LUBBOCK FINE

Year End Tax Planning

February 2023

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Introduction

In all things tax, time is of the essence.

Checking that your personal affairs, your family and business affairs, and your plans for the long term are arranged as tax efficiently as possible is always important: and the period before the end of the tax year, on 5 April 2023, is the best time to do so.

This year, such a review may be even more beneficial than usual. Major changes to tax bands and allowances were announced over the course of 2022. This means some last-chance opportunities to make use of allowances at current levels and to access current tax bands. Similarly, there may be areas where you have discretion over the timing of income and it is worth establishing whether income is better taken this year or next. Here again, a review before 5 April 2023 could have a significant effect on your tax position. Where we act on all your affairs, we have the all-round vision of your circumstances that can really help make an impact. To make the tax rules work to your advantage, it's best to start the discussion as soon as possible before 5 April 2023. We look forward to being of assistance.

In this summary, we use the rates and allowances for 2022/23. Please note that throughout this publication, the term spouse includes a registered civil partner.

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Planning potential: For director-shareholders

The outlook changes significantly with recent and forthcoming changes:

- change to corporation tax rates for some companies
- fall in the Dividend Allowance from 6 April 2023
- higher rates of income tax on dividends introduced in 2022 set to continue
- fall in additional rate (top rate in Scotland) threshold from 6 April 2023.

Corporation tax

From 1 April 2023, the main rate of corporation tax rises to 25% although not every company will pay at this rate. Profits exceeding £250,000 will be charged at the main rate, but a small profits rate of 19% applies where profits do not exceed £50,000. Companies with profits under this level, therefore, effectively see no change. For companies with profits between £50,000 and £250,000, the tax rate is tapered. These companies pay at the main rate reduced by marginal relief: essentially, the tax rate increases from 19% to 25% depending on the level of profits. Limits are adjusted where there are associated companies. HMRC has created an online tool to demonstrate how marginal relief works: this can be accessed on gov.uk, by searching for 'marginal relief calculator'.

Companies with higher levels of profits will need to plan for the implications of higher corporation tax bills.

Dividends

The overall picture is less favourable for the future. The Dividend Allowance is set to fall, while dividend tax rates are at a new high, making the extraction of profits by way of dividend more expensive.

Dividends falling within the Dividend Allowance are not taxable, and for 2022/23, the Dividend Allowance is £2,000 per year. From 6 April 2023 it falls to £1,000, with a further fall to £500 per year from 6 April 2024. The change is likely to impact more than 3.25 million individuals in 2023/24.

The effect of this change is compounded by the increase in dividend tax rates. From April 2022, rates rose by 1.25 percentage points. They are now 8.75% for dividends falling within the basic rate band; 33.75% for those within the higher rate band; and 39.35% for those within the additional rate band. Though the 1.25 % increases were originally part of the measures around the Health and Social Care Levy, the rates are set to remain, despite the fact that the Health and Social Care Levy has been scrapped.

Impact on profit extraction strategy

Traditionally, many director-shareholders have relied on a combination of low salary and a significant level of dividend payments to extract profits. Tax advantage has arisen from the availability of the Dividend Allowance, a low rate of corporation tax, and because dividends do not incur National Insurance contributions (NICs) - a saving both for the employer company and the recipient. These advantages are being further eroded.

Dividends are paid out of retained profits, being profits on which corporation tax has already been paid. In future, for companies with profits above £50,000, this will mean profits subject to a higher rate of corporation tax, and thus a reduction in the retained profits available to pay dividends. Although incorporation is about more than just tax advantage, these changes make it prudent to keep under review the question of whether a company is the best structure for your business.

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Remuneration: last-chance opportunities

An appraisal of remuneration strategy is always beneficial. The best solution for you will depend on your individual circumstances. However, in every case, the form (bonus as against dividends) and timing of remuneration take on added significance for director-shareholders this year, with the potential to impact the overall tax position even more than usual.

Planning potential: watch timing

Dividend payments in the 2022/23 tax year gives a last-chance bite at the current higher Dividend Allowance. You may want to consider accelerating payment of dividends if the company has retained profits and you haven't already utilised your Dividend Allowance.

