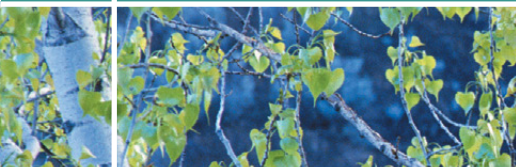


2013

# SPRING NEWS



## Evesham Office

19 Vine Mews  
Vine Street  
Evesham  
Worcestershire  
WR11 4RE

Tel: 01386 40220  
Fax: 01386 40045

## Wolverhampton Office

15/16 Bond Street  
Wolverhampton  
WV2 4AS

Tel 01902 428202  
Mbl: 07831 877983

**E:** paul@emsliebird.co.uk  
**W:** www.emsliebird.co.uk

**Director**  
P S Bird FMAAT ATT AFA

## It might work...

Every employer in the country is about to face the challenge of a big change to PAYE. HM Revenue & Customs have been testing the new Real Time Information system with selected employers – including, to be fair, the department itself – but it's a huge jump from a pilot scheme to 'everyone in the country'. Most businesses are stretched by the recession, and HMRC are facing the same cuts as the whole public sector. This won't be easy.

The problem is that there's a big slope in the playing field. If businesses fail to deliver their side, they'll get warnings from HMRC and, sooner or later, penalties. If HMRC find their system doesn't work in practice... it's once again businesses that will suffer, because of the confusion, delay and extra work it will take to sort out the mess.

We don't have a choice: we need to make the new system work as well as it can, to avoid penalties and to avoid hassle. One problem is that it's new and it's coming soon, and some people are only now finding out about it – often through rumour and myth. Some of the stories in circulation are explained below.

Meanwhile, there are plenty of other potential hazards in the tax system. Whether HMRC manage to re-invent PAYE smoothly or not, we will be here to help you through the minefield. ●

## Time for Real Information

Most employers will have to report their payroll data to HMRC under Real Time Information (RTI) from 6 April 2013. This will mean making a report every time employees are paid, not just at the end of the tax year, or when PAYE deductions are paid. There are plenty of myths circulating about RTI – here are a few:

'RTI will apply to self-employed earnings.'

No. RTI only applies to payments made to employees. The self-employed will continue to report their income annually to HMRC in their self-assessment tax return. But where a self-employed person claims Universal Credit from October 2013 they will have to report their income online on a monthly basis.

'RTI doesn't apply to workers who don't pay tax.'

Yes it does. Where an employer runs a payroll and makes at least some deductions under PAYE, the details of every person paid through that payroll must be reported under RTI, irrespective of how little an individual employee is paid. There are some exceptions for employees aged under 16.

However, if all the employees on the payroll earn less than the lower earnings

limit (£109 per week for 2013/14), the employer is not required to operate a PAYE scheme, and RTI reporting is not required.

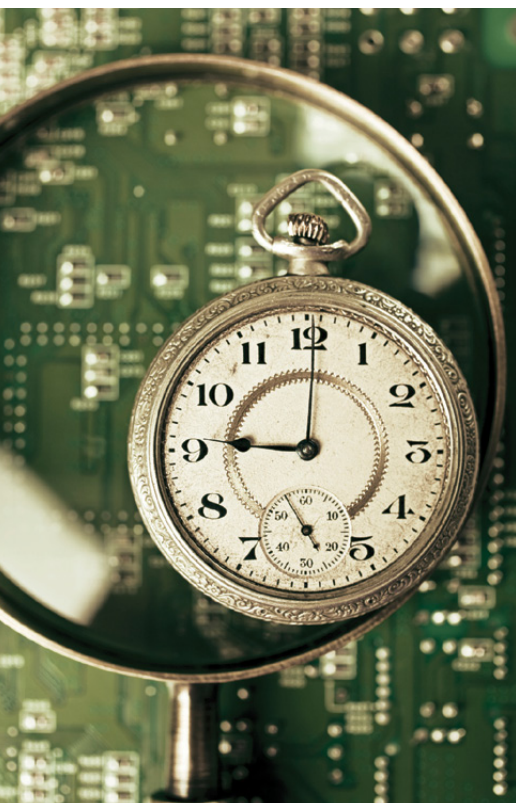
'I need to get passport numbers for every employee.'

