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## Newsletter March 2010

We have arrived at the last month of the current tax year. Later this month the Finance Bill 2010 will be announced. In view of the impending General Election, this is likely to be a thin one with a further Finance Bill after the election whoever wins.

This month our newsletter looks at the often overlooked but very important topic of business protection, a final reminder on tax planning for Furnished Holiday Lets, a method for some companies to reduce their corporation tax liability on R&D work, a possible strategy for reducing the effect of the 50% income tax rate in 2010-11, outlines some of the tax disadvantages if you are considered to be connected persons, a tip on utilising capital losses and finally an update on various HMRC issues.

Would readers currently in the age group 50-55 please note that from April 2010 the age at which benefits can be taken from a personal or occupational pension will rise to age 55. Still time to discuss this with your Financial Adviser. After 5 April 2010 you will have to wait until your 55th birthday to draw your tax free lump sum and decide on your other benefits.

Our next newsletter will be published on 9 April 2010.

Nigel Holmes  
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## 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/youneeds/page/420/tax-newsletter](http://www.armstrongwatson.co.uk/youneeds/page/420/tax-newsletter)

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## 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:

- Payroll online deadline (Employment Tax)
- Tax Health Plan (Business Tax & Personal Tax)

- VAT online deadline (VAT)

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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## Business Protection

In April 2009, Legal & General conducted research amongst 1,000 members of the British Chamber of Commerce. Their study revealed that 45% of business owners said that their business would fold within 12 months upon the death or critical illness of a key person. However, only 4% of the business owners questioned said they had shareholder protection in place and 48% did not have any formal agreement to establish what would happen in the event of the death of a business owner.

Over half (51%) of the businesses surveyed had corporate debt, yet just 38% of those businesses had life or critical illness policies in place to cover that money owed.

There are three main scenarios where business protection could be essential. Below are some theoretical examples:

**Key person protection** – a key person could be the owner of the business, or commonly, someone whose long term absence could severely affect the profitability of the business.

For our example, a business employs 12 staff, the majority of whom are employed in manufacturing widgets.

One morning, on his or her way to visit one of the main buyers, the sales manager, who has built up a network of contacts over many years, is involved in a road accident. He or she is left seriously injured and unlikely to be able to work for many months, if at all.

Would the business be able to cope without him or her? Or be able to afford to pay for a temporary or permanent replacement? Would the business be able to keep the rest of its staff gainfully employed if orders started to dry up? How would profits be affected?

**Partnership/Director's share protection** - changing the scenario above slightly, just suppose the person involved in the car accident was a director or partner and unfortunately did not survive the crash.

They had made a will and left their share of your business to their spouse, who had never had any interest or involvement in the day to day running of the business. He or she now becomes, as a consequence of events, an equal partner and now has a right to a share of the profits, even though they may be unable to provide any meaningful contribution. They have no interest in the business and would rather release the capital to make sure the children are well provided for, so decide to sell their share and offer you, as their business partner, first refusal.

Unfortunately, you do not have the funds available and the bank is reluctant to lend the capital, as the business has just lost one of its main drivers. However, your main competitor does have the funds available and offers a substantial premium for the available share. Very quickly, you could find yourself in business with your main rival, who now has access to all your clients, research etc. and a share of the profits. Is that what you would want?

**Business Loan Protection** – probably the easiest area for business owners to identify as a potential need.

Many businesses borrow to finance expansion, capital projects, new machinery etc.

Appropriate protection will ensure that any outstanding loans, commercial mortgages or overdrafts are repaid should any individual integral to the running of the business die or be diagnosed with a specified illness. Without protection, the

business would still need to service the borrowing.

Protecting your business is a very important area of financial planning, but unfortunately, one which is frequently overlooked. Armstrong Watson can provide advice and help to protect against the risks to your business.

For more information about protection for your business please use the request for more information button below or email [taxnewsletter@armstrongwatson.co.uk](mailto:taxnewsletter@armstrongwatson.co.uk)

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## Extra tax relief for R&D you don't know you are doing!

Is your company entitled to additional corporation tax relief and you don't even realise?