The procedures around declaration and payment of dividends is complex and it is important to check that it is done correctly. In times of economic stress, it is also important to be sure that there are profits available for distribution.

Tip:

It is always sensible to review your future plans for the company and consider the likely tax implications of a future sale or transfer to the next generation.

Don't forget to consider whether your shares could qualify for valuable reliefs (such as Business Asset Disposal Relief, formerly known as Entrepreneur's Relief, or Business Relief from IHT) or whether other planning may be beneficial. We have the expertise to guide you through the options.

Planning potential: Income tax rates and allowances

Key points to note are:

- the personal allowance (PA) is frozen at £12,570 until 5 April 2028 across the UK
- the basic rate band is frozen at £37,700 for the same period (England, Wales and Northern Ireland). This means that the point at which someone with the standard PA starts to pay higher rate tax continues to be £50,270 until 2028
- the additional rate threshold (top rate threshold in Scotland) falls from £150,000 to £125,140 from 6 April 2023. Note too, that £125,140 is the figure at which all PA is lost (see below)
- no change to tax rates in England, Wales and Northern Ireland.

Band	Income (2022/23)	Income (2023/24)	Tax rate
Basic rate	£12,571 to £50,270	£12,571 to £50,270	20%
Higher rate *	£50,271 to £150,000	£50,271 to £125,140	40%
Additional rate *	Above £150,000	Above £125,140	45%

* Note that the additional rate threshold falls from 6 April 2023.

For both years, the loss of the personal allowance (see below) produces an effective marginal rate of 60% on income between £100,000 and £125,140.

Wales and Scotland

Although Wales is able to set certain tax rates, the position for Welsh taxpayers in 2023/24 is expected to be the same as for English and Northern Irish taxpayers. In its latest Budget, the Welsh government reiterated that it will not increase the Welsh rate of income tax 'for at least as long as the impact of coronavirus lasts'.

The position is different in Scotland, where the December 2022 Budget announced:

- change in the top two income tax rates from 6 April 2023, meaning that the Scottish higher rate thus rises to 42%, and the top rate to 47%
- the top rate threshold will fall to £125,140 from the same date.

Band	Income	2022/23	2023/24
Starter	£12,571 to £14,732	19%	19%
Basic	£14,733 to £25,688	20%	20%
Intermediate	£25,689 to £43,662	21%	21%
Higher	£43,663 to £150,000/£125,140 *	41%	42%
Top	Above £150,000/£125,140 *	46%	47%

* Note that the top rate threshold falls from 6 April 2023.

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Impact of recent announcements

Much has been made of the freezing of allowances and rate bands representing a 'stealth' tax, because as wages rise, a bigger slice of income falls to be taxed and at higher rates. This will be particularly noticeable in a time of inflation. Freezing the PA and basic rate band, for example, will push more people into the higher rate tax band. There will be a similar effect in Scotland, where the tax burden for some individuals is already higher than for equivalent earners elsewhere in the UK. And for Scottish taxpayers, it is also important to factor in the increase in the top two rates of tax, as well.

Lowering the additional rate (top rate in Scotland) threshold will significantly increase the tax take from those on higher incomes. It is expected to bring something approaching a quarter of a million more taxpayers into additional rate tax from 2023/24.

Last-chance opportunities

Where income is expected to be between £125,140 and £150,000 in 2023/24, accelerating income into 2022/23 could mean the difference between being taxed at 40% in 2022/23, rather than being taxed at 45% in 2023/24; or between 41% and 47% in Scotland. Scottish taxpayers may also want to accelerate income to reduce the impact of the 1% rise to both the higher and top rates of income tax.

There are a variety of ways that this may be done, and we can help you review the possibilities in your circumstances.

Getting the best out of the personal allowance

Most people have a PA. Look, wherever possible, to use the PAs available in your household. Now that the PA has been frozen, planning to avoid it being wasted assumes new importance.

