



DOCTORS NEWSLETTER

Ownership of the surgery by the partners in a GP practice; does it still make sense?

With the possible introduction of polyclinics, and the reluctance of some younger GPs to commit themselves to a life long career at one practice, perhaps not. Any partnership will have a range of ages, and if incoming partners are unwilling to buy into the surgery when partners retire, this will inevitably create long term problems. With the abolition of capital gains tax taper relief there is now a tax disadvantage to retiring GPs in retaining ownership of their share of the building; a sale will need to take place either at the time of retirement, or within the following three years, to qualify for the new entrepreneurs relief, providing the other conditions for that relief are met. If GPs are required to move to polyclinics then the traditional surgery may become redundant and if there is a surfeit of them on the market at the same time realising the full value may prove difficult.

With these uncertainties, GPs owning surgeries could consider an alternative, namely a sale and lease back of the building so that the full value is realised. Clearly the lease would need to include appropriate break clauses so that the lease can be terminated without major cost if

the practice is required to move to a polyclinic. Another consideration is the current depressed state of the property market, which obviously makes a disposal less attractive, and careful consideration of the figures, both in terms of likely proceeds and potential capital gains tax liabilities, is essential.

As indicated above, the abolition of taper relief for disposals after 5 April 2008 means GPs who retain ownership of their share of the surgery after they retire will pay capital gains tax at 18% on any profit made on an eventual sale. If the disposal coincides with retirement then the gain may qualify for the new entrepreneurs' relief which taxes gains on the disposal of business assets up to a cumulative total of £1million at a rate of 10%, which was the rate that applied to business assets held for at least two years under the former taper relief regime.

However, the rules relating to entrepreneurs relief are far more restrictive. If a rent has been received from the practice in respect of the surgery, which may well have been the case if the GP has interest to fund on personal borrowings taken out to buy the share of the building, then entrepreneur relief will be restricted or may even be nil. Conversely, if a rent is not taken the GP is unlikely to be able to get income tax relief for the interest he is paying on his surgery borrowings. Therefore GPs

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may in the future need to balance immediate income tax savings against a long term capital gains tax advantage.

In brief:

- In our increasing litigious society, GP practices should consider having whole practice indemnity cover to protect the partners against claims relating to the actions of staff members.
- The tax allowances given on plant and machinery (basically the apparatus used to operate a business) were changed from 1 April 2008 onwards. There is now an allowance of 100% on the first £50,000 of qualifying expenditure in any accounting year beginning after that date. The definition of plant and machinery is very wide and we have a good deal of experience in maximising claims for allowances.

Pensions – the annual allowance

Following the pension changes on A Day on 6 April 2006, a limit was placed on the value of pension funds an individual could have (the lifetime allowance). If that limit is exceeded, there are severe tax penalties, which can only be avoided if action is taken by 5 April 2009. It is possible before that date to make an election (primary protection) to prevent these draconian rules applying; pensions attributable to the part of a fund in excess of the lifetime allowance will otherwise attract a 55% income tax charge!

With the bigger level of superannuation contributions in recent years, due both to rising incomes and the increased rates that apply from 6 April 2008 onwards many GPs may well find they have an NHS pension pot when they reach retirement that exceeds the lifetime allowance and therefore need to act before 5 April 2009. This is particularly relevant to GPs planning to retire in the next five years or so, but all doctors need to consider their position and should speak to their IFA as a matter of urgency. For any who do not have their own IFA, David Carr, director of our financial services company, EC (Financial Services) Limited, will be pleased to speak to you.



The changing face of GP practice – where we can help

Our view is that the traditional way GPs have operated for many years, in autonomous practices, may need to be reviewed if income levels are to be maintained. In particular

In brief:

- HM Revenue and Customs are aware of the changes in the way GPs work that have occurred in recent years, and the consequent reduction in practice mileage. Be realistic in your claim for business mileage, and keep a log for a representative month to support it! This is even more important following the announcement of a new penalty regime by HM Revenue and Customs that will apply from April 2009 onwards. If proper records have not been kept to support a tax return entry, in addition to the extra tax, the Revenue will be able to impose a penalty that will be a minimum of 30% of that extra tax.
- Operating without an up to date partnership agreement can have serious consequences for a GP practice. To avoid the need to update the agreement every time there is a partnership change, why not allow this to be done by an addendum to the original?
- A number of changes were introduced into QOF with effect from 1 October 2008 onwards.
- The possibility of GPs operating through a limited company is becoming an increasing “hot topic” in the professional press. Regardless of the legality of this (no one should adopt corporate status without first checking the position with their PCT), it is not, as is often suggested, a way of reducing tax if the income needs to be extracted in full by the proprietors. Our view is the determining factor in seeking limited liability should be commerciality, not tax.

practices will need to co-operate far more, thorough consortia and the like to bid for and provide specific services. Our experience in advising our clients, built up over more than fifty years, places us in an ideal position to advise GPs on the practical problems joint ventures of this kind can bring, and how to overcome them.

Disclaimer

This newsletter is intended to give general guidance only and no liability can be accepted for any action taken based on the information given. For advice on any queries arising from the topics covered above please take specialist advice.

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