



KEY GUIDE

# Strategies for a high tax environment



## Higher and higher...

Personal tax levels in the UK have been rising for some years in response to the surge in government borrowing stemming from the 2007/08 financial crisis. While the previous Chancellor's austerity mix was heavily weighted towards spending cuts rather than tax rises, the Treasury has been more successful so far in implementing tax increases than reining in government spending. It was ever thus; tax increases deliver results quicker than expenditure cuts and they are much easier to implement.

The recent rounds of UK tax rises bring to mind the famous words of Louis XIV's finance supremo, Jean-Baptiste Colbert, "The art of taxation consists in so plucking the goose as to obtain the largest possible amount of feathers with the smallest possible amount of hissing." While Gordon Brown was often accused of stealth taxes, his successors have been equally adept at disguising the pain as they gathered the feathers:

- In many instances tax thresholds and allowances have been left unchanged, leaving inflation to produce an increase in tax revenue by default. A good example of this is the inheritance tax (IHT) nil rate band, which reached £325,000 in April 2009 and under current plans will not move again until at least April 2021.
- Where inflation adjustments have been made to bands and allowances, the government has moved to using the consumer prices index (CPI), which normally grows at a slower pace than the previously used retail prices index (RPI), let alone earnings.
- Tax changes are announced years in advance, so that they have no immediate effect at the time of publication. For example, the spring 2016 Budget set out plans to tax long-standing loans from employee benefit trusts (EBTs), a levy that will only take effect from 2019/20.
- Tax scales have been extended, with new higher taxed bands that do not directly affect most taxpayers but nevertheless provide useful additions to the Treasury. The stamp duty land tax has been a case in point, with extra tax extracted from purchases of both buy-to-let residential property and £1m+ commercial property in recent Budgets. Additional rate (45%) income tax, on income above £150,000 also falls into this category.
- Multiple tax revisions are made by the government, which make their overall impact hard to understand. Income tax has been a fertile ground for such manoeuvres, with well-publicised increases in personal allowances being offset by quiet reductions or sub-inflation increases of the starting point for higher rate tax.
- Tax reliefs have been cut, creating a double whammy for those facing tax increases. The Treasury's action here has been on pensions, where the annual allowance – the effective yearly ceiling on tax-relieved contributions – came down from £255,000 in 2010/11 to £40,000 in 2014/15 and since 6 April 2016 has also become subject to a tapered reduction for high earners. In the Autumn Statement 2016, Mr Hammond continued the pensions attack with an as yet unrealised proposal of a 60% cut to the money purchase annual allowance of (from £10,000 to £4,000).
- Some benefits that used to be paid to people with relatively high levels of income have been removed or greatly reduced, adding to the Exchequer's contribution



### Action point

*Tax increases are not always obvious. For instance, an unchanged allowance is an increase, once you take inflation into account.*

from higher and additional rate taxpayers. The latest example is the forthcoming change from childcare vouchers (currently available with no upper income limit) to tax-free childcare, which will not be available if either parent has income of more than £100,000.

- Relatively obscure indirect taxes, such as insurance premium tax (IPT), have been pushed up: by June 2017 the standard rate of IPT will be 12%, double what it was in October 2015.
- Rules for non-resident and non-domiciled individuals (which are outside the scope of this guide) have been tightened on the way.

## ...And longer and longer?

In the March 2016 Budget the then Chancellor, George Osborne, acknowledged that he had missed two of his three main financial targets – the welfare cap and consistently cutting total government debt as a proportion of UK gross domestic product (GDP). His final target – eliminating the deficit in 2019/20 – was abandoned after the Referendum. The government's stated objective is now to "return the public finances to balance at the earliest possible date in the next Parliament", which the Office for Budget Responsibility (OBR) regards as 'challenging'. Disappointing projected government financial figures suggest that there is little scope for any meaningful personal tax cuts soon:

- The Treasury's latest estimate for government borrowing in 2016/17 is £52bn. The OBR's March 2017 forecast is for an increase of £3.5bn in borrowing for the current year. Even by 2020/21 the OBR projects borrowing will still be over £20bn.
- Both the previous and current Chancellor have reiterated a target of £12,500 for the personal allowance and £50,000 for the higher rate threshold by 2020/21. However, it remains unclear where the money to finance such tax reductions is to be found and whether this target will continue to apply after the general election.

