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Newsletter February 2010

May we just remind readers with self assessment tax to pay to make sure they have settled the tax which was due for payment on 31 January 2010. If you delay payment beyond 28 February 2010 surcharges as well as interest will be added to your bill. If you have cash flow problems H M Revenue & Customs' Business Payment Helpline is still operational, give them a call on 0845 302 1435.

This month's newsletter includes articles on the tax rate applicable to trusts, the VAT flat rate scheme, the recently announced disclosure opportunity for the medical profession, the tax treatment of principal private residences, how to avoid the extra tax charge for the private fuel used in your company car, an update on the State Retirement Age uplift for women and ideas for utilising tax losses.

Our next newsletter will be published on 4 March 2010.

Nigel Holmes
Director - Corporate Tax

[Pass it on!](#)



[R&D website](#)



[Changes to Flat Rate Scheme Percentages](#)



[Principal Private Residence \(PPR\)](#)



[Changes to State Pension Age](#)



[Tax Diary February/March 2010](#)



[Tax facts at your fingertips](#)



[Half for you, half for the Tax Man!](#)



[Tax Health Plan - Anything to Declare?](#)



[Avoiding tax charge for private fuel](#)



[Using tax losses effectively](#)



Pass it on!

If you know anyone who might be interested in our newsletter feel free to forward this copy. If you have received a forwarded copy and would like to subscribe at no charge, just follow this link
www.armstrongwatson.co.uk/yourneeds/page/420/tax-newsletter

Back to top



Tax facts at your fingertips

Have you seen our range of tax factsheets? Our tax factsheets cover business, personal and employment taxes and VAT advice and compliance. However, they only provide an overview and advice should be sought in respect of your own circumstances. Each month we will be adding new factsheets to the list.

New this month:

- More on VAT flat rate scheme changes 1 January 2010 (VAT section) - also see article below
- Personal tax looking forwards... (Personal Tax section)
- Business tax looking forwards... (Business Tax section)

Follow this link to find out more.

<http://www.armstrongwatson.co.uk/taxfactsheets>

If there is a topic that interests you please contact us if you wish to discuss it further.

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Back to top



R&D website

Armstrong Watson has launched a Research & Development Tax Relief webpage to provide further background advice of this generous tax relief available to companies. If you think you qualify for this relief and have not made a claim please contact us using the option below.

Our website is www.armstrongwatson.co.uk/r-and-d

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Back to top



Half for you, half for the Tax Man!

2010 is upon us and as we draw nearer to the end of the Financial Year we also draw nearer to the 50% higher rate of Tax which is to apply from April onwards.

Indeed this is not just a Tax rate that will affect Bankers; any individuals with income over £150,000 will be liable to the new 50% rate. This may appear to be a fair fiscal policy, increasing the taxes of the very rich, however when the measure was announced in the 2009 Budget it was added, almost as an aside, that the Trust Tax Rate would also be brought in line.

This is perhaps where the proposed fairness of the fiscal policy breaks down. A Trust is not necessarily a magnitude of wealth however this new rate will apply irrespective of the size of the Trust. Come April many Trusts will be liable to 50% Tax on the income received in excess of the basic rate band of £1,000. The disparity between the Tax bands of 'over £150,000' for individuals and 'over £1,000' for trusts is quite remarkable.

A Trust can be created for many reasons, indeed sheltering wealth from Tax is one of those reasons, but there are many other reasons, many Trusts are created in a Will to provide certainty to the succession of family assets. The 50% rate makes no concession for such valid family Trusts.

Trustees faced with the 50% rate should be seeking professional advice now to ensure changes are made prior to April to enable the increased rate to have little impact. After all Trustees do have options; they could change the interest under the Trust thereby changing the way it is charged to Tax, they could change the investment structure to promote capital growth instead of income, they could alter their distribution policy to ensure the extra Tax is reclaimed. They could of course bring the Trust to an end, although this is somewhat drastic and unlikely to be desirable given the possible Inheritance Tax charges associated with doing so.

The options available to Trustees will depend to a large extent on the powers contained in the Trust Deed and the purpose for which the Trust was created. Trustees should always seek professional advice to find the best solution for their particular Trust's needs.

Click here for a call back from our office regarding this article.



Back to top



Changes to Flat Rate Scheme Percentages

When the standard rate of VAT reverted to 17.5% on 1 January 2010 the flat rate percentages for many trade sectors

also changed, not necessarily to those in use up to 30 November 2008.

Now would be a good time to check the percentage you are using and if you find that it has increased significantly contact us to review your future use of the scheme.

The main losers are those in the following trade sectors:

- Agricultural services – 3% increase to 10%
- Architect, civil and structural engineer or surveyor – 2% increase to 13%
- Post offices – 2.5% increase to 4.5%
- Secretarial services – 2% increase to 11.5%
- Social work – 2% increase to 10%
- Veterinary medicine – 2% increase to 10%
- Film, radio, TV or video production – 2% increase to 11.5%

You need also to note that if you have a VAT period spanning the change in rates, you will need to apply the appropriate percentages to each period.

