



Business Alert: December 2007

Welcome to Scott-Moncrieff's Business Alert Service, designed to help you keep up-to-date with business and tax legislation. The service provides details of key changes, issues and opportunities, and includes suggested action and links to more information. If you need additional information or have any concerns regarding any of the areas below please contact a member of your client service team at Scott-Moncrieff who will be happy to discuss the implications for your business.

New IHT Claim Form

The transfer of unused nil rate band between spouses and civil partners is effected by a claim after the death of the second spouse or partner. Form IHT 216 is now available on which a claim is made. The form must be submitted within two years of the date of the second death. The new form includes explanatory notes on how to make a claim and what information must be provided to support a claim. There are also updated questions and answers on HMRC's website explaining how the relief works in common and more complex situations.

Flexible Working Extension Planned

A study has commenced on the implications of a planned increase in the rights of parents and other carers to request flexible working hours. The current legislation provides this right to carers of adults and children under the age of 6 or who are disabled. The plans are to extend the availability of this to parents of older children. If extended to all children up to the age of 17 this would bring flexible working rights to a further 4.5 million parents. The intention is to hold a public consultation in the Spring of 2008, once the feasibility study has been completed, and then once agreed to introduce legislation as soon as possible after that. The announcement was made at the same time as a study into flexible working was published, which shows that parents and employers all welcome the new rules, and consider that they benefit from them.

HMRC withdrawing dispensations retrospectively

HMRC are withdrawing P11D dispensations retrospectively where they perceive that an employer has failed to adhere to the terms under which it was first agreed. Generally speaking, HMRC would withdraw dispensations going forward unless a serious breach had been committed. However we now find that they are looking to retrospect more and more often. Employers should make sure they check at least once a year that their dispensation adequately reflects their current working practices and if it doesn't they should contact HMRC as soon as possible to update the dispensation.

HMRC Targeting Hospitality Industry with NMW Inspections

HMRC stated at their recent Employer Talk seminars that they are commencing a programme of National Minimum Wage inspections specifically targeted at the hospitality sector for the whole of the UK. Our experience tells us that the NMW is not the only item on their agenda and that these inspections inevitably lead to other lines of enquiry. Any hospitality sector clients with workers whom they consider to be self employed need to be especially careful, as a status enquiry will be likely to ensue. The Revenue's staff can ask a whole range of questions and an employer compliance review can also be a likely tag-on depending on the responses given by the client.

Revenue Postal Backlog between 3-6 Weeks

HMRC Centre 1 has admitted to having a postal backlog stretching up to six weeks, depending on the department receiving the post. This means that the post has been opened but has not been logged on to the system as having been received. One officer told us that most of the departments at Centre 1 have a backlog of un-logged post which is at least three weeks old. Our experience tells us that for certain matters such as P11D dispensations, the response time is around two weeks, whereas the team dealing with 64-8 agent authorisation forms is three weeks behind and due to the recent security breach, all communications with outside parties have been clamped down upon so that faxed copies of the forms are not allowed to be used as a temporary substitute. Not helpful if your issue is time sensitive!

New clearances pilot due to begin

The launch of a pilot scheme evaluating an extension to the HMRC clearance procedure was first announced in the 2007 Pre-Budget Report. Due to launch in January 2008, the aim of the pilot is to develop operational processes and guidelines for customers and staff, and also to evaluate new processes which will enable HMRC to handle clearances in a more consistent way. The pilot will cover both the North West & Midlands Group of Local Compliance (businesses across all sectors) and business customers in the Retail sector whose tax affairs are handled by the Large Business Service. For those businesses participating in the pilot, HMRC will:

- Remove the four Finance Act restrictions that direct tax clearance applications were subject to under Code of Practice 10 (COP10).
- Ask them to demonstrate the commercial significance of the transaction where the clearance relates to direct tax legislation older than the last four years.
- Respond within 28 calendar days as the norm.

Amendments to R&D claims rules

In an effort to ensure that 'accurate and timely' R&D claims for past years are submitted, HMRC have recently published a Brief reminding taxpayers of the 31 March 2008 deadline for R&D claims relating to periods ending before 31 March 2006. The March 2008 deadline marks the end of the transitional period introduced to facilitate an adjustment of the period in which R&D relief can be claimed. The period is being reduced from six years (for year ends falling before 31 March 2006) to two years, in line with normal CTSA time limits.

Change to enquiry window

The shortened window in which HMRC can launch an enquiry into a corporation tax return is due to be implemented for periods ending 31 March 2008. The actual window will remain at the current twelve months, however it will commence from the actual date the return is filed, as opposed to the submission date as it was previously. Group companies will not qualify unless they satisfy two of the three following conditions:

- Turnover must be no more than £5.6m net or £6.72m gross.
- Balance sheet totals must be no more than £2.8m net or £3.36m gross.
- Number of employees must be no more than 50.

Income Shifting Proposals Announced

Since the success of the taxpayer in the Jones v Garnett settlements case, which concerned the payment of dividends in a husband and wife company, we have been expecting details of changes to tax law which were announced on the day after the House of Lords decision was published. The case established that under current law it is possible for a company to be set up jointly between husband and wife and for the income of the company to be split between the couple by way of payment of dividends on ordinary shares, irrespective of whether either or both of the couple were actively involved in the business. It is Government's policy that such income shifting, as it is now referred to should not be effective in reducing the tax liability of one individual by the transfer of income to a second individual. Proposed legislation has now been released, which is intended to take effect from 6 April 2008. Comments are invited by 28 February 2008.

New Fuel Only Advisory Rates

The HMRC advisory rates allow employers to reimburse staff for fuel used on business journeys without separately negotiating a dispensation. They may be used for both income tax and VAT purposes if the employer so desires. Alternatively, employers may agree separate mileage rates with HMRC. The recommended rates will be increased with effect from 1 January 2008 to take account of the rise in fuel prices.

	Petrol	Diesel	LPG
Up to 1400 cc	11p	11p	7p
1400 – 2000 cc	13p	11p	8p
Over 2000 cc	19p	14p	11p

These rates are based on fuel prices of 102.1p per litre for petrol, 106.3p for diesel and 50.2p for LPG.

Residence & Domicile

Following announcements made in the Pre Budget Report in October of this year, a consultation has now commenced on changes to the law regarding the tax issues related to both residence and domicile. The proposed changes will include the measures announced in October, including a £30,000 per annum tariff for those UK resident taxpayers wishing to retain the benefit of the non domicile rules, and changes to the way the law works in relation to non residents who visit the UK. The consultation document does not include any detailed technical material, but seeks to explore the broad issues in relation to this complex topic.

More Data Losses Admitted

Things go from bad to worse at HMRC in relation to security of confidential data. Dave Hartnett, acting head of HMRC since Paul Gray resigned this week admitted to a total of five breaches of data security since HMRC came into existence, and accepted before the Commons Public Accounts Committee that the failures could be viewed as systematic. Meanwhile, even the letter sent apologising for the initial loss of records of 25 million people has been widely criticised for including further confidential data, which if misdelivered would represent a further breach. Advice from a wide range of sources suggests that those affected report any suspicious movements on bank accounts, or the receipt of credit card statements for unrecognised cards. It is not presently considered necessary to change bank accounts.

We believe the information in this Business Alert to be correct at the time it was sent, but cannot accept any responsibility for any loss occasioned to any person as a result of action or refraining from action as a result of any item herein.

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