

# OH TO BE IN PEEBLES, NOW THAT OCTOBER'S HERE!

A report from the 2011 Peebles Tax Conference, by Peter Rayney



For the more geographically challenged, Peebles is a picturesque market town situated on the Scottish borders (just 23 miles south of Edinburgh) and nestles between the expansive Moorfoot Hills and the Southern Uplands. Peebles is famous for many things – such as its salmon fishing river and being the ‘top independent retailing town in Scotland’ – as well playing host to the joint Northern Society of Chartered Accountants/ICAEW Members in Scotland annual tax conference on 8–9 October.

This was the 10th Peebles Tax Conference and once again the venue was the impressive Peebles Hydro Hotel with its stately Edwardian interiors and friendly staff. I’ve been fortunate enough to lecture here nine times and this year we thought it would be helpful to give Tax Faculty members a brief insight into one of the best kept secrets in the tax conference calendar.

## **You Lift Me Up**

The Peebles tax conference always provides a holistic tax update delivered by top-notch speakers, and this year’s was no exception. Some of the ‘pearls of tax wisdom’ from the 2011 speakers are summarised below.

## **Business start-up reliefs: too technical to touch or missed opportunities**

*Paul Aplin, Chairman, ICAEW Tax Faculty Technical Committee and Partner, AC Mole & Sons*

Paul stressed the need always to look carefully at the exact nature of the company’s trade for the enterprise investment scheme (EIS). He cited cases where HMRC had rejected EIS applications on the grounds that the companies concerned carried on non-qualifying trades, but where a closer examination of the facts yielded success.

Processing of crops, for example, is not farming, and the sale of electronic downloads is not the same as receipt of royalties. In both cases HMRC had rejected initial EIS claims but subsequently accepted that they were valid.

With the increase in income tax relief to 30% EIS can provide the essential sweetener for companies looking to secure capital in an increasingly difficult market.

### **Hot owner-managed business tax issues for 2011/12 and beyond**

*Peter Rayney, Peter Rayney Tax Consulting Ltd*

Many owner-managed companies are still failing to claim the statutory corporation tax deduction for shares awarded to and share options exercised by directors and employees.

Many enterprise management incentives (EMI) are exit-based, with the employees' options being exercised shortly before a company sale. In such cases, the statutory tax deduction can be substantial, since the value of the EMI option shares will be close to their full sale value.

### **The VAT update you need**

*Greg McNally, Senior Manager, PWC Scotland*

Greg reminded us that from 2012 employers will be required to account for VAT on certain salary sacrifice arrangements where the underlying benefit is a taxable supply for VAT purposes.

Most fixed term contracts entered into before 26 July 2011 can be disregarded for the duration of their term. However, those entered into after this date must be considered and VAT applied from January 2012.

HMRC expects the VAT charged to be based on the higher of the amount charged or the cost. It is important to identify these supplies at an early stage and determine who will fund any additional VAT charge.

### **Capital allowances update 2011**

*Carl Bayley, Vice Chair, ICAEW Members in Scotland and Director, Bayley Miller Ltd*

Carl emphasised two current issues.

First, the transitional rules for the reduction in the annual investment allowance (AIA) from £100k to £25k in April 2012 mean that the amount of qualifying AIA in the latter part of any accounting period which spans the change will be severely restricted (see Anita Monteith's article in June 2011 *TAXline*).

The Government's proposals to introduce a time limit for claiming capital allowances on fixtures within property could mean that time is running out to make claims in respect of expenditure within commercial property which is already owned.

Second, many property owners have failed to claim millions of pounds worth of allowances to which they are entitled. From April 2012, they may have very little time left to make those claims. The practical point is to get the ball rolling now – review expenditure within property already on hand and make the appropriate claims before the new rules come into force.

