Bulletin

National Insurance Update

National Insurance (NI) continues to affect our businesses and finances, sometimes to a greater degree than is immediately apparent. There continue to be a number of developments and opportunities of which employers should be aware and in this bulletin we explore some of the current areas of interest.

Save money on petrol

Many employers continue to provide fuel along with company cars (to around half a million employees according to recent figures), although this approach is often not economic to the employer or employee. With a scale charge of between 15% and 35%, calculated on the fixed sum of £14,400, many employees would be better off paying for all of their private fuel rather than suffering a tax charge of 22% or 40% depending on their individual circumstances.

If your company continues to provide all of the fuel for company cars then take a careful look at each employee's circumstances to see whether a switch to a business mileage basis is worthwhile. This could also include you if you are a director of the company.

Under this system, business fuel would be paid for on a mileage basis between 7p and 16p per mile, depending on the car's engine size and fuel type (see below). Input VAT may also be reclaimed by the business.

Car fuel advisory rates (per mile) from 1 July 2005

Engine size:	Petrol	Diesel	LPG
Up to and including 1,400cc	10p	9p	7p
1,401cc to 2,000cc	12p	9p	8p
Over 2,000cc	16p	13p	10p

By making the switch, an employer not only saves the actual private fuel cost but also 12.8% Class 1A NI on the benefit to the employee as well. If the employee's fuel costs are similar to the tax on the benefit in kind, then employers may want to share the overall savings with the employee with a small pay rise.

Do not be put off by the fact that we are part way through a tax year. You do not have to wait for the 5 April to implement this change.

Alternatively the business could pay for all fuel and the employee could reimburse the cost of private mileage. This method can be complicated and requires good record keeping, so please contact us before you change your policy.

If we can help you review your circumstances and procedures in this area generally, please get in touch. The only thing we cannot do is save you money at the pumps too!

Remuneration from family businesses

As the Arctic Systems case rumbles on, the tax treatment of dividends paid to husbands and wives where one spouse does not undertake a great deal of work for the company remains unresolved. Despite this, there may still be an advantage gained from careful selection of remuneration levels for family members.

Where only a modest salary is needed, the first hurdle is to pay at least the NI lower earnings limit, currently £84 per week. This secures entitlement to state benefits for no payment of any actual NI contributions by either the employer or the employee. Take care however, you may need to comply with the National Minimum Wage requirements and to take account of any occupational pension planning too.

In fact no NI contributions are payable until earnings reach £97 per week (£5,035 per annum). Assuming the person has their full personal tax allowance available (also £5,035) there would be neither a tax nor NI liability on earnings up to £97 per week. Another significant benefit is that once the lower earnings limit is reached (for the full tax year), the low level of earnings counts for additional state pension purposes (State Second Pension) as if it were actually a salary of £12,500 for 2006/07. This is a useful benefit that should not be overlooked in a family business.

Continued overleaf >>>

State pension lump sums

Since April 2005 it has been possible to defer the state pension, not just for an added weekly amount ('increment') when eventually drawn, but to get a lump sum, taxable in full, instead.

The lump sum option requires a minimum deferral of 12 months, therefore the first lump sums became payable in April 2006.

The taxation of these sums is unusual. The whole amount, which could after a few more years amount to £10,000 or more, is taxable only at the recipient's existing highest rate of tax. This applies even if the extra amount would have pushed the taxpayer into a higher tax bracket if it were any other type of income.

In addition, it is possible to stop the pension deferral and take a weekly state pension, but leave payment of the lump sum until the start of the next tax year so that it is taxed in that later year. This provides some flexibility where a pensioner continues to work for a while and is a higher rate tax payer but whose income then drops significantly at a later stage and they become a basic rate tax payer. If you or perhaps your parents are approaching pension age, proper consideration of both the state pension rules and the system of taxation will be worthwhile.