SME Companies that carry out services to large companies which form part of an R&D project of that large company can obtain an additional 30% deduction for qualifying costs incurred on the provision of that service. **This is regardless of whether or not the work carried out is R&D to the SME, as long as it forms part of a bigger R&D project.**

Therefore, companies carrying out work such as data testing, analysis, design work or the manufacture of prototypes may well qualify for this additional relief.

The problem can be that the SME subcontract company does not realise that the work is being carried out in respect of an R&D project for a large company, but given the additional relief available the subcontractor should ask the contracting company whether it is carrying out the service for an R&D project.

The contractor must be a large company. In order to be regarded as an SME the company must have less than 500 employees and either a turnover of less than €100m or a balance sheet total of less than €86m. Therefore a large company, by definition, is a company that fails the SME test.

As long as the SME subcontractor spends at least £10,000 on the service made up of:

- Staff costs (gross pay, employers NIC, employer pension contributions)
- Consumable items
- Software
- Costs incurred if the work is further subcontracted out to an individual, partnership or certain qualifying bodies such as certain universities.

To conclude, this is a complex set of rules, and the availability of the relief is difficult to establish in some cases, but an additional 30% of deduction against taxable profits is generous. If you think you may qualify please get in touch.

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](http://www.armstrongwatson.co.uk/r-and-d)

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## Last Chance for Furnished Holiday Lets Planning

The abolition of the favourable tax rules which allow Furnished Holiday Lettings (FHL) to be treated as a trading

business end on 5 April 2010. After that date holiday lets will be taxed in the same way as any other let property.

With the end of the current regime rapidly approaching now is the final chance to consider the opportunities that the transition creates. HMRC has confirmed how it will treat certain transitional arrangements during the change over and clarified two particular tax planning aspects.

One of the benefits of the current rules is the potential for a capital gain on a sale of a FHL property to qualify for Entrepreneurs' Relief which can reduce the capital gains tax rate to 10%. The details published by HMRC confirm that properties qualifying for this treatment at 5 April 2010 can continue to benefit from Entrepreneurs' Relief on a sale up to 5 April 2013.

So if you are considering a sale should you dispose of your property before or after 5 April 2010? In the light of the above you might consider that there is no need to rush to sell or take other steps to crystallize a gain on a qualifying property by 5 April 2010. However you must also consider the strong possibility that the CGT rate and the rate of Entrepreneurs' Relief may well be increased in future Budgets and that delaying a disposal might prove a false economy.

Another issue to consider is the treatment before and after 5 April 2010 of expenditure on furniture, fixtures and fittings in a FHL property. At the moment this expenditure qualifies for capital allowances enabling you to write off the first £50,000 spent on these items with further allowances available for additional expenditure. Expenditure after 5 April 2010 will not qualify for capital allowances or any other direct tax relief. A 10% wear and tear allowance will be available but this has nothing to do with the actual spend on the property.

If you are planning expenditure you may well be advised to bring this forward either to reduce your FHL income in the current tax year or to create a loss. Currently a FHL loss is treated as trading loss and can be offset against other income. Alternatively the loss could be carried forward and offset not just against future profits from the FHL property but also profits on any other rental property which after 5 April 2010 will be merged for tax purposes with any FHL property into a single rental business.

The best options of course depend on individual circumstances and as ever take specific advice first but you need to act quickly – time is running out.

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## Bonuses or dividends v higher salary

If you run your own company and are considering an increase in your salary 2010-11 you might like to consider the following points:

1. From 6 April 2010 if your income is in excess of £100,000 you will start to lose your tax personal allowance, initially this can create a marginal tax rate up to 60%.
2. From the same date if your income is over £150,000 you will be subject to the 50% rate of income tax.

Consequently increasing your earnings in 2010-11 may not be a tax effective move if you are a high income earner. Instead you may like to consider paying yourself a bonus in March 2010? You must have a clear and commercially sound reason for a bonus payment. If you were to follow this strategy the bonus would be taxable at the current highest rate, 40% and would have no effect on your current year personal allowance.

There is a timing downside to this arrangement; any tax and NIC due on the bonus would become payable on 19 April 2010 (22 April if you pay electronically) instead of being spread over the year if you settled on a salary increase instead.

Of course, when practical to do so, extra dividends are usually a better option than bonuses. Dividends voted in March 2010 will mean extra higher rate tax due 31 January 2011.

