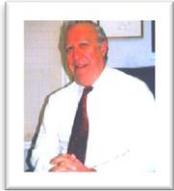


Editorial



Norman Christy

Firstly, a very belatedly but nevertheless sincere happy and healthy New Year to all our readers. I trust that you will find this edition of the newsletter of interest.

Secondly, an apology for the lateness of this Newsletter, but you will find a letter from me to all our readers which will explain the reason for the delay. In common with other professional firms in the West End and the City, and to move with the times, we have decided to become a Limited Liability Partnership as from the 1st April 2013.

Enclosed with this newsletter is a letter advising all our clients that from 1st April this year we changed to George Hay & Company (Westminster) LLP. However, we will still be trading as George Hay and Company.

Ed

General

Bank

Readers will be aware that there is a boom in online banking but, unfortunately, the rules protecting bank customers are still stuck in the dark ages.

Trade bodies like the British Bankers' Association and Payments Council, which oversee transactions, are turning a blind eye to the problem as neither keep any track of the numbers affected. Every year millions of pounds go astray when customers accidentally enter the wrong account number or sort code during a transaction.

If you accidentally transfer funds into the wrong account, you cannot simply ask for the transaction to be reversed, particularly if you are moving money between two banks. This is because the bank needs proof that the transaction was made in error. If,

however, the transfer is to an individual then it becomes a customer of another bank which means the payee bank talking to the other bank and it then speaking to its customer. Part of the problem is that the Data Protection Act means you will not be told the identity of the person who has received your money.



There are some simple steps you can take to prevent transferring funds into the wrong account. When you set up a new payment for the first time check and check again that the details are correct. These details should be stored by your online bank.

Then transfer a small sum to the new recipient. Call them to see if the money has reached their account. If it has, then use the payment details stored on your online account to transfer the balance of the funds.

This will protect you only when a mistake is yours not if someone has given you incorrect details.

If the bank makes a mistake they have the power to haul the money back immediately.

Enrolment

Readers may be aware that the Government is intending to encourage more people to save for their retirement and auto enrolment is intended to move the emphasis for pension planning to the employer. Initial contributions will be 1% by the employer and 0.8% employee and this will rise to 8% of qualifying earnings overall by 2018.

Various dates are given for enrolment, but those with less than 30 employees it is not necessary to enrol until 1st June, 2015. However, 250 + employees require to

enrol by the 1st October, 2012 and 50 employees from the 1st April, 2014.

Real Time Information (RTI)

The rules for reporting wages, hours worked and payroll deductions under Real Time Information are still being written.

The important part now is that the RTI reports will need to be made where at least one employee is paid above the lower earnings limit. Further major difference between RTI and the current system is that once the employer is reporting under RTI, reports must be made for each employee even if no tax or NI are deducted for a particular period.

The wages for employees aged under 16 are not required to be included in the RTI report, unless those wages are so high that the worker will be subject to income tax.

A separate article is within this newsletter.

Taxation

General

Another 31st January deadline has come and passed, which was of course the filing deadline for personal/Trust Tax Returns for 2011/2012. We did manage to meet the deadline for most clients.

The penalties for late filing of these Tax Returns are now extremely punitive and it is imperative that those who have not done so now let us have the information required to prepare your Tax Return as soon as possible, to avoid further penalties.

The penalties apply even if there was no tax liability for the year.

Indeed it may be worth considering whether your circumstances have changed so that you no longer have to prepare a Tax Return. The Revenue has conveniently listed a number of questions for taxpayers to consider. If the answer is no to all of these questions, then they are likely to agree to remove them from the requirement to prepare Tax Returns.

The questions are as follows:

1. Were you self-employed or a partner in a business at any time in the year?
2. Were you a company director?
3. Did you receive income over £100,000?
4. Did you receive more than £10,000 in savings and investment income?
5. Did you receive more than £2,500 in untaxed income?
6. Did you receive income from letting out property?
7. Did you receive foreign income liable to UK tax?
8. Are you an employee claiming expenses or professional subscriptions of £2,500 or more?

