

FINANCIAL PERSPECTIVES

END OF TAX YEAR GUIDE

SPRING 2010

This newsletter is for general guidance only – action should not be taken without specific advice.

Should you require any further information, we shall be pleased to provide the same on hearing from you.

Introduction

As we move towards the end of the 2009/10 Tax Year on 5 April, we are writing to remind you of some points which you may care to bear in mind.

What's New

The current year will see a General Election, and depending on the outcome we may see two Budgets so planning will be difficult. Many commentators are talking about a likely hike in the rate of Capital Gains Tax, so that there is not such a significant gap between the current 18% rate and the new 50% top rate of income tax for high earners. However on that front we must wait and see. Do not disregard the standard year-end planning issues which whilst not groundbreaking can reap significant benefits over the passage of time. There are several new sections in this newsletter, including:

- Pension Premiums for high earners
- Furnished Holiday Lettings
- Tax Health Plan – Voluntary Disclosure for Medical Professionals
- VAT Returns – Online filing
- Multiple or incorrect PAYE Coding Notices
- Discretionary Trusts – Distributions before 5 April 2010?

Action Required

Our table of contents indicates those items where action may be required by 5 April 2010(*) or by 31 March 2010 in the case of a limited company (**). Don't forget that Easter Sunday falls on the 4th April, so any action should not be left until the very last minute.

General Guidance

This newsletter is for general guidance only and action should not be taken without specific advice.

References in this guide to a spouse should be read as including a civil partner.

Further Information Required?

Should you require further information or assistance in relation to any of the following points as they apply to your particular circumstances, the partner dealing with your affairs will be pleased to assist you. Where action may be necessary by 31 March or 5 April as the case may be, please seek this further assistance as soon as possible in order to avoid a last minute rush.

Be Ready to Defend Yourself (Revenue Enquiries)

Many taxpayers will have to face an enquiry by HM Revenue & Customs during their business careers. We like to help our clients to minimise the damage caused in terms of both additional tax and professional costs. Accordingly we previously prepared a memorandum on this subject and we shall be pleased to supply one on receiving a request.

Fee Protection Scheme

Clients of this firm are reminded that we offer a fee protection scheme as an insurance against our fees for representing them in the event of a Revenue in-depth investigation. Clients who would like further information about this cover, should contact the person with whom they normally deal

Our Website – www.pearsonmay.co.uk (including free weekly e-mail newsletter)

If you are connected to the internet do not forget to visit our fully interactive website. You will be amazed at the useful information you will find there, particularly in the knowledge centre, including online services and calculators. When you register on the site you can also subscribe (free of charge!) to our weekly e-mail newsletter which contains business news that is highly relevant to Small and Medium Enterprises (SMEs) and owner-managed businesses.

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PERSONAL TAX

Capital Taxes

1 Capital Gains Tax (CGT) - Annual Exemption

For 2009/10, each individual can realise Chargeable Gains of up to £10,100, net of losses, in aggregate, without incurring any liability to CGT. This relief cannot be carried forward if it is unused. In the absence of losses brought forward any balance of Chargeable Gains is subject to CGT at a rate of 18%. Please note that this rate does not apply to companies, but it does apply to executors and trustees.

Whilst we appreciate that the occasions may be less frequent in the current climate there will still be some clients with large share portfolios and shares showing substantial gains who could consider selling shares and purchasing shares in another company in order to make use of the £10,100 annual exemption, if it would otherwise be unused. The costs of the transaction may prohibit this where a large quantity of shares needs to be sold in order to realise a sufficient gain, but in the case of shares which have gone up markedly in value it could be worth considering.

Remember that the purchase must not be in shares in the same company within 30 days, following the abolition of "bed and breakfasting". Purchase of the same company's shares within an ISA is not

disqualified however. A more or less simultaneous purchase by one's spouse is best avoided as HM Revenue & Customs may seek to attack this using anti-avoidance legislation.

Where gains in excess of £10,100 have been made in the current year, consideration should be given to the realisation of losses to offset such gains, e.g. by sale of loss making shares. Remember that gains on property and other assets can be offset by losses on shares and vice versa.

Whilst the current economic climate may mean that your shares, securities, investment property etc., are worth considerably less than they have been previously, if you have been contemplating lifetime gifts to family members (other than your spouse) then it may be an opportune time to make such gifts. The reasoning being that whilst the current value is low, the capital gains tax payable on the gift will be based on the market value at the date of the gift, and it may also make use of your annual exemption if it is otherwise unused. Before making such gifts you should ensure that you are retaining sufficient assets to maintain your standard of living.

2 CGT Entrepreneurs' Relief

This relief reduces gains arising on the disposal of certain business interests by 4/9ths, resulting in an effective 10% tax rate from 6 April 2008. An individual will be able to make claims for relief on more than one occasion, up to a lifetime total of £1 million of gains. Gains in excess of £1

million will be charged at the normal 18% tax rate.

If you are contemplating the sale of an interest in a business in the fairly near future and wish us to consider the availability of entrepreneurs relief, then please contact us as soon as possible.

We say this because it is very important to distinguish between the sale of a business or part of a business and the sale of an asset used in the business. For example, a farmer who farms 250 acres and sells 5 acres for development will not obtain the relief if he

carries on farming the 245 acres. He has merely disposed of an asset used in the business, not a part of the business itself.

3 Inheritance Tax Planning for Widows and Widowers

Clients are reminded that on the death of a surviving spouse, a claim may be made for the transfer of any unused Inheritance Tax allowance e.g. if the predeceasing spouse left most of his or her assets to the survivor.

If you are a widow or widower, and your spouse left most of their assets to you, then upon your death it will be important to

have access to the paperwork associated with your spouse's estate. You may therefore wish to contact your solicitors sooner rather than later and ask them to ensure that they retain all of their files relating to your late spouse's Estate for the foreseeable future and place copies of important documents with your own Will.

4 Inheritance Tax - Exemptions for Lifetime Gifts

We would remind you that most straightforward gifts of any value can be made completely free of Inheritance Tax provided the donor lives for 7 years after making the gift and does not reserve any benefit whatsoever in respect of the gifted property. Such gifts should however only be made after consultation with us and your Solicitor in order to ensure that all relevant factors including possible capital gains tax consequences are taken into account. In addition the following gifts may be made for 2009/10 without using up any part of an individual's nil rate band:

- a) Small gifts of up to £250 to each of as many individuals as the donor wishes to benefit. This allowance cannot be used to cover part of a gift or gifts totalling more than £250 to the same individual during the period 6 April 2009 to 5 April 2010 inclusive.
- b) Annual Gift Allowance of up to £3,000 for 2009/10. This exemption is applied to larger gifts not covered by a) above. It can be carried forward for one year only to 2010/11 if unused.

- c) Annual Gift Allowance for 2008/2009 of up to £3,000 to the extent that it was not fully utilised in that year. Any balance unused at 5 April 2010 cannot be carried forward to 2010/11.

The reliefs under a), b) and c) must be used in the order shown, and are available separately to husband and wife.

Furthermore, recurring gifts which form part of normal expenditure out of surplus net income may be made in addition to the above. This is a frequently overlooked exemption and one which is potentially very valuable. You must however maintain careful records of your gifts and expenditure in order for your executors to be in a position to prove the point. If your income tax returns and tax calculations are retained, clearly they will go a long way to providing details of your income. Failure to keep clear and concise records could lead to high professional costs and/or loss of relief.

Income Tax

5 Tax Returns for year ended 5 April 2010

Self Assessment Tax Returns for the year ended 5 April 2010 must be submitted:

- by 31 October 2010, if a paper Return is to be filed
- by 31 January 2011, if the Return is filed on-line

at the latest, if automatic penalties and interest on tax paid late are to be avoided. Please let us have details of your income and relevant outgoings as well as acquisitions and disposals of assets for Capital Gains Tax purposes at the earliest possible moment so that the deadline may be met. In practical terms it becomes very difficult for us to meet the deadline if information is not submitted in good time.