No. Employers only need to retain a passport number where that information is collected as part of a check that the employee is entitled to work in the UK. A UK national insurance number and full name is usually sufficient to identify an employee.

'The taxman will chase up late payers of PAYE.'

Currently the taxman doesn't know how much PAYE is due to be paid each month or quarter, so will issue estimated demands if no PAYE deductions have been paid over. Under RTI he will have accurate information on payroll deductions as soon as the employee is paid, so can chase up underpayments of PAYE very quickly. This will put an end to the trick of paying a small amount of PAYE every month with large payment after the tax year end to agree with the deductions reported on the P35 form.

If you have concerns about how your business will cope with RTI, please talk to us. ●



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## Government wealth warning

If someone tries to persuade you to invest in shares which will magically reduce your tax bill, would you believe them? You shouldn't, because the scheme is quite likely to be a scam. HMRC has recently warned about such schemes on the tax avoidance area of its website.

If you invest in shares in an unquoted trading company, which later fails, you can claim tax relief for the value of the investment you've lost. However, you must have subscribed for the shares, not bought them from someone else. The company must have run a genuine trade and also meet a number of other conditions relating to its size and the nature of its business.

In one share loss relief scheme being marketed, shares are offered in a company that never genuinely carries on a commercial trade. Also the investor isn't required to put up the full value of the amount claimed to have been lost, providing the balance as 'loans.'

If you have doubts about any tax relief tied to making an investment, please ask us before committing your money. ●

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## Machine games duty

If you have a gaming machine available for play in your business premises you should have already registered with HMRC to pay machine games duty (MGD). This new duty came into force on 1 February 2013 to replace the amusement machine licence duty (AMLD) and VAT on the gaming machine's net takings. MGD is applied as a percentage of the machine's net takings at either 20% or 5%, depending on the machine.

If you haven't registered for MGD, and it does apply to your business, you can do so on the HMRC website. Once registered, you will be required to make quarterly returns of the MGD payable, in a similar fashion to VAT returns. We will be able to help you with these returns, but you need to do the initial registration for MGD.

Prior to 1 February VAT was due on the takings of gaming machines, but now they are VAT-exempt. This should have no effect on your business if the income from gaming machines is a small percentage of your total turnover. But if the gaming machines produce a significant proportion of your business income you may need to restrict the amount of VAT you reclaim on your business costs. Talk to us about the takings from your gaming machines and we can work out the position accurately for you. ●

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## It's a gift

Inheritance tax (IHT) can be avoided where gifts are made at least seven years before death. However, it's essential that the taxman will accept that a gift has really been made. The giver may still be exposed to IHT, income tax and capital gains tax if the gift isn't made outright.

Say your mother gives you £100,000, and you deposit the cheque in a joint bank account which you can both access. Has she given you £100,000, half that amount or nothing?

As the bank account is held in joint names, you and your mother would each have to report half the interest arising on your separate tax returns for income tax purposes. So for income tax you effectively own half each.

However, to make an effective gift for IHT purposes, the transfer must be absolute, with no reserved benefits. If you're both entitled to extract the full amount deposited in the account, HMRC would view your mother as having reserved the right to use the money. She would still own it all for IHT purposes, until one of you spends it or she gives up that right.



If you wish to make large gifts to save IHT in due course, you should document the gift with a letter or deed. If the gift is in the form of money it should be transferred into an account in the sole name of the recipient. If the transfer is in fact a loan, the accompanying documents should make that clear. We can help you get the paperwork right to ensure you make an effective gift. ●

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## Foreigners to register

From 1 December 2012, a business which is established outside the UK has to register for VAT if it makes any supplies here – it won't get the benefit of the £77,000 threshold that applies to UK businesses. HMRC have issued a Brief explaining the background to this change, and what 'non-established businesses' should do about it.

