

Hobsons : Newsletter October 2007

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Topics covered in this newsletter include a warning to construction clients that the new penalty rules will apply from this month, a discussion of the proposed Annual Investment Allowance, changes in the rules applying to VAT on home computers and finally a note of the increased tax-free limits for employees attending full time education.

Our next newsletter will be published on Tuesday 6th November 2007.

Employee grievances

At some stage you as an Employer may be confronted with a grievance from one of your employees. As with the disciplinary procedure there is a regulated process to follow in order that your employee's issue is heard fairly and every attempt has been made to ensure that the matter is resolved amicably.

Outlined below is a checklist to follow that you may find useful if you find you are having to hear your employee's grievance formally.

First of all what is a grievance hearing?

A grievance hearing is defined as a meeting/hearing where an employer deals with a complaint about a 'duty owed by them to a worker'. The employee has the right to be accompanied.

Preparing for the hearing

- any hearing should be held in private and without interruption from outside
- management may find it useful to have someone to take notes and act as a witness to the proceedings
- management will normally already have a written statement of the grievance, and should find out before the hearing whether similar grievances have been raised before, how they have been resolved, and any follow-up action that has been necessary. This allows consistency of treatment.

Conduct of the hearing

- remember that a grievance hearing is not the same as a disciplinary hearing, and is an occasion when discussion and dialogue may fruitfully produce the answer
- make introductions as necessary
- invite the employee to re-state their grievance and perhaps how they would like to see it resolved
- care and thought should go into resolving grievances. Take time to decide. Ensure consistency with your procedure. Make allowances for any reasonable 'letting off steam' if the employee is under stress
- after any summing up, do not be afraid to adjourn – use the time to investigate further if new issues have come to light and discuss implications of decision with other management first.
- tell the employee when they will get a response – refer to your procedure.
- respond in writing within the time limits
- State the right to appeal if the employee is unhappy with the decision.
- the appeal should be heard by a more senior manager or independent senior person who has not been previously involved.

If the employee's employment ends before the grievance procedure has been followed, a modified statutory grievance procedure may be applied if both parties agree.

So in summary remember, Be calm, fair and follow the procedure. Good Luck!

Construction Industry Scheme - Penalties kick in this month.

When the new CIS scheme was implemented in April 2007, HMRC agreed to waive the penalties for late returns for the first 6 months. This penalty free period, April 2007 to September 2007, is now over!

Automatic Penalties for late returns - form CIS300.

These will now be applied to all late returns received by HMRC after 19 October 2007. Please note the definitions that follow:

- 1.) All late returns means just that - if you have any unsubmitted monthly returns for the period 6 April to 5 October 2007 and they are received by HMRC after 19 October 2007, penalties will be levied on all the returns. (If you file returns electronically you get an extra 3 days so will need to file by 22 October 2007.)
- 2.) A return needs to be made even if it is a Nil return - penalties will still be applied if filed late.
- 3.) The penalty charged will be £100 for each month that the return is outstanding. This amount will be increased by £100 for each additional 50 sub-contractors who should have been entered on the return. For example the return for the month ending 5 May 2007 was due to be filed by 19 May 2007 - if this is subsequently filed after 19 October 2007 an automatic fine of £100 will be levied. If the return for the month ending 5 June 2007 is also filed after 19 October 2007 this will incur a separate penalty of £100.
- 4.) In future these monthly returns must be received by HMRC by the 19th of the following month. The return for the month ending 5 November 2007 must be filed by 19 November 2007 and so on. The emphasis here is the word "received". It will not be sufficient to claim that the return was sent by the 19th of the month.

To summarise, if contractors fail to submit ANY of the monthly returns issued by HMRC for the period 6 April 2007 to 5 October 2007, by 19 October 2007 (22nd October if you file electronically), penalty notices will be issued, automatically!

Three further points that may be of assistance:

- You can file a Nil return by ringing the CIS help line 0845 366 7899, option 4.
- If you are not making regular payments to subcontractors for a period you can ask the Revenue to record you as "inactive", this will suspend issue of monthly returns for up to 6 months.
- HMRC have reported that a significant number of returns have had to be sent back as contractors had omitted to sign them! If a return is sent back to you for this or any other reason it will not be registered as received until it is corrected and re-submitted.

