) made available to, & used by, more than one of the employees;
 - (2) made available, in the case of each of those employees by reason of the employees' employment;
 - (3) not ordinarily used by one of those employees to the exclusion of the other;
 - (4) for each of those employees, any private use of the car merely incidental to the employee's other use of the car in that year; and
 - (5) **The car was not normally kept overnight on or in the vicinity of any residential premises where any of the employees were residing**, except while being kept overnight on premises occupied by the person making the car available to them.
- **Evidence**

Impact of Changes CO2 emissions

Petrol

	2012/13	2013/14	2014/15	2015/06	2016/17*
	%	%	%	%	%
Nil	0	0	0	5	7
1 – 50g	5	5	5	5	7
51 – 75g	5	5	5	9	11
76 – 94	10	10	11	13	15
95 – 99	10	11	12	14	16
100 – 104	11	12	13	15	17

Increases by 1% for every 5g/km CO2 over baseline – then 2% for every 5g/km for 2015/16 and later

Max	35%	35%	35%	37%	37%
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*Diesel = + 3% - abolished from 2016/17

Plan the tax Outcome of business Cars

- VW Up £8265 & 95g/km
- VW Up electric £19,250 (after grant)
- 2015/16 BIK conventional £1239
- Electric £963 and next
- 2016/17 £1347 (£1697)
- Other options?
 - Pool car but mileage logs
 - Employee owns car and AMR 45p
- Company car getting expensive



Thank you for listening

Any Questions?



Workshop Chapter 3

Personal Tax

- **Question 1**
- A senior employee, who is not a director, is entitled to a salary of £120,000 a year. This is earned on a day to day basis. The employee is entitled to payment of 1/12th of the annual salary on the final day of each month.
- The employer is in severe financial difficulties and does not make any payment of the January 2014 salary. To help the employer and to avoid losing the individual personal allowance, on 8 February 2014 employer and employee make a revised agreement. The agreement is that the employee will not be entitled to any salary for the period 1 January 2014 to 31 March 2014.
- **Q1** The senior employee will be taxed in 2013/14 on:
- £90,000
- £91,428
- £100,000
- £120,000

Workshop Chapter 3

Personal Tax

- Charles Morton has been employed by Silvair Ltd for many years as a salesman. His sales area was expanded in April 2013 to include the Highlands of Scotland (previously he worked only in the central belt) and he was given a new company car, a Landrover Discovery HSE costing £53,995 with CO2 emissions of 213g/km
- Charles was recently contacted by heir hunters and informed that after expenses he inherited £12,000 and he seeks your advice on what he might do with this money to reduce his tax bill
- ..
- Charles' salary is £80,000 a year but he was shocked to learn that his car benefit for 2013/14 was £18898 creating a liability to tax on the car benefit at 40% of £7559.2. His employers have offered to provide all the fuel for the vehicle in recognition that the business needs impose the necessity of having such a large powerful vehicle.
Discuss what advice you would give Charles.

Workshop Chapter 3


Personal Tax

- **Question 3** John Philips is a pilot with Wingo-air and he has recently attended a course upgrading his flying skills to fly the new Boeing Airgiant. It is a condition of Mr. Philips' contract of employment that if he leaves Wingo-air within three years he has to repay the cost of the course being £11,000
- John has been headhunted by a major airline offering a huge increase in salary and much better working conditions.
- If John pays the £11,000 to his employer Wingo-air, can he claim a tax deduction for the expense as being wholly, exclusively and necessarily incurred for his employment?
- **What advice would you give him?**



Business Tax : Corporation Tax Rates

- **The CT main rate will be reduced to 21 per cent for the Financial Year beginning 1 April 2014;**
- **From 1 April 2015, the CT main rate will be further reduced and unified with the small profits rate (SPR);**
- **The new unified CT main rate will be set at 20 per cent;**
- **More competitive, simplified corporate tax system to provide the right conditions for business investment and growth.**



Year	Main rate of CT %	Small profits Rate %	Marginal rate %
FY 2012	24	20	25
FY 2013	23	20	23.75
FY2014	21	20	21.25
FY2015	20	20	N/A

Tax Deductions: Plan to target at highest rate



What structure for business?

- Never let the commercial dog be wagged by tax tail
- LLP partnerships less certain (NIC is driver)
- Large differentials on structure
- Incorporation carries (some)n advantage
- Demerits are complexity, compliance cost and legislative changes potential
- IR 35
- Service company challenges
- Status dispute in practice 7 to 10 years to FTT



What Structure for Business (2)?

