Welcome to the Summer edition

Welcome to the Summer edition of Genie. We have put together a very varied edition this time round ranging from a look at the Retail Leisure Sector, through VAT on entertaining to pension and Inheritance Tax Matters.

We are always pleased to hear your views on Genie and suggestions for future articles. In the meantime we wish you an enjoyable Summer.

Colin Burns.

Continuing to grow…

Gerald Edelman and DTE Business Advisory Services Ltd, have joined forces and merged their businesses. The joint business will operate under the Gerald Edelman name and there are now 14 partners and 125 personnel. Our office locations remain unchanged.

Announcing the merger, Richard Kleiner, CEO of Gerald Edelman, said: “We’re delighted to welcome our colleagues from DTE into the Gerald Edelman family. We share a common core philosophy of providing excellent client service.”

Kleiner added that the deal is part of GE’s growth strategy. “Our aim is to double in size over the next 3-5 years, and this merger is one stepping stone to achieving that goal. The merger will effectively add about 15% to topline revenues.”

The enlarged Gerald Edelman practice will offer services including:
• accounting
• taxation
• auditing
• wealth management
• business advisory
• business recovery
• corporate finance and transaction services
• forensic accounting (including litigation support)
• trust and probate
• statutory compliance
• payroll services

Richard Kleiner,
CEO Gerald Edelman

in this Issue
Continuing to grow… Page 1
Are your children eyeing up their inheritance already? Page 2
Providing staff pensions Page 3
All change for landlords Page 4
Trading success for “Day Trader” in shares Page 5
Trivial benefits in kind – what’s the latest Page 6
A reasonable excuse only valid for so long Page 7
Offshore funds and onshore myths Page 7
Maximising your entitlement to the new state pension Page 8-9
Raising the stakes Page 10-11
UK residential property and tax issues for non-doms Page 12
Claiming back VAT on business trips Page 13
Watch the dividend Page 14
Your bank rewards may be less than interesting Page 15
Kilimanjaro 2016 – A Frican good time! Page 16
Are your children eyeing up their inheritance already?

Recent research shows that UK household savings are forecast to fall to their lowest rate in over 50 years.

A report produced by the Centre for Economics and Social Research (CEBR) has forecast that UK household savings will fall to just 3.8% of disposable income this year, its lowest level since 1963. The ratio was nearly 12% as recently as 2010, as the graph above shows.

The same research found that nearly two thirds of the over-55s felt “confident and supported”, while just over a third of 35-44 year-olds felt the same way. The corollary was that 61% of the younger age group thought they were not saving enough for their future while 45% of the 55+ baby boomers took the same view.

The falling savings ratio has a variety of causes including the low/no wage growth many have experienced since 2008 and the increasing cost of housing. It helps to explain government initiatives, such as the Lifetime ISA, aimed at encouraging the under-40s to save.

If you are a member of the lucky baby boomer generation, then one reading from the research is that your children (and grandchildren) are relying more heavily than ever on an inheritance to bolster their finances. Increasingly, that is being accelerated to mean lifetime gifts – witness the importance of the bank of Mum and Dad in many first time buyer housing transactions.

All of which means that your estate planning has also assumed more importance earlier than you might have expected. Do remember that there are a considerable number of planning techniques and investments to mitigate Inheritance Tax which can be regarded to some extent as a voluntary imposition provided timely advice is taken.

Rob Jones, Director
Genesis Wealth Ltd

The value of tax reliefs depends on your individual circumstances. Tax laws can change. The Financial Conduct Authority does not regulate tax and trust advice.
Providing staff pensions

An update on auto enrolment

Auto enrolment has now been with us for over three and a half years, since October 2012. It is hard to imagine the complexities that those large employers with the early staging dates faced where there was little more than the Pensions Regulator notes, written in usual DWP style making it difficult to decipher.

Our clients at Gerald Edelman, many of whom have staging dates ahead or that have recently staged advise us that it can still be a challenge. Although there is substantially more information freely available on the web through pension providers, payroll and Intermediary websites, the cost in time for those who seek assistance can be substantial.

It was for this reason that we decided to source a streamlined pension solution especially for our payroll clients who hadn’t sourced their own solution and which made the process easier via Creative Auto Enrolment. However, there are still many businesses due to stage soon who would like to understand the options open to them.

Finding someone to discuss your auto enrolment concerns and needs at an affordable cost and with the right knowledge can sometimes be a challenge. Demand is beginning to outstrip supply with the predicted number of employers currently staging each month estimated at over 50,000 and this will gradually rise to over 100,000 per month during 2017. We can therefore offer a further opportunity to understand the choices and rules of auto enrolment whether you are a payroll client, non-payroll client or a business that simply wants a helping hand to make the right auto enrolment choice.

AE Simplicity are a firm that specialise in Auto enrolment and can provide access to a substantial number of pension solutions at an affordable cost and provide a simple approach via a menu of services on their website.

