

## Hobsons : Newsletter March 2008

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Attention on this side of the desk is fixed firmly on the Budget statement expected Wednesday, 12th March. We will be including commentary on the areas of interest to clients in our next newsletter. The current tax year finishes on 5 April. This newsletter includes a few tax planning pointers for business clients, the treatment of loans for National Insurance purposes, a note regarding certain capital losses that can be set against income, and finally a VAT reminder for owners of property on which there is an election to tax.

Our next newsletter will be published on Thursday 3rd April 2008.

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### Prevention of illegal working

On 29 February 2008, the Government introduced changes which allow for a civil penalty to be imposed on employers who employ illegal migrants.

The changes have been made for three reasons:

- To make it more difficult for people to overstay their permission to be in the UK, or their entitlement to work, or to remain in employment in breach of the UK's immigration laws.
- To make it easier for you to ensure that you employ people who are legally permitted to work for you.
- To strengthen the Government's controls on tackling illegal working by making it easier for the Border and Immigration Agency to take appropriate action against employers who use illegal labour.

As an employer, you need to be presented with a document or documents from one of two lists. The thirteen documents from List A establish that a person has an ongoing entitlement to work in the UK, whilst the eight documents from List B establish that they have a restricted entitlement to work in the UK. Details of the documents included on both lists can be obtained from the Home Office.

Civil penalties imposed can be steep, and vary according to the level of checks carried out by the employer and the number of illegal immigrants employed. Care should therefore be taken at the recruitment stage to ensure candidates are entitled to work in the UK, whilst also complying with discrimination legislation.

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### Business Tax Planning – action before 6 April 2008

We have noted below a number of tax issues that you may like to review prior to the end of the current tax year, 5 April 2008.

1. **Capital Allowances.** Clients may be advised to seek our advice before committing to any further capital expenditure before 5 April 2008. As from 6 April 2008 it is likely that new rules will apply to the way in which you are able to claim capital allowances for the purchase of certain qualifying assets. The Government has said it will introduce a new Annual Investment allowance. Essentially from the end of this tax year businesses will be

able to write off 100% of their expenditure on plant and other equipment (excluding most cars) up to an annual limit of £50,000. This Annual Investment Allowance will apportioned in the first year if your year end is not 31 March. For instance if you spend £24,000 on a qualifying asset in April 2008 and your year end is June 2008; one-quarter of the £24,000, £6,000 will qualify for the 100% write down; any balance will be carried forward. This will only affect businesses whose accounting year end straddles 5 April 2008. Because of these changes businesses may be disadvantaged if they commit to capital expenditure before 6 April 2008. If you have plans to acquire assets you may be advised to check out the pros and cons of delaying the expenditure until after 5 April 2008.

2. **Benefits in Kind.** Don't forget that if your employees reimburse you for the use of a company asset, or to cover other personal payments that have been made on their behalf, no benefit in kind will arise, and therefore no tax will be due. In most cases reducing taxable benefits in this way will also reduce the National Insurance Class 1A contributions for the business.
3. **Corporation Tax Rates.** If your taxable profits are likely to take you over the small companies rate, (currently your company can earn up to £300,000 at the small companies rate of 20%, unless you have associated companies which can reduce this entitlement), you could consider bringing forward expenditure to keep your profits under the threshold. The expenditure could be a business expense or capital expenditure.
4. **Pension contributions.** Tax relief on pension contributions made by the company is only available in the period in which the contributions are actually paid, so if it is planned to increase contributions in respect of the current year, these need to be paid out during the period.
5. **Directors' bonuses year to 31 March 2008.** Where it is planned to pay directors bonuses out of current profits it is necessary to hold a directors' meeting confirming the decision to do so. This should then be minuted, even if the exact amount of the bonus is to be determined later. In this way the liability for the bonus is created in the current period, and it will be acceptable to provide for the bonus in the accounts. The bonus should then be finalised and paid out within 9 months of the year end to secure a corporation tax deduction for the payment.

These are just a few of the possible planning issues that you should take a look at before 5 April 2008. Please call if you need to clarify any issue prior to a 31 March year end.

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## Loans and National Insurance

Readers may find the following notes useful:

- A loan itself is not remuneration for National Insurance purposes. Consequently no Class 1 contributions are due on the granting of a loan, or on the cash equivalent of a low interest or interest free loan.
- Class 1a contributions may become due if the loan is waived, written off, or if the employee/director does not pay interest on the loan at an amount equivalent to the "official rate".
- An advance of pay is treated as a loan - any tax or National Insurance becomes deductible when the normal pay date arises.
- Loans provided to employees who are unable to work due to injury or accident will be subject to a National Insurance charge unless the loan is repayable whatever the outcome of the employee's claim for damages.
- These rules apply to directors and other employees.