Do not wait until you receive a tax return as you will probably not be issued with one if we submitted a computer generated form for 2008/2009. You will simply receive a single sheet request form. Either this or the Tax Return should be forwarded to us as soon as possible.

Please note that it is essential to have complete and accurate disclosure to reduce the likelihood and minimise the effect of the time consuming, worrying and expensive experience of being subjected to

formal investigations in respect of Income Tax including PAYE. Having said that, we are now in the era of random audit checks of tax returns, so you may be investigated even if your Return is accurate. Please see the introduction above in respect of the fee protection scheme, which we would suggest is considered by clients.

Many businesses may find that they already have the cover as part of their general trade insurance.

The period during which the Inspector may enquire into the Return is now linked to the date the Return is filed, removing the perceived barrier that it is disadvantageous to file early.

If you are subject to PAYE and have underpaid tax (of less than £2000) for 2009/10 your Tax Return must be submitted by 31 October 2010 (or 30 December 2010 if filed electronically) if you want to pay the tax by restriction of a future year's code number. Otherwise it will be due for payment on 31 January 2011.

6 Tax Changes occurring on 6 April 2010 affecting high earners

A new additional rate of tax on income in excess of £150,000 is being introduced on 6 April 2010. Those with an income in excess of £100,000 will lose the whole or part of their personal allowance of £6,475. For every £2 of income in excess of £100,000 the allowance is reduced by £1.

Once income reaches £112,950 the allowance is completely eliminated. There is also the restriction to £20,000 on pension contributions qualifying for higher rate relief, applying to individuals with relevant income in excess of £130,000 which has effect for 2009/10 and 2010/11.

This is covered in more detail in the section headed 'Pension Premiums for High Earners'.

An individual with an income of, say, £115,000 in 2010/11, before deduction of pension payments and gross gift aid may wish to consider making a gross pension contribution and gross gift aid payments of £15,000 which would reduce his "adjusted net income" to £100,000 and restore his personal allowance. By doing so, he would receive tax relief at an effective rate of 60% on £12,950 and 40% on the remaining £2050, thus the effective cost of the £15,000 pension contribution/gift aid payment would be £6410.

7 Gift Aid Payments

Any clients who are higher rate taxpayers should keep a detailed schedule of all payments which they make, which are covered by the Gift Aid regulations, during the course of each tax year as of course an additional 20% of the grossed up sum can be claimed as additional tax relief.

If a gift of £80 is made to a charity (net) the higher rate tax relief will be 20% of £100, i.e. an additional £20.

Most of us find ourselves sponsoring family members and friends for various walks, marathons, half marathons etc and almost always the sponsorship money is gift aided if we tick the appropriate box on the form. Furthermore, many donations made in lieu of flowers at funerals etc can also be gift aided, together with of course the normal

8 Pre-owned Assets Tax

This income tax levy was introduced from 6 April 2005 in respect of gifts made since 18 March 1986. It has been introduced as a penalty to discourage those who have given away freehold or leasehold property,

If an individual is likely to have significant income taxable at 50% in 2010/11 then it is worth considering payment of pension premiums of up to £20,000 particularly if he is likely to be a basic rate taxpayer in retirement when the money is returned as a pension.

Our Autumn 2009 issue of Reporting News included other tips for avoiding the 50% rate of tax. We will not repeat those articles here but if you require a copy of the Reporting News then please visit our website (see below) or contact Carolyn Wakenshaw at our Bath office on 01225 460491. Also see 25. below regarding the possibility of your company paying you a large dividend before 6 April 2010.

donations that we all make from time to time.

With Gift Aid single payments as well as regular payments can attract the additional tax relief.

If a schedule is not kept as each tax year passes, it is going to be very difficult to remember at the end of the year what donations have been made so that these can be included in the Self Assessment Tax Return.

For couples, where one member of a couple is a basic rate taxpayer and the other is a higher rate taxpayer, payments under Gift Aid should be made by the higher rate taxpayer as they will be able to claim higher rate relief for the payments.

but continue to have the benefit of such assets without paying a full rent. It also applies similarly to chattels such as works of art.

If you are living in or have occasional use of a property which you previously owned, or which was purchased or constructed with the use of money provided by you, this could apply to you, unless you are paying a full market rent.

However, it must be said that many such assets will be excluded because the charge does not apply where the asset continues to be liable to inheritance tax under the long standing gift with reservation rules. Unless you have entered into a sophisticated anti-avoidance scheme, you are more likely to be caught by this than the pre-owned assets tax.

Savings and Investments

9 Individual Savings Accounts (ISAs)

If they are in a position to do so then most higher rate taxpayers should seriously consider using their annual investment allowance in an individual savings account. The maximum allowance for 2009/10 is £7,200 in a stocks and shares ISA, of which up to £3,600 can be deposited into a cash ISA.

Savers who are 50 or over before 6 April 2010 are entitled to an extra allowance for the 2009/10 tax year. The annual limit

We would however suggest that you ask yourself the question whether you are continuing to enjoy some use or benefit of a property or chattel which you once owned, but no longer own, or which was purchased out of money given away by you.

We can then help you to consider what alternative steps might be taken to minimise the damage either from inheritance tax or this more recent imposition. If it applies to you an entry may be required on your Tax Return for the year ended 5 April 2010.

increases from £7,200 to £10,200, of which £5,100 can be held in a cash ISA.

These increased allowances will be available to all other savers from 6 April 2010.

They are still worth considering for basic rate taxpayers, but the advantage is obviously not so great.

10 Notification of Interest to HM Revenue & Customs by Banks and Building Societies

Do not forget to supply full details of interest received during the year ended 5 April 2010 when sending in your Tax Return details after 5 April. We would remind you that the banks and building societies are required to submit directly to HM Revenue & Customs details of interest they pay. This includes accounts held offshore. Regrettably, in our experience, they do not normally advise their

customers that they have notified HM Revenue & Customs. Because some non-taxpayers on low incomes (i.e. less than the single person's tax allowance) have the opportunity to receive interest gross, the Revenue are keen to verify that the correct amounts have been declared.

In this connection we continue to find that some people have mistakenly claimed to

receive some or all their bank and building society interest gross even though their incomes are at a level which does not entitle them to make such a claim. If you are in this position HM Revenue &

Customs must be notified so that they can issue a tax return in good time. Please make sure that you are not caught out.

11 Financial Services Compensation Scheme

Most clients will be aware that the existing investor protection regulations only provide significant protection up to £50,000 under the Financial Services Compensation Scheme (FSCS). For the sake of clarity we would confirm that the £50,000 applies to each depositor for the total of their deposits with that organisation. In the case of a joint account the FSCS assumes that the money is split equally between account holders, and this means that each account holder in a joint account would be eligible for compensation up to the maximum limit.

The principle of spreading one's savings into several different locations should be adopted rather than "having all of one's eggs in one basket" no matter how good the basket may appear to be. Additional care should be taken to ensure, if you are spreading your savings across multiple banking institutions that you are not simply moving it to a different bank covered by the same Financial Services Act (FSA) Registration, as it would offer no extra protection. If banking groups are registered as one with the FSA then the £50,000 protection applies across the group.

Tax Credits

12 Child Tax Credit and Working Tax Credit

It is worth emphasising that Child Tax Credit (CTC) and Working Tax Credit (WTC) must be claimed. The maximum period for which claims can be backdated is three months. Thus, if a claim for tax credits is made later than 6 July 2010, some credit entitlement for the early part of 2010/2011 will be lost. Claim Form TC600 is the relevant form.

