



FINANCIAL PERSPECTIVES

END OF TAX YEAR GUIDE SPRING 2011

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.

PEARSON MAY

CHARTERED ACCOUNTANTS & CHARTERED TAX ADVISERS

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Introduction

As we move towards the end of the 2010/11 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

2010 was a busy year with a change of Government and two Budgets. The new 50% top rate of income tax was introduced and the rate of Capital Gains Tax was increased for many to 28%. HM Revenue & Customs continue to clamp down on what they regard as unacceptable tax avoidance with complex anti-avoidance provisions. However, standard year end planning issues, whilst not groundbreaking, can reap very significant benefits over the passage of time and it is these that we aim to set out in this newsletter.

Action Required

Our table of contents indicates those items where action may be required by 5 April 2011(*) or by 31 March 2011 in the case of a limited company (**).

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.

End of Tax Year Guide – March 2011

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* **Action may be required by 5 April 2011**

** **Action may be required by 5 April 2011 or 31 March 2011 in the case of a limited company**

PERSONAL TAX

Capital Taxes

1 Capital Gains Tax (CGT) - Annual Exemption

For 2010/11, 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 either 10%, 18% or 28% (see 2 below). Please note that these rates do not apply to companies. See Section 52 below for executors and trustees.

Some clients with large share portfolios and shares showing substantial gains may 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.

2 CGT Rates of Tax

A rise in the rate of capital gains tax was widely anticipated in the June 2010 Budget and many breathed a sigh of relief that the increase was limited to 28%, and only affected higher rate taxpayers.

In his Budget speech the Chancellor of the Exchequer said that lower and middle income savers who pay income tax at the basic rate would continue to pay tax on their capital gains tax at 18%. Taxpayers on higher rates would pay 28% on their capital gains from midnight on 22 June 2010.

Understandably a basic rate taxpayer may be under the impression that they will only be liable to capital gains tax at a rate of 18%. This is not necessarily the case and such taxpayers should read on so that they do not end up with unexpected liabilities at the end of the tax year.

For gains arising on or after 23 June 2010, if total taxable income and gains are less than £37,400 then a rate of 18% will continue to apply to the gains.

If total taxable income and gains are above £37,400 then a rate of 18% will apply to that part of the gain below £37,400

assuming that the gains form the top band of the income, and 28% on the amount in excess of £37,400. This is clearer by way of an example.

Bill's taxable income for 2010/11 is £27,400 and he makes a gain after 22 June 2010 of £40,100. After deducting the annual exemption of £10,100 the gain is £30,000. The first £10,000 of the gain is taxed at 18% (taking income plus gain to £37,400, being the basic rate tax band

limit) and the remaining £20,000 is taxed at 28%.

Gains arising before 23 June 2010 will continue to be liable to capital gains tax at 18% and will not be taken into account in determining the rates to be charged after 22 June 2010.

Losses and the annual exemption may be deducted in the way which minimises the tax due.

3 CGT Entrepreneurs' Relief

There was some good news announced in the June 2010 Budget for those holding business assets which qualify for Entrepreneurs' Relief, whereby qualifying gains were taxed at an effective rate of 10%. Despite the differing levels of capital gains tax now applying, a flat rate of 10% will apply to gains on disposals qualifying for Entrepreneurs' Relief. The Entrepreneurs' Relief was originally subject to a lifetime limit of £1 million, with an increase to £2 million announced with effect from 6 April 2010. A further increase was announced on 22 June 2010 up to £5 million.

An individual will be able to make claims for relief on more than one occasion, up to a lifetime total of £5 million of gains. Gains in excess of £5 million will be charged at the normal 28% 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.

4 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.

5 *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 2010/11 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 2010 to 5 April 2011 inclusive.
- b) Annual Gift Allowance of up to £3,000 for 2010/11. This exemption is applied to larger gifts not covered by a) above. It can be carried forward for one year only to 2011/12 if unused.