This doesn't necessarily apply to all foreigners 'doing some business' here. Often, the VAT liability falls on the

customer under the 'reverse charge' procedure. The main types of business which are likely to be affected are those which bring goods to the UK and sell them here (as opposed to despatching them to a customer in the UK from a foreign country), and those which sell land-related services to non-business customers.

If you deal with a foreign business, whether you are running it or you are a customer, we can advise you on whether this change affects you. ●

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## PAYE on the nail

If you pay your monthly or quarterly PAYE and other payroll deductions to HMRC late (after 22nd of the month for electronic payments), you are likely to receive a penalty. This is a relatively new policy. Before 2010/11 you only had to worry about paying the total amount due for the whole tax year by 19 April after the end of the year. Now you have to aim to get every payment in on time.

HMRC will allow you just one late payment for the year, but after that the penalties start to mount up, and can reach 4% of the late paid tax. For 2010/11 and 2011/12 HMRC was slow in issuing penalty notices, but for this year HMRC has started to warn employers who haven't paid all their PAYE on time

before the tax year has finished. If you have received a warning letter about late paid PAYE, don't ignore it.

A good way to keep an eye on your PAYE payments, and where HMRC may have allocated them, is to use the business tax dashboard facility on the HMRC website. For PAYE this should show:

- the payments of PAYE made;
- interest charged on any late payments;
- penalties charged; and
- any reallocations of monies paid.

Unfortunately we can't directly access your business tax dashboard as your tax agent, but we can help you interpret the figures. ●



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# Child benefit clawback

Many people are confused by the media coverage of the tax clawback of child benefit. This new rule will complicate the tax affairs of a lot of people, and many couples will have to pay back some or all of their benefit as tax.

No one loses the right to receive their child benefit. You can decide to stop receiving it to avoid the bother of having to pay it back to HMRC later, but HMRC will only take instructions directly from the benefit claimant to stop those payments.

It's not necessary to give that instruction. The tax charge to clawback the benefit only applies where one parent has net adjusted income of over £50,000 for the entire tax year. Even then, the tax charge will only take back the whole amount if the adjusted income of the higher earner is £60,000 or more.

The adjusted income figure is your total taxable income after deducting charitable donations, pension contributions and losses, but before deducting your personal allowance. Until the current tax year ends on 5 April 2013

you can't calculate your income with complete certainty. So unless you're certain it will be more than £60,000, you can't be sure that 100% of your family's child benefit will be clawed back by a tax charge. The claimant could hang on to the child benefit for now, then the higher earner can pay any extra tax due in January 2014. The tax charge can't be more than the benefit you or your partner has received: you can't be worse off by receiving the benefit and paying it back.

If you don't want the complications of one partner receiving the money and the other paying it back to HMRC, you can ask for the child benefit payments to stop at any time. Any child benefit already paid since 7 January 2013 will have to be reported on the higher earner's tax return, but there won't be further shuffling of money backwards and forwards in future. If you find your adjusted net income was not more than £60,000 you can ask for the child benefit payments to start again, and those payments will be backdated to the date they stopped. ●

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# Cash basis for small businesses

If you run a small business as a sole trader or partnership, you will soon be able to choose how you record your income for tax purposes. Currently all businesses must account for money they owe and debts owed to the business. This is known as the accruals basis. From 6 April 2013, if your total receipts for the year are less than the VAT threshold (£77,000 from April 2012), you'll be able to use a simpler cash basis to record business income.

Under the cash basis you must record sales when you receive the money, and expenses when you actually make the payment. A number of business expenses, such as use of your home or car, will be charged as flat rate amounts, so you won't have to work out the detail. However, there is a downside: deductions for interest paid on loans will be restricted and you will not get immediate relief for any losses made.

The use of the cash basis will be optional, but if you make a claim for universal credit (from October 2013), you will be required to use the cash basis until your turnover reaches £154,000 per year.

A business operated as a company or LLP will not be permitted to use the cash basis. Also if your business becomes VAT registered you will be required to prepare VAT returns using the timing rules of that tax, which can be different in some cases.

We can help you decide if the cash basis will suit your business. ●

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## Employee share owners

From 6 April 2013 companies will be permitted to give shares worth between £2,000 and £50,000 to their employees, if in return those employees agree to give up certain employment rights. The new employee shares will be free of capital gains tax (CGT) on disposal, but other taxes could apply on acquisition.