HM Revenue & Customs website (www.hmrc.gov.uk) has a comprehensive section on Tax Credits and there is a Tax Credit Helpline on 0845 3003900. The facility to complete a claim online remains closed.

Many middle income families may simply decide that the hassle involved in making a claim outweighs the benefit, and not claim a credit to which they are entitled. We

would urge you not to let this apply to you. Furthermore, do not fall into the trap of thinking you cannot claim because you have excessive assets. It is income which counts, not assets.

With the current state of the economy there may be many individuals who have not previously made claims for tax credits who may now be eligible to do so. If you think that your profitability may drop considerably, and have not previously made a tax credit claim then you should consider making a protective claim as a matter of urgency as tax credit claims can only be backdated by three months from the date of the claim.

If it appears that there may be an entitlement (families with children and a joint gross income of less than £58,000 or if you have a child under

one £66,000, will be entitled to something), then a claim should be made as soon as possible.

Even a single person working more than 30 hours a week with income of less than £12,800 p.a. may claim. This will apply to many self-employed people in the recession. If you think it may apply to you, do not delay. Go onto the HMRC website or telephone the number referred to above without delay.

Despite their name, the tax credits are not tax credits in the conventional sense, i.e. they are not reductions in the tax liability to which a claimant would otherwise be liable. They are made as a cash payment. They will therefore be paid even if a claimant has no income tax liability. Child Tax Credit, plus the child care element of Working Tax Credit, will be paid by HM Revenue and Customs to the main carer of a qualifying child or young person. This is the same as for the universal Child Benefit, which is unaffected by the credits. In practice, most payments will be made to the mother.

Tax credits are closely linked to the income tax system. Entitlement is in respect of a tax year, and awards made prior to the start of, or during, a tax year last for that tax year. An award is initially based on the previous year's income, but is then adjusted at the end of the tax year if current year circumstances and income are different from prior year circumstances and

13 Pension Credit

You may know someone over 60 with modest savings and low income who could boost up their state retirement pension by claiming this credit. The point we want to make here is that it can be claimed even if one's savings are rather more than the usual means test level. The savings limit increased in November 2009 from £6,000

income. To reduce the number of overpayments of either type of tax credits, the first £25,000 of any increase in income is disregarded, but account will be taken of any fall in annual income, however small.

You must advise the Revenue of certain changes within one month, otherwise you may be liable to a penalty. The changes may include departure from the UK (either permanent or temporary lasting more than eight weeks) or your marital circumstances. You must also advise of changes in working hours, changes to the children you are responsible for, certain childcare costs, and changes in your income.

Individuals who made a claim for 2009/10 should receive a renewal form in April 2010. If a reply is required then this must be completed by 31 July 2010 otherwise payment of tax credits will stop and a penalty of up to £300 may arise. Clients who require our assistance with a renewal form should contact us immediately after 5 April with full details of their income in order to maximise the chances of complying with this short time limit. If necessary the form should be submitted with one or more estimated figures, but it must go in by 31 July 2010, with actual income to be notified by 31 January 2011.

If you require our assistance in completing the claim form, please contact us as soon as possible.

to £10,000. Actual income from savings is ignored but once you exceed the £10,000 limit you are assumed to have an income of £1 a week for every £500 of capital over the limit. You could have fairly substantial capital and still get pension credit. The amount which can be claimed depends on the levels of both capital and income. It is

complicated to work out the amounts claimable, and we have little doubt that many who could claim are not doing so particularly given the fall in interest rates. To apply for Pension Credit call 0800 991234, or visit the website at www.direct.gov.uk/en/Pensionsandretirementplanning/PensionCredit/index.htm.

Miscellaneous

14 Pension Premiums for 2009/10

Under the present rules:

- (a) in 2009/10 it is possible for an individual to pay up to 100% of his earnings into an approved pension arrangement, subject to an upper limit of £245,000 p.a. This limit includes any contributions made by the employer. However see 15 below re. high earners.
- (b) those whose pension funds exceed a total value of £1.75m will be heavily penalised. This limit will increase to £1.8m for 2010/11, and then remain at that level up to and including 2015/16.
- (c) tax free cash on retirement is limited to 25% of the fund. If you were in a company scheme, it could be a higher percentage if certain conditions are met.
- (d) those with no earnings or low earnings are still able to contribute up to £3,600 gross (£2,880 net) into a pension policy.

For those clients who don't have access to the website, and would prefer to complete a form, rather than deal with it by telephone, then we have a supply of forms, printed from the website which we can send to you.

- (e) employers will, as previously, be able to contribute to an employee's arrangement, but caution should be exercised concerning the deductibility of employer contributions which may appear excessive, e.g. where such contributions are paid into arrangements for shareholder directors or their associates in owner managed businesses.
- (f) rules have been introduced to deter the so-called recycling of tax free cash. Considerable care needs to be taken about the level of premiums paid if it is intended to take tax free cash from a policy. Even if there is no direct link between the payment of the premium and the tax free cash the premium may be caught by new rules.

Never has it been more important to have the benefit of the advice of a qualified and experienced IFA who specialises in pensions matters. This is particularly true in relation to the numerous choices available when benefits are to be taken, quite apart from guidance required in respect of what premiums may be tax deductible.

15 Pension Premiums for High Earners

Our Autumn 2009 Edition of Reporting News made mention of the restriction on tax relief for pension contributions made by individuals with higher incomes. Further amendments were made in the pre-Budget report meaning that from 2011/12:

- Relief will be restricted for individuals with taxable income (including employer pension contributions) in excess of £150,000.
- If “relevant income” is less than £130,000 in 2009/10 then you will still be subject to restriction of relief if your relevant income in the two preceding tax years exceeds that amount.
- Restriction is intended to taper relief for those earning between £150,000 and £180,000 from 50% down to 20%.

16 Domicile and Residence

There were significant changes from 6 April 2008 which affect taxpayers who are resident in the UK, but not domiciled here. If you know or suspect that you may not be domiciled in the UK then please ensure that we are aware of your position, even if you think that you may have mentioned it previously.

The basic characteristic of the old remittance basis for non-domiciled taxpayers remains intact under the new regime; overseas income and gains are not taxed unless they are brought to the UK. What has changed markedly however is the increased number of circumstances that

- Individuals with income in excess of £180,000 will receive only basic rate relief.

To prevent people from taking advantage of higher rate relief in the interim period anti-forestalling measures have been introduced, and since the pre-Budget report this includes anyone with income of £130,000 and above. These are aimed at individuals making ‘irregular’ contributions and if total contributions, inclusive of employer or third party contributions, exceed £20,000 then a tax charge will be levied on contributions not classed as regular.

Where individuals have income around this level, and are making pension contributions then careful consideration should be given to the anti-forestalling rules and the new restrictions to ensure that they will not end up with an unexpected liability. This applies particularly to those making annual contributions. If you require assistance then please let us know.

will be treated as giving rise to a remittance.

A claim may be made for the remittance basis of taxation to apply, by an individual who is either not UK domiciled, or not ordinarily UK resident.

A claim is not required where the individual’s unremitted foreign income and gains is less than £2,000 for the tax year.

From 6 April 2008 non-UK domiciled and/or not ordinarily resident adults who claim the remittance basis and who have been resident in the UK for seven of the nine tax years preceding the relevant tax

year, will have to pay an annual tax charge of £30,000 in respect of the foreign income and gains they leave outside the UK. The £30,000 is in addition to any tax due on UK income and gains or foreign income and gains remitted to the UK. One will be required to nominate what foreign unremitted income or gains the £30,000 is paid on. The unremitted income or gains on which the £30,000 tax has been paid will not be taxed again when and if they are eventually remitted to the UK. There are ordering rules that determine that untaxed unremitted income or gains will be treated as remitted before income or gains on which the £30,000 has been paid.

