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Small firms face fines for poor book- keeping

The UK200Group was concerned to learn that HM Revenue and Customs (HMRC) plans to target up to 50,000 small businesses to ensure their book-keeping is up to scratch, with fines of up to £3,000 if any problems are uncovered.

This seems to contrast with a 'light touch' approach which has been adopted towards small businesses in other areas, for example with mistakes arising from the recent change in the standard rate of VAT.

The 2008 Finance Act gave HMRC the power to launch these investigations and it is set to begin doing so in the second half of 2011.

HMRC has argued that forcing smaller firms to keep better records would benefit them in the long term, as it would improve their wider financial management and reduce the chance of a more costly compliance inspection at a later date.

We will continue to offer our support to you, to ensure you are keeping the correct records and prevent such problems from arising. In the meantime if you are unsure of the records you need to keep please contact us for help, rather than waiting for HMRC to visit.

SPRING 2011

Time for real information

In July 2010 HMRC issued a consultation document looking at major reforms of the PAYE system, using Real Time Information (RTI).

With RTI, employers paying electronically would send HMRC details of an employee's pay, the deductions of tax, NIC and student loan repayments, and information about the employee's identity.

The information would be produced automatically by the payroll system at the point of making the payment and would be sent to HMRC via the electronic payments system as part of the payment instructions.

The document also outlined an idea for further longer-term change to PAYE, whereby the responsibility for calculating and deducting tax, NIC and student loan repayments would move from employers to a centralised electronic deduction system.

Ministers have now decided to proceed with a phased introduction of RTI beginning in 2012.

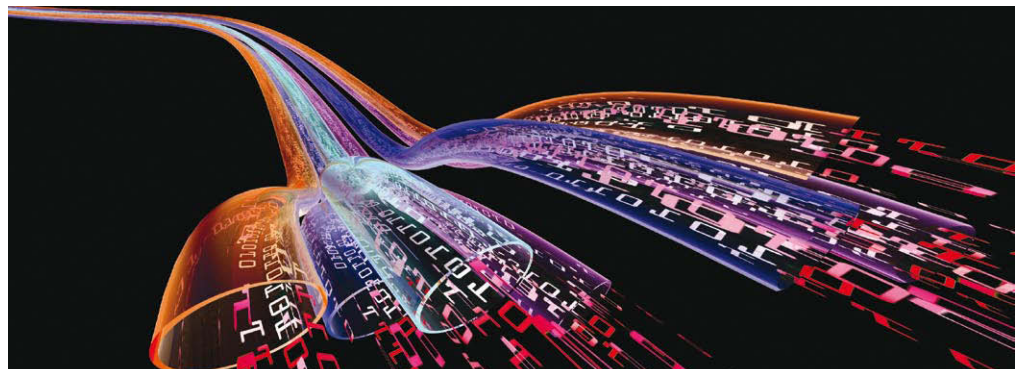
'Consideration will only be given to further developments of PAYE once RTI has bedded in and been evaluated. This is unlikely to be before 2015.'

HMRC think that RTI could simplify the processes when people change jobs, with no need to complete a P45/46 form. It should also mean that individuals changing jobs in the year would be more likely to pay the right amount of tax as the information held would be readily available.

'Real Time Information offers a further potential prize for employers and HMRC in enabling the simplification and streamlining of the end of year reporting and reconciliation process. This currently involves considerable work both for employers and for HMRC. If the employer is providing information during the year which is continuously reconciled by HMRC on receipt, the burden of end of the year could be substantially reduced.'

Access to real time data would also improve the benefits and tax credits system, through streamlined administration and reductions in fraud, error and overpayment.

For further information on how these changes may affect your business please contact us.



The chameleon changes

Draft legislation has now been issued to cover changes to the tax treatment of Furnished Holiday Lettings (FHL). Following years of relatively stable and perceived advantageous tax treatment for UK properties, the regime had been under threat of abolition following its extension to European Economic Area (EEA) properties. Instead, following a consultation process, the special regime will continue to apply albeit in a modified form.