Self Employed

The Revenue recently announced that their Business Records Checks (B.R.C.) was restarted on 1st November 2012. These were suspended back in February 2012 due to the vocal protests from the main tax professional bodies.

A taxpayer is required to `keep all such records as may be requisite for the purpose of enabling him to make and deliver a correct and complete Tax Return for the year or period`.

The new style B.R.C. applies a much lower standard and it accepts that HM Revenue & Customs are not entitled to dictate what records a business should keep. However, there remains the possibility of the Revenue charging `in year` penalties for inadequate bookkeeping, even though the Tax Return for that year has not yet been prepared.

The new B.R.C. will be rolled out across the UK gradually with `more emphasis on education and support` according to the Revenue.

They have started sending letters already to firms it believes may be at risk i.e. keeping inadequate paperwork. In that letter the Revenue advises that an official wishes to assess the matter in a telephone interview, after which a decision will be made as to whether that firm would benefit from `tailored educational support`.

We have stressed to all clients previously the importance of keeping adequate records to not just confirm their income but to support the claim for expenses.

Any client who receives such a letter from HM Revenue & Customs regarding the B.R.C. should contact us immediately.

Homework allowance



There is a small and little known allowance which can be paid tax free by an employer to an employee who is required under the terms of the

employment to work at home.

With effect from 6.4.12 the amount is £4 per week.

Evidence of Home Worker Status

We would stress that it is essential to have on file some evidence of home worker status for such an employee in case the matter is picked up in the course of PAYE audit.

Such evidence should be in writing, perhaps in the form of written correspondence/e-mail correspondence printed out between the employee and the employer confirming that the employee is obliged as part and parcel of his duties, to work at home on a regular basis and specifying the sorts of work which will need to be carried out at home.

Capital Allowance

New capital allowances rules for fixtures were introduced from April 2012, although subject to transitional rules until April 2014.



The new rules are concerned with `fixtures` as meant for capital allowance purposes and relate to commercial property transactions.

It would, therefore, exclude movable items such as furniture, beds etc., in a Nursing Home, but would

include items such as lighting and other electrical systems, lifts, heating and air conditioning systems etc.

As these latter items are fixed in the property to be sold, the sale has to include a sale of these fixtures as well.

The key change which took place concerned cases where the seller has already made a claim for capital allowances for the fixtures.

Where this has happened, the purchaser will now only be allowed to claim capital allowance for those fixtures, if the transfer value of those fixtures is formally determined.

This would usually be due by signing the appropriate `Fixtures Election` under the relevant section of the Taxes Acts.

With effect from April 2014, a further condition is to be introduced, if the purchaser is to be permitted to claim capital allowances for the cost of the fixtures.

This new condition (the `pooling requirement`) will be that the seller must first bring the cost of the fixtures into his own capital allowance computation but must also bring in the disposal value. This of course could result in additional tax for the seller.

The major point for the purchaser is that under these new rules, he will be penalised if the seller fails to include the fixtures in his capital allowance computation. He would permanently lose the right to claim capital allowance for the fixtures in question.

With some commercial property transactions, the amounts involved can be quite sizeable and the tax at stake quite significant.

Therefore with any commercial property purchase, it will be essential that the legal paperwork imposes the necessary commitments on the seller to ensure no loss of tax relief for the purchaser.

VAT

Clients may be aware of the Revenue's campaign aimed at VAT registered traders who had one or more VAT Returns overdue.

To have taken advantage of this `VAT Outstanding Returns` campaign businesses had to complete and submit all the outstanding Returns by 28th February 2013. The `carrot` was the prospect of penalties for late Returns being mitigated, although the Revenue`s campaign material did not specifically state how this would work in practice.

Income Tax

Linked to the Revenue`s `VAT Outstanding Returns` campaign was another relating to Direct Selling. This also had a deadline of 28th February 2013 by which date, taxpayers had to make a disclosure and pay the tax, interest and penalties.