The standard PA is £12,570 throughout the UK. It can be higher if you are eligible for the Blind Person's Allowance; or have an income less than the PA, and are eligible to make a transfer of what is called the Marriage Allowance to your spouse.

You start to lose the PA if you have what is called 'adjusted net income' over £100,000. Adjusted net income is, broadly speaking, total taxable income before personal allowances, but after some deductions such as Gift Aid and personal pension contributions. The PA is clawed back by £1 for every £2 of adjusted net income over £100,000. When income is £125,140 or more, all PA is lost.

Planning to keep the personal allowance

If you are in the £100,000 - £125,140 income bracket, planning to keep your taxable income below £100,000 can help you keep the PA. There are various possibilities here, including the following:

- where one spouse is in a lower tax band, married couples may have opportunities to redistribute income, or transfer income-producing assets
- there can be further planning potential if you are in business with your spouse. If you are in partnership, for example, it may be possible to review the profit-sharing arrangements. If you are self-employed, increasing wages for a spouse who works in the business is another possibility, provided that this is commercially justifiable.

These are areas in which it is important to make sure that arrangements are fully compliant with relevant legislation, and we should be happy to advise further. Do please talk to us prior to action.

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Planning potential: Tax and your family

Looking at household income in the round, and planning to make optimal use of all allowances available is likely to create the most tax-efficient solutions.

You and your spouse

The income of each spouse is taxed separately, with each party being entitled to a personal allowance. Capital gains are also taxed separately, each party having their own annual exemption (see below).

Where you each have a different tax band, a key part of planning is getting the right distribution of income between you. This can ensure that the personal allowance of the lower income spouse is not wasted, and give access to lower tax bands. Transferring income-producing assets, such as property, stocks and shares, or even bank accounts, can be an efficient way to do so. Anti-avoidance legislation exists in this area, and we recommend taking advice prior to any action, to ensure that any arrangements are compliant. It is important, for example, that the transfer is an outright gift, with the donor no longer exerting control over it, or deriving a benefit from it. Appropriate evidence of such transfer is needed.

Planning potential: allocate income

An optimal allocation of income between spouses is likely to become more important in the future, especially with the fall to the additional rate (top rate in Scotland) threshold for income tax.

High Income Child Benefit Charge (HICBC)

Where either you or your partner get Child Benefit, and have adjusted net income more than £50,000, the HICBC applies. Note that for the HICBC, 'partner' doesn't just mean spouse or civil partner, but includes someone you live with as if you were married.

The HICBC claws back Child Benefit at a rate of 1% for every £100 of income between £50,000 and £60,000. By the time income is £60,000, all Child Benefit payment is effectively lost. You can disclaim payment in these circumstances, to avoid having to pay the charge: but it is often recommended that the actual claim itself is continued, in order to maintain eligibility for the State Pension.

If both you and your partner are over the income threshold, HICBC is the responsibility of whoever has the higher income. Where income reaches £50,000, the taxpayer has an obligation to notify HMRC of their liability to the charge. HMRC may make the initial contact, but this should not be relied upon.

Planning potential: the HICBC

Think tactically where there is discretion over how income is distributed between you and your spouse. £100,000 split equally between you and your spouse, for example, keeps you out of HICBC: if it is all taxable on one spouse, the benefit of Child Benefit payment is lost. We can help you review ways to reduce or redistribute taxable income in your circumstances.

Tax and your children

Children are treated independently for tax purposes. They have their own personal allowance, annual capital gains tax exemption and their own basic rate tax band and savings band. From a tax perspective, it is usually more efficient for grandparents - rather than parents - to provide funds for investment for under-age children. Remember that any such arrangements beyond a simple bank account will probably need to be registered under the Trust Registration Service (TRS), with which we would be happy to assist.

When it comes to funding children through university, parental input is increasingly common, and the purchase of housing is something often considered. It is important that any such arrangement is structured correctly. Key questions are who owns and buys the property – whether it is the parents, or the parents and child together, or whether the child is provided with funds to make the purchase. The tax and legal implications need to be thought through, alongside your personal and family preferences.