The message is clear: if you want to reduce the amount of tax you pay in the future, then the solution is in your own hands, not the politicians'. Thinking and planning ahead could help you to lessen the burden of higher tax rates.



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## Income tax planning

Basic income tax planning is likely to cover the following areas:

**Independent taxation** Married couples and civil partners are taxed individually, not jointly. This creates a range of tax planning opportunities, particularly (but not exclusively) if you and your spouse or partner pay tax at different rates on the top slice of your respective incomes.

It is especially important that you each take advantage of your personal allowance (£11,500 in 2017/18). Income falling within this allowance is not taxable, but if your income (after certain deductions) is over £100,000, the personal allowance is gradually withdrawn. The way in which the withdrawal operates means that in the band of income between £100,000 and £123,000 you incur an effective tax rate of up to 60%.

The rules for the child benefit tax charge also encourage careful allocation of income where the £50,000 income threshold is breached. A couple with income of £55,000 and £45,000 would effectively lose half their child benefit to tax, whereas a couple with the same total gross income of £100,000 split equally would not suffer any loss.

The arrival in 2016/17 of the personal savings allowance and the dividend allowance are both further inducements to review independent tax planning. In theory, a couple with the right mix of income in the right hands can in total enjoy £45,000 a year income free of personal tax in 2017/18. However, this figure is likely to drop by about £5,400 in 2018/19 assuming that the reduction in the dividend allowance announced in the March 2017 Budget is legislated for after the election.

Similar income tax planning principles apply if you are neither married nor in a civil partnership. However, there may be capital gains tax (CGT) and inheritance tax (IHT) consequences arising from changing ownership of investments.

**Income timing** It's often a good idea to watch the timing of your income with the aim of delaying when the tax liability arises. For example, it may be worthwhile bringing forward your income if it would attract less tax in 2017/18 than in the next tax year. You may also want to consider tax shelter investments, such as investment bonds, which can defer all your personal income tax liability to a timing of your choosing.

**Income type** There are different rules for taxing different types of income. If you are an employee, normally your earnings will be taxed at source under PAYE and you will currently pay national insurance contributions (NICs) at up to 12%, as well as income tax at up to 45%. But if you hold shares or unit trusts, then generally the dividends are free of NICs and in 2017/18 are taxed at a maximum rate of 38.1%. Where you have a choice, selecting the right type of income can cut your contribution to the Exchequer.

**Children** From birth, every child has their own personal allowance, and in theory can enjoy an income of £11,500 in 2017/18. If your minor unmarried child receives more than £100 of income from capital that you have gifted, the income is taxable as if it is yours. However, this treatment does not apply to non-parental gifts, e.g. from grandparents or aunts and uncles, nor to parental contributions to child trust funds and junior individual savings accounts (JISAs).

## Capital gains tax planning

In some respects the approach to CGT planning mirrors that of income tax planning:



### Action point

*If you want to realise a gain greater than your available annual exemption, you may be able to avoid paying tax by spreading your sales over two tax years.*

**Independent taxation** Independent taxation means that both you and your spouse or civil partner have an annual CGT exemption of £11,300, so you can jointly realise up to £22,600 of gains in this tax year before starting to pay tax. What is more, transfers between partners are on a no-gains/no-loss basis, so gains and losses can be transferred between the two of you without creating any tax liability.

**Gains timing** If you want to realise a gain greater than your available annual exemption, you may be able to avoid paying tax by spreading your sales over two tax years. For example, you could sell part of your holding by 5 April 2018, in the 2017/18 tax year, and the balance on or after 6 April 2018 in the 2018/19 tax year and with the benefit of that year's exemption.