It will still be the case that if certain conditions are met, FHL will be treated as a trade. This can be preferable to the tax regime for normal let property in a number of specific areas, as the rules and reliefs for trades are often more generous.

However, from April 2011 there will be two types of FHL business; a UK FHL business consisting of properties in the UK and an EEA FHL business

consisting of properties in one or more EEA states. FHL losses will only be able to be set against income from the same FHL business.

New qualifying conditions will also apply but are only due to take effect from April 2012 as follows:

- The property must be available for letting for at least 210 days a year (generally the tax year) and actually let for at least 105 days. The current position is that the property must be available for letting for 140 days and actually let for 70 days.
- A 'period of grace' will be introduced to allow businesses that do not continue to meet the 'actually let' requirement for one or two years to elect to continue to qualify throughout that period.

Child savings accounts

For children born before 3 January 2011, a Government voucher was issued to open a child trust fund account. This capital would then be invested, with returns being tax free. Parents, other family members and friends can then contribute up to £1,200 per year in total, to increase the fund. Returns on this investment would also be tax free. The idea behind these accounts was to provide all children with a 'nest egg' for when they reached adulthood. Extra vouchers were issued when children turned 7, but these were withdrawn from 1 August 2010.

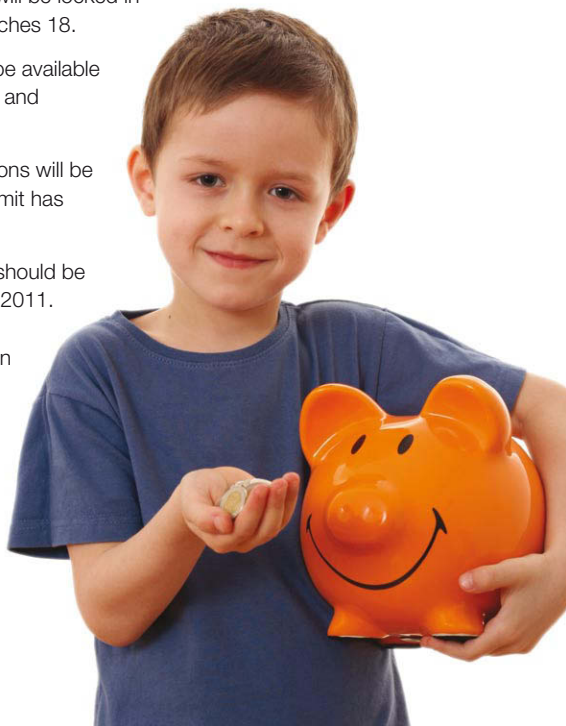
Vouchers at birth are no longer issued for children born on or after 3 January 2011. However, any existing vouchers which have not yet been used to open an account remain valid. Existing accounts remain open and the tax free status will still apply. In addition, parents, friends and family can continue to contribute.

So what about children born after 2010? Well, the Government is to introduce a new 'Junior ISA' to replace child trust fund vouchers. These accounts will provide parents with a simple and tax free way to save for their children but without any contributions from the Government. The key features of the new account will be:

- All returns will be tax free.
- Funds placed in the account will be owned by the child and will be locked in until the child reaches 18.
- Investments will be available in cash or stocks and shares.
- Annual contributions will be capped but the limit has not yet been set.

The new accounts should be available in autumn 2011.

Eligibility will be backdated from then to ensure that no child born after the withdrawal of the child trust fund vouchers will miss out on a tax free savings opportunity.



Out with old rules in with new

As the old tax year draws to a close and a new one unfolds there appears to be yet another raft of employer related matters to consider. This brief article identifies two very different matters which are currently topical for employers and employees alike.

One area which may need consideration before the end of 2010/11 concerns employer-supported childcare.

Where an employee joins a scheme and receives either childcare vouchers or directly-contracted childcare on or after 6 April 2011 there may be a restriction in the tax free benefits available.

For new joiners from that date, where the employee is likely to be a 40% or 50% taxpayer, there will be a reduction in the tax free amount available. So act now to ensure those taxpayers join schemes or enter into salary sacrifice arrangements before 6 April 2011 to retain the benefit of the full £55 per week.