Income Tax

6 *Tax Returns for year ended 5 April 2011*

Self Assessment Tax Returns for the year ended 5 April 2011 must be submitted:

- by 31 October 2011, if a paper Return is to be filed
- by 31 January 2012, 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**

- c) Annual Gift Allowance for 2009/10 of up to £3,000 to the extent that it was not fully utilised in that year. Any balance unused at 5 April 2011 cannot be carried forward to 2011/12.

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. We can provide an example of the information required by HM Revenue & Customs as part of the Inheritance Tax Account (form IHT 403) upon request.

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 2009/10. 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.

7 Tax Changes which occurred on 6 April 2010 and affected high earners

A new additional rate of tax of 50% on income in excess of £150,000 was 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 both 2009/10 and 2010/11. This is covered in more detail in the section headed 'Pension Premiums for High

If your income is subject to PAYE and you wish to have underpaid tax for 2010/11 collected via your PAYE code, the following conditions must be met:

- (i) the underpayment of tax cannot double the amount of tax collected at source. For example, if you pay £200 of tax at source the maximum underpayment which can be collected via your PAYE code is £200.
- (ii) Subject to (i) above, the maximum amount of underpayment which can be collected via a PAYE code is £2,000.
- (iii) Your Return must be submitted by 31 October 2011 if on paper or 30 December 2011 if filed electronically.

Otherwise any underpayment will need to be paid by 31 January 2012.

Collecting an underpayment via the PAYE code can also have the consequential effect of reducing payments on account due for the following tax year.

Earners - Anti-forestalling measures at 18 below.

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 £2,050, thus the effective cost of the £15,000 pension contribution/gift aid payment would be £6,410.

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 before 5 April 2011 particularly if he is likely to be a basic rate taxpayer in retirement when the

money is returned as a pension. It will be possible to backdate Gift Aid payments from 2011/12 to reduce adjusted net income to below £100,000, via the 2011 Tax Return, if required.

8 *Gift Aid Payments*

Any clients who are higher or additional rate taxpayers should keep a detailed schedule of all payments they make, which are covered by the Gift Aid regulations, during the course of each tax year as, of course, a further 20% of the grossed up sum can be claimed as tax relief for higher rate taxpayers, and 30% for additional rate tax payers.

With Gift Aid single payments as well as regular payments can attract the 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. For additional rate taxpayers this relief is increased to £30.

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.

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 donations that we all make from time to time.

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.

A note of caution, however, for clients with lower income, as one must pay sufficient income or capital gains tax to cover the tax the charity is reclaiming on your donation. If you haven't then you may be required to pay any shortfall in tax to HM Revenue & Customs. If you don't think that you have paid enough tax this year, you may be able to carry back your donation to the previous tax year if this helps. Please ask us for advice.

9 *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, 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.

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 2011.

Savings and Investments

10 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 2010/11 is £10,200 of which up to £5,100 can be deposited into a cash ISA.

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

In order to subscribe for an ISA you must be 18 or over and resident and ordinarily resident in the UK. Note, however, that cash ISAs may be opened by 16 and 17 year olds.

11 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 2011 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.

12 Dormant Bank and Building Society Accounts

The Dormant Bank and Building Society Accounts Act 2008 allows banks and building societies to transfer funds in dormant accounts (an account with no transactions for at least 15 years) into a “reclaim account”. Funds within this account will then be used for social or environmental purposes. However, the

account holder does have the right to reclaim their money at a later date. If you do hold an account which you rarely use, it might be as well to ensure that you do make use of it periodically, as otherwise you may find that the money has been transferred.

13 Bank and Building Society Accounts – Introductory Bonuses

It is now frequent practice for banks and building societies to offer attractive headline rates to new investors for an introductory period. Do be aware that the introductory bonus will be for a limited period only, say 12 months, with the rate then dropping significantly. For example, one account today is offering a rate of

2.6%, of which 2.1% is an introductory bonus for 12 months. Assuming no other change in rates, the interest rate on this account will fall to 0.5% after 12 months. With the poor returns available, investors need to be vigilant that their money continues to work for them and rates kept under frequent review.

