

proactive

Pre-owned assets –
another unfair tax

Read more inside

AUTUMN 2004

Putting Something Back

We recently set up the AC Mole & Sons Charitable Trust. Its purpose is to give financial support by way of donations and grants to local charitable organisations and causes. It is entirely funded by donations from the partners of the firm. Although its resources are modest, the creation of this charity allows us to put something back into society in a regular, structured and tax efficient way rather than simply responding to appeals on an ad hoc basis.

Some clients already have their own charitable trusts; others interested in setting one up may like to know that this can be done easily and cheaply using documents provided by the Charity Commissioners. Some will be comfortable to deal with this - and the annual returns and the other paperwork required - themselves, but we will be pleased to advise anyone who would like some support. Larger, more sophisticated charities should seek specialist advice when creating a constitution document. We have considerable experience and expertise in dealing with charities; please contact Julia Croughton or Ian Pinder for more information.



Chris Loveluck with Dave Wallbridge, Site Manager

Moving On

In November 1914 A C Mole moved from the office he rented from Stansell Builders on the corner of Billet Street and East Street in Taunton to Stafford House, the building we have occupied ever since. At the end of November 2004 we will be preparing to move from Stafford House to a new office on the outskirts of Taunton.

We took the decision to move for a number of reasons. The growth of the firm over recent years has produced less than ideal working conditions; rooms occupied by one person ten years ago are now being shared by up to five people. The facilities we are able to offer clients are far more limited than we would wish, particularly in terms of parking and meeting rooms. We have also been faced with the inevitable and ever increasing costs associated with an old building.

The new office is currently under construction at Blackbrook Business Park close to Junction 25 of the M5. Instead of our current three parking spaces, we will have 30 and there will no longer be any need to negotiate the town centre traffic. The number of meeting rooms will double. We will also have full disabled access with a dedicated parking space, a lift and doors wide enough for wheelchairs. Staff will enjoy more space, lighter offices and modern working conditions.

The two storey, 6,000 square foot building is due to be completed by the end of November. Fittingly, the developers are Summerfield Developments (SW) Limited a company directly descended from Stansell Builders, A C Mole's first client and in whose offices our firm began. Full directions and contact details, together with the name of our new building, will be in the Christmas newsletter.



Winners

Best Tax Team in a Small Firm

Pre-owned assets – another unfair tax

‘Having your cake and eating it’ has long been a goal of Inheritance Tax (IHT) planning.

"I want to give away the family home but carry on living in it" and "I want to give my investments to my children but I still need the income" are common requests heard by estate planners. Unfortunately, legislation blocks the potential IHT savings on lifetime gifts if the donor retains use or enjoyment of the asset. This is known as "reservation of benefit".

Over the years schemes have been devised to get around this legislation. For the family home, these included lease ‘carve outs’ and double-trust arrangements such as the Eversden scheme. The financial services industry has also devised many investment products aimed at IHT mitigation.

widely by the financial services industry and usually involve an individual lending money interest free to a trust, which then invests in an insurance bond. Regular withdrawals are made out of the bond to repay the loan. Thus the future growth of the bond escapes IHT but the individual still obtains an ‘income’ stream as the loan reduces. Some business insurance arrangements giving joint owners the means to buy out an owner’s interest on death or retirement may still be caught however.

All transactions since 17 March 1986 are potentially affected and a detailed review of past transactions will be needed in many cases. Few taxpayers will have kept records going back almost

The Inland Revenue has had mixed success in attacking these schemes but now has a new tax charge in its armoury. The new tax, which will apply from 6 April 2005, achieves its aim not by changing the IHT rules but by imposing an annual Income Tax charge on those who have given away assets but continue to derive a benefit from them. Furthermore, it attacks situations where a person has the use of an asset owned by another if the person had made a contribution to the funding of the acquisition.

For example, Mr Smith helps his daughter, Jill, with the purchase of her first house in 1998, providing 50% of the cost of £200,000. He is now retired and living on a small income. Jill still owns the property but is about to move into a new home with her husband. The house is now worth £300,000 and she could achieve an annual rent of £20,000, but she wants to help her father and lets him live in the house rent-free. From 6 April 2005, Mr Smith will suffer an annual Income Tax charge based on 50% of the notional rental value i.e. £10,000.

19 years but this does not seem to worry the Treasury - they insist that this is not retrospective taxation!

There are some exceptions, including property already caught by the IHT reservation of benefit rules, transfers between spouses and some family property sharing arrangements; there is also an overall de minimis limit of £5,000 per annum.

The new legislation is a classic example of using a sledgehammer to crack a nut. It catches some innocent family situations and arrangements wholly unconnected with tax planning. It will involve many people in a tax charge that is difficult (if not impossible) to calculate, let alone pay.

The implications of the new tax charge are far ranging and do not just affect property. Discussions are taking place with the Inland Revenue about how it will work in different situations. For example, the Inland Revenue initially said that Gift and Loan Schemes would be caught but they have now confirmed that they will not be. These schemes have been marketed

Effective planning can reduce or eliminate the tax payable - even for Mr Smith in our example if he acts quickly. If you think that it may affect you, please contact us: You may still be able to have that piece of cake!



