

2014

SPRING NEWS



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One year to go?

Chancellors of the Exchequer have to pay attention to election dates. In a year's time, George Osborne is likely to be presenting a Budget in the hope that it will contribute to his party winning the General Election in May 2015. Meanwhile, Labour's Ed Balls will be proposing alternatives. Both have to tread a fine line between courting popularity and being so blatant about it that they lose credibility.

Mr Osborne, of course, has not courted much popularity in his time in office so far. This January, thousands of individuals had to file self-assessment returns for the first time because of his High Income Child Benefit Charge – clawing back the benefit from the higher earner, where one of a couple has income above £50,000 a year. As well as putting tax up for parents in that income bracket, it has increased the complexity of the tax system.

Mr Balls has recently suggested that Labour will, if given the chance, reintroduce the 50% top tax rate – a measure which, according to opinion polls, is supported by the majority of the population. Arguments continue about how much money it would raise, and how much damage it would do to the economy by deterring enterprise and investment.

Mr Osborne will be making the most of better economic news when he stands up to deliver this year's Budget on 19 March. He will tell us that his medicine has been unpleasant, but is working. We'll have to see if he eases the prescription at all for the next year.

Whatever he comes up with, we'll be here to help you to negotiate the maze of tax rules and the unwelcome attentions of HM Revenue & Customs. ●

Don't default

Default surcharge, the penalty for paying VAT late, is really expensive – up to 15% of the money due for being only a day late. That's an annual rate of interest that would make a payday lender blush. But if you're late, you will need a 'reasonable excuse' to get out of the penalty.

There are many, many cases about surcharge. Some people persuade the Tribunal that they should be let off, but they are the minority. There are some useful lessons to be learned from the people who lose. Most importantly, if you get a surcharge liability notice, you need to find out why and to put things right before it starts to cost money. The first default won't be charged – the second late payment is penalised at 2%, then at 5%, then at 10%, then at 15%. The 2% and 5% penalties are only collected if the amount is over £400, so a small trader may only be

asked for money on the fourth default – by which time they may appear to be a serial late payer.

In recent years, HMRC have offered Time To Pay – if you can satisfy them that you will be able to pay later, and you stick to an agreed instalment plan, surcharges are suspended. But it's crucial to apply before the tax is due, not afterwards. A trader who pleads 'I couldn't pay' to the Tribunal, but who didn't apply for the help on offer, won't get much sympathy.

One recent case featured two connected companies that had paid £439,000 in surcharges alone over a three year period. Don't fall victim to this ruinous penalty – if you think you might not be able to pay your VAT on time, or if you have received a surcharge liability notice, we can advise you on how to minimise the cost. ●



Mixed partnerships

The taxman seems to have it in for businesses that operate as partnerships, particularly if there is any hint that the business structure could be used to manage the partners' tax liabilities.

The latest target is mixed member partnerships. These are general partnerships or LLPs which include members who are not individuals, such as companies, other partnerships or LLPs, or individuals acting as trustees.

The mischief the taxman is trying to catch is the diversion of profit to a non-individual member which pays tax at a lower rate than the individual members. The law will be changed from 6 April 2014 to reallocate the profits back to the individual member.

A secondary effect of this new law will be that where profits are held back within the partnership for any reason, and are initially allocated to the non-individual member, those deferred profits must be reallocated for tax purposes so the individual members pay more tax.

If your partnership has corporate or trustee members, we should discuss how this change in the law will affect you. ●

Return confusion

Most traders make VAT returns every 3 months. Anyone with turnover up to £1.35m can apply for annual accounting – one return a year, like income tax or corporation tax. It's not all good news, though – you only have two months at the end of the year to get the figures together, and you have to make payments on account of the expected liability throughout the year.

A recent case showed that it can be even worse than that. A trader applied to go onto annual accounting, but was confused about what returns he had to submit while he was changing from quarterly periods. As a result, he was late submitting a return, and as a result of that, HMRC told him he had to go back to quarterly periods. He explained that he'd misunderstood, and they agreed that he could rejoin the annual scheme – but by then he'd missed the deadline for a quarterly return, and they charged him a penalty.