AUTO ENROLMENT NEWS

Easements

There is some good news! Some of our director clients who have contracts of employment do not wish to go through auto enrolment for themselves even though they may be enrolling their workers. There have been some recent easements in the legislation from 6th April 2016 which may allow directors to take themselves effectively outside of auto enrolment if they fulfil certain criteria and follow specific processes.

Similar easements are in place for:

- LLP genuine partners who are not salaried under HMRC tax rules (duties still apply in full for salaried partners)
- Workers in their notice period
- Employees who have protected status for pensions savings

Very specific criteria apply to all of these easements and it is important you adhere to the rules if you wish to rely on these and we would recommend that you either carry out your own thorough research to confirm that you are within the rules or seek appropriate help and guidance.

Tax Relief

There are two methods of tax relief that apply to pension schemes and it is imperative that you set up the correct basis within your payroll system if you want to avoid expensive unwinding and disruption to your workers if you get it wrong.

There may also be merit in looking closely at the tax relief method and whether it is suitable for your workforce before you commit to your chosen scheme.

The first of these methods is called ‘Relief At Source’ (RAS) where all workers will pay employee contributions net of tax relief and the 20% standard rate tax relief will be credited directly to the worker’s pension plan irrespective of the rate of tax payable. This means higher rate tax payers need to reclaim their additional tax relief via HMRC but nil rate tax payers still receive tax relief to their pension plan.

The second tax system is ‘Net Pay’ relief. This method will mean that higher rate tax payers will get immediate tax relief on their contributions. The downside pointed out by the Pensions Regulator is that workers paid under the tax threshold (£11,000 in 2016/17) will not get tax relief and there is currently no method of reclaiming this relief. This could apply if you have lower paid workers and especially part time workers.

Each may have benefits and you may wish to give this consideration before you finalise your decision.

Director only businesses

If you are a Director only business and earn below £10,000 or employ workers who earn below £10,000 (the auto enrolment threshold) you may not need to set up a pension scheme. You may be able to exempt yourself or complete a process which will allow you to issue the correct statutory notices without a scheme. Again, you should carefully work through the rules on the Pension Regulators website or speak to a specialist auto enrolment advisory firm who will be able to guide you.

A word of warning

There are processes and steps that you need to have taken to ensure that you have fully complied with Auto enrolment legislation which go beyond just setting up your chosen pension scheme. You must deal with a return to the Pension Regulator called the Declaration of Compliance. This needs to be completed without fail for all solutions (except pure Director Exemptions) within 5 months of your staging date. Non-compliance will carry a fixed penalty fine of £400 even though you may have complied with all other duties.

Auto enrolment is a complex area full of traps but there are simple solutions to help you comply. In this regard, should you wish to speak to the specialists at AE Simplicity then you can contact them directly at martinkoch@aesimplicity.com

For pension solutions visit www.aesimplicity.com
First we had the 3% surcharge for Stamp Duty Land Tax on the purchase of a second property and now, from the 6 April 2017 there are big changes to the way that landlords will be taxed on their rental income. Those that will be affected by the new rules are individuals, partnerships and LLP’s that receive rental income on residential property, in the UK or abroad, and incur mortgage interest charges (and also fees suffered when taking out or repaying a mortgage). This does not apply to properties that meet all the criteria to be a furnished holiday letting. To clarify, a furnished holiday letting is a residential property in the UK or in the European Economic Area that is furnished sufficiently and:

1. The total of all lettings that exceed 31 continuous days is not more than 155 days during the year and,
2. The property is available for letting for at least 210 days in the year and,
3. The property is let commercially for at least 105 days in the year

It also does not apply to properties held by corporates (although there are numerous other issues with holding residential property via a corporate now).

To recap, landlords are currently able to deduct 100% of the mortgage interest charges they incur against their gross rental income for the year. In many cases this wipes out any rental profit that would otherwise have been taxable. The government believe this system is too generous and restricts the availability of property to first time buyers who get no such tax relief on their mortgages.

The new measures will ensure landlords will only receive a basic rate tax reduction (currently 20%) from their income tax liability for their finance costs. The new restrictions are being phased in as follows:

- In 2017/2018 the deduction from property income (as is currently allowed) will be restricted to 75% of finance costs, with the remaining 25% being available as a basic rate tax reduction
- In 2018/2019, 50% finance costs deduction and 50% given as a basic rate tax reduction
- In 2019/2020, 25% finance costs deduction and 75% given as a basic rate tax reduction
- From 2020/2021 all financing costs incurred by a landlord will be given as a basic rate tax reduction

As a brief example, if your mortgage interest for the year was £10,000 in 17/18, you could deduct £7,500 (10,000 at 75%) against your gross rental income. The remaining £2,500 would be multiplied by 20% to give a tax reduction of £500.

The question you may ask is, what happens if I make a loss in the year? Naturally HMRC have calculated a complex formula to deal with this scenario. Essentially, the sum on which the tax deduction would have been calculated on (disallowed interest for the year multiplied by 20%) is carried forward to the following tax year. On the assumption that there is a profit in the following tax year, the tax reduction for this year is the lower of:

- The amount disallowed for the prior year plus the amount of disallowed interest for the current year and,
- The taxable rental profits for the year.

