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newsletter

In This Issue...

We bring you news of recent stamp duty land tax changes including the doubling of the threshold for residential properties. What appeared at first sight to be good news was rapidly dismissed in many quarters as too little too late.

Property, specifically inheritance tax planning for the family home, features again in our article 'Giving and Taking Away'. Read it for a flavour of what is and isn't possible.

The theme of good news and bad news continues with a collection of items for employers including the national minimum wage and electronic filing.

We also bring you news from Companies House as well as an update on the Inland Revenue's campaign to close tax loopholes and stop tax schemes.

We hope you enjoy our collection of articles. If you have any comments (good or bad!) or any questions arising from anything in this newsletter, please give us a call.

SUMMER 2005

The Construction Industry

The Construction Industry Scheme (CIS) has been a feature of the UK tax system for over 30 years with heavy reliance on 'paper' to evidence payments between contractors and subcontractors. A revised CIS is being developed and is due to take effect in April 2006.

- The new scheme will dispense with cards, certificates and vouchers.
- Subcontractors must continue to register with the Inland Revenue but will be able to do this electronically or by phone. There will be no 'paper' but the Inland Revenue will confirm whether receipts will be net or gross.
- When contractors take on a new subcontractor there will be no card or certificate to look at. Instead they must contact the Inland Revenue to confirm whether payment should be made net or gross.
- Tax deduction vouchers will be replaced with a monthly statement which the contractor will submit to the Inland Revenue.

With the reform in prospect, the Inland Revenue has once again focused its attention on the construction industry.

A major area of concern for them is the status of subcontractors. Should they be treated as employees or self-employed? Last year the Revenue sent out thousands of letters to contractors inviting them to review the terms on which subcontractors are engaged. Even in the absence of such a letter the increased 'interest' on the part of the Inland Revenue warrants a status review. The position is not always clear-cut and a number of factors are used to paint a picture. The bottom line is that if subcontractors have been treated as self employed, when in the Inland Revenue's view they should be treated as employees, the worker can be reclassified. This may affect earlier years with additional tax, interest and possibly penalties being due.

One further area of ongoing concern relates to subcontractors paid gross. The Inland Revenue is starting to deny renewal of CIS certificates where the subcontractor has regularly paid over their own employees' PAYE deduction late. Non-renewal may cause severe financial hardship and it is vital that PAYE is paid over on time.

Please contact us if you have any questions or concerns relating to any aspect of the CIS.

Stamp Duty Land Tax Changes

An increase in the threshold for stamp duty land tax (SDLT) on residential properties was widely predicted ahead of the March 2005 Budget. The Chancellor did not disappoint. He doubled the threshold from £60,000 to £120,000.

Estimates as to the number of homeowners who will benefit vary, but over 150,000 first time buyers and around 240,000 homebuyers in total will be taken out of the SDLT net. What is it they say about statistics?….

The fact remains that the SDLT threshold would now stand at over £150,000 if it had been increased in line with house prices since March 1993 when it was last increased.

A purchaser paying £100,000 for a property will save £1,000 as a result of the change. Previously there would have been an SDLT charge at 1% on the full £100,000. But is it a real saving? Where there is strong competition amongst first time buyers the SDLT 'saving' might simply serve to push up property prices. Furthermore with the average house price for the first time buyer standing at over £140,000 there will still be some liable to SDLT. Of course those buying more expensive properties will continue to find themselves liable to SDLT on the full price paid at 1% (between £120,001 and £250,000), at 3% (between £250,001 and £500,000) and at 4% (over £500,000).

Purchasers of residential property in one of the UK's designated 'disadvantaged areas', of which there are nearly 2,000, will continue to benefit from a £150,000 threshold.

The sting in the tail is reserved for purchasers of non-residential property in disadvantaged areas. Up until 16 March 2005 there was total exemption from SDLT on such purchases whatever the price. The exemption was withdrawn without warning with effect from 17 March 2005. Any commercial property transaction over £150,000 in a disadvantaged area now attracts SDLT at normal rates.

Employer News

As ever we bring you good news and bad news...