Too Good to be True

(or how to get Gordon to help fund your new building)

If someone told you that you could buy a new building to operate your business from, obtain full tax relief on the rent you pay yourself to use it, pay no tax on the rent you receive, avoid paying Inheritance Tax on the building if you die and avoid Capital Gains Tax if you sell it, would you believe them? You should, because it's true. And to prove that we are prepared to put into practice the advice we give our clients this is exactly how we have funded our new building.

A SIPP is a self-administered, Inland Revenue approved pension scheme. The funds can come from new pension premiums or else be transferred from another pension arrangement. There is no need to pay fixed, regular premiums – the amounts and timing can be varied. Although the fund can be invested in quoted shares, Government securities, deposits and other assets (including agricultural land), the purpose of this article is to look at their use in funding commercial property. Companies can use a similar arrangement called a SSAS.

Let's take a fictitious example of a partnership of four solicitors (paying tax at 40%) who have individual pension schemes and who now want to acquire a new building. They have combined pension funds of £220,000. They decide to transfer these funds into a SIPP and agree to make a single contribution (based on age and earnings) of £7,800 each. The SIPP now contains the £220,000 transfer plus the £31,200 pension premiums. It can reclaim tax of £8,800 on the new contributions leaving it with total cash of £260,000. Each partner can also claim further tax relief of £1,800 on his next tax return.

Sadly, the building the partners want to buy has a price tag of £850,000, plus VAT at 17.5% of £148,750 and Stamp Duty Land Tax of £29,962. As this is £768,712 more than they have in the SIPP, things look bleak until they are told that the SIPP can register for VAT (so that the £148,750 can be reclaimed) and that it can also borrow. The borrowing can be up to 75% of the property cost, in this case £659,971. Suddenly the sums add up. The Government has kindly contributed £148,750 VAT, £8,800 tax refund to the SIPP and £7,200 tax refunds to the partners. The annual pension premiums and tax-free rent are set to cover the loan repayments and build the fund value.

And it doesn't stop there, because when the partners start paying rent to the SIPP for the use of the building, they obtain 40% tax relief on the amount they pay. Any future growth in value of the property will be free of tax. If one of the partners dies before retirement, the whole of his share of the fund is available without Inheritance Tax liability to pay a pension or lump sum to his surviving spouse, dependants or named beneficiary. It really couldn't get any better (unless of course the partners take advice on SDLT planning and save themselves up to a further £25,000 or more...)

Having been through this process ourselves we would stress the need to take advice at an early stage and to assemble an experienced team. We can advise you on the general and tax issues involved and on the potential for SDLT planning. A good pensions adviser with experience in such arrangements is essential and we are greatly indebted to Robert Cowburn of Rowan plc and to Simon Tugwell of IPS Actuarial Services (whose "IPS Pension Builder SIPP" product we used) for their expert help and attention to detail.



"Will he still be smiling when you open a SIPP?"

Robert can be contacted on 01823 256811 (Robert.cowburn@rowanplc.com) and Simon on 0117 9290941 (ssas@ips4pensions.co.uk).

Summerfield Developments



SUMMERFIELD

Summerfield Developments Limited was formed in 1987 and has its roots in the Stansell family's construction business which has been active in the Taunton area since 1823. A C Mole & Sons links with the family go back to 1902, when A C rented his first office in Stansell's premises on the corner of East Street and Billet Street. We have acted for the family and for the companies ever since.

Summerfield Homes has been building domestic accommodation from one-bedroom apartments to five bedroom executive homes in Somerset and Devon for over 15 years. Summerfield Commercial has developed business parks on a number of sites including Blackbrook at Taunton, Chelston at Wellington and Woodwater Park at Exeter. The developments have attracted major national and local businesses including Western Provident Association, National Rivers Authority, Pitney Bowes, Barclays, Treasury Solicitors, the Charity Commissioners, Alder King, Michelmores and Clarke Willmott.

Our connection with the company remains a very close one. Michael Blackwell who retired as a partner in 1992 has been a director of several of the group companies (including Summerfield Developments Limited and Summerfield Developments (SW) Limited) for many years. For a number of years now though, our main role has been to act as tax advisers. In that capacity we have advised on employee share schemes, Stamp Duty Land Tax, subcontractor status issues, plant in property, capital allowances planning and a host of other issues.

We take a proactive role and meet with the Summerfield team regularly to ensure that we are aware of forthcoming transactions and in a position to advise in advance of rather than after the event (when it is often too late). The Finance Director's view: "Although I am a Chartered Accountant it is not practical to stay up to date with such a rapidly changing area as tax. It is therefore essential to be able to wheel in the experts whenever a tax issue arises. The breadth and level of knowledge and experience that you have built up has meant that we have not had to look to a national name".



Summerfields Blackbrook development – AC Mole's new offices circled

So did we choose Summerfield as developers of our new building simply because they are valued clients? Absolutely not: we chose them because having worked closely with them for so long we knew that no one would give a more professional service. When we began discussions in May, we faced them with a very challenging target date for moving into the new building: Christmas 2004. Work on the site began immediately and despite some poor weather, Summerfield and builders Midas have worked tirelessly to ensure that the project remains on schedule.

Whether the task is to put up a new building or to save tax, the basic requirement for success is a simple one: teamwork.