GEORGE HAY
& Company

Chartered Accountants and Statutory Auditors

Editorial

Welcome to this new edition of the George Hay & Company Newsletter.

Norman Christy

In this winter edition, you will find useful information for individuals and businesses including a selection of general news and tax updates.

In particular we will be looking at the latest tax legislation in respect of residential property rental, pension auto-enrolment and changes to the state pension.

We hope you find the information covered useful and look forward to hearing from you.

Ed

General

Yet another 31st January has passed and the deadline for submission of personal Tax Returns has now gone. We did manage to prepare and submit virtually all Returns in time. There are a few (you know who you are) still outstanding. The Returns do need to be submitted by the end of April to avoid the next round of penalties (daily at £10 per day) and any tax due for 2014/2015 must be paid by the end of February to avoid the 5% surcharge.

Interestingly enough, last year the Revenue did confirm that they will cancel penalties for late filers if they have since submitted their Return and have a reasonable excuse. Apparently, the change in approach is that they will now generally accept the excuse at face value rather than investigate further.

Tax rebate

The Revenue did suffer a recent setback as regards a late Return submitted by a Taxpayer which produced a repayment of tax. It was generally their approach that a Return submitted more than 4 years after the tax year to which it related would not be accepted. In a recent tax case Higgs v HMRC, the Upper Tribunal held that a self-assessment tax Return submitted more than 4 years late should be accepted by the Revenue. The taxpayer got his money.

As a result of their loss, the Revenue did revise their internal guidance and will now accept a ‘late’ self-assessment Return for any year from 1996/1997 if it meets the following criteria and if there is an overpayment of tax or a reduction in payments on account if:

1. The Return was required under a formal notice.
2. No Determination has been raised for the year of the Return.
3. It is an original Return and not an amended Return.

Scottish taxpayers

For those of our clients with Scottish roots, you may be interested to know who will be regarded as a Scottish taxpayer when the Scottish rate of income tax comes into force on 6th April 2016.

To be a Scottish taxpayer, it is first necessary to be a UK resident for tax purposes. The definition of a Scottish taxpayer will then generally focus on the question of whether an individual has a “close connection” with Scotland or elsewhere in the UK.

The existence of that close connection will usually be determined by where an individual has their place of residence during a tax year.

Individuals who have more than one place of residence will be considered a Scottish taxpayer if their main place of residence is in Scotland for at least as much of the tax year as it is in any other country in the UK.

Residence will be determined by day counting if a taxpayer has no close connection to Scotland or any other part of the UK.

None of the following factors will cause an individual to be a Scottish taxpayer if their place of residence is outside Scotland:

- national identity – regarding oneself to be Scottish;
- location of work – working in Scotland;
- location of income source – receiving a pension or salary from a Scottish entity; or
- travelling in Scotland – driving a lorry in or frequent work visits to Scotland.

HMRC will contact potential Scottish taxpayers before April 2016 based on the individual's address.

They advise that it is the responsibility of the taxpayer, rather than their employer, to notify HMRC if they change address.

Rogues Gallery

Recently, HMRC raided KPMG's Belfast office and arrested four senior partners in connection with suspected tax evasion.

All four were place on "administrative leave" and KPMG said it was co-operating with the HMRC investigation.

This does seem to follow the recent trend in HMRC attacking tax evasion. It has also launched a campaign warning offshore tax evaders that for 2017 it will start to receive details of UK taxpayers with offshore accounts from more than 90 countries under a new global agreement. You have been warned.

It does also continue to attack Non-Doms. Apparently, there has been an increase of 29% in the number of tax investigations into internationally mobile high earners. The increase has been driven by a clampdown on individuals whom HMRC believe are wrongly claiming to be non-resident and non-domiciled in the UK.

Indeed, their continued attack on non-doms does seem to have had an effect on the number remaining in the UK.

In 2012/2013 a total of 110,200 claimed this status in their Tax Returns of which only 1.51% indicated they were actually born in the UK. The vast majority were therefore likely to have had strong overseas ties.

This compares with some 139,000 in 2007/2008 and therefore does suggest that many non-doms are relocating out of the UK.

The Revenue is also determined to show it is tackling avoidance/evasion by big businesses as well. It was quick to announce last year its victory in a case against Next Brand Ltd part of the Next Group. The company was using a tax avoidance structure known as a rate-booster. The Tribunal ruled that the scheme artificially moved money around the Group so it could claim tax relief on overseas profits. Apparently the failure was likely to cost the Company over £22million in tax.