Good news

Payroll Giving

In 2004, around 530,000 employees gave £85 million to charity through Payroll Giving, with one in five employees having access to a Payroll Giving scheme. The Home Office has launched an incentive scheme to encourage more employees to give to charity. The scheme applies to employers with fewer than 500 staff, who set up a Payroll Giving scheme between April 2004 and December 2006 and consists of two elements:

- employers will receive a grant of up to £500, depending on their size, when they establish a scheme and
- the government will match the first £10 donated by each employee, every month for a period of six months.

Payroll Giving allows employees to give to charity from their gross salary and get immediate tax relief at up to 40%.

Further information including detail on how to sign up for the scheme is available at www.payrollgivinggrants.org.uk

Working Tax Credit

In Budget 2004 the government announced its intention to phase out the payment of WTC via employers (PVE). No date was set for this change and the whole matter then went very quiet.

It has now been confirmed that PVE will be phased out between November 2005 and April 2006 and replaced with direct payment by the Inland Revenue. This move will undoubtedly be welcomed by many small businesses.

And the not so good...

National minimum wage (NMW)

The NMW rate will rise from £4.85 to £5.05 in October 2005 and to £5.35 in October 2006. The rise is in line with the recommendation of the Low Pay Commission and will take the minimum wage in 2006 to almost 50% above its 1999 introduction rate. The youth rate which applies to 18-21 year olds will rise to £4.25 in October 2005 and to £4.45 in October 2006. The operation of the new rate for 16 and 17 year olds currently at £3.00 will be kept under review.

The announcement of the increases has not found favour in all quarters. The Federation of Small Businesses has declared that 'year-on-year above inflation increases in the NMW are dangerous for the economy and send the wrong message to employers'. The Institute of Directors warned that increases have a knock-on effect as the wages of better paid employees in an organisation also need to increase to maintain a large enough gap between them.

There are calls in other quarters for the whole NMW regime to be simplified. Certainly we would agree that the rules do seem unnecessarily complex. Please talk to us if you have any questions or concerns relating to any aspect of the NMW.

Electronic filing

This is not so much bad news, more the Inland Revenue's response to a very small minority of cases where financial incentives were being exploited artificially.

Large employers (those with 250 employees or more) are obliged to file their 2004/05 end of year returns (forms P35 etc) electronically. Medium-sized employers (those with between 50 and 250 employees) will be required to do likewise with effect from 2005/06.

Smaller employers will not be obliged to file electronically until 2009/10. However to encourage an earlier switch to online filing small employers are being offered financial incentives amounting to a total of £825 if they begin to file electronically from 2004/05. The government is concerned that, in a tiny minority of cases, there has been exploitation of the incentives. As a consequence, provisions have been introduced with effect from 18 March 2005 to counter artificial arrangements and refuse the tax-free incentive payments in certain circumstances.

The good news is this will not affect the availability of the incentives in the majority of cases.

Companies House News

Companies House has recently reminded companies that filing their annual accounts and annual return late are criminal offences. If accounts are late, there could be a penalty of up to £5,000 to pay. If an annual return is late a company may be struck off. This should be incentive enough to ensure that these documents are filed on time!

In an attempt to help combat fraud, Companies House has also introduced a new service, known as PROOF (PROtected Online Filing). This service is in addition to the existing Monitor service which also helps combat fraud. These services are in part a response to a scam known as 'company hijacking'.

Hijacking involves fraudsters forging certain documents that are filed at Companies House, form 287 being the main one. In fact, this scam is sometimes known as the '287' scam. This form changes a company's registered address but the scam may also include forging forms that change the addresses of company directors.

Once they have decided upon a target company, hijackers manually submit a new form 287, changing the company's registered address to one that they control. Companies House automatically processes the form and makes the requested changes. The hijackers are then in a position to use the company to order goods and services, trading off its creditworthiness. Goods delivered to the bogus address are then sold on but the supplier never receives payment.

This can obviously lead to severe problems for the real company and its directors to sort out. The first that the directors may hear of the problem is when suppliers try and enforce payment for goods ordered in the company's name!

If you would like to find out more about filing deadlines, the PROOF or Monitor services visit the Companies House website at www.companieshouse.gov.uk or contact us.

Where Will it all End?