Home Responsibilities Protection (HRP)

If you or your spouse have taken time off work to look after young children you may not have built up a sufficient record of NI payments and credits to qualify for the full rate of the state pension. The good news is that HRP may be available in these and also in some other rarer circumstances.

HRP is a special form of NI credit. Typically HRP is available to recipients of Child Benefit (CB) where the child(ren) are under the age of 16. It is also available to those:

- regularly looking after someone for at least 35 hours per week who is in receipt of certain state benefits
- receiving Income Support and not being required to be available for employment, as they are looking after a sick or disabled person at home
- Registered Foster Carers.

From 6 April 2002 HRP is enhanced in some circumstances such that the State Second Pension now provides an earnings related pension to those who do not work at all for a complete tax year, or earn less than the NI lower earnings limit. The main, but not the only, instance of this is where the individual is the main recipient for CB in respect of a child aged under six.

Where HRP is due because of the receipt of CB for a complete tax year, or also in most cases where there has been a complete tax year's payment of Income Support, the claimant should not have to do anything. Instead the Child Benefit Office, the Department for Work and Pensions and the National Insurance Contributions Office will liaise.

Otherwise, HRP now has to be specifically claimed. This includes cases where the reason for HRP being due changes during the year. The time limit is three years after the end of the year for which the claim arises and a fresh claim is required for each year. If this affects you or a family member you should claim now for 2003/04, 2004/05 and 2005/06.

Further details can be found in the Pension Service leaflet PM9 'State pensions for carers and parents; your guide' which can be downloaded at www.thepensionservice.gov.uk or a paper copy ordered by telephoning 08457 313233.

Recent changes

From December 2005 Civil Partnerships are recognised for all legal purposes. However, as NI works on an individual basis, the practical effects are few.

There have also been changes affecting individuals undertaking a gender change. From April 2005 employers have to recognise full Gender Recognition Certificates but not interim ones. For example, an employee who acquires male gender will pay employee's NI for longer as their retirement age will increase. More generally, there may well be implications if the employee is a member of an occupational pension scheme.

Civil partners and those acquiring new gender also both acquire appropriate rights to state benefits.

Forthcoming changes

From April 2007 the current maximum length of Statutory Maternity Pay (SMP) entitlement will be extended from 26 to 39 weeks, with an option to transfer the extra 13 weeks from the mother to her partner. Except in the rare cases where the mother and her partner happen to work for the same business, this could be a difficult scheme for employers to operate. Further details are currently awaited.

It will also become possible to pay SMP for weeks beginning on any day of the week convenient to the employer. In addition, the carrying out of some work for just part of a day will no longer invalidate a full week's entitlement to SMP. This will help, for example, where the woman attends the occasional staff meeting to keep in touch or a training course.

Other current NI issues

- If your trade is one where it is customary for employees to receive tips, check that you are adopting the latest guidance following another change of view by HMRC a few months ago. If you have paid a settlement to HMRC relating to tips in the last couple of years, you may be due a refund.
- Do not be mislead by this year's HMRC guidance about payment dates. Some of this contradicts other pieces of HMRC guidance. If you are a large employer (250 or more employees in a single PAYE scheme) compelled to make your monthly PAYE/NI remittances by electronic means you should note that there is actually no similar compulsion regarding the payment of Class 1A NI on benefits in kind. You can still pay Class 1A by post, if you prefer, provided the payment arrives by 19 July. Whatever the size of your PAYE scheme you can pay electronically if you wish, meaning that you have extra days to pay. As this year 22 July is on a Saturday, cleared funds need to be received by HMRC by Friday 21 July.
- HMRC continue to contend that school fees paid by the employer are always liable to Class 1 NI. However sometimes the liability may be liable to Class 1A only. This is especially important if you currently have an ongoing dispute regarding 1999/00 and earlier years, as the Class 1A liability would be nil at that time.

In our experience, many businesses struggle to a greater degree with NI issues than with tax. If we can help you regarding any of the matters covered in this bulletin or if you need any further information on any of the issues please get in touch.