Planning potential: the HICBC

Children living in a property at university which they own outright, and letting out furnished accommodation in the property, may be able to benefit here. Provided the relevant conditions are met, the scheme could allow them to earn up to £7,500 in rent, free of tax. When added to the personal allowance, this provides scope for £20,070 in tax-free income.

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Planning potential: Savings and investments

Savings

Interest of up to £1,000 from savings such as bank and building society accounts, unit trusts, and trust funds, can be sheltered from tax by the Savings Allowance. Availability of the allowance depends on your tax band.

Income tax band	Savings Allowance
Basic rate	£1,000
Higher rate	£500
Additional rate	£0

The allowance applies across the UK. Scottish taxpayers therefore need to assess their savings position based on UK rates.

Individual Savings Accounts (ISAs)

ISAs are sometimes referred to as a tax 'wrapper' for investments: they allow you to make a tax-efficient investment, rather than dealing directly in the investment market and facing the tax consequences attaching.

The tax benefits here are considerable. ISAs are free of income tax and capital gains tax and do not impact the availability of the savings or Dividend Allowance.

Anyone over the age of 18 (or 16 for a cash ISA), who is resident in the UK, can open an ISA: for Lifetime ISAs (which include a 25% government bonus to support savings to buy a first home), applicants must also be under the age of 40. Crown servants and their spouses not living in the UK are also eligible. Junior ISAs are available for children under 18.

Although you cannot hold an ISA with, or on behalf of, someone else, you and your spouse each have an ISA subscription limit: this means you can invest £40,000 between you. It is also possible to open and manage an ISA for someone lacking the mental capacity to do so for themselves. This is done by applying to the Court of Protection for a financial deputyship order. In Scotland, application would be to the Office of the Public Guardian in Scotland.

Planning potential: review your position each year

ISA limits cannot be carried into future years. Use it before 5 April 2023, or lose it.

ISA subscription limits

There are five types of ISA which are:

Type of ISA	2022/23 investment limit
Cash ISA	£20,000
Stocks and shares ISA	£20,000
Innovative finance ISA	£20,000
Lifetime ISA	£4,000

For under-18s:

Junior ISA	£9,000

All of the £20,000 annual allowance can be invested in any of the ISAs mentioned above or it is possible to split it between more than one type, up to the overall annual limit of £20,000.

Looking forwards, once the capital gains tax annual exemption falls from 6 April 2023, ISAs become an even more important tool for tax planning.

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Tax-efficient investments

The venture capital schemes, providing finance for new higher-risk companies, continue to afford individual investors with a significant source of tax relief.

The Enterprise Investment Scheme (EIS), Seed Enterprise Investment Scheme (SEIS) and Venture Capital Trusts (VCTs) were subject to sunset clauses in the original legislation, but have now been given a new lease of life. The government has given a commitment to extend them beyond 6 April 2025, and is changing some of the detail of the rules to provide more generous relief. This is the case with the SEIS, which offers the potential for 50% income tax relief upfront where, from 6 April 2023, the annual investor limit doubles to £200,000. Please do talk to us for further details of any of these schemes.

As a reminder, here is a summary of the tax breaks applying to VCTs, EISs and SEIS.

	VCT	EIS	SEIS
Income Tax Relief on investment	30%	30%	50%
Inheritance tax relief*	-	100%	100%
Qualifying holding period to retain reliefs	5 years	3 years	3 years
Tax-free dividends	✓	-	-
Exempt gains on disposal after qualifying period	✓	✓	✓
CGT deferral vs other gains	-	✓	-
CGT exemption vs other gains (50%)	-	-	-
Option to carry back to previous year (see tip below)	-	✓	✓

* Investments will usually qualify for Business Relief after 2 years

Tip:

If you are interested in making tax-efficient investments such as EIS or SEIS, you will need to ensure the investments are made before 5 April 2023 to carry back the relief to 2021/22. There is no carry back facility with VCT investments.

If you have realised capital gains, SEIS relief must be claimed in the same tax year to qualify for the 50% CGT exemption. Gains can be deferred via EIS investments made in the period one year before or three years after the relevant disposal.

