



# Tax doesn't have to be Taxing

## Or The Art of Keeping More of What You Earn

By Peter Cox



If a Martian walked through the door and wanted to know about earthman's habits, I'd be weak on two areas. I don't understand why Australians have fabulously fitted kitchens but chose instead to burn their food in the garden. And then I'd need to explain why 99.9% of Accountants in Practice persist in charging their clients by the hour and thereby ignore any concept of customer service and value for money.

What's all this to do with tax? Well in Australia, as well as the Government budgeting for an annual surplus, they have entrepreneurially based company tax rates – a flat 30% but this is not applied to company profits distributed by way of dividends – they also have the world's greatest commuter journey from Manly to Circular Quay, Sydney, by ferry! In the UK, the accountancy profession charges tax fees by the hour, generally for reactively provided compliance services. What we

need is more firms proactively seeking to ensure that their customers can fairly and legitimately keep more of what they earn.

The first principle in effective tax planning is to ensure that the financial statements that form the basis of the tax liability actually reflect what truly happens in the business. We have come across many cases where accounts had been incorrectly drawn up in the mistaken belief that, by understating profits then a lower tax liability would arise. In one particularly outstanding example, a firm had prepared the accounts for a Professional business that included, as income subject to tax, disbursement deposits from the business customers that were to be paid out to third parties in the future!

It is senseless to draw up accounts that do not properly reflect what the business achieves – both for financing and fiscal reasons. There are, after all, a number of

excellent tax planning strategies that enable entrepreneurial business people to legitimately shelter significant levels of properly calculated income from taxation.

A particularly effective current strategy involves the use of Employee Benefit Trusts (EBT's). HMRC would have you believe that EBT's are no longer effective because of the "Dextra case". Not so. HMRC won that case on only two minor points out of the 13 they took to court. Current EBT's come in two forms and can be applied to profits as low as £100k. They are infinitely more effective than distributing profits by way of dividends or salary bonuses.

Do you pay "contractors" or "self employed consultants" who, if on an HMRC control visit, might be classified as employees – thus rendering the business potentially liable to PAYE and NIC liabilities going back possibly 6 years?

There is a solution available that renders the business immune in the future from that exposure and provides the "contractor" with take home pay approximating to 80% of the gross fees. The qualifying limit for this solution is gross fees of £50k per annum. The benefits to employers adopting this solution include removal of the 12.8% NI cost, removes construction industry admin, provides flexible and demand related costs, there is no cost to the "employer" and the business benefits from better paid team members.

Has your business purchased a commercial property within say the last 10 years costing in excess of £300k? If so there may well be unclaimed capital allowances hidden away. It is not uncommon to discover that significant under-claims have been made and which could still now be corrected. Examples where additional claims have been possible include Hotels

(55%), Nursing Homes (40%) and Caravan Parks (45%). Even office buildings can achieve additional claims ranging from 18% to 40%.

Not only that, but for future purchases of commercial properties there are opportunities available to mitigate stamp duty costs.

These are just some areas that entrepreneurially minded business people should be thinking about. There are many more, but space does not permit further explanations. You need to be aware that implementing legitimate tax strategies does carry a certain level of risk but provided that you chose a provider with a long and proven track record of successful strategies, then the risks are limited. Look for a provider that can demonstrate that it can Create, Implement and Defend (the CID approach) their strategies and provide

expert legal opinions from leading Tax Barristers and don't be put off by the "Big 4" who will claim that these tax strategies are not effective – instead ask yourself why was it that those firms were instructed to give up advising on tax strategy opportunities 4 years ago! We came across a case this year where a Big 4 firm ignored the opportunities available and advised a family business to pay its director a £500k salary bonus. This resulted in an avoidable tax cost to the company of £64k and an avoidable tax cost to the director of £205k. That's what we would say was a "DFS" moment (Downright Frigging Stupid)!