14 Financial Services Compensation Scheme

The protection available for investors under the Financial Services Compensation Scheme (FSCS) increased from its previous limit of £50,000 to £85,000 per person, per authorised firm from 31 December 2010.

For the sake of clarity we would confirm that the £85,000 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 £85,000 protection applies across the group.

Tax Credits

15 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 2011, some credit entitlement for the early part of 2011/2012 will be lost.** Claim Form TC600 is the relevant form.

www.direct.gov.uk/taxcredits has a comprehensive section on Tax Credits and there is a Tax Credit Helpline on 0845 3003900. You cannot download it or order it online.

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 (reducing to £41,000 from 6 April 2011) 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 £13,000 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 above 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 income. To reduce the number of overpayments of either type of tax credits, the first £10,000 (previously £25,000) of any increase in income is disregarded. Currently, any fall in annual income is taken into account when calculating the amount of tax credit entitlement, however the 2010 Budget introduced an income

disregard of £2,500 for falls in income from April 2012.

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.

No Child Tax Credit will be available from April 2011 for families earning more than £40,000 per year, and the baby element is also to be removed.

Individuals who made a claim for 2010/11 should receive a renewal form in April 2011. If a reply is required then **this must**

16 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 is currently £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

Miscellaneous

17 Pension Provision for 2011/12

With effect from April 2011 the Annual Allowance for pension contributions is being reduced from £255,000 to £50,000.

be completed by 31 July 2011 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 2011, with actual income to be notified by 31 January 2012.**

If you require our assistance in completing the claim form or advice as to whether you are likely to qualify, please contact us as soon as possible.

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 The Pension Service on 0800 991234, or visit the website at www.direct.gov.uk/en/Pensionsandretirementplanning/PensionCredit/index.htm. 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.

The lifetime allowance, currently £1.8 million, will be reduced to £1.5 million from 2012/13. You will continue to get tax

relief at your marginal rate of tax, and there is a new rule which allows the carry forward of unused relief for up to three tax years. The current year's relief is always used first, and then any unused relief from the previous three years can be used, with the earliest year's allowance used first.

This is not dissimilar to the old rules for pension relief, which were abolished several years ago to make way for pension simplification!

A crucial point which should not be overlooked is that clients must take great care to check the timing of their pension input periods. The pension input period is specific to a member and a scheme. A scheme may have different input periods for different members, and a member may have different input periods under different schemes.

The date the pension input period ends will dictate the annual allowance available, and broadly speaking if a scheme's input period ends in a tax year then any contributions made in that input period are counted towards the contributions made for that tax year. Particular care needs to be taken if you pay contributions at

irregular intervals. If for example you had £100,000 at your disposal and you decided to pay £50,000 on 4 April, and a further £50,000 two days later on 6 April, although they are in different tax years they could be within the same input period, and thus exceed the annual allowance.

There are transitional rules which cover the scenario where a pension input period which ends in 2011/12, had already started as at 14 October 2010 (the date of the announcement), and will cover cases where individuals may have already made pension savings of more than £50,000 for that period.

It may be possible for schemes to align input periods with the tax year.

The transitional rules apply in addition to the 2010/11 anti-forestalling rules, which are in themselves extremely complex.

We would recommend that great care is taken if your contributions are approaching £50,000 and that advice is sought from ourselves in conjunction with your pension advisers.

18 Pension Premiums for High Earners - Anti-forestalling measures

Our Autumn 2009 Edition of Reporting News made mention of the restriction on tax relief for pension contributions made by individuals with higher incomes, due to be introduced from 2011/12. Although the rules for pension provision have since been amended (see 17 above) and the planned restrictions for 2011/12 onwards are not going ahead, a special annual allowance charge, introduced to discourage members of pension schemes from increasing their pension savings prior to 2011/12 in advance of the new restrictions, remains in place for 2009/10 and 2010/11.

To prevent people from taking advantage of higher rate relief in the interim period, anti-forestalling measures have been introduced, and since 9 December 2009 this includes anyone with income of £130,000 and above in 2010/11 or either of the two previous years. 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. In certain circumstances this limit may increase to a maximum of £30,000, but this would need

to be confirmed by us in the particular case as the rules are complicated and illogical.

