

March 2008

'INCOME SHIFTING' LEGISLATION DELAYED

The introduction of the proposed legislation on 'income shifting' has been delayed until April 2009.

You may well remember that HMRC proposed to legislate following their defeat in the Arctic Systems case. This involved a husband and wife who owned a company 50/50 and, broadly, took the profits out by way of dividends, again 50/50. HMRC attempted to tax the dividends solely on the husband, as he was performing most of the work which generated the profits of the company.

Following HMRC's defeat in this case, the government published draft legislation to prevent a tax advantage being gained through 'income shifting'. This legislation was expected to apply from 6 April 2008 to:

- company distributions, usually dividends; and
- profits from a partnership.

The proposed rules have been very widely drafted and would, in their current form, catch many owner-managed businesses involving husbands, wives and other family members, as well as businesses run by non-family members, leaving many with a substantially higher tax bill.

The government has reconsidered its position following a period of consultation and now believes that a further period of consultation will ensure that legislation in this area provides clarity and certainty for businesses and their advisers.

The government now intends to introduce legislation through Finance Bill 2009 and will not enact legislation effective from 6 April 2008.

We will, of course, keep you informed of developments. However, if you have any questions or concerns in the meantime, please do not hesitate to contact us.

Internet link: [Press notice](#)