Indeed, the Revenue do appear to like their campaigns at present.

A `Property Sales` campaign was launched in March 2013, aimed at undeclared sales of residential property, other than a main residence.

They are also planning a `Traders Sweep Up` campaign, as a follow up to their previous campaigns aimed at plumbers, electricians etc.

This had been due to start in December 2012, but has been postponed.

The Revenue have even set up a Helpline to go with their campaign. This is `Campaigns Voluntary Disclosure Helpline` and for those clients who are interested, the number is 0845 601.5041. However, we would strongly suggest you contact us first.

Tax Credit Changes

There were a number of changes in the calculation of tax credits introduced in April 2011.

As we have finalised the 2011/2012 Returns, we would remind clients that perhaps the most significant of these changes is the reduction of the income disregard from £25,000 to £10,000.

With the 2011/2012 award finalisation coming through now, there could be a significant increase in tax credit debt i.e. where there was a provisional award which subsequently proves to have been overpaid as a result of an increase in income over £10,000.

Autumn Statement



Amongst the measures announced by the Chancellor in his recent Autumn Statement, two in particular would seem to be important to our clients.

It is proposed that the Annual Investment Allowance is increased from £25,000 to £250,000 per annum for the two year period commencing 1st January 2013.

Also, it is proposed to introduce a simpler income tax scheme for small unincorporated businesses for 2013/2014. The intention is to allow eligible self-employed individuals and partnerships to calculate their profits on the basis of the cash that passes through their business. They will generally not have to distinguish between revenue and capital expenditure.

All unincorporated businesses will be able to choose to deduct certain expenses on a flat rate basis.

We will await further clarification of the proposed change, to check whether these will be any benefit to some of our clients.

Parallel Company and Partnership Structures

The First Tier Tribunal delivered a recent judgement which deserves serious consideration by all those using parallel company and Partnership Structures.

In the case of *Cooper and Ors v H. M. Revenue & Customs*, cars (and car fuel) were made available by a partnership to its partners.

The partners were also directors (or family members of such directors) of the company in which the partnership provided administration services.

The partnership essentially provided the services of its personnel and also administrative services to the company for a fee. The company was its only customer.

The partnership had a number of employees, who carried on the business. The partners themselves had a minimal role in carrying on that business.

The Tribunal concluded that the nature of the partnership's business was such that it did not require the partners to be provided with cars. It also concluded that the partnership would not have existed commercially without the company.

Additionally it concluded that, although the capital and finance costs relating to the acquisition of the cars and the provision of the fuel were met by the partnership, all these costs were recovered from the company by means of management charges and hence were effectively paid by the company.

For all these reasons then, the Tribunal concluded that the cars were not provided by the partnership but by reason of the employment of the directors with the company and hence the provision of the cars and car fuel were subject to tax and Class 1A NIC as benefits in kind.

Clients who use such a structure should contact us for a review to ensure this could not be attacked by the Revenue following this case.

Rogues Gallery

As an example of the closer communications between EU Countries as regards tax avoidance, there is the recent successful prosecution of a Michael Shanly.

He was a property developer and his prosecution resulting from information obtained and then passed on to the UK by the French authorities, about UK Citizens with accounts at HSBC in Geneva.

Mr Shanly had previously failed to disclose to the Revenue a Swiss offshore account during a civil enquiry where it was agreed that he owed the Revenue £1.5 million.

Property millionaire Shanley, who featured in the Sunday Times Rich list, opened the account with his own and his mother's money. When his mother died, he closed the account and transferred all the money, evading £430,000, in Inheritance tax.

He was ordered to pay fines and compensation totalling £830,000, plus costs.

Indeed, only in November 2012, the Revenue received a detailed list of the names, addresses and account

balances of every British client with an account held in Jersey with HSBC.

If any client could be affected by this, they should contact us immediately so that the appropriate action can be taken.