Where individuals have income around this level, and are making pension contributions (or employers are making contributions on their behalf) then careful

19 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 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 are less than £2,000 for the tax year.

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, if they want to

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.

continue to benefit from the remittance basis. 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 £1,000, 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.

20 Furnished Holiday Lettings – Changes to Tax Treatment

A furnished holiday lettings (FHL) 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.

Following a consultation, the proposed changes have been published although we will need to wait until the Budget on 23 March to see whether any further changes are made.

The specific changes proposed are:-

- The special rules for furnished holiday lettings businesses are extended to properties outside the UK but within the European Economic Area (EEA).
- To qualify as an FHL the property will have to be available for letting to the public for 210 days (currently 140 days), and actually let for 105 days (currently 70 days). The revised thresholds will be introduced with effect from 6 April 2012, giving owners time to prepare.
- Where multiple holiday properties are owned then the above rules will be applied on an average basis, and not on a property by property basis. The averaging election must be

carried out separately for properties in the UK and properties in the EEA.

- With effect from 6 April 2011 losses on a FHL will only be able to be set against profits from the same FHL business.
- Once a property qualifies as an FHL in one year then, if it does not meet the 105 days letting condition, a period of grace will be allowed with the owner electing to treat the property as continuing to qualify for up to two later years.
- The favoured capital gains tax treatment, including roll-over relief, hold-over of gains on gifts and Entrepreneurs' Relief will all continue.

If, therefore, you are planning significant expenditure which will result in a loss on the FHL then you should consider whether to bring forward the expenditure to before 6 April 2011 in order that the loss may be allowed against general income in 2010/11.

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 2010/11 there is an annual investment allowance (AIA) of up to £100,000 p.a. where expenditure qualifies for a 100% allowance. It was announced in the Budget that the AIA will

be reduced to £25,000 from April 2012.
(See Section 23 re. Capital Allowances)

21 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, individuals buying such a home, typically for holiday use, will 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.

BUSINESS GENERAL

Miscellaneous

22 Reduction in Corporation Tax Rates

Good news for companies is the reduction in the standard rate of corporation tax from 28% to 27% from 1 April 2011. The small

companies rate also falls by 1% from 21% to 20%.

23 Paying Corporation Tax Electronically from 1 April 2011

From 1 April 2011, companies are required to pay all Corporation Tax liabilities (including any interest and penalty charges) electronically and payment by post will no longer be accepted.

There are a number of ways that payment can be made and HM Revenue & Customs

("HMRC") count all of the following payment methods as electronic:

- Direct Debit;
- Debit or credit card payment over the internet ("BillPay" service);
- Paying by internet or telephone banking, or BACS Direct Credit;
- CHAPS Transfer;

- Bank Giro credit at your bank branch (by cash or cheque);
- Payment at Post Office (by cash, cheque or debit card).

It is worth noting that most of the above payment methods require you to provide the reference number shown on the company's payslip for the accounting period in question. The reference is unique to the accounting period so it is important to use the correct reference to ensure HMRC allocate the payment to the correct accounting period. Additionally, if you are paying at the Post Office or your Bank, you need to take the payslip with you otherwise you may be charged a fee.

Even if the company has no liability to Corporation Tax for a certain period, you are still required to inform HMRC of this before the due date for payment (usually 9

24 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,

months and 1 day after the end of the accounting period). This can be achieved by filing the company's Corporation Tax Return before this date, filling in an online form at

www.hmrc.gov.uk/payinghmrc/ct-nil.htm, sending a signed payslip for the correct accounting period marked 'NIL due' or phoning HMRC on 01236 785057.

More information about paying Corporation Tax electronically and the various methods available can be found at www.hmrc.gov.uk/payinghmrc/corporationtax.htm.

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 call the original office that contacted you 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.