Indeed, it is not only the UK that is increasingly tackling tax evaders. The first prosecution resulting from the HSBC Swiss document leak took place recently. Arlette Ricci, inheritor of the Nina Ricci business fortune was found guilty of tax evasion and ordered to pay €1 million in fines and serve 3 years in prison (two suspended). The 73 year old had hidden $22million from the French tax authorities using accounts and offshore entities.

Makes you ask the question why do so at that age!

As regards the "ordinary" taxpayer, there has been much discussion about the poor service offered by the Revenue in their "customer service". Not only has the number of complaints about the length of time it takes to actually get through on the Revenue helpline both for tax and the tax credits increase but also the number of complaints about the quality of service.

The Revenue announced last year that it was reallocating £45 million to recruit an additional 3,000 staff for its customer services and move 2,000 of the existing staff to help with tax credits.

Let's see if this makes any real difference.

VAT

In a recent VAT case, (United Grand Lodge of England v HMRC), The Upper Tribunal found that freemasonry did not fall within the exemption from activities of a "philosophical, philanthropic or civic nature". The Tribunal explained that whilst the U.G.L.E. had aims which fell within the exemption, for example philosophical aims, it also had other aims which were not insignificant or auxiliary to the qualifying aims.

In another recent VAT case, a Barrister was prepared to file his Return online. However, he refused to tick the box on the government Gateway to confirm he had read the HMRC terms and conditions for online filing.

As a result, he could not file online and therefore submitted a paper Return. HMRC then imposed a penalty for not filing online.

The Barrister appealed on the basis that HMRC had no legal basis for requiring him to read the terms and conditions and therefore the penalty was unlawful. He stated he had no objection to any specific terms or conditions because he had not read them. He said it would be burdensome to read all of these.

The Tribunal was presented with a printed copy of these, which amounted to more than 12 A4 pages of "fairly close print". It found that there was nothing in the original legislation imposing mandatory e-filing making it a pre-condition that the taxpayer had to tick a box to say he had read the conditions HMRC chose to present as binding. HMRC had no power to impose such a condition and hence the Barrister's appeal was allowed.

Although a great victory for "David against Goliath", it should make us all think how often we tick that box (not just regarding Returns) saying we have read the terms and conditions but have not because it would be too much trouble.

New Advisory Fuel Rates from December 2015

HMRC have announced new fuel rates for company cars. They apply to all journeys on or after 1st December 2015, until further notice.

For one month from the date of change, employers may use either the previous or new rates. They may, therefore, make or require supplementary payments, but are under no obligation to do either.

Petrol hybrid cars are treated as petrol cars for this purpose. The amounts can be used for VAT, but employers will need to retain receipts.

Engine Size	Petrol	LPG
1,400cc or less	11p	7p
1,401cc to 2,000cc	13p	9p
Over 2,000cc	20p	13p

Engine Size	Diesel
1,600cc or less	9p
1,601cc to 2,000cc	11p
Over 2,000cc	13p

Adult entertainment industry

A new UK wide HMRC Taskforce has been launched to target adult club owners and adult entertainers who have not paid their taxes.

The Revenue stated that because of the increased use of the Internet, there has been a dramatic increase in the number of online escort agencies and estimated that even in 2010 the adult entertainment industry was worth around £5 billion. The aim of the taskforce is to target both traders and the entertainers, (who apparently can earn thousands of pounds a day) who have not been registered for income tax and VAT.

We understand that applications to the taskforce were oversubscribed and therefore clients need not consider applying themselves!!

Pension Auto-Enrolment

Our employer clients may be aware of their obligations under auto-enrolment which requires them to set up an appropriate pension scheme for all eligible employees.

Each employer has been given a staging date by which they must have complied with these obligations.

We are currently in the process of writing to clients to advise them of these obligations and assist when requested.

This is being done on a rolling basis and clients will be contacted by us in time to fulfil these obligations. In the meantime, if you do receive correspondence from the Pensions Regulator, please forward this on to us. There are penalties for failing to comply so we do urge clients not to ignore this correspondence.

State Pensions

At the end of last year, the Government (as part of the introduction of the new flat rate State Pension) announced that some older people will be able to buy a bigger State Pension. The deal allows those who are already receiving the State Pension and those who reach State Pension age before 6th April 2016 to buy extra income of between £1 and £25 a week. The cost depends on how much extra pension you buy and age. The payments will be Class 3A Voluntary NIC.

Apparently, although complex, the general view in the pensions industry is that it is an attractive deal when compared to buying similar benefits from a private insurance company.

