

Hobsons : Newsletter July 2006

Tax News

[Introduction](#)

[New Tax Scheme for Contractors - starting 6 April 2007.](#)

[Take a Bonus or a Dividend?](#)

[Company Tax returns for some small clubs and associations.](#)

[Do I pay NIC after retirement date?](#)

[Tax Diary July/August 2006](#)

[Disclaimer - Unsubscribe](#)

Other News

[Are you ready for Age Discrimination Legislation?](#)

Introduction

A timely reminder for Construction Industry firms this month. We have also examined the bonus or dividend choice for owner/directors of private companies, possible corporation tax changes for incorporated associations and clubs and the NIC consequences of reaching the statutory retirement date.

Are you ready for Age Discrimination Legislation?

Few businesses are likely to be unaware of age discrimination legislation, which comes into force on 1st October 2006, but how many have developed strategies for handling the new requirements? The regulations will cover all aspects of employment from recruitment to retirement and will apply to people of all ages, both young and old.

Upper age limits for unfair dismissal and redundancy will be removed and employees will have the right to request to carry on working beyond the default retirement age of 65. In addition, special rules will apply to anyone planning to retire between 1st October 2006 and 31st March 2007.

Whilst these aspects of the legislation have been well advertised, there are a number of additional implications, which employers need to consider to avoid being caught out. Recruitment advertisements need to be worded carefully, avoiding phrases that disadvantage certain age groups such as requesting specific qualifications or experience. In addition, you should avoid asking for a date of birth on application forms, but include this only on monitoring forms if they are used. Equal Opportunities policies will need extending and other policies such as redundancy, training and development and performance management will need to be reviewed.

Whilst companies are likely to concentrate on the implications relating to older workers such as the introduction of statutory procedures for handling retirement, care should be taken that younger workers are not disadvantaged by perceptions connected to their age.

Employers would benefit from auditing their procedures to ensure they comply with the legislation and give themselves adequate time to make any changes that may be required. If you need assistance in this area or further information, please contact us.

New Tax Scheme for Contractors - starting 6 April 2007.

During June 2006 HMRC issued new guidance to contractors regarding the changes to the CIS tax scheme next year. You may have received a copy.

On page 9 of the guidance notes HMRC have listed "Practical Advice - What to do next". We have summarised some of the key points mentioned:

1. **Checking your current subcontractors status.** Under the new rules you will have to declare that you are happy that subcontractors who work with you are genuine self-employed persons and not merely employees holding themselves out as self employed. There will be severe penalties if you get this wrong.
2. **Checking new subcontractors status who start working with you on or after 6 April 2007.** This is a process that can be resolved by calling HMRC or by

contacting them online. Essentially the work should be allocated to a specific person - we could assist by offering training and support.

3. **Produce pay and deduction statements.** From the 6 April 2007 you will need to give each subcontractor a written statement each month showing fees paid and deductions made. It would be as well to design your system for dealing with this now. Depending on the number of your subcontractors it may be a task best completed using specialist computer software. Again we can advise.
4. **Getting to grips with the new monthly returns.** Returns will need to be filed promptly and accurately. Getting it wrong will be costly! HMRC have requested that you file CIS vouchers to 5 April 2007 in good time. This will enable the tax office to pre-populate your first returns under the new rules and therefore save you valuable time.

There are now just 9 months until contractors will have to deal with the new rules. We would appeal to all affected clients that they start the planning process sooner rather than later.

Take a Bonus or a Dividend?

If you manage and own shares in, a private limited company, then assuming that your company has profits to spare, you will no doubt be seeking advice at some stage - do I take a bonus (extra salary) or a dividend? (a payment based on shareholding.)

We have assumed in the conclusions we have reached below that you already take a commercial salary for the work you undertake for the company.

A bonus will be subject to your highest rate of tax, plus employee's and employer's National Insurance Contributions. Dividends are a return on your investment in the business - you will pay tax on the amount received but no National Insurance!