The Tribunal was more sympathetic than HMRC. The trader had reasonably expected that the misunderstanding would be sorted out and the period would be covered by the annual return. He had a reasonable excuse that cancelled the penalty. He probably wished he hadn't bothered with annual accounting, though.

If the idea of making a single VAT return interests you, we can help you avoid this trader's problems. ●

Creative sector tax reliefs

If your company operates in the creative sector producing British films, TV programmes or video games, it could be in line for some attractive tax reliefs.

Film tax relief has been around for a number of years. It can be claimed by film production companies that produce British films, where at least 25% of the core costs arise in the UK. This percentage of costs is to reduce to 10% from April 2014.

Tax relief for TV productions is similar to film tax relief, but it only applies to expenditure incurred from 1 April 2013. As for films, the TV programmes must pass the 'British' test and at least 25% of the core expenditure should arise in the UK.

The tax relief for the production of

video games (including computer games) hasn't been implemented yet, as approval is needed from the EU on 'state aid' grounds. When approval is given, this tax relief could come into effect at short notice – possibly later this year.

In all cases (films, TV programmes or games) the tax relief is given by enhancing the deductible value of the production's costs. The exact amount of relief given depends on what proportion of the costs actually arise in the UK, and on other conditions relevant to the product. Losses made on the production can also be converted into payable tax rebates.

We can help you understand all the conditions necessary to make a claim, so talk to us without delay. ●

Contractor loan tax avoidance schemes

Have you taken part in a contractor loan scheme? This is a tax-saving scheme which was widely sold to workers in personal service industries, such as IT contractors.

To use the scheme the individual would sign an employment contract with an offshore employer, but work for customers in the UK. The individual would often receive a large proportion of their fee for that work as a loan from the offshore employer. They were told the loan was not taxable, except for a small benefit-in-kind charge on the unpaid interest on the loan, but that's not what the taxman thinks. At least one contractor (Mr Boyle) has lost

his case in the courts trying to defend his use of a contractor loan scheme which was run through an offshore company.

The taxman is now opening enquires into individuals' tax returns for periods during which they have used such loan schemes. In some cases the individual will receive a tax bill for the years 2008/09 to 2010/11, to claw back the tax they think they saved. In all cases, it seems likely that HMRC will seek to charge penalties and interest in addition to the avoided tax.

If you have used a loan scheme similar to Mr Boyle's to save UK tax, we need to talk. ●

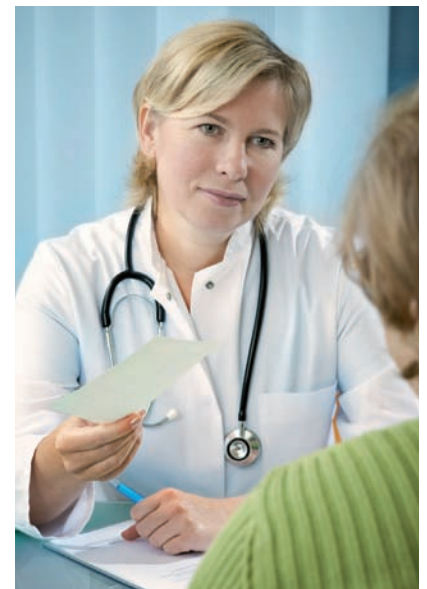
End of statutory sick pay recovery

Statutory sick pay (SSP) is payable to employees who have been sick for at least four consecutive days, and who normally earn at least £109 per week (for 2013/14). All employers must pay SSP to their employees who qualify, if they don't pay wages of at least the same level to the sick employee.

As an employer you can reclaim some of the SSP you pay out if the SSP paid for a month exceeds 13% of the total employees' and employer's National Insurance (Class 1 only) due for the same month. If this 13% threshold is reached, you can offset the excess SSP (over 13%) against your PAYE bill. If the 13% threshold is not achieved, no SSP can be recovered.