Individuals who claim the remittance basis will not be entitled to personal income tax allowances, nor will they be able to claim the capital gains tax annual exemption.

In the past relevant foreign income could only be taxed if it was brought into the UK as cash. If the taxpayer turned foreign income into an asset outside the UK and

then imported that asset then no UK tax could be charged on the income unless and until the asset was sold or turned into cash in the UK. These loopholes have now been closed and any money, property and services derived from relevant foreign income will be treated as a remittance and taxed as such.

There are exemptions for personal effects, assets costing less than £1000, assets brought into the UK for repair or restoration or for temporary importation.

New rules also apply in respect of making gifts to others. If an individual makes a gift, but then the individual or his/her family derive a benefit then the individual will be taxed under the remittance basis rules.

If you are not domiciled in the UK and have unremitted foreign income and gains then please ensure that the person who normally deals with your tax affairs is made aware of this.

17 Furnished Holiday Lettings – Changes to Tax Treatment

A furnished holiday lettings business, provided it met certain criteria, has previously qualified for preferential tax treatment with the business being treated as if it were a trade for specified tax purposes. The benefits included more flexible loss relief, additional capital allowances, capital gains tax roll-over and hold-over reliefs, and the profits being treated as relevant earnings for pension purposes.

The preferential tax treatment is to be withdrawn on 5 April 2010, meaning that after that date the tax treatment of furnished holiday letting businesses will be the same as other property businesses.

Specifically:

- Roll-over relief will be available on replacement of assets before 6 April 2010, but not normally thereafter.
- Hold-over of gains on gifts of business assets will be available if gifts made before 6 April 2010, but not thereafter.
- Entrepreneurs' Relief may be available on the disposal of a holiday lettings business before 6 April 2010, but not thereafter. For disposal of assets associated with the business, relief may be available up to three years after the deemed cessation on 5 April 2010 provided all the relevant conditions are met.

If you are disposing of your holiday business in the near future then please contact us as soon as possible so that we may ensure that available relief is maximised.

After 5 April 2010 losses on furnished holiday lettings are only available to set against other property business profits, either in the same year, or to carry forward. No set off against other income or carry back of losses will be available.

In a furnished holiday letting business capital allowances may be claimed on plant and machinery, including furniture and furnishing, central heating, air conditioning, computers, etc. used in the rental business. For 2009/10 there is an annual investment allowance (AIA) of up to £50,000 p.a. where expenditure qualifies for a 100% allowance. For expenditure over the level of the AIA, or on which the AIA has not been claimed then a first year allowance may be claimed

18 Holiday Homes Abroad

Many UK residents have acquired Holiday Homes in France, Spain, etc. in recent years. These are often acquired through a local company simply to comply with local inheritance laws etc.

In principle, where homes are owned through a company a benefit in kind charge arises as it does for property in the UK. However where the property is held through a company for legal reasons connected with the country in which the property is owned (e.g. houses in France acquired by a société civile immobilière) then, following an announcement by the Revenue in July 2007, individuals buying such a home, typically for holiday use, will

at 40%. Thereafter writing down allowances calculated on a reducing balance basis, are available at a rate of 20%. Capital allowances will not be available for expenditure incurred on or after 6 April 2010 on plant and machinery for use in the let property.

If therefore you are planning to buy new furniture or equipment then you should consider whether to bring forward the expenditure to before 6 April so that the AIA is available, all other things being equal. Even if it creates a loss then that loss would be allowed against general income in 2009/10.

After 5 April 2010 continuing businesses will be able to claim capital allowances on existing pools of plant and machinery only. They will also be able to claim a 'wear and tear' allowance which is an annual allowance based on a percentage of the rents.

not face a benefit in kind charge in certain specified circumstances as follows:-

- a home abroad is provided by a company for a director (or member of his/her family), and
- the property is owned by the company and the company's only activities relate to that ownership; and
- the company in turn is owned by the director, and
- the sole activity of the company is holding that property for occupation and/or letting.

19 Tax Health Plan – Voluntary Disclosure for Medical Professionals

Following the Offshore Disclosure Facility, Hospital Consultants and Medical Professionals are the latest group to attract the attention of HM Revenue and Customs (HMRC). The Revenue are expected to look at a number of professions over a period of time. HMRC have issued details of a Tax Health Plan, and it is understood that they are looking for Consultants to disclose undeclared commission and/or fees received from medical insurers. Formal notices have been issued by HMRC to BUPA, Sun Life and other institutions to obtain details of commissions.

The Tax Health Plan seeks voluntary disclosure of any unpaid taxes for 2007/08 and earlier years and a reduced fixed penalty of 10% is being offered for full and accurate disclosure. The deadline for notifying HMRC of an intention to make a disclosure is 31 March 2010, with the disclosure itself having to be made by 30 June 2010.

If you are in the medical profession and have previously understated your income and would like to take advantage of the disclosure opportunity then please contact us without delay.

BUSINESS GENERAL

Miscellaneous

20 Possible Deferral of Payments for Corporation Tax, VAT, PAYE, Income Tax and National Insurance

A Business Payment Support Service, launched by HM Revenue and Customs (HMRC) in November 2008 remains in place to meet the needs of businesses and individuals affected by the current economic conditions. HMRC are prepared to agree deferral of payments due in respect of the above mentioned liabilities with applications to be made via a Support Line on 0845 302 1435.

Any clients who find that their businesses or personal circumstances would be significantly enhanced by the cash flow advantage of deferring some tax for possibly as long as 12 months, although instalments throughout that period will be required, should ring this number.

The experience of many clients who have used the facility is that it works well and,

after a few questions, does generally seem to be agreed along the lines of the original proposal.

Interest on late paid tax will still be charged, but most other surcharges and penalties will not be applicable.

Those who have set up arrangements who then find that they need to vary them because of a further change in circumstances should ring the same number to arrange amended terms.

As a general rule, HMRC seem to be quite keen to set up direct debit arrangements to pay the tax which has been deferred over the agreed period for the instalments, but it is certainly not a requirement that you have to do so.

21 Visits from HM Revenue & Customs

New provisions applicable from 1 April 2009, extend the powers for tax inspections to align them with those previously enjoyed under the VAT legislation.

Clients receiving letters entitled "Confirmation of VAT Visit Appointment" may find that this is not quite what it seems to be. Some of the letters apparently now refer to the fact that "a new approach is being adopted as the Inspector has been cross trained to improve customer service".

The Inspectors now arriving may well check the VAT Returns, including all of the detailed calculations, they may also review the payroll and again the calculations, but also the question of payments to any employees or casual staff which are not part of the wages processed through the formal payroll. They may also review all of the records from the point of view of the Self Assessment Tax Returns of the sole proprietor or partners or the Corporation Tax Return in the case of companies. Queries could also be raised about the status of consultants or other individuals who are paid on the basis that they are understood to be self-employed.

The regulations also say that if a business receives a telephone call suggesting a date and time for a VAT or PAYE visit, which is not rejected at that time as being inconvenient, that the meeting is arranged. In many cases clients would wish to have our involvement if they thought an Inspector is reviewing all of the aspect of their Accounts as well as VAT Returns and PAYE Returns. Clients may even wish to arrange for the visit to take place at our offices, if that can be agreed. Thus it is generally preferable to indicate as an initial response, that a call will be made back to agree a date and time.

On some occasions it may well be that two or three officials will come to the visit and they may well each have different specialisms.

Our recommendation is that if a visit is being discussed that the person at H M Revenue and Customs (HMRC) arranging the visit should be asked who is coming, the nature of their specific roles and their statuses within HMRC.

