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News Bulletin

Section 660 and the Arctic Systems case

You may have seen this referred to in the press over the last year or so and you may even have read the articles. If you are involved in a husband and wife limited company then this case might have a significant bearing on your family tax liabilities.

The case revolves around the application of a very old piece of tax legislation that has been applied in a new way by the Revenue. Section 660 dates from the time of joint taxation for husbands and wives and was designed to stop wealthy husbands giving income producing assets to their wives to avoid paying income tax on that income.

The Arctic Systems case involves a husband and wife who together owned the shares in their own family company. The Revenues arguments for the application of Section 660 are that where one of the spouses earns most of the company's income and the other spouse has little involvement in the company, the fact that one spouse has, say, 50% of the shares and receives 50% of the dividends for doing little or no work amounts to tax avoidance. They argue that the full time working spouse has effectively given away an income producing asset in the shares.

The Revenue has given a number of examples as to where Section 660 will apply and where it will not. For instance this will not affect families where both husband and wife work full time or where the non-working spouse has paid full value for their shares.

The taxpayers lost the Tax Commissioners hearing, but the decision was split and they are challenging it. Even if they lose it is likely that this issue has a long way to run before it is resolved.

If you are concerned that you might be affected please speak to your usual contact at Young & Co.