For any queries or assistance please contact taxnewsletter@armstrongwatson.co.uk or use the link below.

For a tax factsheet on this topic see above.

Click here for a call back from our office regarding this article.  **Back to top** 

Tax Health Plan - Anything to Declare?

HM Revenue & Customs (HMRC) has announced this month the launch of a 'Tax Health Plan' (THP). Hot on the heels of the New Disclosure Opportunity, in which individuals were asked to disclose their undeclared overseas income, this is a scheme specifically targeted at medical professionals who may have undeclared their income or tax liabilities. According to HMRC's press release this is the first in a new campaign that it is targeting at professional people.

As for the overseas disclosure opportunities, where information on overseas interest was obtained from the banks, HMRC has sought to obtain third party information about doctors' income. They can then use this information to check that relevant tax returns are complete and all income has been declared. In the case of the THP, HMRC says it has obtained information from NHS Trusts, Private Hospitals and Medical Insurance companies.

The THP is a way for medical professionals to declare any additional tax and limit the penalties charged in most cases to a fixed amount 10% of the under-declared tax. No penalty will be charged if the tax is less than £1,000 or arose from an innocent mistake.

Where an individual does not take advantage of the scheme to regularise their affairs and HMRC's information suggests there could be under-declared liabilities, then HMRC will open an enquiry. If additional tax is due as a result of the enquiry, penalties of at least 30% and up to 100% of the tax due could be charged. As HMRC says, it is better to contact them before they contact you.

This approach of speaking to HMRC first and volunteering information to correct your affairs is also the best approach for anyone else with undisclosed liabilities. Although only medical professionals can benefit from the low penalties under the THP, all other taxpayers can expect a lower penalty charge if they have volunteered information as opposed to if HMRC finds additional tax is due as part of an enquiry or compliance check.

One interesting piece of wording here is the use of the term 'medical professional'. When the scheme was announced, we were told that 'medical professional' meant anyone registered with the GMC. Since then HMRC has announced that it will be extending the scheme to dentists and will be speaking to the General Dental Council and British Dental Association to move this forward.

Any medical professional with under-declared tax can take part in the scheme. They will need to register with HMRC their intention to disclose by 31 January 2010. The deadline for actual disclosure of the undeclared tax, together with supporting calculations of the tax, interest and penalties is 30 June 2010. Payment of the tax and penalties must also

be made by this date.

When considering what liabilities should be declared the scheme asks you to go back up to 20 years. Given the number of potential years to review and the effort to calculate the figures due you may well wish to seek professional advice.

It has been a little while since HMRC last targeted the medical profession, when it was looking for undeclared 'ash cash' – fees for signing cremation forms. It will be interesting to see how successful this campaign is, and which set of professionals HMRC seeks to target next. Hopefully though tax professionals and accountants should have nothing to fear!

[Click here for a call back from our office regarding this article.](#)  [Back to top](#) 

Principal Private Residence (PPR)

If you own property and are resident in the UK for tax purposes when you sell the property there could be a liability in the form of capital gains tax or income/corporation tax if you are a property developer.

The most notable exception to this general rule is if the property you are selling is your principal private residence.

For most of us this is our home, the place where we live.

Of course some of us, including certain Members of Parliament, may own more than one property. In which case how does the PPR rule apply?

The answer, as you would expect, is complicated. Generally speaking if you own two properties only one can be considered your PPR at a particular point in time. In the absence of making an election this is determined based on the facts - generally the property used more. However you can make an election to choose which property is treated as your PPR within two years of acquiring a second residence. Having made the election it can be changed at any time and backdated two years. Why would you do this? The main tax advantage is that PPR status exempts the last three years of ownership from CGT - in some circumstances other tax breaks may apply if the property has been let. You will need evidence that you actually took up residence in the second property.

If you have a second property and spend reasonable amounts of time in residence this is a strategy you may want to consider especially if your intention is to sell one of the properties in the medium term.

Other aspects of the PPR relief that readers may find interesting are set out below:

1. If you retain part of the land that made up your garden and sell it after you sold the house, the gain on the disposal of the garden would be taxable.
2. If there is a delay in moving to a dwelling house at the start of a period of ownership, HMRC will accept PPR status for the property as long as the delay is generally not longer than one year. In exceptional circumstances HMRC will extend this limit to two years but no longer than this.
3. If you are absent from your PPR for a period, perhaps to work overseas, HMRC will accept that the period of absence will not affect PPR status for the time you are away. You will need to demonstrate that you were in residence both before and after the period away.
4. If when a couple marry or enter into a Civil Partnership both own a property, it is important to consider appropriate tax planning and make a formal election to formalise which property is to be considered their PPR. Married couples or Civil Partners can only have one PPR between them. A formal election has to be made within two years of marriage or entering into a Civil Partnership.

[Click here for a call back from our office regarding this article.](#)  [Back to top](#) 

Avoiding tax charge for private fuel

If you are provided with a company car and your employer pays for your private fuel you may want to consider the

options set out below which may reduce the overall tax cost of the arrangement.