Planning potential: Pensions

Pension contributions

Pension contributions made by 5 April 2023 can help reinstate your PA or bring you back within lower tax thresholds. It is important, however, to have regard to the annual allowance and lifetime allowances, which are discussed further below. In particular, you can utilise any unused annual allowance carried forward from the previous three years. You may therefore want to consider utilising any allowance carried forward from 2019/20 as it will be lost after 5 April 2023.

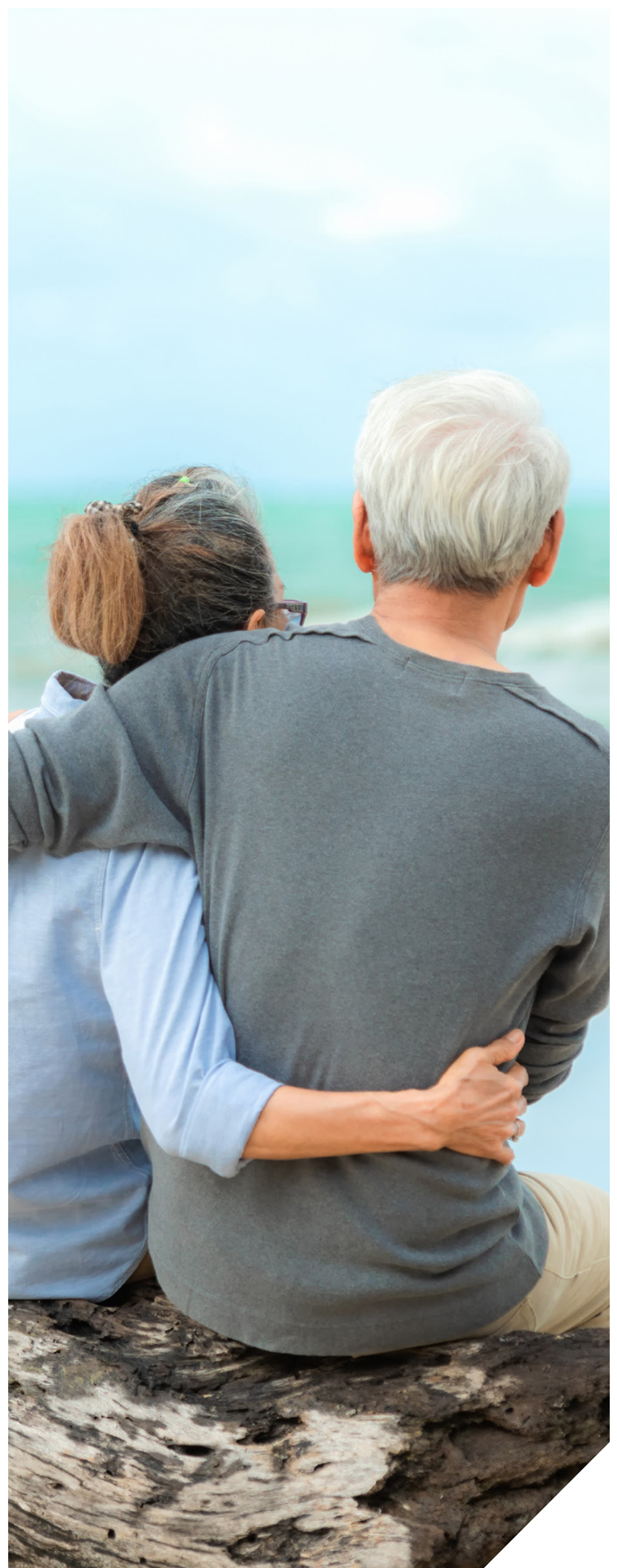
Pensions

Pensions provide significant planning opportunities. The Annual Allowance (AA) is the maximum you can contribute to a pension and still obtain tax relief and is normally £40,000. This AA however, starts getting reduced if 'adjusted income' is above £240,000. For every £2 Adjusted Income that exceeds £240,000, £1 of pension annual allowance is lost, down to a minimum tapered annual allowance of £4,000 where adjusted income is £312,000 or more.