25 *Paying PAYE Electronically - make sure you use the correct reference number*

When paying PAYE and National Insurance liabilities electronically, it is very important to make sure that you use the correct reference for the month/quarter in question. If an incorrect reference is used, the danger will be that either the payment being made will be credited to an incorrect tax year or worse still will be credited to an account other than yours or be posted to a “suspense” account within HMRC itself.

Information on how to construct the correct PAYE reference for the particular payment concerned can be found at:

www.hmrc.gov.uk/payinghmrc/paye.htm

HMRC also have a “reference checker” which can be used to check the validity of the reference to be used for the current PAYE month or quarter. This checker can be found at:

www.hmrc.gov.uk/tools/payinghmrc/paye.htm

If you have any queries, please do not hesitate to contact us.

26 *Visits from HM Revenue & Customs*

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

27 VAT Returns – Online Filing

For VAT periods commencing 1 April 2010 the online filing of VAT Returns payment of VAT electronically became compulsory for existing VAT registered businesses with an annual VAT exclusive turnover of £100,000 or more, and all

28 Capital Allowances

Capital allowances are designed to give relief for the cost of some capital expenditure against business profits.

The annual investment allowance (AIA) available in respect of expenditure in plant and machinery (other than cars) increased from £50,000 to £100,000 after 5 April 2010. This 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.

with as much notice as possible will be vital.

As part of the changes from 6 April 2010, there is 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.

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.

businesses newly registered for VAT on or after that date, irrespective of turnover.

From 1 April 2012 all businesses will have to submit their VAT Returns on line.

It was announced in the June 2010 Budget that the AIA is to be reduced to £25,000 from April 2012, so if you are planning significant expenditure in the not too distant future you may wish to contact us sooner rather than later in order that the timing may be considered and maximum tax relief is obtained.

Relief may be restricted where related activities are under common control.

Writing down allowances are available at a rate of 20% (or 10% for integral features) on the remaining balance, dropping to 18% and 8% respectively from 6 April 2012 (1 April 2012 for companies).

Allowances for Industrial Buildings and Agricultural Buildings will no longer be available after 6 April 2011 (1 April 2011 for companies).

29 National Insurance Contributions (NIC) from 6 April 2011

Employees

With effect from 6 April 2011 an employee who is not contracted out of the State Earnings Related Pension Scheme will pay NICs at a rate of 12% on earnings between £139 per week and £817 per week and 2% on earnings over £817. For monthly paid employees the band will be between £602 and £3,540 and for annually paid employees (including all Company Directors) it is between £7,225 pa and £42,475 pa. There is no maximum amount of contributions for an employee as the 2% rate applies to earnings above approx. £42,475 without limit.

Contracted out employees will pay 10.4% instead of 12% between £139 and £817 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 £136. NICs will be payable at a rate of 13.8% on earnings above £136 per week. For calendar monthly paid employees the 13.8% rate will apply above approximately £589 and for annually paid employees it will apply above £7,072. 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 £136 per week or £589 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 £102 per week to £139 per week would appear to gain a credit for NI retirement pension purposes without resulting in any payment of contributions by the employee.

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 be £2.50 per week from 6 April. Those unlikely to be earning more than £5,315 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 £5,315.

In addition, the self-employed will be liable to Class 4 contributions of 9% on

their earnings falling into the band between £7,225 and £42,475 and 2% on earnings above £42,475.

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.

30 National Insurance - Credits towards State Second Pension

In recent years the general trend has been to favour taking surplus profits from owner managed businesses out in the form of dividends rather than remuneration and bonus, largely due to the relatively high rates of national insurance contributions. The additional tax rates (for earnings and dividends) and the 1% hike in employers/employees NIC will undoubtedly increase the future costs of extraction for the most successful owner managers.

One should however remember that tax is not the only consideration. The opportunity for the taxpayer to make pension contributions will be restricted if remuneration is low. Employer

contributions are not subject to the same restriction. Other limits do however apply.

