

UPDATE

Spring / Summer 2005

Bolton Practice Acquired

We are pleased to announce the acquisition of David Harrihill's Bolton-based accountancy practice, which was part of mdh Associates.

The acquisition brings to Clarke Nicklin three new members of staff and around £100,000 of new business. David Harrihill is joining us as a consultant and Andrew Lavin and Doug Walker are joining our accounts team.



(l to r) David Harrihill and Steve Humphries

Says partner, Steve Humphries: "This acquisition is just one part of our active strategic growth plan for Clarke Nicklin. The new business fits neatly into our existing client portfolio and the additional new team members will enable us to continue to offer our high levels of service."

mdh Associates was formed in April 2000. Its existence, however, goes back to 1986 when it originally traded as Snow Kellett & Co. in Manchester.



CHARTERED
an
ACCOUNTANTS

integral

BUSINESS

part of

ADVISORS

your

TAX

success

CONSULTANTS

Stamp Duty Land Tax (SDLT)

Residential

The threshold for the 0% rate of SDLT was raised from £60,000 to £120,000 with effect from 17 March 2005. Tax is now payable at 1% on the whole of the consideration if it is more than £120,000 but not more than £250,000. Other rates and bands are unchanged.

Commercial

Disadvantaged area relief for non-residential land transactions in designated areas was abolished with effect from 17 March 2005.

Avoidance

New provisions block several SDLT avoidance schemes. We are, however, aware of some strategies which still purport to mitigate SDLT, down to nil in many cases. In round terms these are available for transactions with a value of £1million and over.

For advice in this area, please contact Steve Humphries.

Acquisition Advice - All Part Of Our Service

Clarke Nicklin has recently advised on the successful acquisition of Synprotec by Dishman Europe Limited.

Both businesses trade in the chemical industry, with Synprotec representing a synergistic purchase for Dishman. The acquisition will result in UK group turnover increasing to £16 million.

Dishman Europe Limited is a 100% subsidiary of Dishman Pharmaceuticals and Chemicals Limited, India, which is quoted on the Mumbai stock exchange.

Partner, Andrew Baggott led the assignment for Clarke Nicklin which covered a wide range of requirements including advising on the price and structure of the deal, reviewing and advising on tax issues, assisting in negotiating the deal, due diligence and the introduction to and liaison with the solicitors acting for Dishman.

As a result of our work, Clarke Nicklin is to be retained as auditors and business advisors to Synprotec.

For acquisition advice, please contact Andrew Baggott.

Pension Scheme Changes

The rules for tax-approved pension schemes are changing radically on 6 April 2006. The amount you can put in each year to enjoy tax relief will in many cases go up – although there will be an overall cap on how much money you can build up in the fund by the time you retire.

Anyone who is at all interested in pension planning will need to think carefully about what they do in the last year of the old rules and what they want to do under the new rules.

One of the most interesting developments is likely to be permission for tax-approved pension schemes to invest in residential property. It's likely that many people will want to use pension funds for buy-to-let or for holiday accommodation. The rules haven't been finalised yet, but already there are suggestions that pension money could fire up the property market again.

There will be limits that are likely to make some obvious wheezes unattractive or impossible. The pension fund will have to charge a market rent for the use of the property, so it won't necessarily be a good thing for your own second home – but even then, it might be worth checking the numbers. Selling a property you already own to your pension fund is likely to be tightly controlled to make sure the values are fair.

You are likely to read quite a lot about pension changes and property investment over the next year. If you want to discuss whether what you read really works, Graham Clarke and Steve Humphries will be happy to advise you.

Oh, Gross!

Commercial leases often share some of the commercial risks and rewards of the property between the landlord and the tenant – the rent goes up if the tenant does well and it goes down if not.

For example, a retailer's rent might have an element that varies with sales. This is so common that it's surprising to see a case go to court to argue what the words mean.

