



## private client | briefing

editorial | key tax return dates | venture capital losses | buy to let issues to consider in a recession | probate market opens up to accountants | mortgage update | investing in a recession | entrepreneurs' relief

### editorial



#### Welcome to the 2008 Private Client Briefing.

This year has seen unprecedented levels of concern by a range of taxpayers to Government proposals. All of which has

culminated in the Government doing a number of U turns on the taxation of non domiciliaries, on Capital Gains Tax and in the corporate tax areas. Whilst the U turns have been welcomed as mitigating some of the harsher aspects of the proposals it has led to a significant loss of confidence in the Government and greater levels of uncertainty in the tax regime. At a time when Revenue powers are being increased significantly, the legislation is becoming more complex and it is increasingly difficult to plan one's tax affairs due to the constant changes.

In this edition of the newsletter we give details of the Entrepreneurs' Relief which is mitigating the effect of the loss of Business Asset Taper Relief. We have also included articles on investing in a recession and the impact on buy to let investment in a recession. Whilst I have no wish to add to the already gloomy prognosis in the press, we are seeing signs of a slow down and our clients need to prepare for this.

Anne Gregory-Jones

**Tax Partner | 020 7969 5520**

agregory-jones@haysmacintyre.com

### key tax return dates



**The 2007/08 tax return (for the year ended 5 April 2008) is the first tax return to be subject to HMRC's new reporting deadlines.**

**If you want HMRC to calculate your tax liability for you, the deadline for submitting your tax return remains at 30 September 2008.**

In order to encourage taxpayers to submit their tax returns online, HMRC has brought forward the deadline for submitting your tax return if you want to send in a paper copy. The filing date for paper tax returns is now 31 October 2008. If you submit a paper return after this date, you could be liable to a £100 penalty.

If you have a tax liability and would like to have it collected through your PAYE coding on your salary or pension, you have to submit your tax return online by 31 December 2008. However it is inadvisable to leave it this late, as on many occasions HMRC have not been able to process the return in time to adjust the coding and consequently some people have had to face penalties and interest for late payment.

Finally, the deadline for submitting your tax return online remains at 31 January 2009.

If you have any questions, please contact your engagement partner or a member of the tax team.

Mark Pattenden

**Private Client Tax Manager | 020 7969 5590**

mpattenden@haysmacintyre.com

## venture capital losses



**If you have subscribed for shares in an unquoted trading company which have become of negligible value then you can claim a capital loss on the shares which is available for set off against your capital gains. You can, under the right conditions, also claim that the loss be set against your income potentially producing a repayment of income tax. The tax that may be recouped by making such a claim can be as much as 40% of the amount originally invested.**

I would therefore recommend that you contact either your normal engagement partner or a member of the tax team if you have in the past made an investment that you think may qualify for this relief.

If you do own shares in a company that has gone into liquidation you will I am sure receive a flyer from a third party offering to recover the tax for you. The normal charge is around 20% plus VAT for obtaining the repayment which is a large proportion of the amount actually due to you.

Nigel Landsman

**Partner | 020 7969 5549**

[nlandsman@haysmacintyre.com](mailto:nlandsman@haysmacintyre.com)

## buy to let issues to consider in a recession

**As the economic climate worsens, buy to let investors may be the first to feel its impact. Their high levels of mortgage debt and dependency on rising prices for capital growth leave them vulnerable.**

At present, investors can take some comfort in the fact that interest rates remain low. However rental yields (effectively the measure of return on investment for property investors) are falling below 5% and for many investors a better return can be obtained through competitive bank or building society savings accounts.

Landlords have always been conscious of void periods – times when they have no tenants to occupy the property. These can be costly as financial commitments such as loan repayments and council tax still need to be paid. In the past buy to let investors have often sacrificed rental profitability for future capital gains, taking lower rents and being satisfied that rising property prices will compensate them in the long run. Now with property values expected to fall, this may no longer be an option.