- No Easy answer
- Must complete formalities Distributable profits
- Paperwork for dividend – minutes and warrants
- Watch settlements
- Profit retention? Exit strategy early in the game



Disincorporation relief

- A relief for disincorporation was introduced for five years from April 2013.
- The relief will allow a company to transfer goodwill and an interest in land to its shareholders so that no corporation tax charge arises on the company on the transfer;
- The relief will be available to businesses with total qualifying assets not exceeding £100,000.



Capital Allowances

- Previously, AIA £250,000 with effect from 1 January 2013, until 31 December 2014; But..
- AIA April 2014 to 31 December 2015 £500,000
- AIA reverts to £25,000 after 1/1/2016
- WDA 18% and 8%
- Traps include
 - AIA connected persons
 - Partnerships with a company member
 - Wrong classification (especially setting)
 - Higher emission cars
 - After 2016 the Capital Revenue divide will matter more (again)

Denial of Capital Allowances can present an opportunity

- Canopies over petrol stations –commercial tie and no BC but may have CGT implication (at 10%);
- Greenhouses and polytunnels – new HMRC guidance;
- 1981 S&N = Creating an atmosphere in a chain of pubs;
- A Gazebo in a pub garden for smokers.



Enhanced Capital Allowances (ECA)

- ECAs at 100% for:
- Energy technology;
- Water technology;
- Low emission cars;
- www.eca.gov.uk

Cap on tax deductions

- Reliefs to be included when set off against general income trading loss relief – s64
- relief for trading losses in earlier years – s72
- post cessation trade relief – s96
- property loss relief – s120
- post cessation property loss relief – s125
- employment loss relief – s128
- former employees deduction for liabilities – s555 ITEPA 2003
- share loss relief - capital loss treated as income tax loss
- losses on deep discounted securities



Business Profits

- LLP members deemed to be employees
- All 3 conditions must be applicable
- Condition A is fixed profit entitlement
- Condition B is significant influence
- Condition C is Capital contribution >25% of A
- Fiscal fictions are inappropriate in self assessment
- 63 page guidance pdf ??

Deductions : Wholly and Exclusively

- Tim Heally's London Flat failed
- Peter Vaines legal costs of £215,455 allowed
- Philip MacMahon's legal costs of £15,354.7 not
- PGA subscriptions not allowable (Ryder Cup)
- Paul Duckmanton's legal costs £268,672 Not
- Hopegar Properties Ltd analyse expense allow repair element disallow capital
- Interfish Ltd denied sponsorship costs of Plymouth rugby
- Dr Samadian's travel costs denied



Business Tax

- R&D tax credit changes
- Prepare FRS 101 FRS 102
- Settlements Arctic Systems
- Donovan and McLaren
- Disincorporation?
- HMRC risk areas include campaigns and task forces



Chapter 4 Workshop Business Tax

- Constructors Ltd made up its accounts for the 18 month period to 31 May 2014 during which it incurred expenditure on qualifying machinery of £500,000
- Calculate what Annual Investment Allowance is potentially available to the company.