Debenhams had a lease which specified a variable rent based on the 'total amount of gross sales'. For some time, they worked this out on the money going through the tills – gross receipts. Then someone realised that receipts had VAT in them. They argued with the landlord that 'sales' ought to be only Debenhams money – and the landlord argued back that 'gross' meant gross, or VAT-inclusive. It ended up in the High Court.

The judge found for the tenant. He reckoned that the purpose of the clause was to share the risks of income going up and down.

If the Government put the VAT rate up, the retailer might find receipts went up but income went down – because more of the receipts would have to go to the VAT man.

So the landlord's version would not have the right effect – the rent would go up, even though the tenant was doing worse. 'Sales' are also always exclusive of VAT for accounting purposes. 'Gross sales' means before taking off expenses, but after taking off VAT.

If you have this sort of lease, either as landlord or as tenant, it's worth having a look at what it says and a look at what you do, to see if you agree with the judge.

Inheritance Tax Planning

The basic inheritance tax plan is to give away what you own and then try to live as long as possible.

One particular plan, which the Government have now closed down, involved giving away the freehold of your house while keeping a lease. The lease let you live in the house, but it became worth less and less as time ran out.

If you got it exactly right, you would expire a week before the lease did and it would have no value in your estate at all – the freehold would have taken all the vacant possession value, but it would have been given more than seven years ago and would be free of IHT.

A couple set up this plan in 1997, retaining a 20-year lease. It appears that last year they suddenly realised that if they were still alive in 2017, they would no longer be entitled to live in the property. They didn't like that idea, so they went to court to try to cancel the whole thing. The freeholders – their children – didn't object and the court allowed them to rip up the plan on the basis that it had all been based on a misunderstanding of what was involved.

That all seems to have ended happily for the moment – apart, presumably, for some wasted professional fees and a lot of wasted time. But there would have been a big problem if the freeholders had fallen out with their parents in the meantime, or had been declared bankrupt, or had pledged the freeholds to secure borrowings.

It's very important that you understand the full consequences of any plan of this sort – if you have any arrangements like this, or you hear of any and are interested in how they work, Steve Humphries will be happy to advise you.

Welcome To Paul And Gemma

We are pleased to announce two recent appointments to our team. Paul Mellor ACA joins the practice as accounts supervisor and Gemma Dowell, who initially joined us as an administration assistant, is now an accounts trainee.



A Good Buy?

You may have received a letter at some point explaining that your National Insurance Contributions were underpaid a few years ago and you can pay the shortfall to complete your record.

Should you pay it?

Assuming the letter really comes from NICO in Newcastle and their records are accurate – both worth checking – then it usually is a good investment.

There's a mysterious relationship between paying your NIC over your working life and earning your State pension – not many people understand it exactly, but if you don't pay enough NIC over enough years, you won't get the State pension in full.

Of course, the State pension doesn't seem like much to write home about – but at the

moment it's still likely to be a better deal than you will get by putting the same money into a personal pension scheme. It's almost certainly worth completing your contribution record.

If you think you might have gaps in your NIC payments, it may be worth writing to find out how much pension you are entitled to and whether you should be paying some arrears. If you want help to do this, we will be happy to provide it.

Death And Taxes

Of course, they are the two certainties. But it is possible to minimise the tax on death with a few simple measures.

The big opportunity – and pitfall – is with insurance policies on your life. If you own the policy and it pays out to your personal representatives when you die, the whole of that money goes into your death estate and the taxman takes a cut.

The alternative is to give the death benefit of the policy to a trust – either when you take it out for the first time, or at a later date, as long as it's at least seven years before you die. Then none of the money goes into your death estate for inheritance tax and you can leave the proceeds of the policy to the same people who would enjoy it if it was paid to your executor.

Death-in-service benefits are often provided by employers. The legal form is normally that the insurer will pay the promised amount to the personal representatives, but only 'at their discretion'. In this case, the money is available to pay out as part of your Will, but it doesn't get charged to tax.