Please notify us of the date and time of any meetings so that the individual dealing with your affairs within the firm can keep that date and time free wherever possible, should you need to telephone us during the visit to discuss any matters.

It is also very important not to be drawn into discussing issues about which you know relatively little or do not fully understand, particularly in terms of the technicalities. If questions are asked to which you do not know the answer, or are not sure that you know the full answer, then it is vital that you say that you do not know and that you will look into it, possibly discuss it with us, and reply at a later date.

It is even possible that on some occasions you will require our presence during the course of parts of the visit and, again, prior warning of the date and time of the visit with as much notice as possible will be vital.

As part of the changes from 6 April 2010, there will be a new 4 year time limit for assessments and claims, a reduction from 6 years for Income Tax, Capital Gains Tax and Corporation Tax. It is an increase from 3 years for VAT. However, H M Revenue and Customs do have the power to go back to even earlier years, under their discovery powers, if those are in point.

A request should always be made, at the outset, for a copy of the detailed notes of the meeting to be provided. Those notes should then be reviewed with us.

22 VAT Returns – Online Filing

For VAT periods commencing 1 April 2010 the online filing of VAT returns payment of VAT electronically will become compulsory for existing VAT registered businesses with an annual VAT exclusive turnover of £100,000 or more, and all businesses newly registered for VAT on or after 1 April 2010, irrespective of turnover. HM Revenue and Customs should have written to you in February to notify you of your obligation to file on line, based on your turnover shown in the

23 Capital Allowances Reform

A major reform of capital allowances took effect for most businesses from 6 April 2008 (1 April in the case of limited companies).

The key changes included:

(i) a new “annual investment allowance” (AIA) at a rate of 100% for the first £50,000 of expenditure on plant and machinery (other than cars). First year allowances available at a rate of 40% on expenditure over the annual investment level or on which AIA has not been claimed.

(ii) a reduction in the writing down allowance (WDA) from 25% to 20%.

(iii) the phasing out of agricultural buildings allowances, hotel allowances and industrial buildings allowances over the next four years. The previous 4% allowances are reduced to 2% for 2009/10.

As a side issue the new 4 year time limit for claims mean that if there are repayment claims outstanding, we will only be able to claim the tax refunds for 4 years, rather than 6 years as previously.

VAT returns filed in the twelve months before 2010. If you wish us to submit the VAT Return online for you each quarter electronically, and we have not already been in contact then please let us know as soon as possible. We will need to know, amongst other things, when you first registered for VAT, to enable us to set up the arrangements for online filing.

(iv) a reduction in the WDA rate for fixtures which are integral to a building from 25% to 10%, and an increase in the rate for expenditure on long-life assets from 6% to 10%.

The £50,000 AIA relates to a 12 month period so where the chargeable period is longer or shorter than one year the allowance is increased or restricted accordingly.

In general, for taxpayers about to spend circa. £50,000 or slightly more on plant and machinery then it may be worth considering postponing some of the expenditure into the next chargeable period when a new AIA of up to £50,000 will apply.

If you are planning significant expenditure and wish us to consider the timing then please let us know as soon as possible.

24 National Insurance Contributions (NIC) from 6 April 2010

Employees

With effect from 6 April 2010 an employee who is not contracted out of the State Earnings Related Pension Scheme will pay NICs at a rate of 11% on earnings between £110 per week and £844 per week and 1% on earnings over £844. For monthly paid employees the band will be between £476 and £3,656 and for annually paid employees (including all Company Directors) it is between £5,715 pa and £43,875 pa. There is no maximum amount of contributions for an employee as the 1% rate applies to earnings above approx. £43,875 without limit.

Contracted out employees will pay 9.4% instead of 11% between £110 and £844 per week.

It should be noted that most employees who have contracted out of the state scheme in the past are now recommended to contract back in. If you continue to be contracted out we recommend that you take specific independent financial advice.

Employers

So far as weekly paid employees are concerned, there will be no NICs on the first £110. NICs will be payable at a rate of 12.8% on earnings above £110 per week. For calendar monthly paid employees the 12.8% rate will apply above approximately £476 and for annually paid employees it will apply above £5,715. There is no upper limit.

As with employees' contributions, the rate is rebated for contracted out employers' contributions.

Other Points

It will be noted that employees may earn up to £110 per week or £475 per calendar month without either them or the

employer incurring liability to Class 1 National Insurance contributions. This will be of particular interest to clients who employ spouses or other part-time employees.

The employees concerned should consider whether it is in their best interests to avoid paying National Insurance contributions having regard to probable loss of state benefits. Having said that, pay in the range of £97 per week to £110 per week would appear to gain a credit for NI retirement pension purposes without resulting in any payment of contributions.

Normal P46 procedures should be followed, of course, even if no tax or NI liability is anticipated.

As previously, wages of spouses or other family members should be capable of justification in commercial terms having regard to the work which they perform. Care should be taken to ensure that such wages are actually paid and recorded separately from other payments, e.g. housekeeping monies, pocket money or gifts.

The Self-employed

For the self-employed, Class 2 National Insurance contributions will continue to be £2.40 per week from 6 April. Those unlikely to be earning more than £5,075 p.a. can claim small earnings exception in advance, but should carefully consider the effect on future benefits of so doing, e.g. reduction in state retirement pension. It may well be better to pay the contributions even if your profits are below £5,075. In addition, the self-employed will be liable to Class 4 contributions of 8% on their earnings falling into the band between £5,715 and £43,875 and 1% on earnings above £43,875.

Newly Self-employed?

Make sure you register for Income Tax and National Insurance purposes with HM

Revenue & Customs when you become self employed. If you require our assistance then please let us know.

25 Payment of dividends pre 6 April 2010 to avoid 50% tax charge

Currently, if you are a higher rate income tax payer, you will pay 25% of the net dividends you receive over to HM Revenue & Customs. After 5 April 2010, if the dividend (plus the tax credit of 1/9th thereof) is within your band of income above £150,000 you will pay 36.11%.

A suggestion for overcoming this situation is to pay a substantial special dividend before 6 April 2010 with a view to lending the net amount after tax back to the company. The company can then repay the loan over several years so that the inward cash flow of the shareholder is the same as it would have been if the dividends were taxed at current rates.

Care will be needed to document correctly the loan payments and to ensure that payments are not paid to third parties on behalf of the shareholder.

For example, suppose Mr Successful currently takes dividends of £90,000 net (£100,000 gross) from his company, and he has more than £150,000 of other gross income. He takes the view that the proposed 2010/11 tax rate will not be lowered for at least 5 years. What he can do is arrange for the company to pay a dividend of £450,000 net before 6 April 2010 (assuming distributable reserves of at least that amount). This will give rise to an income tax liability of £112,500 (25% of £450,000) payable on 31 January 2011. If we compare this with paying dividends of £90,000 p.a. for 5 years commencing in 2010/11, the tax will be £32,500 each year, giving a total tax liability of £162,500 as against the £112,500 mentioned above, i.e. a saving of £50,000.

What is the downside to this? Obviously the higher rate tax on the dividends is payable sooner, but, at current interest rates the effect is likely to be relatively small, especially for a company with cash in the bank.

Tax rates could fall below their current level over the next five years and you could be worse off. We would suggest that it is not much of an exaggeration to say that you are more likely to see a flying pig, even if you are both awake and sober however.

Also bear in mind that if you are stripping out the reserves of the company, this could have a negative impact, if for example, you are seeking to obtain credit facilities.

There are two other points which are worthy of attention:

- From an inheritance tax perspective, unless care is taken, the sum due to the individual shareholder on loan account will not normally benefit from 100% Business Property Relief on his death, although the surviving spouse exemption may help overcome this.
- In his Will the individual may have left his shares to one person, e.g. a son working in the company, and the residue of his estate to another, e.g. a daughter who is not. The minute the dividend is voted he will have shifted value from one to the other, in the event of his death before the loan is repaid to him.