At present if you receive any free private fuel for your company car you will be taxed as a benefit in kind according to a fixed rate calculation. For the tax year to 5 April 2010 this is £16,900 multiplied by a percentage based on CO2 emissions or in some cases the size of the engine. For CO2 emissions in excess of 220 g/km this can be as much as 35%. For a 40% rate tax payer this would add £2,366 ($£16,900 \times 35\% \times 40\%$) to their annual tax bill.

Unless your private motoring is exceptionally high this may be a tax cost that is entirely avoidable at much lower cash cost.

For instance HMRC allows you to reimburse your employer for your logged, personal mileage at an agreed rate - the details of current rates are added as a footnote to this article. If say your private mileage this tax year was 2,000 you would need to repay £400 (2,000 miles x 20p). Or you could pay the tax on the fuel benefit £2,366...

The key point is that it is worth crunching the numbers to see if you would be better off reimbursing your employer for private fuel rather than accepting the tax charge. Also, the fuel multiplier increases to £18,000 for the tax year 2010/11.

This type of arrangement also has benefits for the employer who will see a reduction in Class 1A National Insurance contributions due to the elimination of the car fuel benefit charges.

From 1 December 2009 the advisory fuel rates are: (figures in brackets applied from 1 July 2009)

Up to and including 1,400 cc: petrol 11p (10p); diesel 11p (10p); LPG 7p (7p)

1,401 to 2,000 cc's: petrol 14p (12p); diesel 11p (11p); LPG 8p (8p)

Over 2,000 cc: petrol 20p (18p); diesel 14p (14p); LPG 12p (12p)

[Click here for a call back from our office regarding this article.](#)  [Back to top](#) 

Changes to State Pension Age

At present the state pension age (SPA) for men is 65 and women 60 years. To qualify for a full basic state pension men currently need 44 years of National Insurance contribution and women 39 years.

Thanks to a piece of legislation passed way back in 1995 this is about to change.

From April 2010 you will only need to evidence 30 years of contributions to qualify for a full basic state pension - the same for both men and women.

Between April 2010 and 2020 the SPA for women will gradually rise until in April 2020 the SPA for men and women will be the same, 65 years.

Between April 2024 and April 2046 the SPA for both men and women will gradually rise to 68 years.

So the good news is in future you will have to prove 30 years of contributions, not 39 or 44 years; the bad news you may have to wait longer to start drawing your pension.

The changes will also have an impact on National Insurance contributions. Up to 5 April 2010 65 year old men and 60 year old women do not have to pay National Insurance. As the state retirement age increases from 6 April 2010 so will the date on which you will be exempt from making further contributions.

Men and women who have already reached retirement age and are in receipt of a state pension at 5 April 2010 will not be affected by these changes. They will continue to be exempt from making National Insurance contributions and continue to draw their pension.

[Click here for a call back from our office regarding this article.](#)



[Back to top](#)



Using tax losses effectively

There is a difference between a trading loss and a tax loss. There are times when you may turn in a trading profit which is converted to a tax loss by claiming capital allowance, particularly the Annual Investment Allowance. Having arrived at the tax loss there are then a number of choices.

Primarily these are:

- carry the losses forwards to set off against future profits of the trade
- carry the losses sideways in the same tax year and set off against other income
- or carry the losses back (how far back depends on individual circumstances).

There is a temptation to go for options 2 or 3 as there is a real opportunity to recover tax already paid and positively impact cash flow.

Unfortunately this may not be the best option. The two main circumstances when option 1 may be a better choice are set out below.

1. Sometimes you will be required to carry losses back or sideways until all of your taxable income is covered. In some cases this may mean that you get no benefit for your personal allowance which would be wasted.
2. An immediate set off of losses may reduce taxable earnings that were subject to basic rate tax in prior or current tax years when you may be predicting earning in forthcoming years at higher rates.

With the advent of the 50% income tax rate from 6 April 2010 and the gradual loss of personal tax allowances for high income earners, carrying losses forwards may be a better strategic choice - rather than a quick set off at lower rates use the losses in the following year.

Please note that the comments above are a simplification of a complex process. If you are presently in a loss making position but can see profitable times ahead, careful tax planning to maximise the benefit of the losses is essential - contact us.

[Click here for a call back from our office regarding this article.](#)



[Back to top](#)



Tax Diary February/March 2010

1 February 2010 - Due date for corporation tax payable for the year ended 30 April 2009.

19 February 2010 - PAYE and NIC deductions due for month ended 5 February 2010. (If you pay your tax electronically the due date is 22 February 2010).

19 February 2010 - Filing deadline for the CIS300 monthly return for the month ended 5 February 2010.

19 February 2010 - CIS tax deducted for the month ended 5 February 2010 is payable by today.

1 March 2010 - Due date for corporation tax due for the year ended 31 May 2009.

19 March 2010 - PAYE and NIC deductions due for month ended 5 March 2010. (If you pay your tax electronically the due date is 22 March 2010).

19 March 2010 - Filing deadline for the CIS300 monthly return for the month ended 5 March 2010.

19 March 2010 - CIS tax deducted for the month ended 5 March 2010 is payable by today.

Click here for a call back from our office regarding this article.



Back to top



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