It's worth checking that your insurance policies are outside the reach of the taxman.

For advice in this area, please contact Steve Humphries.

LEAVING YOUR JOB

It's well-known that when you leave a job, you can be paid a golden handshake of £30,000 and there's no tax on it. But there are limits – the Revenue are always suspicious of tax-free money and they often argue that it's not a 'proper' golden handshake.

In one recent case, an employee was put on three months' 'gardening leave' – she wasn't to come to work, but she wasn't to work anywhere else either. She was paid three months' salary. The letter that sacked her was inconsistent – it described the payment as 'in lieu of notice',

which is tax-free, but the terms of the gardening leave meant that it was effectively a payment for working the notice period.

The Revenue won the argument: she was being paid for restricting her work in accordance with her contract and was not paid purely because of the loss of the job.

The main thing is not to expect something that you won't get – £30,000 tax free is, sadly, not an automatic right.

If you are leaving a job, Tony Jakara will be pleased to advise you on the likely tax consequences.

His And Hers

Plenty of businesses are owned by husbands and wives. It saves a lot of tax to split the income of the business between the couple.

Over the last couple of years, there has been a great deal of publicity for what most people regard as a change of view by the taxman to treat a lot of husband-and-wife businesses as tax avoidance arrangements which they will attack by reallocating the income from an 'inactive owner' to the 'worker'.

This came to a head last October with the announcement that the Revenue had won a tax appeal which seemed to justify their view. In fact, the facts of the case were quite unusual and the two appeal Commissioners who heard it couldn't agree – one insisted on publishing a different opinion, saying that she thought the taxpayers should have won.

Therefore, the couple involved - Mr and Mrs Jones - made a further appeal to the High Court and in the judgement recently given on 27 April, the High Court found in favour of the Revenue.

So, if you are a married couple owning a business, it's worth being aware of this ruling and that the Revenue are continuing to look at this area quite closely.

We will be happy to discuss the structure of your business and advise you on the best course of action. In the first instance, please discuss with your partner contact.

Need Finance?

Clarke Nicklin continues to help businesses in relation to finance needs and issues in a variety of areas.

In two recent cases, our advice and assistance was used to raise finance to meet some of the common business needs of growing companies.

One client needed to raise finance to provide general working capital and to purchase additional stock. The other related to a facility to finance expansion into a new market area. This involved the restructuring of existing finance as well as providing new finance to achieve the most appropriate outcome.

If you need finance of any size or you would just like a general conversation relating to finance matters, please contact Andrew Baggott.

Property Options

Suppose you bought a property some time ago as a second home. It cost £100,000 and you borrowed £80,000 to buy it. It's now worth £200,000 and you have decided to let it out.

What's the tax treatment?

If you have ever lived in it as your main residence, or you have made an election to treat it as your main residence for CGT purposes, the capital gains treatment will be very favourable.

If it's only ever been a second home, it's always been chargeable to CGT and that doesn't change when you let it out. But any improvements you carry out will increase the cost for

CGT, so you should keep the receipts.

The interest you pay on the mortgage will be an allowable expense against the rent and so will any insurance and other running expenses that you pay. So, you hope that the rent at least covers your outgoings and you continue to enjoy that capital gain in due course.

What if you want some of the cash now?

The Revenue have a surprisingly generous view on what happens if you remortgage when you put this property 'into a rental business'.

If you increase the loan to say £150,000, they will allow you to draw out the £70,000 cash you have just borrowed and still deduct the interest on the whole of the new loan.

Many accountants find that surprising, but the Revenue seem to think that your 'landlord's balance sheet' still shows that you are in

credit – the property is still worth more than the mortgage, using current values.

You could get the same result by selling the first property for £200,000, then buying another similar one with a £150,000 mortgage. But that would incur more costs and crucially, it would trigger the CGT charge. The Revenue's interpretation is much more favourable.

If this plan interests you, Tony Jakara will be happy to discuss it.