If you are a high income earner and would like to discuss this and other strategies for minimising the impact of the changes coming in the next tax year please get in touch. There are still options we could look at before 6 April 2010.

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## Connected persons

If you are a connected person for tax purposes you will be required to substitute the market value of any asset you transfer or acquire when working out the gain or loss on disposal - not the amount you have actually agreed, unless of course this is the same as market value.

The most likely connection is that you are married or in a Civil Partnership. Fortunately if you and your spouse or civil partner are living together at any time in a tax year in which you make the transfer or sale, any gains are deferred until your spouse or civil partner sells the asset.

One consequence of being connected is that any company you control, either on your own or with other connected persons may be treated as associated companies and affect the amount of company profits that qualify for the small companies rate.

The full list of connected persons for the purposes of transferring assets is set out below:

1. Your spouse or civil partner.
2. Your brothers and sisters, and those of your spouse or civil partner.
3. Your parents, grandparents or other ancestors, and those of your spouse or civil partner.
4. Your children and other direct descendents, and those of your spouse or civil partner.
5. The spouses or civil partners of any of the above relatives.
6. Your business partners and their spouses or civil partners and relatives (except for genuine commercial acquisitions or disposals of partnership assets).
7. As mentioned above any company you control, on your own or with any of the people listed above, will be connected for tax purposes.
8. The trustees of any settlement where you or any person connected with you is a settlor.

The definition for the purposes of determining associated companies is more limited.

### Clogged Losses

If for any reason you dispose of an asset to a connected person and make a loss on the transaction, the loss can only be used in the same year or carried forward and used against future gains, to the same connected person.

It will also be necessary to demonstrate that on the second or subsequent disposal you were still connected.

HMRC refers to these as Clogged Losses!

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## Negligible value claims

HMRC defines an asset to be of negligible value if "it is worth next to nothing".

If you make a formal negligible value claim, the effect is to treat the asset as sold and immediately reacquired at a nil value, thereby creating a capital loss.

Interestingly you can specify a time in the previous two tax years at which the deemed disposal should be treated. Obviously you will need to prove that negligible value applied at the earlier date.

Accordingly any claim you make in 2009-10 could be treated as made in 2007-08 or 2008-09.

The claim creates a capital loss. However, if the asset is shares that you have subscribed for in a qualifying trading

company, it is possible to claim to convert the capital loss into an income loss that can be set against any other income.

This is a useful way to recover some of your investment if a company in which you own subscriber shares becomes dormant for any reason and you have no prospect of recovering the cash you have tied up in share capital.

Subscriber shares are shares you acquire from the company and not shares transferred to you by previous shareholders.

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## Updates from HMRC

### Online filing:

#### Payroll returns 2009-10

Just a reminder that whatever the scale of your payroll activity you will need to file the 2009-10 P35 and P14s online this year.

#### VAT returns filed after 1 April 2010

There are two categories of businesses that have no choice about online filing after 1 April 2010:

- newly registered businesses with a registration date of 1 April 2010 or later, and
- any business with annual turnover exceeding £100,000

#### D1 Tax Codes

The new D1 (50%) tax code will not be introduced until 2011-12. Any additional tax due in 2010-11 on second sources of income as deductions were made at 40% instead of 50%, will be collected through self assessment.

#### Email scams - phishing

You should never respond to emails purporting to come from HM Revenue & Customs. HMRC's advice on this issue is set out below:

"HMRC would never contact you asking you to disclose personal information. If you have received an email requesting personal information, payment of tax or suggests you are due a tax rebate, please take the following action:

- do not click on any links included in the email
- check for HMRC related scam examples (<http://www.hmrc.gov.uk/security/examples.htm>)
- send it to [phishing@hmrc.gsi.gov.uk](mailto:phishing@hmrc.gsi.gov.uk) then delete it
- if you have anti-virus software on your computer - run it to check for infections
- review the advice featured on Get Safe Online ([http://www.getsafeonline.org/nqcontent.cfm?a\\_id=1171](http://www.getsafeonline.org/nqcontent.cfm?a_id=1171)) on rectifying common online security problems."

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## Tax Diary March/April 2010

**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.

**1 April 2010** - Due date for corporation tax due for the year ended 30 June 2009.

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

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

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

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