Another consideration is the effect of receiving dividends in place of earnings on eventual entitlement to the basic State retirement pension and the State Second Pension. As mentioned in 29 above, pay in the range of £102 per week to £136 per week gains a credit for the State pension purposes without there being any liability to pay Class 1 NICs. Furthermore for the purposes of the State second pension a director with remuneration of £7,072 (£136 per week) would be credited with earnings of at least £14,100 (based on the 2010/11 rates – the 2011/12 rates have not yet been published) on which State Second Pension rights would accrue at 40%.

Benefits In Kind

31 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 130g/Km for 2010/11.

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 230g/Km or more.

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.

There is currently an overall cap of £80,000 on the price of the car. This cap is to be abolished for 2011/12.

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.

32 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 £18,000 (2010/11) 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 £18,000 i.e. £4,500. If the car user is a higher rate taxpayer the annual tax cost of having private fuel

provided will be 40% of £4,500 which equals £1,800. This amounts to approximately 300 gallons of fuel at £1.30 per litre. At, say, 27.5 miles per gallon this represents an annual private mileage of 8,250.

In this example, therefore, the individual will be better off paying for his own private fuel if he does less than 8,250 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 passionate followers of some distant football club.

33 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

A detailed mileage log of all business journeys must, of course, be maintained.

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.

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

34 Provision of Vans to Employees

If a van is made available to an employee for business travel and private use is prohibited other than for ordinary commuting, then no benefit arises.

If, however, 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.

The deemed benefit is £3,000 plus a further £550 if fuel is provided for private journeys. Thus the tax liability for a 20% taxpayer would be £600 plus a further £110 for fuel.

The employer will have a Class 1A national insurance liability of £384 per van

employee's vehicle also have to be recorded.

The advisory fuel rates from 1 March 2011 are :-

Engine size	Petrol	Diesel	LPG
1400cc or less	14p	13p	10p
1401cc to 2000cc	16p	13p	12p
Over 2000cc	23p	16p	17p

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 also consider changing the rates if fuel prices fluctuate by 5% or more during each six month period. In view of the recent level of increases in fuel pump prices HMRC have published new advisory fuel rates which took effect from 1 March. For one month from the date of the change employers may use either the previous or the current new rates as they choose.

plus £70 if fuel for private motoring is provided. This will increase in 2011/12 with the increase in the rates of national insurance.

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.

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

A mileage log is essential for all employees who have use of a van.

EMPLOYERS

35 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 online and 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 2011 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 2011.

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 arose 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 2010/11 by 19 April 2011 if you wish to avoid a charge to interest.

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

Penalties etc., can now apply to any late remittances during the tax year. In most cases one late remittance per tax year is not subject to this charge.

Form 42 must be submitted by 6 July 2011 if shares in a company have been issued to or transferred to an employee during the year ended 5 April 2011. 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.

36 Employers CD-ROMs

The usual Employers CD-ROM and/or paper Employer Annual Pack to finalise 2010-11 and start 2011-12 will no longer be issued. Instead a set of Basic PAYE Tools is available to download straight onto your computer, and, provided that you have downloaded the November update to your 2010 CD-ROM then they should be compatible. The download is available via the Business Link website, and as a result some information is no longer readily available on the HMRC's own website. Please visit

<http://www.businesslink.gov.uk/bdotg/action/home>.

From there go to the 'tax payroll and company information' and go to 'PAYE for employers'. Under News and Updates there is a link to 'Download free payroll software'. There you can read about and download the Basic PAYE Tools, which has replaced the CD-ROM.

37 PAYE Update – Code 0T

A major change has been announced by HMRC in respect of payments made to new employees and to employees after they have left. Broadly speaking from 6 April 2011, a zero allowance code (0T) should be operated on a non cumulative basis rather than basic rate (BR) in respect of:

- Payments made to an employee after they have left and had their P45 issued;
- Payments made to new employees who do not provide a P45, and do not complete a P46.

38 National Insurance Relief for New Local Businesses

From 6 September 2010 until 5 September 2013, new businesses outside of London, the South East and East of England can claim a holiday from National Insurance Contributions (NIC) for their first ten employees. Qualifying criteria must be met, but new businesses may be able to qualify for a reduction of up to £5,000 of the secondary (Employers) NIC on each of the first ten "qualifying employees". This could lead to a potential saving of up to £50,000. It will be available to new businesses, whether they are incorporated, sole traders or partnerships.