The lower of the two is then multiplied by 20% and deducted for tax purposes. Therefore, not only will one have property losses carried forward, but also disallowed interest charges carried forward.

These new rules are therefore going to bring about an increase in tax to pay for many. As previously mentioned, these restrictions do not apply to companies and therefore operating a residential property lettings business through a company may seem more attractive but whether it is the transfer of a property into an existing company, or a purchase of a property by a company, the tax consequences are complex and advice must be taken.

One final point to bear in mind, is that along with the 3% SDLT surcharge, and the new interest restrictions, the new lower rate of Capital Gains Tax of 20% from 6 April 2016 (down from 28% for higher rate payers) does not apply on the sale of residential property. These disposals will still be taxed at 28%.

Sarah N. Burns
Trading success for “Day Trader” in shares

A very common question from clients who are active investors in the stockmarket is whether they can claim losses on shares against their other income. In a somewhat surprising decision, the First-tier Tribunal have held in the case of Akhtar Ali v HMRC [2016] UKFTT 8 (6 January 2016) that the losses stemming from Mr Ali’s share-related activities were losses of a trade run commercially, such that they could be set against income from his pharmacy business.

Background

Mr Ali has a successful business running a pharmacy and used the profits to buy and sell publically listed shares. Mr Ali described his initial share activities as “investing” in shares and the gains and losses were reported as capital gains disposals.

By 2005 he was buying large amounts of shares and writing call options against them and devoting more time to the share activity and he became a “day trader” where shares were often held for a few hours, for a day or two via an online share dealing account with NatWest Stockbrokers Ltd.

By 2009 Mr Ali was spending 35 to 40 hours a week day trading shares from an office above the pharmacy, with close on 2,000 transactions a year. He employed a locum to run his pharmacy during this time.

Mr Ali asserted in correspondence with HMRC that he had an unwritten business plan to undertake such activities over a 15 year period. He would concentrate on certain shares that he knew, for example pharmaceutical shares and fast moving shares, and conducted regular research into the stock market. He could sustain the losses made in anticipation of making profits later learning from his mistakes. Relief for the losses was claimed under ITA 2007, s 64(1) on the basis the losses were sustained in a trade carried on commercially under ITA 2007, s 66.

The Decision

The First Tier Tax Tribunal (“FTT”) acknowledged that Mr Ali’s activities bore classic hallmarks of trading. In essence, he bought assets (his stock) over a long period with a view to sell it at a profit. The activities reflected a number of the “badges of trade” in particular:

• The length of the period of ownership;
• The frequency of transactions by the same person;
• The circumstances that were responsible for the realisation, and;
• Profit motive.

These all pointed towards trading but the FTT were mindful of previous case law which showed that the courts were wary of awarding trading status to an individual speculating in shares which was viewed as gambling.

Mr Ali’s business plan, unsophisticated as it was, was the decisive fact and when considering the organised way in which Mr Ali conducted his share activities, this was enough to convince the FTT that he was not gambling but carrying on a trade in share dealing. The fact that he was self-taught and arguably over-confident and undertook considerable risk was no different than a risk-taking self-made entrepreneur who was seriously interested in profit. The fact that losses had been incurred did not, in their view, make the trade uncommercial as the aims were clearly to make profits.

Why this matters

Because of the ability to offset losses it has always been difficult to convince HMRC that share dealing activities carried out by individuals are nothing more than speculative gambling whereas it harder for HMRC to argue the opposite when operated via a company. It appears that conducting such activities in a business like way with a business plan at the heart was enough to convince the FTT. Such a decision will be of interest to many day traders operating in a similar way and it will be interesting to see if HMRC decide to appeal.

Colin Burns
A new statutory exemption for very small benefits provided to employees is now available to simplify employer reporting.

NEW EXEMPTION
From 6 April 2016 there is a new exemption covering trivial benefits provided to employees. When this was first announced back in the 2014 Budget it was assumed this would be a straightforward measure; however, as explained below, anti-avoidance rules which affect close companies have turned it into a potential headache. The new legislation will form part of the Finance Act 2016.

BASIC PREMISE
At its most basic level, the exemption is indeed simple. It provides that gifts to employees, or their family or household members by, or on behalf of, their employer, are not taxable benefits so long as:

- the cost of the benefit is no more than £50 per gift
- the benefit is not cash or a cash voucher (one which can be exchanged for cash)
- the benefit is not a contractual entitlement
- it is not part of a salary sacrifice arrangement
- it is not in recognition of particular services provided by the employee in the course of their work, or in anticipation of such services.

To work out the amount of the benefit, the cost to the employer (or other provider) is used. Where the benefit covers a number of employees, and it’s impracticable to work out the exact figure individually, then the average per person may be used.

Do note High Street Vouchers which cannot be exchanged for actual cash are not disqualified.