An IT consultant, was recently jailed for 5 years for `deliberate and systematic fraud`. Stephen Maxwell failed to disclose almost £2m income received from his IT consultancy business. The total loss to the Exchequer was over £635,000.

As an adjunct to the above, it was recently disclosed that the Revenue paid more than £1m to informants in the last 3 financial years.

It would be interesting to know whether they regard such payments as income in the hands of the informants and whether they investigated these individuals to check whether the payments were disclosed!

Finally, there was a recent Court case which has some bearing on the Revenue's powers to investigate avoidance.

The Revenue issued assessments on a taxpayer for over £11 million of unpaid tax.

The assessments largely arose from evidence given at a divorce hearing where the wife of the taxpayer had applied for ancillary relief.

The taxpayer appealed against the assessments and for the purposes of the appeal, the Revenue asked for transcripts of the divorce and financial proceedings. Naturally the taxpayer refused, so the Revenue applied for an order for the production of the documents.

The Court considered the competing public interests and refused to relax the general rule that documents and other evidence produced in ancillary relief hearings was not disclosable to third parties, including the Revenue.

Articles

Real Time Information (RTI)



Clients may well be aware that the PAYE is changing radically with effect from 6th April 2013.

HM Revenue & Customs have been sending out letters to employers advising the changes.

Summary of Main Changes

The main changes to the PAYE system from 2013/2014 tax year will be as follows:

1. Firstly employers will be required to submit returns under RTI each time that a payment is made to an employee.

This contrasts with the current system whereby only one annual detailed submission (Form P35) is required shortly after the end of each tax year (although PAYE tax has always had to be paid over on a regular basis during the tax year).

2. It follows that the annual forms such as P35, P14 and P38 disappear with the last RTI Return in a tax year taking their place.

3. The RTI Return submission will be much more detailed and must include the details of all employees (this includes those who are paid beneath the lower earnings limit and who do not currently have to be included in PAYE Returns where no tax or NIC is payable).

4. Under the new system, the electronic submission to HM Revenue & Customs will fail if there are any data mis-matches, for instance if HM Revenue & Customs have a different name/National Insurance Number/Date of Birth on their system for just one employee.

Practical Implications and Pitfalls

There are some practical implications and pitfalls which have been highlighted in the Taxation Press and a number of these are mentioned below:

BACS Payments

Employers who pay their employees by direct BACS may need to update the BACS software which may well come at a cost.

The reason for this, it is understood, is that the BACS payment schedule needs to be able to be matched up with your IT data submitted to HM Revenue & Customs, hence the need for a BACS software update.

Employer Alignment Summary (EAS)

HM Revenue & Customs are requesting a number of employers to carry out an employer alignment summary exercise, in advance of the introduction of RTI.

The objective of this is to ensure that the data held by the employer does exactly match that held by HM Revenue & Customs.

Employee Data Check

It will be appropriate for all clients to ensure that the employee data held is correct and complete to include, in particular, the correct surname, forename and/or initials, address, date of birth, gender and national insurance number.

Withdrawal of Facility to Use NIC Temporary NI Numbers/Default Date of Birth

In general terms, clients will no longer be able to utilise a temporary national insurance number or default date of birth.

Payment Frequency

There will be a data requirement to enter the payment frequency for the employee, for instance W1 would mean paid weekly, M1 would mean paid monthly and IR would mean paid on an irregular basis.

Caution will be required here because, for instance, the HM Revenue & Customs system will assume that an employee who has not been paid for a specific period of time, has left the employment.

To avoid this happening the irregular payment indicator (IR) will need to be used.

Entire Submission Rejection

Bear in mind that the entire RTI submission will be rejected if one file fails to validate. (e.g. if one employee's details do not match those on the HM Revenue & Customs system).