The criteria include:

- The holiday can apply where a person starts a new business outside of the excluded regions between 22 June 2010 and 5 September 2013.
- All employees (including directors) count as qualifying employees under the scheme, irrespective of their level of earnings. This includes employees who earn below the secondary NIC threshold (currently £110 per week £136 p.w. for 2011/12), and part-time or casual employees.
- The business must not be in an excluded region. These include:

Greater London
Eastern Region: Bedford, Cambridge,
Central Bedfordshire, Essex,
Hertfordshire, Norfolk, Suffolk and the
non-metropolitan districts of Luton,
Peterborough, Southend-on-Sea,
Thurrock.

South East Region: Buckinghamshire,
East Sussex, Hampshire, Isle of
Wight, Kent, Oxfordshire, Surrey,
West Sussex and the non-metropolitan
districts of Bracknell Forest, Brighton
and Hove, Medway, Milton Keynes,
Portsmouth, Reading, Slough,
Southampton, West Berkshire,
Windsor and Maidenhead and
Wokingham.

- State Aid restrictions must be taken into account

- Where a business that is eligible for the NIC holiday is sold or taken over, then the holiday ends.

New businesses should receive a PAYE Scheme Starter Pack which will include information about the holiday. The Business Link website (www.businesslink.gov.uk) also gives further information and a link to the application form. The application process does depend on whether the business is within the sector that has a £2,000,000 de minimus State Aid limit or which have had no previous de minimus State Aid.

If you think you might meet the necessary criteria and would like our assistance with an application, then please do not hesitate to let us know.

39 PAYE Update – Other changes from 6 April 2011

From 6 April 2011:

- There is a 1% increase on all national insurance contributions
- The personal allowance increases from £6,475 to £7,475
- The basic rate band for 2011/12 will be on the band of taxable income from £0 to £35,000 (previously £0 - £37,400)
- Employers with less than 50 employees must file P45s and P46s online
- If you provide or change an employee's company car then HMRC must be advised using a form P46 (Car). From April 2011 the use of the form is being reintroduced for replacement cars, but must be completed online.

40 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 2010 must be paid by 31 March 2011; otherwise the employer's tax relief will be deferred and given in the

year in which the remuneration is actually paid.

The intention to pay the bonuses after the end of the financial year should be 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.

41 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 2011:

- 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 2011. 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.

42 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. Helpsheet E14 gives details of this

and a quick repayment procedure where no PAYE/NIC is due, and is available either on the CD-ROM or from the Business Link website.

You may also recover Statutory Maternity Pay (SMP) and Statutory Paternity Pay (SPP).

43 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 to send your starter and leaver forms P46 and P45 on line. 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/PENSIONERS

44 2011/12 PAYE Tax Coding Notices

You will have read in the press about the PAYE tax debacle which resulted in 5.8 million employees being notified, out of the blue, of underpayments or overpayments of PAYE.

We can only emphasise how important it is to ensure that the PAYE Codes being operated against your income from your employment or pensions are reasonable. This is particularly important where you have multiple sources of employment or pension income.

In the past we have been issued, in most cases, with agents copies of Coding Notices issued to our clients so have been

able to ensure that the codes operating are reasonable. However as part of the government cuts agent's copies are no longer being issued and therefore if you wish us to check your PAYE Coding Notices then please forward them to us. The 2011/12 Coding Notices are now being issued, and should be forwarded to us please.

There is a general trend as part of the cost cutting measures for less information to be forwarded to agents. If therefore you do receive any information from HMRC it is probably safer to assume that we have not received a similar copy.

45 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 the 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 2011 in order to fully utilise their personal allowances and basic (20%) rate tax band for 2010/11. If you are in any doubt about your position

in this respect **please advise us immediately.**

For those earners with total income in the region of £100,000 there is the question of whether pension premiums or gift aid payments should be paid in order to avoid the 60% rate (income between £100,000 and £112,950).