Then as 2011/12 gets underway the abolition of the default retirement age (DRA) of 65 (for both men and women) will require careful management. Subject to parliamentary approval the DRA is to be phased out over a six month period ending 30 September 2011.

The phasing out means that:

- Employers with a retirement age of 65 can still use their compulsory retirement age to retire employees who are 65 on 30 September or any earlier date, provided that they follow the statutory retirement procedure. This includes a requirement to provide six months notice.
- Employees who are 65 from 1 October onwards cannot be compulsorily retired because they have reached the age of 65 unless that retirement can be objectively justified. Instead employers must follow a fair procedure under the ordinary unfair dismissal rules and rely on one of the potentially fair reasons for dismissal.

Acas has issued guidance which outlines the changes and provides advice for employers and employees. This can be accessed at www.acas.org.uk.

For more information on employer related changes, please contact us.

PAYE underpayment update

HMRC expect to be in touch with around 450,000 people before the end of March to collect PAYE underpayments to the value of some £180 million relating to 2007/08.

This follows the latest statement on the matter by David Gauke the Exchequer Secretary to the Treasury in January 2011:

'HMRC have been working hard to clear the long-standing backlogs of unreconciled tax cases.

Since September they have made rapid progress on working through the nearly 6 million adjustments needed to ensure that the correct amount of tax is collected for the tax years 2008/09 and 2009/10.'

HMRC are now working to clear the backlog of cases from earlier years. They have stated that:

- They will work all cases where a taxpayer is due a repayment for earlier years.
- That further underpayment notices will not be issued for years earlier than 2007/08.
- They will not collect sums owed of less than £300 for 2007/08 in line with an existing concession.
- For 2007/08, where possible, any amounts due will be included in the tax code for 2011/12 so that the money is collected over the course of the year through PAYE. Where this is not possible the individual should still be able to spread payments in cases of hardship.

If you have any concerns on this issue, please contact us.



– iXBRL deadline approaching fast

In 2006 Lord Carter of Coles reported on his review of HMRC online services. He recommended that all statutory business tax returns should be filed electronically by 2012 and significant progress has been made to date. The next major milestone, which is nearly upon us, concerns corporation tax returns.

All corporation tax returns (including form CT600, tax computations and company accounts) in relation to accounting periods ending after 31 March 2010 and submitted after 31 March 2011, must be filed online as paper returns will no longer be accepted. In addition, corporation tax and related payments must be paid electronically.

It is important to appreciate that compulsory filing will not change:

- who has to file a company tax return
- when the return has to be filed or the tax paid
- what is legally required to be filed as part of a company tax return.

So what is going to change? Well the answer is it's the format in which returns have to be filed. Specifically CT600 returns will have to be submitted electronically via the internet through the Government Gateway and in XML (Extensible Markup Language) format. Accounts and tax computations will also have to be electronically

submitted but in iXBRL (inline Extensible Business Reporting Language) format. In broad terms tags are used to define both the content and the structure of the data and operate in a similar way to bar codes. There are many thousands of different tags which are pre-defined using special dictionaries known as taxonomies. HMRC have indicated that from April 2013 all items in the accounts will be required to be tagged. In the run up to then they will allow the use of a minimum (but still a significant) number of mandatory tags.

These formats are computer-readable data standards for financial reporting statements. Extensible Business Reporting Language (XBRL) is being adopted by numerous governments, regulators, companies and organisations across the world. However, XBRL is only machine readable whereas iXBRL is both machine and human readable so HMRC can see what you intended to display. The developments have significant advantages for HMRC in terms of smarter data handling with less manual processing and better risk profiling. Other users of financial data may also benefit as a result of efficiencies.

Additional information such as supporting schedules to the accounts or tax computations can be submitted online in PDF format.

Most accountants in business or practice will rely on support from:

- commercial accounts production software
- corporation tax software
- HMRC online filing tool (suitable for straightforward situations only)
- template based workbooks
- conversion software
- outsource providers.