Exceeding the AA can result in a clawback charge. However, in many circumstances you may have unused AA from the three previous years which can be used in 2022/23 and give you the ability to make a significant contribution without incurring a charge. Please contact us for advice specific to your circumstances.

Tip:

It is now possible to pass pension benefits down generations whilst retaining tax benefits. To be able to do this, your pension needs to be in the right contract. Ask us more about this.



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Planning potential: Capital gains tax

A phased reduction in the capital gains tax (CGT) annual exemption is on the horizon. Currently £12,300, the exemption falls to £6,000 from 6 April 2023. A further reduction takes effect from 6 April 2024, when it drops to £3,000. A key component of any CGT planning is to make best use of the annual exemption. It is possible to transfer assets between you and your spouse on a no gain/no loss basis in order to make best use of the exemption. It is essential to get the detail of any transfer correct. Do please discuss any disposal with us first to make sure that it is effective for tax purposes.

CGT is charged at a lower rate of 10% (18% on residential property) for UK basic rate taxpayers and 20% (28% on residential property) for UK higher and additional rate taxpayers. Where one spouse is a higher rate taxpayer, and the other has not used their basic rate band in its entirety, transfer of assets has the potential to enable access to the lower tax rates. Note that Scottish taxpayers pay CGT based on UK rates and bands and therefore need to assess their position based on UK rates.

Planning potential: Property owners

Residential property landlords are continuing to feel the impact of the interest relief restrictions introduced in 2017, compounded now with interest rate increases since 2022.

The way the restriction hits is two-fold. Firstly, finance charges only receive tax relief at the basic (20%) rate, even if you are a higher (40%) or additional (45%) taxpayer. Secondly, none of the finance charges are deductible from income, instead you receive a tax reducer limited to 20% as mentioned above. This means your taxable income is higher than you may expect, which could push you into a higher rate tax bracket.

The interest restrictions do not apply to commercial property or properties which qualify as Furnished Holiday Lettings "FHL's").

Tax on sale of residential property

When a residential property is sold or gifted, a Capital Gains Tax (CGT) return is required to be filed with HMRC and the CGT liability paid over to HMRC within 60 days of completion.

A 60-day CGT return is not required if the disposal has not resulted in a capital gains tax liability, for example if:

- The disposal has resulted in a capital loss
- The gain (including other residential property gains occurring in the same tax year) is within the annual capital gains tax exemption (£12,300 for disposals before 5 April 2023, or £6,000 from 5 April 2023)
- Reliefs are applicable to the disposal which reduces the taxable gain to nil
- Capital losses are available to be used against the gain to reduce it to nil, either from previous tax years or from disposals in the current tax year, before the completion date

There are slightly different rules for non-residents. Any non-resident disposing of a direct or indirect interest in UK residential property would be required to complete the 60-day CGT return, even if no tax is payable.

For both UK and non-UK residents, the disposals will still be declarable on an annual self-assessment tax return, but credit will be given for any CGT already paid.

If you have recently disposed of residential property or are planning to do so in the near future, please contact us as immediately so the relatively short reporting window can be adhered to.

Tax when you sell your home

When you sell your home, Principal Private Residence Relief (PPRR) means that any gain is usually exempt from CGT. However, this is a complicated area and problems can arise.

It is not uncommon for someone to own more than one property, perhaps because they regularly have to work away from 'home', or perhaps because they have a house in town and another in the country. PPRR only applies to one residence. So, if you have more than one property being used as a residence, an election can be made where you nominate one of your properties as the main residence. But note that strict time limits apply to when such an election can be made.

Periods of absence can cause problems. You may still qualify for PPRR even if you spend periods of time away from your main residence, but this depends on how long you are away and your reason for this absence. Additionally, there are special provisions for people who work elsewhere in the UK or abroad. We can offer guidance in this area.

If there has been a time in which the property has been your only or main residence, special rules will apply to the final period of ownership. The final nine months of ownership will automatically qualify for CGT exemption, even if the taxpayer was living elsewhere. If the property owner is disabled or in long term care, this period is extended so that the final 36 months qualify.