AND Except in the case of close companies (those under the control of five or fewer shareholders), there is no restriction on the number of £50 gifts made to each employee. However, the trivial benefit rule is an exemption not an allowance. So if the benefit is £51, then it is all taxable, i.e. the first £50 is not tax free.

The really good news is that the new exemption can be used to cover items falling outside other exemptions. For example, a £50 per head annual event e.g. summer barbecue which, when added to other events e.g. Xmas party, would exceed the £150 limit for annual parties and social functions.

CLOSE COMPANY RESTRICTIONS
Most of our clients’ are close companies so that special anti-avoidance rules apply to directors and other office holders and to any individuals who are members of their family or household. Remember that a close company is one under the control of five or fewer participators. The trivial benefits exemption is still available for such companies; however, the additional rules have the following effects:

- imposing a maximum annual limit to the value of £50 benefits, given or allocated to such employees. This is called the “available exempt amount” and is £300 for 2016/17
- allocating the value of trivial benefits provided by a close company to members of a director or office holder’s family or household (who are not themselves employees) to the director; therefore counting towards their £300 limit
- imposing the restrictions to former employees who were directors or other office holders (and to employees who were members of their family or household).

When the £300 limit is exceeded, the full amount of any trivial benefit which takes the employee over the limit is taxable, but that benefit does not then count towards the limit for future benefits.

All in all a very welcome simplification measure for employers.

Amal Shah
A reasonable excuse only valid for so long

**Excuse.** Bereavement is often cited in cases where a penalty, e.g. for late filing, is being appealed, and rightly so. HMRC is usually sympathetic; however, a recent First-Tier Tribunal (FTT) case reminds us that for the excuse to be reasonable, there is another requirement - that the taxpayer brings matters up to date as soon as the special circumstances have abated.

**Tribunal.** In A Bryson v HMRC [2016] TCo4894, Ms Bryson (B) had forgotten to include an income gain on her return from selling a bond, despite having put funds aside to pay the tax. HMRC discovered the omission and wrote to her asking for the tax, which she paid promptly. HMRC then imposed a penalty for a prompted, careless error. This was originally 30% but was reduced to 15% (the minimum under that category) due to co-operation on her part.

B appealed against the penalty, claiming a reasonable excuse on the grounds that her husband had passed away, leaving her to take over and run his business. The surrender of the bond was to release capital for the business.

The FTT found that whilst there was no suggestion of deliberate concealment, the gap between the husband’s death and the date the tax return needed to be filed (nine months) was too large to be relied on as special circumstances and dismissed the appeal.

To appeal against a penalty on the grounds of a reasonable excuse, the taxpayer needs to put their affairs in order as soon as is feasible.

David Convisser

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### Offshore funds and onshore myths

The ‘Panama Papers’ have created a media frenzy about offshore investment. Not everything you read was necessarily accurate.

Offshore investment made front page headlines last month, with the leak of 11.5 million documents from a law firm in Panama. The fact that there was link to the Prime Minister gave the story legs, but unfortunately that also meant more opportunity for misinformation and outright error.

One trap that too many commentators (and a few politicians) fell into was to conflate offshore investment with tax avoidance (or evasion) by the wealthy. While it is almost certainly probable that some names on the Panamanian list had this in mind, offshore investment has a much wider and often less tax-driven appeal.

For example, one of the biggest areas of fund growth in recent years has been index-tracking exchange traded funds (ETFs). These are used by both institutional and individual investors to gain exposure to a wide range of share and bond markets, as well as some commodities, such as gold. Many of the ETFs purchased by UK investors are based offshore, with more registered in either Dublin or Luxembourg than the UK.

If you think you could benefit by learning more about investing offshore, please talk to us.

Graham Thomas

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The value of your investment can go down as well as up and you may not get back the full amount you invested. Past performance is not a reliable indicator of future performance. Investing in shares should be regarded as a long-term investment and should fit in with your overall attitude to risk and financial circumstances.
Maximising your entitlement

The way entitlement to and payment of the state pension is worked out changed from 6 April 2016, leaving many confused – and some feeling short-changed. How can you maximise your entitlement?

STATE PENSION AGE (SPA)

Your SPA depends on your date of birth, and the rules are changing. In 2016/17 men will reach state pension age at age 65 and women between 63 years and three months and 63 years and eight months depending on when they were born. The state pension age for women is gradually increasing and will reach 65 by November 2018. Thereafter, it will rise first to 66 for both men and women, then to 67 and then to 68. Individuals can use the SPA calculator at https://www.gov.uk/state-pension-age to check when they will become entitled.

SINGLE-TIER PENSION

The single-tier state pension (STSP) is payable to individuals who reach SPA on or after 6 April 2016 and whose NI contribution record is sufficient. It is set at £155.65 per week for 2016/17. To qualify for the full amount, you will need 35 qualifying years - compared to the 30 required previously. Those with fewer than 35 qualifying years, but at least ten, will receive a reduced payment.