However the easy option - increasing rents - may lead to further void periods, making the landlord's financial position worse.

The recent reduction in Capital Gains Tax to a flat rate of 18% may indicate to many investors that now may be the time to sell up. The lower tax rate makes it more attractive to cash in on the gain before any future price falls.

Negative equity, the spectre of the last property crisis, may also be making a comeback. Many investors, encouraged by the availability of cheap finance, purchased their properties through 100% interest-only mortgages. Falling prices may result in investors owing more than their property is worth.

Falling market prices may attract new investors into the market. However those thinking about buying to let in the future face increasing financial obstacles. Many institutions are restricting the availability of mortgage capital and increasing interest rates for new investors. Thus a larger initial deposit may be required before making the first purchase.

Nigel Landsman

**Partner | 020 7969 5549**

[nlandsman@haysmacintyre.com](mailto:nlandsman@haysmacintyre.com)

## probate market opens up to accountants



**Whilst accountants have been able to administer estates for some time, it should not be long before the whole probate market is opened up to accountants and other**

**professionals. The Ministry of Justice has now given initial approval to the Institute of Chartered Accountants in England and Wales for it's members to carry out probate work.**

Here at haysmacintyre, we already have an experienced team in our Trust department who administer Estates.

Our services can include a visit to the property (within reason) to obtain the relevant papers for the preparation of the Inheritance Tax return and to prepare a tax return to date of death.

Alternatively a meeting with the executors can be arranged if they have gathered together the information. Having prepared the relevant Inheritance Tax return together with the required supplements we would advise on the tax payable overall and on application for probate. In association with a local solicitor, the executors would be able to visit our office to swear the oath. Once probate is granted we can assist in the collection and distribution of the assets to the residuary beneficiaries and deal with any tax matters arising during the period of administration. Finally we would prepare a set of estate accounts.

If you would like further information on these services please contact Anne Gregory-Jones or Jim Conway.

Jim Conway

**Senior Trust Manager | 0020 7969 5619**

[jconway@haysmacintyre.com](mailto:jconway@haysmacintyre.com)

## guest article



**Neil Sims is a consultant with *haysmacintyre financial planning*, which advises on a range of financial, insurance and investment issues with specialists focused on the needs of companies, not-for-profit organisations and private individuals.**

### mortgage update

The Global Credit crisis has caused banks to realise that the basis on which they had been lending was unsustainable and have now returned to more sensible lending policies. The days of the 125% mortgage from Northern Rock are now over!

#### Criteria changes

Lenders are becoming increasingly concerned as to the quality of their mortgage book and have tightened their underwriting criteria dramatically over the past few months.

Typically, loan to value ratios have been reduced, properties down valued and more stringent credit scoring systems introduced. The result has been that up to 40% of all new mortgage applications are being declined leaving customers stranded.

(Continued from page 3)

## Credit Crunch

The global liquidity crisis continues to push up the cost of wholesale funding, producing more expensive mortgage products. For those customers coming off a two year product over the next few months the choice and availability of competitive products will be severely restricted. Haysmacintyre financial planning does not provide a mortgage service as such but we use a specialist broker with an in depth knowledge of the market. They have excellent relationships with the major UK lenders and they offer an excellent service. They provide a Remortgage Evaluation Service (free and without obligation) and often have access to exclusive funding.

## Northern Rock

Customers who have Northern Rock mortgages coming to the end of a product period may receive a letter from the lender. It appears that they are not offering competitive follow on products to their existing customers and are advising them to seek independent advice. We recommend customers to seek advice sooner rather than later as the cost of funding continues to increase.

Arguably, there has never been a greater need for truly independent, impartial advice. If you would like us to put you in touch with a mortgage specialist, do please let us know.