Tip:

If the restrictions have affected you, you could consider transferring your property to a lower income spouse and taking advantage of their basic rate band or transferring ownership into a Limited Company. There are, however, a number of factors to take into account if you want to do this, such as whether the property is mortgaged, and potential Stamp Duty Land Tax (SDLT) and Capital Gains Tax (CGT) implications. We can help you with this.

Planning potential: Gift Aid

It is not always appreciated that donations made under Gift Aid aren't just good for the recipient charity or community amateur sports club. They can also be a useful planning tool for the donor – and even generate tax refunds for some taxpayers.

Gift Aid benefits donors, too

Gift Aid donations work to your advantage in reducing the calculation of your taxable income. This means that a timely gift before 5 April 2023 may help keep income under various key tax thresholds, such as:

- High Income Child Benefit Charge, where clawback starts for income above £50,000
- abatement of the personal allowance, from £100,000
- the additional rate threshold (top rate in Scotland).

Timing is everything

A carry back election can be made, meaning Gift Aid donations are treated as if made in the previous tax year - something which can be of benefit, for example, where income is uneven. The election must be made in the first tax return for the earlier year submitted before the 31 January deadline.

Compliance

HMRC statistics in 2021 showed a tax gap attributable to Gift Aid of around £179 million: that's the figure claimed by donors who are not, in fact, eligible to use the scheme. It's always important to check that you have enough income tax or capital gains tax in charge to cover Gift Aid donations. Where there is an error, the donor rather than the charity or CASC, has to make good the shortfall.