Unfortunately the employee shares will not be exempt from CGT on a

disposal if the employee, or a person connected with the employee, already holds 25% or more of the company. This will prevent small family companies from using the employee shareholder scheme to reward owner-directors or their relatives who work for the company. Talk to us about how employee shares could be used to reward employees of your company. ●

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## Mansion tax?

The Chancellor has refused to impose the 'mansion tax' the Liberal Democrats want, but the Government is cracking down on tax avoidance by owners of high value homes. These are defined as properties worth £2 million or more.

Where individuals try to avoid taxes by acquiring their property through a company, partnership or other structure, stamp duty land tax already applies at the high rate of 15%. If these properties continue to be held through such structures, an annual residential property tax will apply based on the property's value at 1 April 2012 or at purchase if later.

The charge will vary from £15,000 to £140,000 per year, with the top rate applying to properties worth £20 million or more. It will apply from 1 April 2013, and the first payment will be due by 31 October 2013.

There will be exemptions for properties which are run as businesses such as hotels, farmhouses, houses open

to the public, and those owned and used by charities.

Where the home is owned by an offshore company or similar structure, capital gains tax will apply when the property is sold. This is a significant change: overseas entities are not generally subject to UK capital gains tax.

Please discuss with us any concerns you have about these new property taxes. ●



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## Forwarding address

A VAT-registered individual ceased trading and moved to Spain. Before he left, HMRC had been trying to check whether he had paid the right amount of VAT, but he was hard to get hold of. In the end, they sent assessments to his last known UK address. The paperwork didn't reach him until after the time limit had expired for HMRC to demand back tax, so he argued that they had lost their chance.

The Tribunal didn't accept this. A VAT-registered trader is required to notify HMRC of a change of address, and he hadn't done so. In the absence of such a notification, HMRC had done what the law required within the time limit, and the assessments stood.

The taxman may be the last person you want to send a change of address note to, but if you don't, they'll probably catch up with you in the end. ●

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## VAT car headaches

You claim back the VAT on your business expenses, so if you buy a new car for business, you should get some VAT back, shouldn't you? Maybe you should, but you almost certainly don't. The law forbids any recovery on a car unless it's a 'tool of the trade' (used for car hire, taxi work or driving instruction), or else it's 'not intended to be made available for private use'. It doesn't matter if you don't actually use it for shopping or holidays – if you could do so, it's available, and you can't claim a penny of the input tax on the purchase.

A company might be able to claim, as long as it prohibits private use by any employee, for example by making a note in the Board minutes – but expect HMRC to check whether that prohibition is enforced.

If you lease a car which is partly used for business, you can claim 50% of the input tax on the lease charges, regardless of how much business use there actually is. If your business pays for servicing or repairs, it can claim all the VAT on that cost, provided there is some business use. So the rules are in turn very mean, half-and-half, and possibly too generous.

If VAT on cars puts you in a spin – or you think it might be possible to claim that you have 100% business use – we'll be happy to check how much VAT you can claim. ●

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## Filling the tank

If a business claims input tax for the purchase of road fuel which is then used for private motoring in a car, there's a flat-rate scale charge which depends on the emissions rating of the car. For example, if the car has a CO<sub>2</sub> rating of 150g/km, the output tax this year is £55.50 each quarter.

If the employee pays the employer back for the use of private fuel, output tax is due instead on that payment. HMRC used to reckon they could charge the scale rate if it was higher than the actual consideration, but recently they realised that was contrary to EU law. So if an employee paid £1 a quarter for all private fuel, the output tax would be 16p, not £55.50.

They've worked out how to close this loophole, and new rules apply from 11 December 2012. Because this change requires an Act of Parliament, it won't be properly in force until July, but anyone who is taking advantage at the moment will have to make an adjustment when the Finance Act is given its Royal Assent.

