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Newsletter May 2010

Shortly after the publication of this newsletter we will know the political flavour of the next Government, even if a blended variety! Hopefully before the June newsletter is distributed we will have some idea of changes proposed to tax legislation. Until then we are stuck with the present half-way house situation.

However there are still regulations to abide by and impending deadlines, particularly the filing of the annual payroll returns - all online of course!

This month we have taken a look at possible tax changes following the general election and set out an expanded reminder section in the newsletter for payroll compliance. We have included an article which explains the importance of "Reasonable Care" when providing information for your tax returns, and consider a recent case showing how HMRC is putting its new penalty regime into practice. We also report on a flexible and tax-efficient structure for your business, and highlight the benefits of claiming capital allowances on Integral Features. Finally, we include an article which explains how to apply for a dispensation regarding the filing of benefit in kind forms to HMRC.

We would also like to remind VAT registered traders, with turnover under £100,000 and who continue to send in paper returns, that from 1 April 2010 all cheque payments made by post will be treated as being received by HMRC on the date when cleared funds reach HMRC's bank account. This means that you must allow enough time for the payment to reach HMRC and clear into HMRC's bank account no later than the due date shown on your VAT Return. A cheque takes three bank working days to clear. Banks' working days are Monday to Friday, excluding bank holidays.

Our next newsletter will be published on 8 June 2010.

Regards

Fiona Wilson, Tax Consultant

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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/yourneeds/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:

- Pension claw backs (Business Tax, Personal Tax, Employment tax sections)
- Finance Act changes (all sections)
- VAT input tax deductions (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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Partnership or company - can't decide?

Perhaps you want to start a business and you are not sure what business structure to adopt. Or perhaps you are already operating as a sole trader or partnership and think you are paying too much tax but are not sure about incorporating to a limited company.

If this applies then our corporate partner or partial incorporation strategy could be just for you. It offers similar tax saving opportunities to full incorporation and is more flexible and easier to unwind. In fact, where property is involved, there can be a key inheritance tax advantage over full incorporation.

If the Conservatives win the general election then either the corporate partner strategy or full incorporation is likely to become even more attractive as the Conservatives plan to reduce corporation tax rates.

If the Labour Party remains in power the strategy is likely to remain equally attractive as it is currently because NIC and the small company corporation tax rate are both due to rise by 1% in April 2011. This should therefore preserve a 7% tax and NIC saving for most basic rate taxpayers and a 20% tax and NIC saving for most higher rate taxpayers, subject to optimal remuneration planning. For anyone who falls into the 50% tax bracket then the tax savings can be as high as 30% of profits sheltered.

If you would like any further information about incorporation or the corporate partner strategy please contact us using the link below.

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Integral Features - an overlooked tax relief

From April 2008 a new category of capital allowances came into being called "integral features". This did not attract much attention at first because qualifying expenditure (that doesn't qualify for the annual investment allowance) only attracts a 10% writing down allowance. However, as the annual investment allowance for 2010/11 has been increased to £100,000 this brings integral features into much sharper focus. Expenditure which might not have generated any tax relief before April 2008 such as a cold water system and office lighting can now potentially qualify for 100% tax relief subject to the annual £100,000 limit not being breached. The Conservatives have indicated that they will scrap the annual investment allowance if they win power so act now before it is too late!

If you are undertaking a building development or refurbishment it is vital to obtain professional advice to ensure that tax relief is not missed. If you are purchasing a second hand building then careful analysis combined with appropriate contract wording and the use of tax elections can all be used to maximise the available tax relief.

For further details on what expenditure qualifies as integral features or if you would like any assistance with a recent

building development or acquisition contact us using the link below.

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Reasonable care

HMRC expects that you take reasonable care in preparing information that underpins entries made on your tax returns.

For all returns made for 2009/10 they are entitled to judge the accuracy of your returns based on three criteria:

1. Lack of care
2. Deliberate mis-statement, and
3. Deliberate & concealed mis-statement

If you underpay tax as a result of an incorrectly filed return HMRC is now empowered to charge a penalty which can range up to a maximum of 100% of the additional tax due following an investigation.

If HMRC does consider that you have taken reasonable care, but they still discover tax has been underpaid, no penalty will be charged.

Spare a thought, however, for the unrepresented builder from the south of England who thought he was due a tax rebate of £3,000 under the Construction Industry Scheme (CIS). HMRC decided he was only due to receive £1,000, and charged him a penalty of 70% of the difference (£1,400).

As mentioned above, the new penalty regime is based on a spectrum of behaviours, ranging from a maximum of 30% for simple mistakes to 100% for deliberate and concealed errors (fraud).

A 70% penalty levied suggests that the taxpayer had deliberately misstated information on his Tax Return. Sounds harsh, particularly when he had co-operated fully with HMRC when the mistake had been pointed out to him and he was in fact due a rebate.

But the taxpayer had, in preparing his own Tax Return, failed to file details of his self-employed income and expenditure for the year in question, although correctly returning the amount of tax deducted under CIS. In HMRC's eyes this can indicate careless behaviour and therefore increases the severity of the penalty.

The moral of the case? If your affairs are complex in nature, you should enlist the help of a qualified or competent advisor to help you with your Tax Return before you submit it to HMRC. For more details on the new penalty regime please contact us using the link below.