From 6 April 2014 the 13% threshold is abolished. You won't be able to recover any SSP paid in 2014/15 or later years, although claims for SSP paid in earlier tax years will be accepted until 5 April 2016.

In place of the SSP recovery scheme, the Government has promised more support for sick employees to help them get back to work. From April 2014 a new agency called the Health and Work Service will provide a 'return to work plan' for employees who have been on sick leave for four weeks or more. ●



Teach me to dance

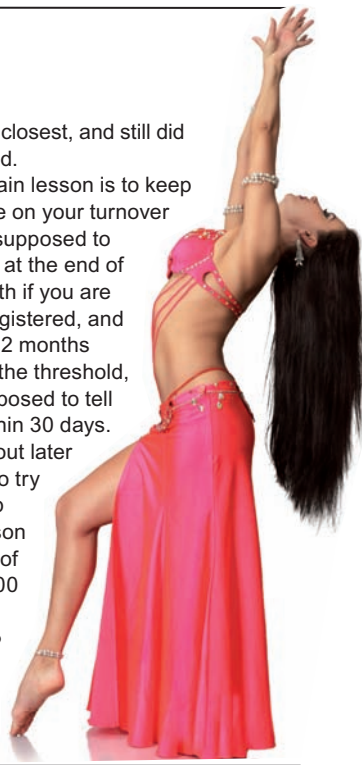
Private tutors don't have to charge VAT as long as they are teaching a subject that is 'ordinarily taught in schools and universities'. HMRC accept that this exempts lessons from self-employed golf or tennis professionals, as well as maths or English coaching for exams.

They didn't accept that it applied to courses offered by a belly-dancing school. The owner argued that dancing is taught in schools, but the Tribunal agreed with HMRC. Her customers wanted to learn how to dance, not to engage in an academic study of dance. It was recreational, not educational.

Sometimes VAT exemptions are straws clutched at by traders who failed to notice that their turnover had gone over the VAT threshold – £79,000 at the moment – to save them from registration and a demand for back tax. There have been several cases in which businesses have claimed to be educational: this one

seems the closest, and still did not succeed.

The main lesson is to keep a close eye on your turnover – you are supposed to measure it at the end of every month if you are not VAT-registered, and if the last 12 months goes over the threshold, you're supposed to tell HMRC within 30 days. Don't find out later and have to try to come up with a reason why some of that £79,000 wasn't VATable. ●



Business rate changes

Business rates are a huge burden for many businesses, so it's good to know that the increase in business rates will be capped at 2% for 2014/15.

Where your business operates out of a single small commercial building you may be able to claim small business rate relief (SBRR). For properties in England the SBRR gives up to 100% relief for those with rateable value of up to £6,000 and a tapered amount of relief for properties with a rateable value of up to £12,000. The SBRR was due to finish in March 2014, but it will now run until 31 March 2015.

The SBRR normally applies where the business occupies only one property. From 1 April 2014 businesses that take advantage of the SBRR can take on an additional property and not lose the relief.

There are separate relief schemes run by the Assemblies or Parliaments in Wales, Scotland and Northern Ireland. There are also special relief schemes for charities and rural properties.

In 2014 two new business rates relief schemes will come into effect for retail properties:

- reoccupation relief giving a 50% discount for up to 18 months on business rates on retail premises which have been empty for at least a year; and
- a discount of £1,000 for properties with a rateable value of up to £50,000.

The discount will only apply to shops, cafes, pubs and restaurants, not to betting premises, banks and payday lenders.

We can help guide you through the maze of business rates reliefs for your business. ●

RDR: A year on

The Retail Distribution Review was a year old on 1 January 2014. Most people won't have broken out the bunting, or even noticed – but the change in the way financial advisers are supposed to charge customers for their services has had a big impact on those who sell and advise on insurance, investments and borrowing. In general, intermediaries are supposed to charge fees to their clients, rather than receiving commission on the transaction paid by the supplier of the financial product.