Number of Hours Worked Data

There will be an additional requirement to tick a box indicating the number of hours normally worked each week, the boxes being the following:

1. Up to 15.99 hours.
2. 16 – 29.99 hours.
3. 30 hours or more.
4. Other (this could relate to pensioners etc.).

Payroll Run/RTI Submission Frequency

Clients do need to bear in mind that the new system involves the statutory obligations (subject to penalties if the obligation is breached) to make an RTI submission to HM Revenue & Customs, every time that a payment is made to an employee.

In practical terms, for instance with a monthly payroll, this does mean that the employer will have to ensure without fail, not only that the payroll software is run in good time each month, so that the employees can be paid, but also that the monthly submission is made in good time (generally by the 19th of the following month) to HM Revenue & Customs, having been approved by the employer.

This will present a challenge especially, in the case of sole-traders and one-man companies.

In particular, if utilising an external payroll bureau, it will be essential to ensure that proper arrangements are made so that each RTI payroll submission is approved by the sole-trader/director for submission to HM Revenue & Customs (HM Revenue & Customs

instructions do make it clear that it is mandatory for the RTI submission to be approved by the employer before the payroll provider can file this with HM Revenue & Customs), before the due date.

Needless to say, there are penalties for late submissions and/or incorrect submissions.

Summary

In summary, RTI will become mandatory next year (with some employers joining from April 2013 and all employers covered by October 2013), and clients will need to make appropriate preparations to deal with the new system.

Your normal contact partner and/or this firm's payroll department will be happy to assist with any queries which arise.

Staff

We had two celebrations in the office over the last six months and they are very worthy of recording.

Firstly, Paul Ventham celebrated 40 years with George Hay and Company as having started employment in George Hay on the 13th December 1972. A small celebration with partners and staff took place on the date and a presentation clock was given to him. Not that he needed the clock as he is always in the office by 7 o'clock in the morning.

Celia Hall who joined George Hay and Company on the 13th November 1972 also celebrated 40 years and a presentation of a bracelet was given to Celia and the staff clubbed together and gave her flowers and a scarf. We can assure you that Celia when she started was in a gymslip.

Congratulations to Chris Strahl who reached his 60th Birthday recently and booked a bar at a local hostelry for staff to celebrate his birthday.

Congratulations Chris you have only got another 20 years with the office!

Competition



Congratulations to those members who supplied the answers to the Competition in our Summer Newsletter. Those who did have difficulty in solving the problem the answers are as follows:

Screen 1 – 131 people
Screen 2 – 127 people
Screen 3 – 113 people
Screen 4 – 73 people

Two readers of our Newsletter have now received a bottle of champagne and we now turn to the Winter Competition:

Five babies were due on each of five weekdays. One baby was born each weekday, but each arrived at least a day early or late. Em was born two days after Jack was due. Abi was due on Wednesday but arrived later. Tom was born on Wednesday, earlier than expected. Mel was born later than her due date. Which baby was due on each day and when did each arrive?

Conclusion



It seems we have now passed the worst of the inclement weather after a cold Easter and we can now look forward to Summer.

In this edition of the newsletter, we have detailed some of the important changes that took place or taking place and in particular the capital allowance,

Tax Credits and Real Time information reporting for PAYE. We have packed in some practical implication that will help you the reader to make sense of these issues. However, naturally, we at George Hay and Company are always ready to advise any reader should you wish to discuss any of the issues raised in this newsletter or have a general query, so please do not hesitate to contact us.

May we wish you all a successful and hopefully sunny Summer.
Ed

The George Hay & Company Newsletter is published six monthly, Editor, Norman D Christy, F.C.A., and is for private circulation only to clients of George Hay & Company. Further copies are available on request to Norman D Christy, F.C.A.

No part of this publication may be reproduced or transmitted in any means, including photocopying, printing and recording without the written permission of the copyright holder, application for which should be addressed to the editor. Whilst every care has been taken in the preparation of this document, we cannot be responsible for any errors, which may occur.

Typeset and design: Abdul Mahmood

George Hay & Company 83 Cambridge Street Pimlico London SW1V 4PS

info@georgehay.com | www.georgehay.com