**Annual means annual** Any unused annual exemption cannot be carried forward from one tax year to the next. As the tax year end approaches, you should consider whether you could realise any investment gains free of tax without incurring excessive costs. You could, for example, sell a unit trust holding and then reinvest in the same fund through an individual savings account (ISA) or a self-invested personal pension (SIPP).

**Mind your losses** If you sell an investment at a loss during the tax year, that loss is set against any gains you make in the same tax year *before* applying your annual exemption. You can only carry forward losses in a tax year to the extent that you cannot offset them against gains you have made in the same year. Whether these rules are beneficial or not depends on your circumstances, but in pure tax terms it is often best to avoid realising both gains and losses in the same tax year.

## Inheritance tax planning

IHT planning is more strategic and has a longer time horizon than other types of tax planning, mostly because the tax liability usually only arises at a person's death.

**Your will** How your estate is distributed on your death can have a significant impact on the amount of tax payable. A carefully drafted, up-to-date will is the cornerstone of much IHT planning. If you do not have a will, the laws of intestacy dictate who will benefit from your estate and, in some cases, how they will benefit. Intestacy and IHT can be an unfortunate combination.



### Action point

*Don't overlook the normal expenditure exemption, allowing you to make regular, IHT-free gifts of surplus income.*

**Use your annual exemptions** Taking advantage of the annual IHT exemptions is a useful way to reduce the eventual liability on your estate. Of particular value, but frequently ignored, is the normal expenditure exemption, which effectively allows you to make regular gifts of surplus income, free of IHT.

**Lifetime gifts** Outright lifetime gifts are generally free of IHT when you make them and, provided you survive the following seven years, they are not added back into your estate on death. Gifts involving trusts enjoy similar advantages, provided that you have sufficient unused nil rate band at the time you make the gift. However, a gift must be a genuine gift – there are complex anti-avoidance rules to prevent 'gifts' that continue to provide a benefit for the 'donor'.

**Reliefs** The IHT rules incorporate a variety of reliefs for businesses, woodlands and agriculture. All is not lost if you currently do not qualify for any of these: a range of investments can provide you with access to these tax reliefs. For example, some AIM shares qualify for 100% business property relief – and you can now even hold them in an ISA. But be warned that these types of investments are equities so they can fluctuate in value and are generally considerably riskier than most listed shares.

## Business tax planning

If you are in business, there is another layer of planning to consider.

**Choosing your trading vehicle** Whether you run the business as a sole trader, a partnership or a limited company can make a significant difference to the overall tax (and NIC) bill. With corporation tax at a flat rate of 19% in 2017/18 and due to fall to



17% by 2020/21, the company route has obvious attractions. However, companies are costlier to operate and their tax appeal has been reduced by the new dividend tax rules introduced in 2016/17, which are to be further tightened from 2018/19.

**Capital allowances** Capital allowances are designed to encourage businesses to invest by giving them upfront tax relief on certain capital expenditure. The rates and limits have changed up and down in recent years, making the timing of investment a potentially important cost factor. For example, the annual investment allowance, which gives 100% relief on investment in plant and machinery, was increased from £250,000 to £500,000 in April 2014 but fell to £200,000 on 1 January 2016.

**Salary, dividend or retained profits?** If you run a company, you have a variety of options as to how you benefit from the profits you have generated. The mix between salary, dividends and retained profits needs reviewing regularly, not least because of the frequent changes successive Chancellors have made to the way each type of these is taxed. A further review will be necessary once the dividend allowance changes are clarified after the election.

**Income planning** Running a business should normally give you greater scope to divide income between yourself and your spouse or civil partner. For example, you could employ them or, if you run a company, they could own dividend-paying shares in the business. In the past, HM Revenue & Customs (HMRC) has tried to use complex anti-avoidance legislation to limit such income shifting, so it is important to take advice in this area.

**Sale of the business** Entrepreneurs' relief can reduce the tax rate on capital gains made from selling a business to just 10%, subject to a lifetime limit of £10m. The rules surrounding the relief are complex and you should check the situation well in advance of any disposal.