One aspect that is still creating uncertainty is how those fees are treated for VAT. Traditionally, all financial commissions were treated as exempt from VAT – but fees might be VATable. It depends on the nature of the work the adviser or intermediary is doing. When most income was exempt, most advisers wouldn't have to register for VAT – now, they might go over the £79,000 annual limit.

IFAs should make sure they have considered their VAT position – we'll be happy to help. ●

RTI – best practice

The first year of PAYE Real Time Information (RTI) has been treated as a trial period, as employers and HMRC have had to work out how to deal with unusual situations.

The biggest problem for many employers has been how to send a full payment summary (FPS) on or before the day they pay casual workers, when the amount due isn't determined until the end of the workers' shift. The answer is to take advantage of the concession to make the FPS up to seven days after the payment date. This concession will continue to operate in 2014/15 and subsequent years.

Overtime payments can mess up the calculations, as those figures are often not reported to the person running the payroll until after the FPS is submitted.

A solution is to reduce the period between sending the FPS and making the payment to the employees. Ideally these two tasks should take place on the same day.

However, if that is not possible you can make adjustments to amounts reported as paid to employees after the FPS has been submitted. You can even do this the next time the payroll is run. However, you need to remember to pay the PAYE as reported due on the FPS for the month, not the amount due including the missed overtime payment.

If you have any other problems with processing odd payments under RTI, please discuss the issue with us first, rather than doing something that seems sensible – but may lead to problems with HMRC. ●

Deemed employees of LLPs

Some businesses operate through Limited Liability Partnerships (LLPs) so the workers can be paid without incurring PAYE and NIC costs. This only applies if the worker is designated as a member or partner of the LLP, and thus is treated as self-employed for tax purposes.

The taxman has wised up to this scheme, so the law will be changed in April to tax LLP members as employees where all of these conditions are met:

- The individual performs services for the LLP and 80% or more of his payments from the LLP are 'disguised salary'.
- The individual's capital commitment to the LLP is less than 25% of the disguised salary which he is expected to receive in the tax year.
- The individual has no significant influence over the affairs of the LLP.

'Disguised salary' is a fixed or variable payment which is not calculated by reference to the profits or losses of the whole LLP business (not just a branch or division).

These tests could be met where the member draws a fixed amount from the LLP, has a low capital commitment and has little or no involvement in the management of the LLP. If you have members in your LLP which fit this description, you may have to apply PAYE and NICs to their drawings with effect from 6 April 2014. That will be expensive.

Let's discuss the alternatives. Perhaps you can make some simple changes to the LLP's management or reward structures to avoid at least one of the above tests applying. This will mean taking action before April. Don't delay – call us. ●

Deductible subs

HMRC has updated its list of professional subscriptions which can be deducted from taxable income. For some reason lost in the mists of time, this is called 'List 3'.

If your professional body is on List 3, you can claim your annual subs as a deductible expense. If it's not, you can't claim the cost. Trade Unions are not on the list, and neither are golfing organisations.

The Professional Golfers' Association recently asked to be included on List 3, but they were turned down. ●

New HMRC taskforces

The taxman has formed three new taskforce teams to target specific industry sectors for tax enquiries in these regions:

- road transport in the South East and South of England.
- undeclared wealth in the South and South East.
- fraudulent VAT claims in the North East.

If you are selected for an enquiry, the tax inspector will normally make an appointment to inspect your business records. If he does, call us immediately. We may be able to persuade him that you have fully declared all your income-producing assets, and all your VAT liabilities are paid. If that doesn't work, we should attend the meeting with the inspector. They may turn up with preconceived ideas about what they will find, and set their agenda to look for it. There's a risk that an unrepresented taxpayer, trying to be honest and helpful, may give answers which lead to a deeper enquiry than is appropriate. Having your professional representatives on hand can mitigate that risk – we will be able to advise you on what the questions mean, and when it's wise to think carefully before answering. ●

Employment allowance

From 6 April 2014 you can claim an employment allowance of up to £2,000 per year to set against your liability for employer's Class 1 National Insurance.