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## Capital Losses – disposal of unquoted shares

If the conditions set out below apply, it may be possible to set off a loss on the disposal of certain shares in unquoted, trading companies, against the other earnings of the disposing shareholder.

**In order to qualify:**

- The shares disposed of must form part of the ordinary share capital of the company.
- The claimant (or spouse/civil partner) must have subscribed for the share.

- The company must be a qualifying trading company.
- The shares must not be listed on a recognised stock exchange - listing on the AIM market are not considered "quoted".

**Any loss relief computed will be limited to:**

- A transaction made at arms length for full consideration.
- A distribution in the course of liquidation or winding up.
- A negligible value claim. (When shares have no value)

**The relief can be claimed:**

- For the tax year in which the loss occurred.
- Or, the preceding tax year.

This relief provides a measure of compensation for shareholders who invested in companies, and have lost money when the company was subsequently sold or wound up.

Also bear in mind that losses of this type, set against other capital gains in the same year, will save capital gains tax at 18% after 5 April 2008. (If the proposed changes to CGT are carried through in the forthcoming Finance Bill.) If those same losses are set off against other income in 2008-2009, as suggested in this article, the tax savings at income tax rates could be 20% - 40%.

**VAT – the election to tax.**

If you own a business property you are probably aware if the property is subject to an election to tax for VAT purposes. If you charge VAT on the rents invoiced to your tenants, you will have an election to tax in place.

In certain circumstances this can be a commercial inconvenience!

**Rental issues**

For example certain businesses, banks, unregistered small businesses, will be keen to find premises that have no election to tax in place, otherwise they will be charged 17.5% VAT which they cannot recover.

**Purchase and sale**

If there is an existing election to tax when a property is sold 17.5% VAT is added to the sale price, a significant problem if you are a purchaser who is not registered for VAT.

**2009 and the 20 year rule**

The election to tax, once made, cannot be revoked for 20 years. Interestingly the first elections to tax were granted in 1989, 20 years ago next year!

If there would appear to be an advantage for the original election on your property to be revoked, you may like to find out when the election was granted. If it was during 1989, you should be able to file a formal revocation on the 20 year anniversary date.

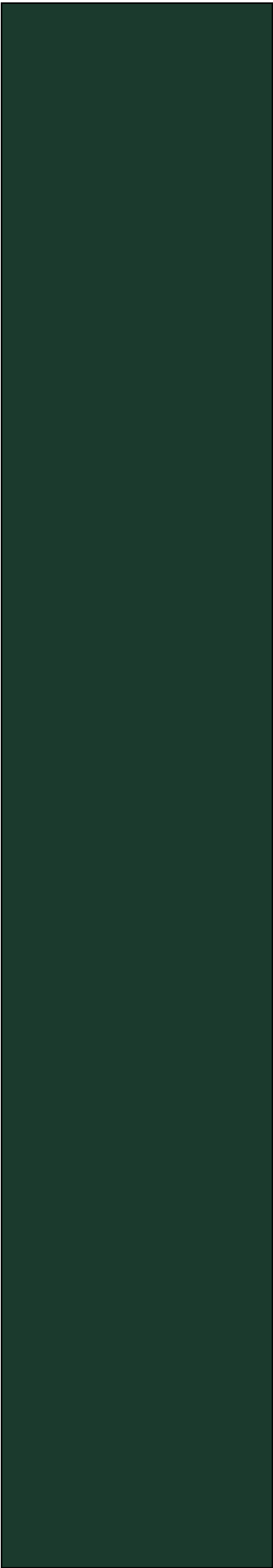
**Tax Diary March/April 2008**

**1 March 2008** - Due date for corporation tax due for the year ended 31 May 2007.

**19 March 2008** - PAYE and NIC deductions due for month ended 5 March 2008. (If you pay your tax electronically the due date is 22 March 2008)

**19 March 2008** - Filing deadline for the CIS300 monthly return for the month ended 5 March 2008.

**19 March 2008** - CIS tax deducted for the month ended 5 March 2008 is payable by today.



**1 April 2008** - Due date for corporation tax due for the year ended 30 June 2007.

**19 April 2008** - PAYE and NIC deductions due for month ended 5 April 2008. (If you pay your tax electronically the due date is 22 April 2008)

**19 April 2008** - Filing deadline for the CIS300 monthly return for the month ended 5 April 2008.

**19 April 2008** - CIS tax deducted for the month ended 5 April 2008 is payable by today.

**DISCLAIMER - PLEASE NOTE:** The ideas shared with you in this newsletter are intended to inform rather than advise. Taxpayers circumstances do vary and if you feel that tax strategies we have outlined may be beneficial it is important that you contact us before implementation. If you do or do not take action as a result of reading this newsletter, before receiving our written endorsement, we will accept no responsibility for any financial loss incurred.

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