Benefits In Kind

26 Company Cars

Do not forget that the benefit is normally affected by the “applicable carbon dioxide emissions figure” for the car.

The benefit is determined as a percentage of the list price of the car, with the percentage being determined by the theoretical emissions figure for a car of that type.

To qualify for a benefit of the minimum 15% of the list price, the emissions must not exceed 135g/Km for 2009/10.

For each whole 5g/Km by which they exceed the lower threshold the % applied to the list price is increased by 1% to a maximum of 35% in respect of cars with emissions of 235g/Km or more.

From 6 April 2009 a 10% rate (13% for many diesel cars) applies to company cars with CO₂ emissions of 120g/km or less. These are known as ‘qualifying low emissions cars’.

Depending upon its emission level the percentage applied to the list price of many

diesel cars is 3% higher than that of a petrol car with a similar emission level.

Look at the car benefit examples in the Appendix at the back of this newsletter and you will get a feel for what this is all about. Apart from anything else, you will note that the taxable benefit in respect of an automatic can be much greater than that arising from a similar model with a manual gearbox.

If you are a director or employee, you may wish to check the tax consequences with us, before you make your choice of car. Furthermore, if you have responsibility for the purchase of company cars, be careful what you impose on the users. They may be disgruntled if their income tax liability is substantially greater than it need have been.

Also, remember that some small cars, particularly small diesels, now qualify for 100% capital allowances, i.e. the cost can be written off in one year. Most of these are very basic however and this limits their attractiveness.

27 Fuel for Company Cars

As indicated above, the benefit arising from the provision of a car is already assessed according to the CO₂ emissions. The same principle is applied to the fuel benefit.

As with car benefit it is first necessary to establish the percentage (ranging from 15 to 35) applicable to the particular car. This percentage is then applied to a fixed sum of £16,900 (2009/10) in order to arrive at the notional benefit in kind. If, for example, a mid-range car has an emissions percentage

of 25%, the benefit will be 25% of £16,900 i.e. £4,225. If the car user is a higher rate taxpayer the annual tax cost of having private fuel provided will be 40% of £4,225 which equals £1,690. This amounts to approximately 340 gallons of fuel at £1.10 per litre. At, say, 27.5 miles per gallon this represents an annual private mileage of 9,350.

In this example therefore the individual will be better off paying for his own private

fuel if he does less than 9,350 private (including home to work) miles p.a.. The majority of those provided with company cars are likely to be in this category, unless they commute long distances or are

28 Authorised Mileage Rates

Employers may reimburse specified amounts per business mile driven in a privately owned vehicle without causing the director or employee concerned to incur a tax charge, as follows:-

- Cars
 - First 10,000 miles 40p
 - Thereafter 25p
- Motorcycles 24p
- Bicycles 20p
- Passenger 5p per passenger

You should consider whether it is better for you to own the car yourself and charge the company for business mileage at the rate of 40/25p per mile. If you require an answer on this point we have a piece of software which we can use to do some of the calculations.

Apart from the tax calculations the position will depend on whether or not it is your personal company which is providing the car and/or what effect it will have on your salary. There is also the question of financing the car. It is complicated, but it may be a good time to review the position.

If you want some help please let us know. We will then tell you what information we need.

29 Provision of Vans to Employees

If a van is used privately, other than for incidental private use, a substantial tax liability can arise for the employee and an employer's national insurance liability also arises.

passionate followers of some distant football club.

VAT registered businesses are also able to recover Input VAT on the fuel element of the Authorised Mileage Rate paid to employees, provided that the employee produces a VAT invoice for fuel purchased in the period covered by the claim as well as his or her detailed mileage claim. The fuel type and engine size of the employee's vehicle also have to be recorded.

The advisory fuel rates from 1 December 2010 are :-

Engine size	Petrol	Diesel	LPG
1400cc or less	11p	11p	7p
1401cc to 2000cc	14p	11p	8p
Over 2000cc	20p	14p	12p

The rates are to be reviewed twice a year and any changes will take effect on 1 June and 1 December. H M Revenue and Customs will also consider changing the rates if fuel prices fluctuate by 5% or more during each six month period. Before making a claim please check the HMRC website.

The deemed benefit is £3,000 plus a further £500 if fuel is provided for private journeys. Thus the tax liability for a 20% taxpayer would be £600 plus a further £100 for fuel. Fuel benefit will be increased to £550 from 6 April 2010.

The employer will have a Class 1A national insurance liability of £384 per van plus £64 if fuel for private motoring is provided.

The £3,000 benefit is equivalent to a car costing £20,000 that is taxed at the 15% rate. Vans, if taxable, can no longer be viewed as the tax efficient perk that they have previously been.

HM Revenue and Customs consider that incidental private use includes:

- Home to work travel
- Taking an old mattress or other rubbish to the tip once or twice a year
- A regular slight detour to stop at a newsagent on the way to work
- Calls at the dentist on the way home

It is also clear that incidental private use is both in quantity, e.g. only a few days a year, and quality, e.g. exclusive use for a complete week would not be insignificant. Any use, other than commuting, must be intermittent and irregular.

Examples of what are not incidental private use are:

- Using the van to do the supermarket shopping each week
- Taking the van away on a week's holiday
- Using the van for social activities

HM Revenue and Customs have indicated that, if they are reviewing this, they will take into account whether the family concerned have another motor vehicle to be used for private purposes.

Employers have an obligation to submit correct forms P11D and can be liable for penalties if the forms are incorrect.

Employers need to ensure that their contracts of employment permit only incidental private use, as defined by HM Revenue and Customs.

Records should be maintained for all employees who have use of a van.

The contractual arrangements should set out what is to happen if the employee exceeds the incidental private use and tax and national insurance charges arise together with penalties. The employee may have to agree to reimburse the employer, but if he or she has left the employment before the problem becomes apparent, it will presumably be very difficult to recover from him or her.

If a van is used for a small excess over the "incidental" threshold, HM Revenue and Customs take the view that it is not possible to make a reimbursement and avoid a taxable benefit arising.

There is also a question of what is a van. Some double cab pickups qualify and others do not. If a vehicle is not a van, it is normally a car and greater taxable benefits may arise. The treatment for benefits purposes is in line with their treatment for VAT. The Revenue have produced a list showing whether they qualify as a van or not. Visit the normal Revenue site at www.hmrc.gov.uk and use their search engine for "car derived vans".

Shared vans can also create a problem. The taxable benefit in kind, if one arises, is apportioned in the ratio of the respective usage of it by the individuals.

Van benefits are likely to continue to be an area of Revenue focus as Inspectors ensure that benefits are reported in full in those cases where the conditions for exemption are not met.

If a van is seen in a supermarket car park by a Revenue official, one imagines that a

taxable benefit in kind will be alleged and pursued. The employer's name shown on the van and the registration number will be used to progress this.

EMPLOYERS

30 Employers' End of Year Returns

The rules concerning end of year Returns are strict and the position may be summarised as follows:

Form P35 (Annual Statement Declaration and Certificate) should be submitted by 19 May. Almost all Employers are now required to file their Annual Return on line. The form states that you may be charged a penalty if your return is received late. See below re. penalties and interest.

Forms P11D (Expenses and Benefits in Kind) should be submitted and a copy issued to the employee concerned by 6 July 2010 for all Directors (irrespective of earnings) and employees earning over £8,500 pa (including expenses and benefits in kind) in respect of whom any of the headings on the form applies. Again penalties may be imposed if there is delay. If you require our assistance with the completion of the forms please forward them promptly with the appropriate information. See below re. penalties.

