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Act before it is too late

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CATEGORY:
ARTICLE

With an early Easter fast approaching, what action should you or your trustees be considering before the end of the tax year?

From 6 April 2010, there will be a new higher rate of income tax in the UK, which will apply to individuals with income over £150,000.

The position for trustees where income is accumulated is worse. Subject to a de minimis threshold of £1,000, this higher rate of income tax will apply whatever the level of income and so trusts will be taxed more heavily than individuals.

- If there are distributable reserves in a farming or family company, consider declaring dividends whilst rates of tax are at 32.5%; an effective rate of tax of 25%. If the company is held in trust then this may require a revocable income appointment in favour of one or more beneficiaries so that the dividend can be declared on their tax return, rather than accruing to the trustees.
- Can and should income producing assets be transferred between family members so that some income is taxed at lower rates? There should be no tax implications on transfers between spouses or civil partners but there may be non-tax reasons why this would not be sensible.
- If you have a rural business, consider if pay or bonuses can be accelerated. This will accelerate the payment of tax, but could create cash flow issues.
- If you have equity investments, should your investment policy be adjusted to mitigate the impact of the differential between 18% capital gains tax and 50% income tax? One option would be to invest for capital growth. Alternatively, you could hold income-producing assets in an investment wrapper to defer charges to income tax; in the meantime you will benefit from the gross roll up of funds.

Trustees should consider:

- distributing retained income before rates of tax increase;
- appointing an income interest in favour of beneficiaries who will not be affected by the changes in rates of tax – this can be on a revocable basis;
- reviewing their investment policy if income is accumulated. Any decisions should be documented in the trustees' annual investment policy statement to protect against criticisms from beneficiaries; and
- winding up the trust. Tax changes are only one factor but, if the trust has served its purpose, it might be sensible to wind up the trust before the rate of income tax increases.