Logically it would seem to be a simple decision, take a dividend, no extra NIC to pay. Unfortunately logic and tax planning do not always go hand in hand! There may be circumstances when a bonus is preferable to a dividend. One way to demonstrate this apparent contradiction is to examine the outcomes when the company pays corporation tax at different rates.

Post the 1 April 2006 your company will pay corporation tax at:

- the small companies rate of 19%,
- the full rate of 30%, or
- a marginal rate of 32.75% if your profits lie between £300,001 and £1.5m. (This assumes your company is not associated with other companies for tax purposes. Please call if you need clarification on this point)

Dividends not bonuses:-

Dividends will generally be more tax effective than bonuses if your company pays corporation tax at 19%

Dividends are also marginally better than bonuses if your company pays tax at the full rate of 30%.

Bonuses not Dividends:-

Bonuses will produce a slightly lower overall tax and National Insurance cost if your company pays tax at the marginal rate of 32.75%.

The difference in the outcome when corporation tax is paid at 32.75%, is mainly due to the extra corporation tax relief that the company receives on the gross bonus paid and the employer's NIC.

One exception in particular should be noted.

Shareholders paying tax at basic rates or lower.

Dividends are paid to shareholders less a 10% tax credit. If the shareholder pays tax at no more than the standard rate then no additional income tax is due. Under these circumstances it will always be more beneficial to receive a dividend - even if the company pays corporation tax at 32.75%.

Remember that there are other factors that will influence the appropriate route. For example, dividends do not count as earnings for pension premium purposes; and you might not be able to pay dividends to individuals in the same proportions that you would like to allocate a bonus and it is vital to get the administration correct!

If you would like us to review the opportunities for your company please call.

Company Tax returns for some small clubs and associations.

If you are involved in flat management companies or represent a small incorporated club or association you may be interested to read the comment that follows.

You may be aware that as from the 1st April 2006 the nil rate band for corporation tax was abolished. This taxed the first £10,000 of retained profits at zero rate. For companies described as above, this was a useful device to avoid paying corporation tax on any dividend or interest income they may have received.

There will be a need therefore for all companies with investment income to make a formal corporation tax return for the year ended 31st March 2007. Companies with small amounts of interest may find that HMRC are prepared to waive assessment - the cost of raising the paperwork would be more than the revenue raised!

If you need advice with clarifying your position, or making a corporation tax return, please call.

Do I pay NIC after retirement date?

The quick answer is no, but that is not the whole story!

For those of us who intend to work until we drop the payment of National Insurance contributions does change after you pass the statutory retirement date.

For men: Pensionable age is reached at age 65 years.

For women: Pensionable age is 60 years if born before 6 April 1950, 65 years if born after 5 April 1955, with a sliding scale in between those dates.

If you are employed you will pay no employee's National Insurance after you reach the appropriate retirement date. However, your employer will continue to pay secondary contributions for as long as you continue to work.

If you are self-employed your flat rate Class 2 contributions will cease after you reach retirement age. The same applies to Class 4 earnings related contributions.

Therefore individuals will cease to pay contributions after they reach retirement age. Employers will continue to pay their contribution, no change!

Tax Diary July/August 2006

1 July 2006 - Due date for corporation tax due for the year ending 30 September 2005.

6 July 2006 - Complete and submit forms P11D return of benefits and expenses and P11D(b) return of Class 1A NIC's.

6 July 2006 - Last date to file new Tax Credit applications for the year ending 5 April 2007.

19 July 2006 - Pay Class 1A NIC's (by the 22 July 2006 if paid electronically).

19 July 2006 - PAYE and NIC deductions due for month ending 5 July 2006. (If you pay your tax electronically the due date is 22 July 2006)

1 August 2006 - Due date for corporation tax due for the year ending 31 October 2005.

19 August 2006 - PAYE and NIC deductions due for month ending 5 August 2006. (If you pay your tax electronically the due date is 22 August 2006)

31 August 2006 - Last date for submission of Tax Credit renewal forms.

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