



Business Alert: January 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.

If for any reason you would prefer not to receive our Business Alerts, please reply to this email with "Business Alerts - remove" in the subject header.

Guidance on Residence for Tax Purposes

Many tax specialists were surprised at the decision in the Special Commissioners case of Robert Gaines-Cooper, as the case seemed to undermine the guidance given in booklet IR20 about when individuals would be regarded as resident in the UK for tax purposes. In particular, the case took a contrary view of the application of the so-called 91 day test, which is normally used to determine whether a taxpayer has spent sufficient time in the UK to be regarded as UK resident in a particular year. The case seemed to change the rule expressed in IR20 that the days of arrival and departure in the UK would be ignored when deciding residence. HMRC have now issued a Bulletin explaining the case and that the Department's approach has not in general changed. In particular, the 91 day rule will continue to be used as before, ignoring dates of arrival and departure. However, the department has argued that the case needed to look at the wider facts and that ultimately the 91 day test was not relevant as Mr Gaines Cooper has not actually left the UK. This is a complex area, and not in the least simplified by the case and subsequent guidance, so taking professional advice is very strongly recommended.

VAT on New Residential Property

The grant of a long lease in a newly built residential property, including a dwelling, is a zero rated supply. If the freehold is subsequently sold, this would be an exempt supply. In reality there will not normally be a subsequent VAT adjustment on the input tax claimed on construction costs, but the full detail of why and how such transactions should be accounted for for VAT purposes is now explained in detail in Business Brief 23/06. This is the last issue of Business Briefs, which will now be replaced by an online publication known as "Revenue and Customs brief".

DTI Announces Increase in Minimum Holidays

The DTI has, from 11 January 2007, announced an increase in minimum holiday entitlement under the *Working Time Regulation 1998* from 20 days to 28 days per annum. Some employers currently include the eight bank holidays as part of workers' 20-day annual leave entitlement. This change effectively requires them to *add* the eight bank holidays to the 20-day annual leave entitlement. The DTI estimates that 6 million workers will benefit from this change. Statutory annual leave entitlement will be increased in two stages, rising from 20 to 24 days on 1st October 2007, and from 24 to 28 days on 1st October 2008. There is to be a second round of public consultation, closing on 13 April 2007, on the implementation of these changes.

Changes to Business Stationery Rules

As from 1st January 2007 the following applies to business stationery. Whether in hard copy, electronic or any other form: A company must state its name, in legible lettering, on the following - all the company's business letters, order forms; all its notices and other official publications; all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by, or on behalf of, the company; all its bills of parcels, invoices, receipts and letters of credit on all its websites. On all of its business letters, order forms or any of the company's web sites, the company must show in legible lettering - its place of registration; registered number; its registered office address; and if it is being wound up, that fact. Whenever an email is used where its paper equivalent would be caught by the stationery requirements then that email is also subject to the requirements. This also applies to Limited Liability Partnerships. For further information please get in touch with the Companies House Contact Centre on 0870 3333636.

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.

Scott-Moncrieff (www.scott-moncrieff.com), one of Scotland's leading independent professional services firms, provides industry focused audit, tax, business advisory and corporate consulting services to commercial, public sector, not-for-profit and private clients. © Scott-Moncrieff Chartered Accountants 2007. All rights reserved.