Note: The STSP is an individual pension scheme meaning that an individual can only qualify by virtue of their own NI contributions record. It is not possible to earn entitlement by reference to contributions paid by a spouse or civil partner.


STARTING AMOUNT

Contributions paid and credited before 6 April 2016 are taken into account in working out a person's entitlement to the STSP. A starting (foundation) amount is calculated using the individual’s NI record at 6 April 2016. The starting amount is the higher of:

- the amount that would be payable under the two-tier state pension applying to people reaching state pension age before 6 April 2016; and
- the amount that would be payable had the single-tier state pension been in place throughout the individual’s working life

If the starting amount is less than the full amount of the new STSP, the pension will be increased by 1/35th for each additional qualifying year until SPA is reached or, if earlier, the individual contributes enough to qualify for the full amount.

If the starting amount is more than the full STSP, the higher starting amount is paid as the pension when the person reaches SPA. This may be the case if the individual had built up some entitlement to the second tier state pension before 6th April 2016.

Example. Jill has 27 qualifying years on 6 April 2016 and a foundation amount of £120.07. Each qualifying year will earn her an additional pension of £4.45 per week (2016/17 figures) until her state pension reaches the level of the single-tier state pension (£155.65 per week for 2016/17).

CONTRIBUTIONS RECORD

Most people build up a contributions record by paying NI contributions; however, a person who is not working, for example, because they are ill or looking after a child, may receive NI credits which will help build up entitlement to the STSP.

PENSION FORECAST

To assess your state pension provision, obtain a state pension forecast. An application can be made online at https://www.gov.uk/government/publications/application-for-a-state-pension-statement or by post using Form BR19. If you are unlikely to have accrued 35 qualifying years by the time that you reach your SPA, you can voluntarily increase entitlement. Each additional qualifying year will increase the STSP by 1/35th. At the 2016/17 rate of £155.65 per week, each additional qualifying year is worth £4.45 per week (equivalent to £231.40 a year). There are various ways to secure additional qualifying years.

FAMILY COMPANIES

When formulating a profit extraction strategy for personal and family companies, unless an individual already has 35 qualifying years, it is advisable to pay a salary which is at least equal to the lower earnings limit for NI purposes (£112 per week or £5,824 per year for 2016/17) to ensure that the year is a qualifying year.

If the salary is between the lower earnings limit and the primary threshold (£155 per week or £8,060 per year for 2016/17) it’s possible to achieve this for a zero contribution, as within this band NI contributions are payable at a notional zero rate.

Note. One drawback is that currently individuals cease paying primary Class I NI once they attain SPA (although employer contributions...
continue if earnings exceed the secondary threshold) - so whilst this method is likely to be most efficient, it will not work for older family members or further help those who already have 35 qualifying years.

SELF-EMPLOYED

The self-employed currently build up their contributions record via the payment of Class 2 NI contributions. These are payable at £2.80 per week for 2016/17 where the profits exceed the small profits threshold (set at £5,965 for 2016/17). Anyone who is self-employed and whose profits from self-employment are below the small profits threshold can choose to pay Class 2 contributions voluntarily. This is a much cheaper option than paying Class 3 voluntary contributions.

Note. The option to pay Class 2 contributions voluntarily will cease when they are abolished from 6 April 2018. Those with small earnings from self-employment who are not entitled to NI credits may wish to make the most of the opportunity to pay voluntary Class 2 contributions while it remains available.

CLASS 3 CONTRIBUTIONS

Anyone who has a gap in their contributions record can pay voluntary Class 3 contributions to fill that gap. The rate for 2016/17 is £14.10 per week, meaning that the payback period in terms of additional pension is just over three years.

CLASS 3A CONTRIBUTIONS

Those who reached state pension age before 6 April 2016 and who receive the basic state pension rather than the new STSP have the opportunity to pay a voluntary Class 3A contribution to boost their basic state pension. The amount of a Class 3A contribution depends on the individual’s age when the contribution is made.

Each Class 3A contribution increases the basic state pension by £1 per week. Pensioners can pay a maximum of 25 such contributions to increase their state pension by £25 per week.

Example. Gordon is 71 and reached SPA before 6 April 2016. He wishes to boost his state pension by paying a Class 3A contribution. The cost of a Class 3A contribution for someone who is 71 when they make the contribution is £761. This will increase his state pension by £1 per week. If he wishes to increase his state pension by £25 per week, he will need to pay a Class 3A contribution of £19,025 (£771 x 25). To break even, he will need to live for at least a further 14 years, seven months and two weeks.

Colin Burns
As the retail leisure sector comes under increased scrutiny from investors, Richard Kleiner, CEO of Gerald Edelman and non-exec. Chairman of newly-floated Comptoir Group, spoke to the BDLN about his concerns that management teams are sometimes being backed into a corner...

Businesses in the retail leisure sector are spending far too much time keeping tabs on what investors want and not enough time cooking up a business success story. Retail companies need to start focusing more on opening up new units in order to grow the business and the brand and ‘The Management’ should spend less time worrying about forecasts and ‘like-for-like’ equations.