This allowance will be available to all sizes of employer, including charities and community amateur sports clubs, but public sector bodies will not be eligible to claim. Where employers are connected, as in a group of companies, only one company in the group can claim.

You claim the allowance by ticking a 'yes' box on the first employer payment summary (EPS) submitted for the year. The allowance will be set against the employer's Class 1 NIC liability as it accrues over the tax year by the payroll software. You don't have to do anything more. ●

Business tax dashboard

The business tax dashboard is an HMRC online service that allows you to view the tax liabilities and tax paid by your business for PAYE, VAT and corporation tax or income tax for self-employed businesses.

To access the business tax dashboard, login to the online services section of the HMRC website using your user ID and password. Then open up either the corporation tax service (for companies) or the self-assessment online service (for other businesses). From the page titled 'Your HMRC Services' under the heading: 'services you can add' click on 'enrol for services' which should list 'business tax dashboard' as one of the options.

If you have already activated the dashboard it will appear under 'services you can use'. Now you will be able to see the taxes due and paid by your business. If you have different user IDs and

passwords for say VAT and corporation tax, you will need to bring all the taxes on to one login to see all the taxes on your dashboard.

Unfortunately we can't see the figures reported on your dashboard, as the taxman hasn't given tax agents access to the dashboards for their clients.

There have been some problems with the accuracy of PAYE figures displayed on the dashboard for 2013/14 tax months 5, 7 and 8. So if you spot problems for those months, the HMRC software may be the reason why. HMRC is working to correct the errors for those periods.

However, rest assured that if your business tax dashboard is showing an underpayment of PAYE for months 5, 7 or 8 because of the software errors, that apparent PAYE will not be collected by HMRC. ●

Home developments

Your main home is exempt from capital gains tax when you sell it, but if you develop the property how far does that exemption stretch?

If you are fortunate enough to have a large garden, you may be tempted to sell off part of the grounds for 'in-fill development'. Where your total garden area is less than half a hectare, the gain on the land sale should be covered by the exemption for your main home. However, you must do things in the right order:

1. Sell the extra land before you sell your main home.
2. Exchange contracts for sale before you let the developers start any work on the new buildings.

Mrs Dickinson was nearly tripped up by condition 2 when she sold off her tennis

courts for housing. She escaped a tax charge by arguing that the land was still in fact part of her garden, even though the builders had dug a few holes at the date of exchange.

Paul Gibson went much further in knocking down his whole home and constructing a new one on the same site, which he sold shortly after it was completed. Although he intended to live in the new property, he was forced to sell it to repay the loans he had taken out. He claimed to have occupied the finished house for about five months before the sale, but he couldn't prove this with any documents.

If you are planning a 'grand design' conversion for your own home, talk to us first about the tax implications. ●



Scam a lot

The Government wants to reduce the amount of paper it processes by encouraging us to interact with it online. Unfortunately criminals are impersonating official Government e-mails in order to trick us into revealing personal details, or – worse – open up our computers to malicious viruses.

The latest scam e-mails appear to come from Companies House, and refer to 'company complaint submitted to Companies House web-filing service'. The e-mail looks genuine as it includes the correct customer support helpline number for Companies House and an official-looking reference number. There is a similar bogus e-mail announcing the issue of

HMRC's Employer Bulletin, and a different one that asks you to confirm your details to receive employer notices from HMRC.

All these fake e-mails have a zipped file attached, which contains a dangerous virus. Never open a zipped file which arrives from an unknown source. It could literally take over your computer and steal all your passwords.

If you are ever in doubt about an e-mail from an official source, go directly to the organisation to check, but DO NOT click on any links in the suspect e-mail. HMRC lists all the known fake HMRC e-mail addresses used by the scammers on its website. Alternatively, check with us for reassurance. ●