# investing in a recession

## The business cycle

The business cycle has a major impact on investment returns. There are four main stages to the cycle but these are not predictable or regular. The four stages are:

- Recession – formally defined as 2 consecutive quarters when Gross Domestic Product (GDP) is falling. None of the major economies are officially in this phase although arguably the US may be entering recession
- Expansion – sales start to rise and there is an increase in GDP
- Boom – businesses are operating at or near full capacity and GDP is expanding rapidly
- Contraction – sales are falling, unemployment is rising and growth in GDP is slowing. Certainly the UK is seeing GDP falling and signs of unemployment increasing

## Timing

Markets try to anticipate the future direction of the economy and share prices move up in anticipation of expansion and down when contraction is expected. However, it is impossible to consistently and correctly predict how markets will move or to call the "top" or "bottom".

If investments are being made on a regular monthly basis – say in a pension or an ISA - volatility in share prices can work to your advantage because of a phenomenon known as "pound cost averaging".

This is where the number of units you purchase each month fluctuates with the price, so when the price falls, you buy more units. Research has consistently shown that over periods of 5 to 10 years the average cost of units will be lower than the value of units at the end of the period.

This means that timing is less important for regular investors.

If lump sum investments are being made investors tend to avoid the market when prices are low and to invest when prices are high. With the benefit of hindsight, we would all like to be investing just before prices are rising strongly.

Fidelity has researched the impact on investment returns if one misses these "best days" – the days when the UK market as represented by the FTSE All Share Index has risen most strongly.

In the 15 years since 1993 £1,000 invested at the start would be worth £3,500 at the end but if you missed just the best 2 or 3 days each year – or the 40 days in which the All Share rose most – you would have ended the period with slightly less than when you began.

This demonstrates that, if investment in shares is right for you – after allowing for objectives, timescale and attitude to risk, it is better to be in the market than trying to second guess when to be in and when to be out.

Neils Sims

**Chartered Financial Planner | 020 7969 5570**

[nsims@haysmacintyre.com](mailto:nsims@haysmacintyre.com)

## entrepreneurs' relief



**The proposed changes to the Capital Gains Tax rules contained in last year's Pre-Budget Report included the introduction of a flat rate of Capital Gains Tax of 18% and the abolition of Business Asset Taper Relief. This meant an effective increase in the rate of Capital Gains Tax of 80% for business assets.**

Following the announcement in the Pre-Budget Report, there was a good deal of active lobbying of the Chancellor, particularly regarding the abolition of Business Asset Taper Relief. The lobbying had some effect because the Chancellor announced on 24 January 2008 a new, more restricted, relief for gains on business assets called Entrepreneurs' Relief which goes some way to redressing the balance for small entrepreneurs at least.

### Individuals

The relief is available where an individual makes gains on or after 6 April 2008 on the disposal of the following:-

1. All or part of a trading business which the individual carries on alone or in partnership.
2. Assets of the individual's or partnership's trading business following the cessation of the business.
3. Assets owned by the individual and used by their "personal" trading company or trading partnership.

Where Entrepreneurs' Relief is available on the disposal of a business, relief may also be available on an "associated disposal" of an asset used in that business. An example would be where a partner who owns the premises on which the partnership carries out its business sells the premises as well as his interest in the partnership. In this case, the sale of the premises may qualify for relief as an "associated disposal", providing the disposal is part of the individual's giving up or reducing their interest in the partnership. If the asset disposed of as an "associated disposal" has not been used solely for business purposes, or the individual has not been an employee of the company with a qualifying interest throughout the period of ownership, then the relief due will be restricted.

4. Shares in (and securities of) the individual's "personal" trading company or holding company of a trading group.

The relief is available for gains on disposals of shares in (and securities of) a trading company (or the holding company of a trading group) if in the one year qualifying period the individual making the disposal:

- Is an officer or employee of the company or a group company, (there does not appear to be a minimum number of hours that need to be worked in order to qualify), and
- Owns at least 5% of the ordinary share capital of the company which must also carry at least 5% of the voting rights.

If the company ceases trading before the disposal of the shares (or securities), then the one year qualifying period ends on the date the company ceased trading. Relief is only available where the disposal is made within three years of the cessation.