Forms P60 should be issued to employees by 31st May 2010.

Summary of Penalties Which May Arise

The penalties for non-compliance are brought within a unified penalty code for failures relating to a range of taxes and the intention is that the new code will apply to obligations to notify that arise on or after 1 April 2009. Details of the principles of the

new regime were set out in our Autumn 2008 Edition of Financial Perspectives, and if you would like a copy then please let us know.

Interest

Please remember that interest will be charged on any payment of PAYE/NIC and tax deducted from sub-contractors which is paid after 19 April following the tax year. If you are not subject to the mandatory electronic payment rules and you post your payment or pay cash, you must therefore ensure that you clear up your outstanding liabilities for 2009/10 by 19 April 2010 if you wish to avoid a charge to interest.

If you pay by an approved electronic payment method the relevant date is slightly later.

Form 42 must be submitted by 6 July 2010 if shares in a company have been issued to or transferred to an employee during the year ended 5 April 2010. This applies to most acquisitions of shares by someone who is a director or employee. Client companies should ask us for advice at an early date if there have been any share movements in the year, even if they are considered to have been at arms length prices. Changes in shareholders rights may also need to be reported. Penalties will apply if these forms are submitted late.

31 Time Limit for Paying Employees' (Including Directors') Remuneration

We would remind you of the rules for claiming, as a business expense, tax relief on remuneration, e.g. bonuses, paid after the end of an accounting period.

The employer may still claim a deduction in respect of remuneration for the year in which it is earned even though that employee will not be subject to tax thereon until the year of payment. In order to qualify for relief in the accounts for a particular year the remuneration must be paid, and consequently subjected to PAYE, within 9 months of the end of that year.

For example, remuneration for the year ended 30 June 2009 must be paid by 31

March 2010; otherwise the employer's tax relief will be deferred and given in the year in which the remuneration is actually paid.

Please note that under current accounting standards, it is strongly recommended that the intention to pay the bonuses after the end of the financial year is minuted by the directors during the financial year. Otherwise it is arguable that the obligation to pay the bonuses did not arise until after the year end and that no liability in respect of the bonuses should be provided in the Accounts.

Please consider whether this applies to you and/or your spouse.

32 National Insurance Contributions on Benefits in Kind

Employers are reminded that employer's national insurance contributions (Class 1A) are payable on most benefits in kind.

You must, for the year ended 5 April 2010:

- i) Identify any employees in respect of whom a benefit arises and complete forms P11D.
- ii) Complete a form P11D(b). This can be done in conjunction with completion of forms P11D.
- iii) Class 1A NIC payments by post must be paid by 19 July 2010. If you pay by an approved electronic payment

method, this deadline may be slightly extended.

We shall be pleased to assist should you require any help. If so please let us know in good time.

The form P11D(b) must be submitted by 19 July.

Shareholder directors should assess whether there is any advantage in scrapping some of their benefits and paying larger dividends instead. Also, where tax allowable expenses are paid to employees, dispensations should be obtained as items covered by a dispensation will not be liable to Class 1A NI Contributions.

33 Recovery of Statutory Sick Pay (SSP)

If a member of staff is sick and Statutory Sick Pay becomes payable to them, remember that you can recover it by deduction from your monthly PAYE/NIC liability to the extent that the SSP for the month exceeds 13% of the total employees' and employer's NI (excluding Class 1A on

benefits) payable for that month. Your Employers CD Rom which you should receive from HM Revenue & Customs includes a form E14(2010) which gives details of this and a quick repayment procedure where no PAYE/NI is due.

34 Professional Bureau Payroll Service

If you are responsible for running a payroll and operating PAYE/NIC in respect thereof, you may feel that there would be more profitable and/or enjoyable ways of employing your time in the forthcoming tax year. If so you may care to use our computerised service. This enables you to maintain a high degree of confidentiality without doing all the work yourself.

Moreover, it may assist you in meeting your obligation to file your annual PAYE declaration on-line and the requirement from 6 April 2009 to send your starter and leaver forms P46 and P45 on line, if you have 50 or more employees. For employers with less than 50 employees on-line filing of in-year forms will be

mandatory by April 2011. We have been operating this service for many years and would be pleased to provide further details of the service including a quotation based on the number of employees and frequency of salary payment.

For those using computerised payroll packages themselves, the annual software maintenance costs are saved and this can make a significant contribution towards the cost of using our payroll bureau (indeed, for many clients with monthly payrolls, a substantial proportion of the cost can be met by the saving in maintenance).

EMPLOYEES

35 Multiple or incorrect PAYE Coding Notices

Following the introduction of a new computer system, H M Revenue and Customs have announced that problems are arising with the 2010/11 PAYE Coding Notices. You may find that you are receiving Coding Notices for former employments, or duplicated employments/pensions. Some of the problems will lead to insufficient tax being deducted, others to overpayments of tax. Look out for the following:

- a coding notice does not relate to a current employment
- you have one job or private pension, but have received multiple coding notices
- you are a basic rate taxpayer, but have been given a D0 code (40%)

- state pension is not included or incorrect amount is shown in pensioners' tax codes
- married couples allowance being given to widows/widowers
- tax underpaid from previous years which has either already been paid or coded out in an earlier year, being included again
- personal allowances either incorrect or being omitted altogether

The codings will not take effect until the first payment day after 5 April and the Revenue will be reviewing and correcting codes in the meantime. If however you have received a Coding Notice and are unsure whether it is correct then please forward it to us for checking.

36 Income from Employment - Receipts Basis

This concerns those who are in employment as Company Directors or otherwise.

Your remuneration is assessed on you according to the year in which it is "paid" to you irrespective of the period in which it was earned. "Paid" has a wide meaning for this purpose and includes, inter alia, the voting of remuneration which is "made available" to the individual to be drawn subsequently.

It is vital to ensure that the timing of payment of remuneration is carefully considered so that tax allowances and lower rates for various years are utilised to maximum advantage. The effect on NI Contributions must also be considered.

Clients who are anticipating fees, bonuses or other remuneration for past or current years should consider whether steps should be taken to pay part or all of such bonuses to them on or before 5 April 2010 in order to fully utilise their personal allowances and basic (20%) rate tax band for 2009/10. If you are in any doubt about your position in this respect please advise us immediately.

For high earners, there is the question of whether a substantial bonus should be paid on or before 5 April 2010 in order to avoid the 50% rate (income over £150,000) or 60% rate (income between £100,000 and £112,950) in 2010/11).

37 Employment Related Securities

Readers are reminded that they should immediately seek professional tax advice if they come into possession of shares in the company which employs them or a related company, e.g. a holding company. If the shares have restrictions, e.g. they must be sold on leaving the company's employment, it may be necessary to make an election within 14 days of their acquisition if a charge to income tax (rather

than capital gains tax) is to be avoided on a subsequent sale of the shares or lifting of the restriction. Essentially, if you elect to pay tax on the higher unrestricted value at the time of acquisition, the whole gain realised later will be subject to capital gains tax. This means that under the current Capital Gains Tax Regime tax will potentially be payable at a maximum rate of 18% rather than 40% or even 50% on an income tax basis.

COMPANY DIRECTORS

38 Personal Service Companies – IR35

A director whose personal service company is subject to the IR35 rules has just two weeks from the end of the tax year to calculate any deemed salary. The Revenue concede that this timetable is tight, so by concession they will allow personal service companies to submit estimated figures for the amount of PAYE and national insurance due on the deemed salary.

However, the employer's Annual Return must be submitted by 19 May showing any actual remuneration paid during the year plus the estimated amount of the deemed payment, with national insurance and PAYE correctly calculated on these figures. The company must also make a provisional payment of the tax and NICs due and tell the Collector of Taxes that it is based on an

estimated calculation. A supplementary form P35 must be submitted with the final figures as soon as possible.

