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Awaken the Sleeping Partner

The income tax saving that could be generated in 2009/10 if a husband admits his wife into partnership can be as much as £10,070.

This assumes the diversion from the husband's higher rate tax band of £43,875 to be covered by his wife's personal allowance (£6,475 at a saving of 40%) and the rest of her basic rate band (£36,000 at a saving of 20%). It is essential of course that the wife is admitted properly to the partnership but the Revenue's own manuals say that their inspectors cannot challenge the apportionment of profits by reference to the value of the partners' contribution to the firms activity. There is no need for the spouse to contribute capital or to participate in management or be capable of performing the main activity of the business at all.

We were due to see the introduction of controversial new 'income shifting' rules to prevent business income from being divided between individuals in a way that does not reflect what HMRC regard as commercial reality. These proposals have now been deferred indefinitely.

Providing the legalities are satisfactorily dealt with the inspector cannot deny the wife's status as a partner. An advantage of sleeping partner status is that the income would carry no liability to national insurance contributions, since the partner is not categorized as an earner. The Revenue's own Assessment Procedures Manual

says that 'A sleeping partner does not make Class 4 national insurance contributions because such profits are not "immediately derived from carrying on" the trade'.

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We have actually been successful recently in making a number of claims of a refund of previously paid national insurance contributions which had been paid for a number of years.

If you feel that you could benefit from some advice in this area then please feel free to give me a call on 01902 773993.



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