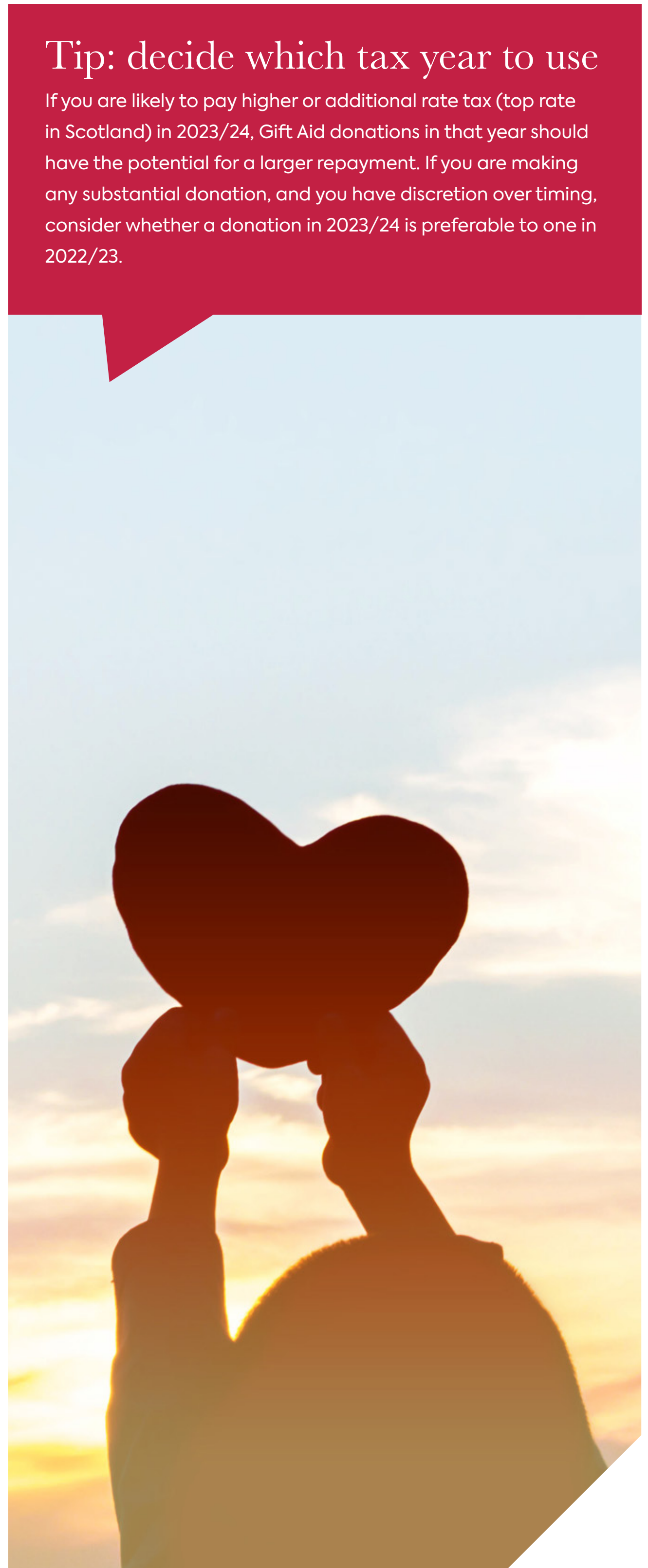
Tip: repayment potential

If you pay tax at more than the basic rate, you are entitled to claim tax relief at your top rate of tax on the donation. This means that you get the difference between the basic rate and higher rate tax on the donation. In the year to April 2022, HMRC statistics suggest that some £540 million was due in such relief. Many higher rate taxpayers, however, fail to claim the repayment due.

A repayment claim is made either via the self assessment tax return, or by asking HMRC to amend the tax code. Make sure there is a valid Gift Aid declaration in place for all gifts, and that you record the date, amount of each gift and name of the recipient charity to back up your claim.

Tip: decide which tax year to use

If you are likely to pay higher or additional rate tax (top rate in Scotland) in 2023/24, Gift Aid donations in that year should have the potential for a larger repayment. If you are making any substantial donation, and you have discretion over timing, consider whether a donation in 2023/24 is preferable to one in 2022/23.



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Planning potential: Non-UK domiciled taxpayers

The end of the tax year can trigger a number of key decision points for taxpayers who are not domiciled in the UK under general principles, due to personal and family ties to another country ('non-doms').

This includes:

- Non-doms who first became UK-resident in the 2008/09 tax year (and have been here ever since) will become deemed domiciled for all tax purposes from 6 April 2023. Many planning opportunities to mitigate income tax, CGT or IHT will be lost after this date, so a full review of income and assets would be recommended as soon as possible. Non-doms who will become deemed domiciled in April 2024 or 2025 should also start reviewing their position in the coming months to maximise the scope for any planning.
- Those who have been claiming the remittance basis of taxation since arriving in either the 2016/17 or 2011/12 tax years will need to consider whether to pay a remittance basis charge ('RBC') of £30,000 or £60,000 going forward, or whether restructuring can minimise the impact of opting for the arising basis to avoid paying the RBC.
- Non-doms who first claimed the remittance basis in 2018/19 should consider whether to make a capital loss election before 5 April 2023 if they have not already done so.

Trustees of offshore trusts with UK resident beneficiaries may wish to review the 'relevant income' or 'stockpiled gains' status of the Trust and any underlying holding structures in case action can be taken before 5 April 2023 to maximise tax efficiency.

Where the settlor or a beneficiary will become deemed domiciled on 6 April 2023, offshore trustees should consider potential planning such as:

- Making capital payments to beneficiaries offshore while they can still access the remittance basis of taxation.
- Accelerating the realisation of trust capital gains and/or trust non-reporting fund gains before 6 April 2023.
- Restructuring any loans to ensure they are on an 'arm's length basis', in order to avoid the trust becoming 'tainted', whereby all future trust income and gains (including in underlying companies) could be assessed on the settlor on the arising basis.

Tip:

Offshore trusts created by non-doms can be valuable structures to maintain family wealth for future generations, but the tax implications of distributions can require careful management.

It can be beneficial to monitor this regularly even if no distributions are expected for some time. Our specialist team are happy to help.

Working with you

This guide is designed to help identify some of the areas that could have a significant impact on your overall tax position. If you require further assistance with any of the topics mentioned in this guide or would like to discuss your options in more detail, then please do get in touch with our team.

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