All involved should remember that if the business wins, everyone wins (including the company’s shareholders).

What’s the growth story?

There are two things that concern me most about companies in the retail leisure sector. The first is how assumptions made about a business growth story are affecting the behaviour of that business. When it comes to investment in the catering and restaurant market it’s always about the growth story. What’s your background? What’s your history? Where are you now and where are you going? Investors often base this story on a roll-up play - we’ve got a great management team and we’re going to make some acquisitions - or we’ve got a great brand - and now we’re going to roll it out.

The market - whether that’s for an IPO or an existing listed company - often measures growth by the increase in the number of profit centres. So on an IPO, for example, the broker who sponsors the flotation will create a piece of research based on a future profit projection. The broker bases their projection on the information provided by the management team. They then supplement this with their own analysis. Let’s say that the growth story on this IPO is that a retailer is going to increase their existing number of units from 20 to 40 in the next three years. Then that is the assumption that the broker will build into his three-year projection.

Good business reasons v bad assumptions

The problem with this approach is that quite often (in fact—on every single occasion!) reality is very different from projection and forecast.

The broker bases their projection on the information provided by the management team. They then supplement this with their own analysis. Let’s say that the growth story on this IPO is that a retailer is going to increase their existing number of units from 20 to 40 in the next three years. Then that is the assumption that the broker will build into his three-year projection.

A good management team will always try to follow good business practice. They’ll want to make sure that any new potential retail site ticks almost all of the “ten” boxes needed to give a deal the green light. Those ticked boxes would normally include: location, demographics, footfall, local competition, and category of customer. If potential sites don’t meet these criteria then a business would ordinarily decide not to proceed with the deal. But now, of course, they may fail to hit the market’s projections.

And because they’re not going to hit their profit projections, they may find themselves in a situation where they’re forced to perhaps make compromises and, as a result, four outcomes are possible. They look at sites that aren’t fit for purpose. They pay excessive premiums to get into certain sites. They negotiate over-the-market rent levels with landlords. Or they spend insufficient time planning for the important opening of a new unit.

Furthermore, if they don’t find the extra profits from somewhere else (as a result of slower rate of openings), they can also find themselves having to make a profit warning. The result of that profit warning can be that their share price will be slashed. Slaughtered, in some cases - sometimes by as much as 50%.

Sector shaker

We can do more to enable management teams to believe that the share price is not going to drop. We can give them the confidence to come to the right business decisions for the sake of the medium and long-term future of the business and
to encourage them not to chase dubious deals just to meet market expectations.

I think that building such confidence is worthy of consultation and discussion. Get the brokers, institutional investors, people within the industry, the management teams and their advisers in a room to accept that this is an issue and to explore what the alternatives might be.

Is it just about educating? Or is it about better communication between management teams and investors? Would it not be better if companies were to announce profit warnings sooner and with a sensible explanation? There have to be some better methods and I suggest we should find them!

**Like-for-like**

The second thing that concerns me about companies in the retail leisure sector is the issue of ‘like-for-like’ sales comparisons. I’ll give you an example. The Restaurant Group (TRG) announced their results in April. Total sales were up by 4.7%. But the like-for-like sales—a measure which reflects trading at outlets open for a year or more—were 2.7% lower.

I empathised with their CEO Danny Breithaupt when he said - and I paraphrase here - ‘we’re a quality business who have grown our sales yet again. But like-for-likes sometimes have to take a back seat.’ This comment, in effect, confirms that the market uses the like-for-like measure as a significant indicator about how a business is growing.

TRG shares dropped by 26% on the day of the announcement, despite their underlying sales growth.

The problem with like-for-like is that, as far as I’m aware, there’s no accounting standard and no guidance about how you determine the measure. So, with my somewhat simplistic example given earlier, if a company increases its units from 20 to just 23. Then that’s a straightforward comparison.

But what if of the 20 sites in 2015 the company earmarks three of them for refurbishment? Companies can drop those three out of the like-for-like equation! You’re comparing 17 with 17. Firms take the three earmarked for refurbishment (which often coincides with poor performing sites) out of the equation. Furthermore, a site that’s taken out of the equation can take a year - or even two - to be re-included.

**Manipulation?**

So the like-for-like measure can be open to manipulation, which isn’t good for the market. Yet again, this appears to lead to decisions that are potentially damaging for a business - just to satisfy the market. My purist approach is to let management teams continue to do the right thing for the good of the business, irrespective of whether they meet the market’s forecasts or whether they satisfy a like-for-like expectation.

It’s the politicians’ analogy. Their decisions tend to be short term as they think only about policies which will win them votes. And I really don’t want businesses to follow that principle. I don’t think that they should be doing things just to satisfy market expectations; they should decide what’s good for the business in the medium to long term.

**Summary**

So what does the retail leisure sector need? More transparency. More open and timely communication. And more support for quality management teams. Investors and shareholders alike should ask themselves the question: do we want to slaughter a share price or a company value because management teams are forced to do the wrong things for short-term gains?