Under new rules introduced last year, certain 'tax schemes' are now required to be registered with the Inland Revenue by the schemes' promoters. This doesn't necessarily render the scheme ineffective but brings it to the Revenue's attention. This in turn provides, in the government's words, 'early warning of avoidance schemes' and enables them 'to respond to tax avoidance'. The result to date has been a whole raft of new anti-avoidance provisions attempting to block perceived loopholes in the legislation. They range in scope from bonuses paid in the form of certain shares and securities, to double tax relief and capital gains tax.

The trend looks set to continue and, with effect from 1 July 2005, schemes to avoid stamp duty land tax on commercial property are brought within the registration scheme.

Meanwhile whilst helping you to plan (legitimately!) to minimise your tax liabilities, we regularly learn of fraudsters attempting to take your money in other ways! We refer in the article above to a Companies House scam and alert you to two more below.

The Health and Safety Executive has been warning businesses about a bogus organisation, the 'Health and Safety Registration Enforcement Division' seeking to charge hundreds of pounds to run 'checks' and register businesses with an 'enforcing agency'.

More recently the Charity Commission has warned that fraudsters are obtaining charities' bank account details from Gift Aid forms and using this information to extract funds from the charity by setting up standing orders.

It sometimes feels as though we're being attacked from all sides. Please do talk to us if you have any questions on the issues we have raised.

Giving and Taking Away

Despite the increased inheritance tax (IHT) thresholds announced in the March Budget - £275,000 now and £300,000 by 2007 - more families now find themselves within the IHT net. Estimates suggest it could be as many as four million in ten years' time. The reason is simple! The family home is often the main asset in the estate and increases in the IHT threshold have failed to keep pace with rises in house values. If the threshold had been increased in line with house values since 1997 it would now stand at over £500,000.

As a consequence IHT schemes were developed which were simple in essence but very complex in their execution. They involved removing the family home from the IHT estate, thereby ultimately saving up to 40% of its value in IHT, whilst the former owners continued to live in the property much as they had done before. Seemingly the best of both worlds! This was certainly the Inland Revenue's view, hence legislation effective from 6 April 2005 which applies an income tax charge in such a scenario. The charge is based on a notional market rent for the property. Assuming a rental yield of 5%, the annual income tax charge for a higher rate taxpayer on a £1 million property would be £20,000. However the upside is that the property is no longer treated as part of the IHT estate and so the eventual IHT saving (after taking into account the £275,000 nil rate band) would be £290,000.

The new rules, referred to as the 'pre-owned assets' regime, potentially apply to all arrangements put in place since March 1986 and have been criticised by some for being retrospective.

Although the new regime is a blow for IHT planning it does not by any means sound the death knell. Wills are not affected by the new regime and so it is more important than ever to ensure you have a tax-efficient will. Depending on your circumstances it may be appropriate to consider an equity release scheme or shared occupation of the family home between parent and (adult) child as a means of IHT planning for the future.

The new charge is only applied to those who have entered into certain schemes and arrangements. The options to avoid the charge where it would otherwise apply are:

- consider dismantling the scheme
- pay a market rent for occupation
- elect to treat the property as part of the IHT estate.

Please give us a call if you have any questions on pre-owned assets or wish to talk to us about any aspect of IHT planning.

Businesses can Assess Health and Safety Performance

The Health and Safety Executive (HSE) has launched a web-based tool to help small and medium sized businesses (SMEs) identify how well they are managing health and safety. The Health and Safety Performance Indicator can help you to:

- understand how well you identify and manage health and safety hazards in your business
- find guidance to help you improve your management of health and safety
- benchmark against other businesses
- give your insurance broker a better understanding of how your business handles workplace hazards with a view to getting the lowest possible premium.

The Indicator works by asking a series of questions on key hazards most commonly faced by SMEs and incident frequency. It can be found at www.hspi.info-exchange.com

Does your Business have Illegal Software?

According to the Federation Against Software Theft (FAST) more than 90% of businesses have some form of illegal software on their IT systems but many aren't even aware of the problem.

In many cases illegal software use is undoubtedly accidental. It is easy for businesses, particularly smaller ones without a dedicated IT department, to lose track of their software and licences. However ignorance is not a valid excuse in the eyes of the law.

According to research from the Business Software Alliance (BSA), UK businesses have paid £1.8 million in fines resulting from the use of illegal software over the past five years. Indeed FAST is so concerned at the level of software 'theft' that it has launched a tracking system to trace illegal software down to individual computers.