### **Pension and other changes for high net worth individuals**

*Andrew Meeson*

Andrew reminded us that, with an annual pensions contribution allowance of now only £50,000, it was important to identify an individual's pension input period (PIP). This is because the pension contributions made in the tax year are tested against the annual allowance for the PIP that ends in the tax year.

PIPs will not normally be aligned to tax years. The PIP for many existing pension fund members started when they made their first contribution after A-day (6 April 2006) and would end on the first anniversary of that date. Subsequent PIPs will last for one year after that.

### **Employer taxes and NIC**

*David Heaton, Chairman, ICAEW Tax Faculty and Tax Partner, Baker Tilly*

David stressed the increased complexity in the rules around temporary workers following The Agency Workers Regulations 2010, SI 2010/93, which apply from 1 October 2011.

While there are no obvious tax implications, the new rules present challenges for businesses supplying temps, since they may become obliged to pay the same wage rate as the end user pays its permanent equivalent workers.

Many temps are employees working under umbrella employment contracts, and their advantage to the end user, alongside their flexibility, is that their pay rate is often lower because they can be paid tax-free home-to-work travel expenses instead of taxable pay. HMRC is taking a keen interest in such arrangements and arguing that many umbrella employers should be applying PAYE and NIC to their expenses payments where they are not covered by explicit dispensations from both PAYE operation and P11D reporting. The Agency Workers Regulations may make such arrangements much more difficult to operate, so pay rates may have to rise.



**Keith Proudfoot, Carl Bayley, Peter Rayney and David Heaton.**

#### **The taxman cometh**

*Douglas Seaton, independent tax consultant and ex-HMRC technical inspector*

When faced with an HMRC enquiry, Douglas stressed two key points:

**Never** meet with HMRC until **you** want to and **you** have the control, with all communication being done in writing.

Never give up: if they say no, and you believe in your case, pursue at the next level.

#### **Red Red Wine**

*Ian Williams, Tax Partner, Campbell Dallas*

Ian, a Peebles 'regular', provided the best way to relax after a hard day on Friday by hosting a wine tasting session. He demonstrated that his expertise extends far beyond tax. Drawing on recent visits to wineries in New Zealand, Ian gave us a tasting tour of that country bringing out the nuances of different locations and the impact on both white wines and red wines. We were even given a short lesson on Maori pronunciation.

As an extra treat for delegates his restaurateur neighbour had provided an additional red wine to be tasted courtesy of his brother's NZ winery. Proof once again that it's not necessarily what you know ...

#### **There are more questions than answers**

After a hearty Saturday lunch, there was also an opportunity to chew over various technical problems with the speakers at the regular tax panel session. As always, this session provided much stimulating debate and delegates asked a wide range of questions including problems with earn-outs, IHT planning for the home, and capital allowances.

Just as important are the many networking opportunities which the conference provides, with delegates, speakers and organisers all assembling together for breakfast, tea, lunch and evening dinner.

#### **We are family**

Many of the Peebles delegates are 'regulars' and attend year after year. There are many reasons for this – competitive pricing, high quality practical lectures, the convivial atmosphere of the Peebles Hydro Hotel, the beautiful scenery and so on! But, at the end of this particular conference, it struck me that we had become a sort of 'tax conference family' enjoying lots of warmth and banter as well as sharing our experiences (both fiscal and non-fiscal!).

I would personally like to take this opportunity to thank Carl Bayley (Vice Chair, ICAEW Members in Scotland), Keith Proudfoot (Regional Director, ICAEW Northern & Scotland) and Alison Tait (Regional Events Coordinator, ICAEW Northern and Scotland) for their vision and all the hard work they put in to making the Peebles conference so successful.

On a final note – the date for the 2012 Peebles conference has just been confirmed – **Friday 5 and Saturday 6 October 2012**. Hope to see you there!



Peter Rayney FCA CTA (Fellow) TEP, of Peter Rayney Tax Consulting Ltd, is well known as a tax author and speaker. He is chairman of the Tax Faculty's SME Business Tax Committee.