Up until now, companies have needed to file their accounts separately with HMRC and Companies House. However, a combined filing service has recently been announced for small companies with relatively straight forward financial affairs whereby those companies can now make a single online submission. Separate submissions are still required in other situations.

The Government Gateway will reject the filing where parts do not comply with the required format. However, HMRC have recognised that as this is a fundamental change to corporation tax compliance that not everyone will get it right first time. They have indicated that they will take a sympathetic approach to penalties in the first two years of implementation where there is a reasonable excuse and reasonable care has been undertaken.

When division multiplies cost

If a company has associated companies, this may have an impact on the rate of corporation tax due. This is because the profit thresholds of £300,000 and £1.5 million which determine the appropriate level of corporation tax rate must be shared equally between the company and its associated companies.

This means that a company with no associated companies is only charged the small companies rate on profits up to £300,000, a company with two associated companies will only enjoy that same rate on the first £100,000 equivalent of profits as the profits threshold will have to be shared equally between the three companies (£300,000/3 = £100,000).

The following table demonstrates the impact of having associated companies on the corporation tax bill for a company with £200,000 chargeable profits using the new rates which are to apply from 1 April 2011:

- 20% on profits up to the lower threshold of £300,000
- 28.75% on profits in the range £300,001 and £1.5 million
- 27% on profits in excess of £1.5 million.

Number of associated companies	Lower profit threshold	Rates to apply	Corporation tax due
0	£300,000	20% only	£40,000
1	£150,000 (as divided by 2)	20% on first £150,000 then £50,000 @ 28.75%	£44,375
2	£100,000 (as divided by 3)	20% on first £100,000 then next £100,000 @ 28.75%	£48,750

It is clearly the case that identifying the correct number of associated companies is essential in determining the correct corporation tax charge.

How to identify an associated company

A company is associated with another company if one of them has control of the other or if both are under the control of the same company or individual(s). The shares of direct relatives, business partners in certain situations and

some trustees can be attributed to the individual for the control test. In a situation where spouses each own separate companies their shares are attributed to the other with the result that both companies are treated as controlled by the same individual. This means that the two companies are deemed associated even where they are, in all other respects, independent operations.

The precise application of these so called attribution rules in other situations can be complex so professional advice is recommended in interpreting when and how to apply them.

Changes ahead

However, a change to the associated company rules to be included in the Finance Bill 2011 may at least offer some relief to spouse controlled companies with effect for accounting periods ending on or after 1 April 2011.

It is proposed to amend the circumstances in which rights held by linked persons are attributed to each other to establish control. Attributions will only be made where there is 'substantial commercial interdependence' between the businesses being run in the companies. So, where spouses each separately control their own company and there is no commercial interdependence between the companies, each company will have the use of their own profit limits.

There will clearly be many small and medium sized companies where family shareholding attributions could deem companies to be associated. The identification of whether there is substantial commercial interdependence may therefore be vital for the operation of the correct corporation tax rate.

When considering whether there is 'substantial commercial interdependence' HMRC will have regard to the degree of financial, economic or organisational links which exist, or have existed, or might be expected to exist between the relevant activities/companies involved.

If you consider these matters may affect you please do not hesitate to get in touch.

Class 2 changes

Class 2 National Insurance contributions (NIC) are due at a weekly flat rate by all self-employed generally. Currently, this is actually paid by quarterly account billing or by monthly direct debit. This is set to change in 2011/12, to bring it into line with payments of income tax and Class 4 NIC.

There will be no collections of Class 2 NIC payments from April 2011 until August 2011. Payments will commence in August, from when a monthly direct debit will be taken. This means that by 31 January 2012 six instalments will have been paid, equal to half the liability for the year and by 31 July 2012, the liability for the year will have been paid in full.

There will be an option to pay Class 2 by two six-monthly direct debits, one on 31 January in the tax year and one on 31 July following the end of the tax year, instead of paying monthly direct debits.

As the rate for 2011/12 is set at £2.50 per week the amounts of the monthly direct debits will vary between £10 and £12.50. The six monthly payments will be £65 each.

If you have any questions in relation to this matter please do not hesitate to contact us.



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