Even if you are not affected by the change, the VAT rules on cars and car fuel are complicated. If you aren't sure how much input tax you can claim or output tax you should pay, we will be happy to advise you. ●

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## Your tax-free salary from April

The amount of tax-free income you can receive in the tax year starting 6 April 2013 will be £9,440. This is the standard personal allowance for someone born on or after 6 April 1948. Those aged 65 or more on 6 April 2013 have slightly higher personal allowances of £10,500 or £10,660, which won't go up in future years until the standard allowance has caught up.

Assuming you are under 65, you can earn £181.54 per week tax-free in 2013/14, but you will pay NIC on wages over £149 per week (£7,755 per year). Employers will pay NIC on wages of £148 or more per week. If you run your own company, you need to consider the NIC costs for both you and the company when deciding how much you can take out as salary.

If you pay yourself the full personal allowance of £9,440 as salary from

6 April 2013, you'll have a personal NIC liability of £202.20 ( $12\% \times (9,440 - 7,755)$ ) for the year. Your company will also pay £240.12 ( $13.8\% \times (9,440 - 7,700)$ ) in NIC. However, the salary and NIC cost is fully tax deductible for the company.

A salary of £7,695 per year (about £147.98 per week) will avoid both employee's and employer's NIC. But you will get a credit for state retirement pension purposes if your salary lies in the range £109 to £149 per week. Unfortunately, under RTI (which applies from 6 April 2013), payments of salary in that range will have to be reported to HMRC, so there is no administration saving on paying a low salary.

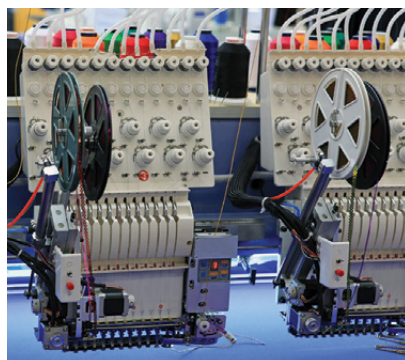
If you want to discuss how to take profits out of your company in the most tax-efficient way, we will be happy to help. ●

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## Annual Investment Allowance

The government wants you to invest in equipment for your business, so allows you a 100% deduction for the first tranche of your annual spend on equipment and those fixtures and fittings which qualify for capital allowances. This is called the annual investment allowance (AIA).

The AIA has an annual cap, which was set at £50,000 from April 2008, increased to £100,000 in April 2010, and cut to £25,000 in April 2012. Now the AIA cap will go up again to £250,000 for expenditure incurred in the two years from 1 January 2013. If you spend more than the available AIA cap, your business is given tax relief on the excess expenditure



at the rate of 18% or 8%, depending on the nature of the item purchased.

So how will the increased cap apply? If your business has a 31 December year end, the AIA cap for the years 2013 and 2014 is easy to calculate at £250,000 per year. But where the accounting period straddles 1 January 2013, the calculation of the AIA cap is complicated.

Say your accounting year ends on 31 March 2013. You need to split the period (for AIA purposes only) into:

1 April 2012 to 31 December 2012 (9/12 of £25,000 AIA); and

1 January 2013 to 31 March 2013 (3/12 of £250,000 AIA).

The maximum AIA cap for the year is these two figures added together. However, the expenditure must also be split between those two periods to gain the maximum advantage from the AIA. You can't spend the whole annual total in one part of the period or the other.

The complications don't stop there, as there is protection for businesses that have already spent their maximum AIA of £25,000 in 2012. Please ask us to check how much the AIA cap will be for your business before you buy any expensive equipment. ●

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## Where to pay that tax?

Do you feel the taxman is always demanding money from you for yet another tax or duty? It's easy to get confused and pay the right amount, but to the wrong part of the great tax department.

If this happens the taxman has no sympathy: the system won't spot that it's already got your money in a different pot, so the computer just whacks on a penalty and tells you to get the payment

right next time. To be on the safe side check this new webpage before setting up your tax payment: [www.hmrc.gov.uk/bankaccounts/](http://www.hmrc.gov.uk/bankaccounts/).

This page lists alphabetically all the taxes and charges HMRC administers. When you click on the name of a tax or charge, the website tells you how to pay, including the bank account numbers and how to check you have the correct payment reference. ●