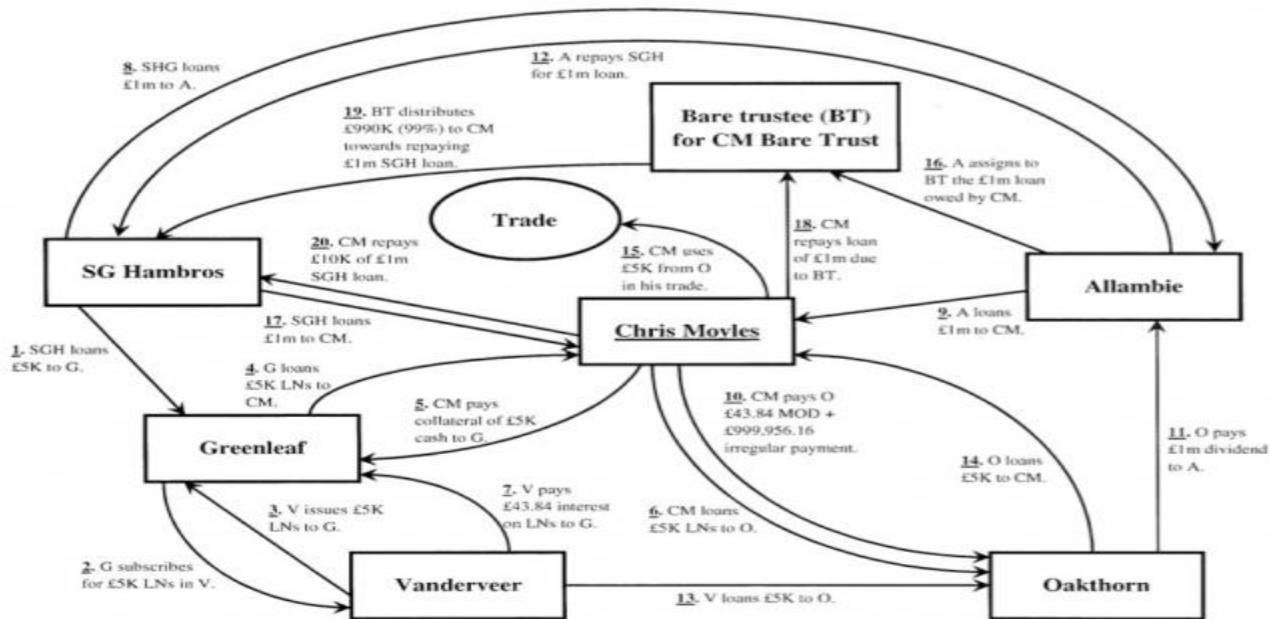
LLP members are they caught?

- Big firm lawyers LLP appointed 10 new partners last year. Each of the new partners will be required to contribute £25,000 to their capital account by the end of their third year as partners. The partnership provides that the new partners have a fixed entitlement to the first £75,000 of the firm's profits and an additional entitlement to 0.1% of the firm's profits. They have no voting rights until they have contributed their £25,000 capital contribution.
-
- Based on past experience, the 0.1% of the profit is around £14,000. As higher rate taxpayers, it usually takes the full three years to accumulate net after tax the required capital contribution after which they are able to draw down on their capital accounts provided the balance does not drop below £25,000
- **Discuss whether the firm must now operate PAYE and account for NIC on these new partners**

Tax Avoidance: a discussion

- *“The difference between tax avoidance and tax evasion is the thickness of a prison wall” – Dennis Healey.*
-
- *“Taxes are what we pay for civilised society” – Oliver Wendell Holmes in *Compania General Tobaccos de Philippines v Collector of Internal Revenue* 275 US 87.*
-
- *“Every man is entitled to order his affairs so that the tax attaching under the appropriate Acts is less than it otherwise would be” – *Duke of Westminster v CIR*, 19 TC 490 at page 520 Lord Tomlin.*
-
- *“Taxation rests on force. It undermines morality, crowds out charity, rewards power, undermines personal responsibility, promotes group conflict and turns Government and the public into cheats. Taxation may be a necessary evil ... but it is still an evil” – Eamon Butler 23/05/2012.*
-
- *“Everyone should pay the right tax at the right time”.*

Tax Avoidance: The (failed)used car scheme



Truisms for Tax

- Nobody likes to pay tax
- Evasion is illegal and unacceptable
- No one should condone evasion
- Vantis charity scheme: evasion
 - David Fenton & Roy Faichney –prison (18M) 70m
 - Inflate share price falsely
 - Abuse gift aid on shares
 - Made 4.5m but confiscation 809692 or +3years
- Smell Test
- Avoid anything which stinks
- Jimmy Carr example of K2

PAC report 26/04/2013 on Tax Avoidance and the big 4 firms

- Confidence in our tax system can only be maintained if individuals and companies pay, and are seen to be paying, their fair share of tax.
- HMRC say “Since the end of 2012, we have won 11 tax tribunal cases against avoidance schemes, two of which were against large corporates.”

War on Tax Avoidance

- Mayes decision led to GAAR consultation
- GAAR in FB 2013- law in July 2013 with RA
- Parliament's duty of care failed: The result is poorly worded and ambiguous legislation, mainly accidentally but sometimes deliberately.
- HMRC guidance on GAAR 16/04/2013
- “any arrangement which, viewed objectively, has the obtaining of a tax advantage as its main purpose or one of its main purposes”



Advisers and Planning

- Are you damned if you do and damned if you don't
- Slattery v Moore Stephens
- Haines Watts advised its client on the disposal of his controlling shareholding in what was a family trading company – client died on operation
- Mehjoo – fortunately overturned CoA
- Engagement Letters –so important

Tax avoidance and Planning Workshop

What is acceptable tax planning?