Remember — if the business wins, everyone wins.
Foreign domiciled individuals are currently able to avoid UK inheritance tax (IHT) on UK assets but this is due to change with the introduction of new legislation in April 2017.

Individuals who are domiciled outside the UK will be aware that their exposure to UK IHT is limited to their UK assets. Any foreign assets owned by foreign domiciliaries remain outside the scope of UK IHT until the individual becomes deemed domiciled (broadly once they have been resident in the UK in more than 15 out of the previous 20 tax years, under new rules being introduced from 6th April 2017).

These excluded property rules enable foreign domiciled individuals (and trusts created by foreign domiciled individuals) to escape UK IHT on UK assets by using an offshore vehicle such as a company to own them. By enveloping assets in this way, they are treated for UK IHT as owning non-UK situs shares, without having to look through to the underlying assets. However, this is set to change from 6 April 2017 as far as UK residential property is concerned.

Draft legislation is not yet available and will not be enacted before Finance Act 2017, but it is understood that the intention is for trusts and individuals owning assets through a company or other structure to become subject to UK IHT to the extent of the net value of UK residential property from 6 April 2017.

This will put them on a more equal footing with UK domiciliaries. Diversely held vehicles will not however be caught. The new rules are targeted at UK dwellings, with commercial property and other UK assets held in structures remaining unaffected.

The implications will be far reaching and owners of UK residential property via structures should review their arrangements in advance of 6 April 2017. In many cases it will be beneficial to remove UK residential property from structures and hold it directly in personal names perhaps with life insurance to cover the IHT exposure.

The exposure to various capital gains taxes (including annual tax on enveloped dwellings (ATED) - related CGT, non-resident CGT and anti-avoidance provisions) as well as stamp duty land tax means the implications of de-enveloping in this way will however need to be considered in detail in advance.

UK resident non-domiciles will be allowed to treat the base cost of their personally held foreign assets as the market value of the asset at 6 April 2017 for capital gains tax (CGT) purposes, when they are forced to become domiciles under the new rules. It is not known if this might be extended to UK based assets but the likelihood is that it will not be. Corporate ownership may continue to be beneficial in some circumstances, particularly if there is a rental business. Trust ownership carries costs and complexity but is often appropriate for non-tax reasons and can be helpful to spread the IHT cost and give certainty.

Jenny Debbage
Claiming back VAT on business trips

Like any business, you and your staff are often out on the road visiting clients, suppliers, attending events etc. Business travel is something of a soft target for HMRC so what can you claim back?

Business trips

The rules for recovering VAT on expenses incurred on a business trip can be something of a minefield. Apart from not knowing whether or not the VAT is recoverable, another common problem is knowing whether the costs have VAT on them to begin with. You can generally reclaim the VAT on travel and subsistence expenses where a director, partner, sole proprietor or employee is away from their normal place of work on a business trip.

Trap. The business must pay for the actual cost or a proportion of the actual cost of these expenses. You can’t reclaim VAT on expenses if you pay an employee a flat rate, e.g. £25 per night for buying a meal. However, if you pay for the exact cost of the meal and the employee keeps the invoice then you can reclaim the VAT.

What has VAT on it?

The general rule is that most things have VAT on them but some travel and subsistence expenses are zero-rated so there is no VAT to reclaim. The following are zero-rated: takeaway sandwiches; rail, ferry, air and coach fares.

Note. However, there is VAT on taxi fares if the driver is VAT registered so it’s worth confirming this before trying to claim back any VAT.

Trap. Businesses often try to claim back the nonexistent VAT on these supplies. HMRC will look for them during an inspection as it gives an easy assessment.

Meals, drinks and overnight hotel accommodation will have VAT on them so VAT can be reclaimed on these costs when staff are away on business.

Self-employed contractors

If you have self-employed contractors who go on trips for your business and you treat them in the same way as your own staff, then you can reclaim the VAT on costs that they claim back from you through your expenses system.

Entertainment trap and opportunity

Sometimes a business trip might include costs which have elements of business entertainment as well as travel and subsistence. For example, you send a salesmen to a meeting in London and he stays overnight but he takes the client out to lunch following the meeting. Under the subsistence rules, the VAT on the employee’s hotel bill is recoverable, but the lunch with the client has an element of entertainment so you can only reclaim the VAT relating to his meal as he is a member of staff. Importantly though the VAT relating to the entertainment of an overseas based customer is recoverable (even if you are prospecting for a new customer).

Overseas trips

EU countries have a separate VAT system so you will be incurring VAT costs that you can’t claim on your UK VAT return. However, the EU has set up a system, operated by all member states, that allows businesses to recover VAT incurred in these circumstances.

Note. The claim (in English) is made online through MARC. Up to five claims per year can be made and you have nine months after the end of the year in which to make them. The EU tax authority then has four months to process the claim.

Carl Lundberg
Watch the dividend

Dividend growth is slowing in the UK.