**IHT business property relief** You should make sure that, as far as is practical, your will is designed so that it maximises the use of business property relief. The relief can eliminate all IHT on business interests, including small shareholdings in unlisted trading companies. One consequence is that from a purely IHT-planning viewpoint, it might be best to leave any business interests in a specially structured trust rather than bequeathing them directly to your surviving spouse or partner.



### Action point

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## Investment tax planning

Investment and tax are at once both inseparable and best kept apart. The golden rule – which is all too easy to ignore – is to make the investment decision first, then decide how it should be structured from a tax viewpoint. Investing for the tax advantage first has all too often proved a recipe for poor returns: a tax-inefficient gain is preferable to a tax-efficient loss.

**Individual savings accounts (ISAs)** ISAs provide a tax-effective way to hold equity-based investments, bonds and/or cash deposits. However, the annual investment limit is modest (£20,000 in 2017/18), so it's important to use your ISA allowance each year; if you don't use it, this year, you will lose it. There is no carry forward of your unused allowance.

**Pensions** offer income tax, NICs, CGT and IHT benefits. The reforms to pensions since 2006 and the further revisions that came into effect from April 2015, have increased the appeal of pensions as investment vehicles. But they have also restricted the amount that you can contribute tax-efficiently. Indeed, the volume of legislative change means that expert advice is even more essential if you invest in pensions, especially as you get nearer retirement.

**Venture capital investments** The government has introduced three tax-incentivised schemes specifically designed for investing in very small companies – venture capital trusts (VCTs), the enterprise investment scheme (EIS) and the seed enterprise investment scheme (SEIS). The Treasury does not bestow such generous tax reliefs without good reason: these are generally high-risk investments and can be highly illiquid.

The value of your investment can go down as well as up and you may not get back the full amount you invested. Past performance is not a reliable indicator of future performance. You should regard investing in shares as a long-term strategy and it should fit in with your overall attitude to risk and financial circumstances.

## A word about tax planning, tax avoidance and tax evasion

Public attitudes towards tax mitigation have changed radically in recent years. Tax avoidance, even in its most contrived and convoluted guises, was once generally seen as acceptable, but it is now viewed, at best, as unfair. In parallel with this change of public opinion, HMRC's tax avoidance weaponry has been strengthened, with the law now requiring disclosure of tax avoidance schemes to HMRC. In 2013 a new General Anti-Abuse Rule was also introduced, while in 2014 HMRC gained and started to apply the power to demand up front tax payments ("accelerated payments") from users of avoidance schemes that were subject to legal challenge. £3 billion of accelerated payments have been raised so far.

In this new environment, individuals and companies are increasingly turning their backs on complex tax avoidance schemes because of the financial and reputational risks involved. Straightforward tax *planning* – for example, choosing to invest in an ISA rather than directly – is not in the same territory as tax avoidance and HMRC will rarely question it.

At the other end of the scale, tax evasion – not paying the taxes that are due – was, is and always will be *illegal*. It has also become very much more difficult, as tax havens have been forced to sign up to automatic exchange of information requirements with HMRC and other tax authorities. And, as last year's Panamanian exposé revealed, information can become available to HMRC, even when banking secrecy is meant to be in force.

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## How we can help

We can help with your income tax planning in several ways:

- Planning your affairs so that you pay the least amount of tax consistent with your other aims and circumstances.
- Making sure that your tax return reflects the facts and that your tax assessment is accurate.
- If you run a business, helping you to ensure that it is structured and profits withdrawn in the most tax-efficient way.
- Advising you on the most effective tax strategies for holding your investments and working with your specialist investment advisers.

*This publication is for general information only and is not intended to be advice to any specific person. You are recommended to seek competent professional advice before taking or refraining from taking any action on the basis of the contents of this publication. This publication represents our understanding of law and HM Revenue & Customs practice as at 26 April 2017.*





**Nunn Hayward LLP**  
**Chartered Accountants and Chartered Tax Advisors**

Sterling House, 20 Station Road, Gerrards Cross, Buckinghamshire SL9 8EL

T 01753 888211 F 01753 889669

E [mail@nhllp.com](mailto:mail@nhllp.com)

W [www.nhllp.com](http://www.nhllp.com)