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What can we expect after 6 May 2010?

At the time of going to press we do not know who will lead the Government for the next few years, but whoever, it will be a crucial time for UK plc. All parties seem to agree that the new Parliament will need to deal with the reduction in our national debt. Accordingly any tax concessions are likely to be eclipsed by increased taxation in other areas. We have listed below some of the taxes that might change post the May election:

1. VAT - not confirmed but there is speculation that the standard rate will be increased from its current 17.5% to possibly 20%.
2. Corporation Tax - the Conservative Party has announced a 1% reduction.
3. National Insurance - the Conservatives have pledged to cancel the 1% increase due from 6 April 2011.
4. New higher rate taxes? In addition to the changes already in place for high income earners, the 50% higher rate, loss of personal allowances and restrictions on pension payment tax relief, we may see further changes - the so-called Robin Hood taxes.

5. Increases in annual tax-free allowances for income tax purposes. The Liberal Democrats have promised a tax-free £10,000 allowance for all.
6. Although the expected change to the tax status of Furnished Holiday Lets property was abandoned prior to the close of Parliament, the measure will probably be re-introduced following the election.
7. Capital Gains Tax - again there is speculation that the current 18% CGT rate will be increased to discourage schemes that seek to have income reclassified as capital gains avoiding the higher rates of income tax.

We shall have to wait and see. As soon as new information becomes available following the election we will include the changes in our newsletter.

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Payroll filing and compliance 2009/10

There are three annual payroll returns and associated payments to HMRC that need to be made during the next three months for the tax year 2009-10. They are:

Due date 19 May 2010

Almost without exception the annual form P35 and associated P14s need to be filed online on or before 19 May 2010. Any PAYE/NIC contributions due for 2009-10 should have been settled by 19 April 2010 (22 April 2010 if you paid electronically).

If you are late in filing these returns penalties will apply. You will be charged a penalty of £100 per 50 employees for each month or part month that your return is outstanding from 20 May 2010 until your returns are filed correctly. (The maximum penalties HMRC can claim are limited to one year.)

To file online you must be registered and have the appropriate passwords. If you have not done this yet we can help. The clock is ticking...

Due date 31 May 2010

You must give your employees a copy of their P60 for 2009/10 on or before this date.

Due date 6 July 2010

After the end of the tax year you need to complete and file your key expenses and benefits forms - a form P11D or P9D for each employee to whom you've provided expenses and benefits during the tax year, and one form P11D(b) to declare the overall amount of Class 1A NICs due on all the expenses and benefits you've provided.

All of these forms must be submitted to HM Revenue & Customs by 6 July. Penalties for late filing of the P11D(b) return are the same as the P35 return - £100 per month or part month from 7 July 2010, maximum penalty period one year.

By 6 July you must also provide your employees with details of benefits advised to HMRC.

What about mistakes on returns?

It is possible to verify your returns before you press the button to file online. This should clear up most of the basic errors. However if it is subsequently discovered that there are still errors in the filed information it will be rejected and you will be notified. Beware as from a penalty point of view your returns are only deemed to be filed on the first occasion they are filed correctly!

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Benefits in kind, making your life easier

During the next two months those involved with payrolls will be working to prepare the forms P11D which advise HMRC of benefits paid to employees and directors. If your business provides any sort of beneficial payment or gift of goods to employees, generally speaking these are reportable on form P11D and most will be taxable as a benefit in kind - as if they were payments of salary etc.

To make your life easier there are some beneficial payments that you can include in a dispensation. For example the provision of certain business travel for employees. Items covered by a dispensation do not have to be returned on the annual P11D form. (Payments for the use of a company car or van are not included here as they are covered by separate rules.)

Essentially you can apply to HMRC to dispense with the need to include expenses or benefits for which your employee gets a full tax deduction. If the employer does not have a dispensation then all reimbursed expenses must be reported on the relevant form P11D.

For many businesses this could take some of the pain out of this annual chore.

HMRC requires that you need to have the following systems in place to qualify for a dispensation:

You must have an independent system in place for checking and authorising expenses claims. At a minimum, this means having someone other than the employee claiming the expenses check that:

- the amount claimed isn't excessive
- the claim doesn't include disallowable items

If it is not possible for you to operate an independent system for checking and authorising expenses claims, for example, because you are the sole director of your company and you have no other employees, you will only be able to obtain a dispensation if you:

- ensure all expenses claims are supported by receipts for the expenditure
- demonstrate that the claim relates to expenditure that can be covered by a dispensation, your receipts may be sufficient for this purpose, but if not you must retain additional information.

Once a dispensation is granted it will last indefinitely although HMRC may review from time to time to make sure the conditions under which the original grant was made still apply.

Generally speaking dispensations are granted from the application date. However HMRC may agree to apply the dispensation from the beginning of the tax year in which you apply. As we are now at the beginning of a new tax year, 2010/11, this is a good time to send in a claim for dispensation. Please call if you would like assistance to do this.

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Tax Diary May/June 2010

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

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

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

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

19 May 2010 - The payroll forms P35 and P14s must be filed by this date - employers late in filing these forms may receive a penalty.



31 May 2010 - Ensure all employees have been given their P60s.

1 June 2010 - Due date for corporation tax due for the year ended 31 August 2009.

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

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

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

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