Shortly after the end of each quarter, Capita, one of the UK’s largest share registrars, publishes a dividend monitor. This gives a useful snapshot of the dividend payments from UK-listed companies over the previous three months. The latest edition, covering the first quarter of 2016, makes interesting reading if you are an investor in UK equity income funds:

- Year-on-year dividends rose 6.4%, but this was largely due to some generous special (one-off) dividend payments. Strip these out and underlying dividends grew by just 1.3%, pretty much in line with RPI inflation.
- The small positive growth in dividends was entirely due to the weakness of sterling against the US dollar, which Capita reckons accounted for £350m of the quarter’s £14,200m in dividend payments. Many of the FTSE 100’s largest companies, such as Shell, HSBC and Astra Zeneca, use the dollar as their accounting (and dividend) currency.
- During the first three months of 2016 dividend cuts of £2,700m were announced, but most of these will not bite until later in the year.
- The top five dividend payers in the UK accounted for 53% of the total dividends paid in the first quarter.
- Following its takeover of BG Group, Shell will deliver over £10bn of dividends in 2016 – nearly 13% of the total payout projected by Capita.

The concentration of dividend payments, currency volatility and dividend cuts from major companies (eg Tesco, Rolls Royce) is making life hard for managers of UK equity income funds. If you have holdings in this popular sector, it makes sense to review them now.

Sanjay Rijhsinghani – Director
Genesis Wealth Ltd

The value of your investment can do down as well as up and you may not get back the full amount you invested. Past performance is not a reliable indicator of future performance. Investing in shares should be regarded as a long-term investment and should fit in with your overall attitude to risk and financial circumstances.

HMRC clarifies gift aid relief

HIVIRC has issued a statement clarifying a misunderstanding in the media. It had been reported that gift aid relief was going to be restricted where the donation included messages of support from people other than the donor.

HMRC says this is not the case, and donations made by individuals qualify for relief even if other people are named. In contrast, donations which have been made by groups - such as work collections or groups of friends are not made by individuals and so no relief is due. This can be avoided by using a webpage such as JustGiving to centralise collections.

HMRC has confirmed that gift aid relief is due on individual donations, even if other people are named. However, donations from groups do not attract relief.
Your bank rewards may be less than interesting

Not everything your bank pays you counts towards the personal savings allowance.

When the personal savings allowance (PSA) was first announced in the March 2015 Budget, it all sounded quite straightforward:

- If you were a basic rate taxpayer, you had a £1,000 allowance to set against savings income;
- If you were a higher rate taxpayer, your allowance was halved, but your potential tax saving was still the same; and
- If you were one of the 333,000 additional rate taxpayers, you had no allowance.

The reality has turned out to be rather different. For a start, the allowance is not a true allowance at all, but a nil rate band. Now another glitch has emerged as the relevant Finance Bill legislation works its way through parliament.

If you have one of those bank or building society accounts that give you regular reward payments, then those sums cannot be offset against your PSA. To be offset against the PSA, what you need the bank to pay you is interest, which counts as ‘savings income’, not a reward, which is an ‘annual payment’, not ‘savings income’. Alternatively, income from fixed interest unit trusts and OEICs can be offset against the PSA. However, for the current tax year, such interest is paid after deduction of 20% tax, meaning a reclaim may be necessary. From 6 April 2017, fixed interest fund distributions will be paid gross – as bank and building society interest is in 2016/17.

It remains to be seen whether the banks and building societies that pay rewards will revise their accounts to make them more tax-friendly. In the meantime, the PSA serves as a reminder that what looks like a simple tax change is often not so.

Andrew Chaplin – Director
Genesis Wealth Ltd

The value of your investment can go down as well as up and you may not get back the full amount you invested. Past performance is not a reliable indicator of future performance. Tax laws can change. The Financial Conduct Authority does not regulate tax and trust advice.
On March 6th 2016, four of the Gerald Edelman team started a challenge which would test their fitness and mental strength; a trek to the top of Mount Kilimanjaro.

Kilimanjaro is the highest mountain in Africa and the highest free standing mountain in the world.

Deval Patel, Amal Shah, Tim Chahal and Kishan Patel, opted for the 6 day trek via the Machame route, which is seen as a difficult route, however being the most picturesque.

The summit Uhuru Peak, stands at 5,895m or 19,341 feet above sea level; to put this in perspective, Mount Everest, stands at 8,848 metres (29,029 feet) and Ben Nevis 1,344 metres (4,409 feet).

All four safely reached the summit on 12 March at 8am, where they encountered numerous weather conditions from high 30 degree temperatures at the start, to a drop of minus 15 degrees on summit day.

In addition to conquering Kilimanjaro, they managed to raise £9,183 for Sport Relief, which will help vulnerable people both here in the UK and the world’s poorest countries.

Gerald Edelman would like to congratulate Team Kilimanjaro on their success of reaching The Roof of Africa and raising money for a worthwhile charity.

We hear on the grapevine, the four of them are looking for another challenge next year, with Everest Base Camp being on top of Deval’s list!