However, whether it is worth buying an increase in pension income is always an individual choice. To provide some point of reference as to cost and what it buys, we list below some examples. There will of course be many variations in between.

1. Cost of buying an extra £1 a week:

Age	£
65	890
75	674
85	85
95	185

2. Cost of buying an extra £25 a week:

Age	£
65	22,250
75	16,850
85	9,850
95	4,625

National Living Wage

The National Living Wage

A compulsory National Living Wage is due to be introduced on 1st April 2016 for all working people aged 25 and over, and will be set at £7.20 per hour. The current National Minimum Wage for those under the age of 25 will continue to apply.

Who will be entitled to the National Living Wage?

Generally all those who are covered by the National Minimum Wage, and are 25 years old and over, will be covered by the National Living Wage these include:

- employees
- most workers and agency workers
- casual labourers
- agricultural workers
- apprentices who are aged 25 and over.

Penalties for failure to comply

With the introduction of the National Living Wage the penalty for non-payment will be 200% of the amount owed, unless the arrears are paid within 14 days.

The maximum fine for non-payment will be £20,000 per worker. However, employers who fail to pay will be banned from being a company director for up to 15 years.

The Low Pay Commission

The Low Pay Commission which currently recommends the level of the minimum wage will recommend any future rises to the National Living Wage rate.

The Living Wage

The new National Living Wage is different from the Living Wage, which is an hourly rate of pay and updated annually. The Living Wage is set independently by the **Living Wage Foundation** and is calculated according to the basic cost of living in the UK. Employers choose to pay the Living Wage on a voluntary basis.

Residential property rental

In the last newsletter we did mention the changes in the taxation of residential property rental income.

The more immediate change takes place from 6th April 2016 and involves the abolition of Wear and Tear allowance for furnished lettings.

This was an annual deduction to cover the “depreciation“ of furniture, furnishings etc. It was calculated on a fixed 10% of gross rent (less expenses usually paid by a tenant if paid by the landlord instead e.g. council tax). This was deductible every year, even if no actual expenditure was incurred. This was perceived as unfair by the Government and so it has been abolished in favour of a new “replacement furniture relief”.

From April 2016, all landlords will be able to claim a deduction for the cost of replacing furniture in their let property. The definition of furniture has been widely drafted and includes not just the usual beds, table, sofa etc., but also white goods, linen, carpets and curtains for example.

This relief will apply to both furnished and unfurnished lettings, and does represent good news for our landlords of unfurnished letting properties, who since 2013/2014 have not been able to claim any relief for the cost of white goods.

Those clients who have let furnished property and who are considering replacing furniture etc., would well be advised to wait until after 5th April now. They can still claim the wear and tear allowance in full this year and then the cost of replacing these items next year under this new relief.

Similarly, those clients with unfurnished lettings should delay where possible the purchase of new white goods until after 5th April 2016. If purchased this year, no relief would be due but the cost of replacing these items after April will be tax deductible.

Staff News

We welcome a new member of staff, Jonathan Cohen who was born and raised in London.

After school Jonathan graduated from the University of Westminster with a Business Management with Professional Accounting degree. He trained with another central London accountancy practice and worked there for 6 years.

In his spare time, Jonathan enjoys reading, cooking and watching Formula 1 racing

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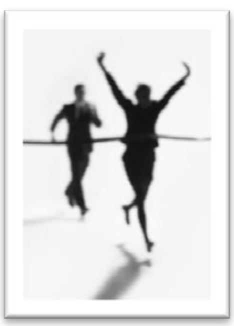
We are sorry to say that one of our staff, Bobby Bhogal, has decided that he wished to seek pastures new and has left the firm after serving over ten years with us.

We wish Bobby all success for the future.

Competition



Well it seems that the Competition for the last newsletter caused one or two problems as we only had a few replies, but the answer to the rhyming riddle was RESOLUTIONS.

Congratulations to the two readers who have now received a bottle of champagne each.

We now turn to this newsletter's puzzle and this is as follows:

In a particular town in the north of England, with a population of 50,000, five per cent of the people living there have ex-directory phone numbers.

If you chose 100 names at random from the town's telephone directory, on average how many of these people would have ex-directory numbers?

Conclusion

We hope you have enjoyed reading this newsletter.

We look forward to your answers to the competition above and to hearing from you if you feel that any of the articles covered do affect you.

Ed.

The George Hay & Company Newsletter is published six monthly and is for private circulation only to clients of George Hay & Company. Further copies are available on request to the Editor.

Editor, Norman D Christy, FCA
Deputy Editor: Abdul Mahmood, BA (Hons) ATT

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