Interest on underpaid PAYE and NICs will run from 19 April, but penalties will not be charged if the above procedures have been complied with and the final figures are

provided by 31 January following the tax year end.

You should also note that an election to offset deemed salary for 2009/10 against dividends should be made when the individual's 2009/10 Tax Return is submitted and must be made by 31 January 2016.

39 Service Companies – Self Assessment Tax Returns

A new question was included in the 2008 and 2009 personal Self Assessment Tax Returns for all of us on page TR4.

The question asked individuals to include details of the total salary and dividends, including the tax credit, that the individual received from a company which provides the services of the individual concerned. The taxpayer provided his or her services through a service company if:

- He or she performed services (intellectual, manual or a mixture of both) for a client(s); and
- the services were provided under a contract between the client(s) and a company of which he or she was at any time during the tax year a shareholder; and
- the company's income was at any time during the tax year, derived wholly or mainly (that is, more than half of it) from services performed by the shareholders personally.

This is an extremely wide definition and could for example include a company set up by say four accountants which has a small number of employees, but where the services charged to the clients for the work carried out by the shareholders was only say 55% of the total fee income of that practice. If the company has a multitude of clients and is working under normal engagement terms between an accountant and its clients, it will be well outside the normal IR35 net, but each of the shareholders should have ticked this box and completed details of their dividends and salary from that company in the appropriate section, it would seem.

It seems likely that the 2010 Return will include a similar question, so if you do fall into this category, and wish to discuss the matter further then please contact the person who normally deals with your affairs.

SOLE TRADERS AND PARTNERSHIPS

40 Sole Proprietors and Partnerships – Having a Bad Year?

Under self-assessment you will be assessed to Income Tax for 2009/2010 on the basis of profits earned in your accounting year ended in the year ended 5 April 2010. Assuming an accounting date which coincides with the end of a calendar month, this could be the year ended 30

April 2009 at the earliest or the year ending 31 March 2010 at the latest.

If you have a 31 March year end, this paragraph will be of no concern to you, but, if, for example, you have a 30 April year end and it looks as though the year

ending 30 April 2010 will be much worse than the year ended 30 April 2009, you need to consider whether you should bring forward your year end and make up accounts to 31 March. This could be even more relevant if you are thinking of ceasing to trade in the near future.

Generally the position is that most traders are better off having an accounting date early in the tax year, e.g. 30 April, if their profits are on a rising trend. Equally,

where profits are on a falling trend, a 31 March accounting date will normally be preferable. In this connection, it is the longer term trend which is more important than a temporary “blip”.

If you think a change to your accounting date may assist you, please have an early word with the partner/member of staff responsible for your affairs, as the general principle set out above will not necessarily apply to every situation.

TRUST AND ESTATES

41 Discretionary Trusts

From 6 April 2010 the trust rate on income other than dividends will increase to 50% and the dividend trust rate will be 42.5% for any income above £1000 from a discretionary trust.

Distributions of income by trustees of discretionary trusts are treated as received net of tax deducted at the trust rate and that tax must have already been borne by the trustees. The tax can be covered by a ‘tax pool’ comprising tax already paid by the trustees.

To make best use of any unused tax pool brought forward it might be sensible, other considerations being equal, to make income distributions before 6 April 2010, rather than after otherwise the trustees could be reducing the amount that may be distributed.

Also consider the personal tax position of the potential beneficiary. Other factors being equal it may be better to make an income distribution to an unmarried minor who can obtain an income tax repayment rather than their parent who is already paying tax.

Settlor Interested Trusts

Rules were introduced to discourage individuals putting assets in to a trust from which they, or their spouse could benefit, and profiting from a lower rate of tax as a result. All of the income of such trusts is taxed as the settlors. The original premise for this was that the rate of tax being paid by the trust was lower than the rates being paid by the settlor. However the new 50%

rate will mean that many discretionary trusts will pay a higher rate than the individual. It may therefore be worth considering converting a trust to a settlor interested trust although the broader implications, including inheritance tax implications, would need to be considered. Conversion to an interest in possession trust could also be an option.

42 Capital Gains of Trusts and Estates – Rate of Tax and Annual Exemption

Trustees and Executors should note that a capital gains tax rate of 18% applies to trusts and estates of deceased persons for the year ended 5 April 2010.

The estate of a deceased person continues to benefit from the annual exemption applicable to an individual (currently £10,100) for the year of death and the two

subsequent tax years. Thereafter there is no exemption for the estate.

The standard annual exemption for a trust is £5,050 for 2009/10, but this may be reduced where the same individual has set up more than one trust. This includes trusts relating to life assurance policies.

43 Deceased Persons' Estates - Income Distributions

Executors and beneficiaries of the estates of deceased persons are reminded that, in many circumstances, the income of a beneficiary from an estate for a particular tax year will be determined by the amount paid to the beneficiary in that year. Accordingly the executors have some scope for determining the period in which estate income is assessed.

This could have implications for beneficiaries with unused personal allowances and those with higher tax rate liabilities in one year, but not in another. Executors should therefore review the position in order to see whether any income distributions should be made by 5 April 2010.

MONEY LAUNDERING REGULATIONS

44 Changes in Money Laundering Regulations

There have been various changes affecting accountants, book-keepers, solicitors, etc., which took effect in December 2007. We may from time to time have to request some longstanding clients to call at one of our offices with passports and an up to date utility bill for their private residence. We apologise for any inconvenience that this may cause and we will do all that we can to minimise the occasions when this becomes a requirement.

We have communicated previously about some of the issues which can arise and can create the 'proceeds of crime' triggering off aspects of this legislation. This can include:

(a) monies received twice by a business from a customer in error when the

overpayment is not repaid or the customer's agreement to it being carried forward obtained.

(b) VAT errors located by us during our work on annual accounts which are not corrected within a reasonable time of our pointing out the details.

(c) a benefit obtained by an individual through fraud or theft.

(d) benefits (in the form of saved costs) arising from a failure to comply with a regulatory requirement where that failure is a criminal offence.

This is far from an exhaustive list, of course.

APPENDIX

CAR BENEFIT COMPARISON

EXAMPLES

Make and Model	List Price £	CO2 Emissions g/Km	Taxable Benefit 2009/10 £
Audi A4 2.7 TDI (190PS) SE Saloon 4dr Multitronic 2698 cc **	28,080	167	6,739
BMW 525i 3.0 SE Saloon Auto 4dr 2996 cc	31,935	182	7,664
Ford Mondeo Ghia 2.0 145 Saloon 4dr 1999 cc	21,825	189	5,456
Jaguar XKR 4.2 (420 BHP) Coupe 2dr 4196 cc Auto	69,050	269	24,168
Mercedes E-Class Sports Saloon ** 3.0 TD E280 CDI Sports Saloon 4dr 2987 cc 7G-Tronic	35,983	199	9,715
Vauxhall Vectra Design 1.8i VVT (140ps) Design Saloon 4dr 1796 cc	18,351	173	4,037

Comparison of diesel v. petrol and manual v. automatic based on the BMW SE Coupe.

Make and Model	List Price £	CO2 Emissions g/km	Taxable Benefit 2009/10 £
BMW 2.0 320i SE Coupe 2d 1995 cc	26,100	151	4,698
BMW 2.0 320i SE Coupe 2d 1995 cc auto	27,560	156	5,236
BMW 2.0 320d SE Coupe *	28,355	128	5,103
BMW 2.0 320d SE Coupe *	29,815	145	5,963

* includes diesel supplement

** if registered after 1 January 2006 a diesel supplement will apply and the benefit will increase accordingly.

Notes: 1. The above list prices exclude any additional equipment. The cost of such equipment would need to be taken into account.