RUSSELL-COOKE | SOLICITORS

Taxation and Civil Partnerships

Since 5 December 2005 civil partners have been treated in the UK for tax purposes in the same way as married couples. This carries some advantages, but also some disadvantages.

The legislation permits the tax treatment of mixed sex couples in long-term relationships to be amended, although it is understood that this is not currently Government policy.

Different rules apply in other countries, and only a few recognise a UK civil partnership as having the same tax status as a marriage. UK residents who have a pre-existing overseas relationship such as a Belgian, Canadian, Dutch or Spanish same sex marriage or Canadian or New Zealand civil union should take immediate advice.

Personal Tax

Inheritance Tax

Property passing between civil partners is exempt in the same way as between spouses. Equally, property passing from a UK domiciled spouse or civil partner to a non-UK domiciled spouse or civil partner will only be exempt to the extent of £55,000. This figure has not been increased since 1985.

All other inheritance tax rules applying between spouses also apply to civil partners.

Capital Gains Tax

Transfers of assets between civil partners who are living together is deemed to be on a no gain/no loss basis.

Civil partners are only permitted to have one principal private residence exemption between them. On formation of a civil partnership, both partners need to elect which property is to be the exempt residence. Loss of this relief can be expensive, so that careful planning is required.

The rule in relation to taper relief applies to civil partners in the same manner as to spouses. This is usually advantageous, but the acquisition of shares from a spouse or civil partner does not carry with it the prior business use status of that spouse or partner, so that business taper relief can be lost, in these circumstances.

Capital gains of a settlement are assessable on the person creating the trust when he or his spouse or civil partner has an interest in the settlement.

Business Tax

Company Taxation and Dividends

Arctic Systems - the same principles are applied to both spouses and civil partners in relation to dividends extracted from small companies. The dividend income may therefore be taxed on the civil partner operating the company.

Companies controlled by civil partners are associated companies, in the same way as those controlled by spouses, so that the companies' turnovers are aggregated to establish the relevant corporation tax rates. This can have the effect of increasing corporation tax from 19% to 30%. The marginal rate can be 32.75%.

If any of these issues affect you please contact us for further advice please contact:

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