### Trusts

The Trustees of a Settlement will qualify for relief where they make a disposal of, either shares (or securities) in a qualifying beneficiary's (see below) personal company, or assets which are owned by the trust and which are currently or were previously used in a business carried on by a qualifying beneficiary. A beneficiary is a qualifying beneficiary by virtue of their having an interest in possession in the business assets owned by the Settlement. As far as shares are concerned, the company must be the beneficiary's personal trading company and so that individual must own at least 5% of the ordinary share capital.

### The Relief

The relief means the gains are taxed at an effective rate of tax of 10%. Officially we have a simplified Capital Gains Tax regime with just one rate of Capital Gains Tax of 18% which is abated by 4/9ths to give effect to the Entrepreneurs' Relief! There is a lifetime limit of gains for each individual eligible for relief of £1m. Gains above the £1m limit will be subject to tax at 18%. The maximum relief that is available to an individual is therefore limited to £80,000 (this is calculated as £1m at 8%)

Charles Osborn

**Director of Tax Services | 020 7969 5599**

[cosborn@haysmacintyre.com](mailto:cosborn@haysmacintyre.com)



**Anne Gregory-Jones**  
*Tax Partner*  
020 7969 5520  
[agregory-jones@haysmacintyre.com](mailto:agregory-jones@haysmacintyre.com)



**Nigel Landsman**  
*Tax Partner*  
020 7969 5549  
[nlandsman@haysmacintyre.com](mailto:nlandsman@haysmacintyre.com)



**Neil Sims**  
*Financial Planning Consultant*  
020 7969 5570  
[nsims@haysmacintyre.com](mailto:nsims@haysmacintyre.com)



**Charles Osborn**  
*Director of Tax Services*  
020 7969 5599  
[cosborn@haysmacintyre.com](mailto:cosborn@haysmacintyre.com)



**Mark Pattenden**  
*Private Client Tax Manager*  
020 7969 5590  
[mpattenden@haysmacintyre.com](mailto:mpattenden@haysmacintyre.com)

haysmacintyre is registered to carry on audit work and regulated for a range of investment business by the Institute of Chartered Accountants in England and Wales.

A list of partners' names is available for inspection at Fairfax House, 15 Fulwood Place, London WC1V 6AY.

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## tax team

With six partners and over 30 professional staff, the haysmacintyre tax team offers an unusual combination of specialist expertise and broad knowledge of both commercial and personal, direct and indirect taxation issues.

Our staff are of the highest calibre and most have been with us for many years, providing clients with a high degree of continuity which they value. Some of the tax team trained with the largest accounting firms in the world and can extend the experience they acquired there to our larger clients, whilst others have worked within regulatory bodies such as the HM Revenue and Customs and its predecessors and can offer clients a valuable insight into how to work and negotiate with such bodies effectively.

The haysmacintyre approach is built on client service. You and your work will be given the high level of attention it deserves by professionals who take pride in responding quickly whilst developing strong and relaxed working relationships. We endeavour to ensure that our clients establish a close and productive relationship with a partner and his or her team and that these people develop their knowledge of your tax issues and the way you prefer to work with us.

## future events

### Young Guns Awards

Sponsored by haysmacintyre, the Young Guns Awards are a competition that celebrates the most outstanding young entrepreneurs in the UK. The closing date for applications is 4th July, so please visit [www.young-guns.co.uk](http://www.young-guns.co.uk) for further information.

### Bursar and School Governor Training

We will again be hosting a series of training sessions for Governors and Bursars of Independent Schools on 10th, 15th and 16th of September at Fairfax House.

### Trustee Training

We will be running 6 training sessions for trustees of charities in Autumn/Winter 2008.

For further details about any of these events or to receive an invite, please contact Jacky Taylor [jtaylor@haysmacintyre.com](mailto:jtaylor@haysmacintyre.com)



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