- 1) Booking a non working wife's wages to P/L
- 2) CIS worker is self employed
- 3) Chris Moyles used car scheme
- 4) Using EBT and non residence to escape UK tax
- 5) Rented accommodation – arrange period of OMR
- 6) Small low emission car instead of executive car

Tax avoidance and Planning Workshop

What is acceptable tax planning?

- 1) Booking a non working wife's wages to P/L
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- 1) Settlement? Nature and extent of duties?
- 2) HMRC thinks extensive abuse but contractual arrangement
- 3) Seemingly avoidance but to me seems fraud. Must have known
- 4) Hindsight suggests does not work
- 5) Provided quality of occupation is real, surely legitimate
- 6) Sensible tax planning but what about a gas guzzling double cab pick-up?



Capital Taxes

- Year AEA
- 2013/14, £10,900
- 2014/15 £11,000
- 2015/16 £11,100
- Valuable remembering no indexation



OMR challenges and costs

- Time limit reduces to 18 months except ..
- Quality of occupation being challenged, election going
- **Anne Dickinson garden land sale**
- **S38 costs** Sir Fraser Morrison £12m not allowed
- Mr Singh Chahal's mistake not allowed and not relieved
- Julian Blackwell paid £17.5 million allowed



VAT 2014

- VAT tax gap for 2012/13 £12.9 bn or 11.4%
- Registration threshold increased to £81,000 from 1 April 2014
- Deregistration increased to £79,000
- After 1/12/2012 if you are a Non established taxable person NETP, you will need to register for VAT the moment you make any taxable supplies in the UK.
- HMRC committed to closing the tax gap



Input VAT on cars: advice?

- Alex Paton
- Pool Cars (remember chapter 3?)
- HMRC view that penalties are due? Challenge?
- HMRC v Brockenhurst College [2014] UKUT 46
- Associated Newspapers Ltd v Revenue & Customs [2014] UKFTT 116
- **Goals Soccer Centres plc.** Brief 08/14

VAT Pitfalls

Learn from others' mistakes

- Chelham Ltd v Revenue & Customs [2013] UKFTT 418
- BMW Group
- Chelmsford College v Revenue & Customs [2013] UKFTT 400
- Finance & Business Training (FBT) Ltd v Revenue And Customs [2013] UKUT 594
- HMRC v Our Communications Limited [2013] UKUT 595

VAT Pitfalls (2)

- Gielly Green v Revenue & Customs [2013] UKFTT 509
- Denplan/ D P A S Ltd v Revenue & Customs [2013] UKFTT 676
- Khoshaba t/a Cinnamon Café v Revenue & Customs [2013] UKFTT 481
- Audrey Cheruvier t/a Fleur Estelle **Belly** Dance School v Revenue & Customs [2014] UKFTT 7
- English Bridge Union (EBU) –is bridge a sport?
- LH Bishop Electrical Co Ltd A F Sheldon (t/a Aztec Distributors) v Revenue & Customs [2013] UKFTT 522



Composite Supplies

- Card Protection Plan Ltd v C & E Commrs [1994] BVC 20
- Tumble Tots (UK) Ltd v R & C Commrs [2007] BVC 179
- BskyB/ Telewest Communications plc v C & E Commrs [2005] BVC 156
- College of Estate Management v C & E Commrs [2005] BVC 704
- W M Morrison Supermarkets PLC v HMRC [2013] UKUT 247

HMRC areas of challenge

- Input VAT on cars
- ***Customs & Excise Commissioners v Elm Milk Ltd [2006] BVC 296 – advise or not?***
- *Ian Flockton Developments Ltd v C & E Commrs (1987) 3 BVC 23*
- *Chain Telecommunications Ltd v Revenue & Customs [2012] UKFTT 330*
- *Croall Bryson/ Dennis George Bunning and Christina Denise Bunning t/a Stafford Land Rover v Revenue & Customs [2012] UKFTT 32. ??K Myles??*
- Aggregation and Directions



Workshop VAT

- Company owns helicopter
- Hires it to others
- Company business <25%
- Kept at Director's home (a farm)
- Directors fly but pay arms length rate
- HMRC assess £39,246 VAT on basis that helicopter not bought mainly for business use
- Discuss whether you would advise an appeal and on what grounds?

Thank you for listening

Any Questions?

**Written paper
with answers to
the workshop is
available to
download at**