46 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 28% rather than 40% or even 50% on an income tax basis.

COMPANY DIRECTORS

47 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.

48 Service Companies – Self Assessment Tax Returns

Recent Self Assessment Tax Returns have 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 2011 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

49 Sole Proprietors and Partnerships – Having a Bad Year?

Under self-assessment you will be assessed to Income Tax for 2010/11 on the basis of profits earned in your accounting year ended in the year ended 5 April 2011. Assuming an accounting date which coincides with the end of a calendar month, this could be the year ended 30 April 2010 at the earliest or the year ending 31 March 2011 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 2011 will be much worse than the year ended 30 April 2010, 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

50 Discretionary Trusts – General

Since 6 April 2010 the trust rate on income other than dividends has been 50% and the dividend trust rate 42.5% for any income above £1,000 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.

51 Discretionary Trusts – Making use of Normal Expenditure out of Income

The transfer of property into a discretionary trust is a chargeable lifetime transfer for inheritance tax purposes. This isn't a problem if the amount settled in to trust does not cause the settlor's nil rate band (currently £325,000) to be exceeded, as no inheritance tax will be due. Otherwise a 20% entry charge will occur. If business or agricultural assets are transferred into trust then the use of business property relief or agricultural property relief will avoid the 20% entry charge. Another possibility is to make use

Most beneficiaries, other than those who have taxable income of over £150,000, are therefore likely to be in a position of needing to reclaim tax on any distributions made to them from a trust.

Conversion of the trust to an interest in possession trust under which one or more of the beneficiaries becomes automatically entitled to the income is an option for avoiding the high rate of tax on a discretionary trust.

of the normal expenditure out of income exemption. The expenditure must be:

- (i) part of the normal expenditure of the donor;
- (ii) made out of income (taking one year with another);
- (iii) leave the donor with sufficient income to maintain his usual standard of living.

This could lead to some significant savings for those with surplus income who wish to put monies into trust.

52 Capital Gains of Trusts and Estates – Rates of Tax and Annual Exemption

The rate of CGT for trustees in 2010/11 is 18% for gains made before 23 June 2010 and 28% (or 10% where entrepreneurs' relief applies) for gains made after.

For 2011/12 and subsequent years the rate of tax is 28%, or, for gains where entrepreneurs' relief applies, 10%.

For executors the rate of CGT in 2010/11 is 18% for gains made before 23 June 2010 and 28% for gains made on or after that date. Again any allowable losses and annual exemption may be set against the gains in the most beneficial way, where there are gains chargeable at different rates. For 2011/12 and subsequent years the rate of CGT is 28% for executors.

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 2010/11, but this may be reduced where the same individual has set up more than one trust. This includes trusts relating to life assurance policies.

53 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 2011, or possibly deferred until after 5 April.

MONEY LAUNDERING REGULATIONS

54 Money Laundering Regulations

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 2010/11 £
Audi A4 2.7 TDI (190PS) SE Saloon 4dr Multitronic 2698 cc **	29,605	167	6,513
BMW 525i 3.0 SE Saloon Auto 4dr 2996 cc	32,640	182	8,160
Ford Mondeo Ghia 2.0 145 Saloon 4dr 1999 cc	22,299	189	5,798
Jaguar XKR 4.2 (420 BHP) Coupe 2dr 4196 cc Auto	69,050	269	24,168
Mercedes E-Class Sports Saloon ** 3.0 TD E350 CDI Sports Saloon 4dr 2987 cc 7G-Tronic	37,765	186	10,952
Vauxhall Vectra Design 1.8i VVT (140ps) Design Saloon 4dr 1796 cc	18,351	173	4,221

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 Highline Coupe 2d 1995 cc	26,880	151	5,107
BMW 2.0 320i SE Highline Coupe 2d 1995 cc auto	28,340	156	5,668
BMW 2.0 320d SE Highline Coupe * 2d 1995 cc	29,135	128	5,244
BMW 2.0 320d SE Highline Coupe * 2d 1995 cc auto	30,595	145	6,425

* 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.