Please call now if you are experiencing difficulties in completing the returns, you have approximately 14 days from the day you receive this newsletter to file any outstanding returns - we can help.

New Annual Investment Allowance (AIA)

HMRC are proposing a change to the way in which you can write off purchases of plant and equipment for tax purposes.

The change is likely to be introduced for companies on 1 April 2008, and for sole traders and partnerships 6 April 2008.

Presently small companies and enterprises can write off 50% of qualifying expenditure on plant and equipment against their taxable profits in the year in which the expenditure is made - any balance of expenditure brought forward or carried forward will then qualify for a writing down allowance. Medium sized businesses are restricted to a 40% initial or first year allowance.

From April next year the 50% and 40% first year allowances will be replaced with a 100% annual investment allowance for capital purchases in any one year of up to £50,000.

Obviously this will benefit certain firms and disadvantage others. If you have the ability to claim a 50% first year allowance on all your plant and equipment expenditure and this is changed to a 100% allowance on expenditure up to £50,000, you will be worse off if your expenditure exceeds the break even figure.

The breakeven figure for "Small" firms is £100,000 - if you spend more than this you will qualify for less tax relief post April 2008. The equivalent breakeven figure for "Medium sized" firms is £125,000.

Please note the following factors which also need to be taken into account:

- 1.) Qualifying plant and equipment expenditure does not include Motor Cars.
- 2.) If your company is part of a group, the group will have the £50,000 annual investment allowance which individual group members will have to share.
- 3.) Where a company has associated companies, companies under common control, each associated company will have its own £50,000 allowance.
- 4.) It is likely that HMRC will include anti-avoidance clauses to stop fragmentation of businesses to try and qualify for multiple AIA's.
- 5.) It is unlikely that the introduction of the AIA will affect the other 100% tax allowances - for instance the 100% Business Property Renovation Allowance.
- 6.) On 6 April 2008 it is also predicted that the annual writing down allowance for plant and equipment will be reduced from the current 25% to 20% per annum. This writing down allowance is applied to the written down value of equipment brought forward from earlier tax years.

A note of caution - businesses may be encouraged by this annual investment allowance to make investment decisions purely on a tax basis. Even if you are a sole trader or partner paying tax at 40%, a £50,000 payment for equipment to save £20,000 in higher rate tax should only be made if there are compelling commercial reasons for the investment, as well as compelling tax reasons. Otherwise you may be draining £30,000 of working capital (and cash flow) from your business to buy an asset that may make very little contribution to future increases in profitability.

At present this change is based on the issue of a HMRC consultative document. It is likely that the legal framework will be included in next year's Budget. We will need to monitor progress and will advise clients accordingly.

VAT on computers provided for home use - revised treatment

On 6 April 2006 the Government withdrew the Home Computer Initiative - from that date the provision of a computer for home use to an employee may become a taxable benefit.

On 13 August 2007 the VAT rules caught up!

Up to 13 August 2007 employers could still reclaim all the VAT they paid when they purchased a computer for an employee's home use, as long as there was an element of business use.

From 13 August 2007 the VAT position is as follows:

1. If the use of a computer at home is necessary for an employee to carry out their duties, the employer can reclaim all the VAT.
2. In all other cases the reclaim of VAT will have to mirror the business to private use percentage. In their notice relating to this issue Customs have said:

"HMRC will accept any method of apportioning the VAT incurred as long as the result fairly and reasonably reflects the extent of the business use."

If you would like our assistance please call.

Full time education support - tax-free limits raised

If you support a member of staff attending a full time course of further education the tax and National Insurance free allowance you can pay them is increased from £15,000 to £15,480 for the academic year 2007-2008 and subsequent years. (From 1 September 2007)

Please note that the provision of a scholarship for the son or daughter of a director or employee will likely be treated as the parent's earnings under the benefits code.

For those readers who would like more information on this opportunity we have noted below the principal conditions and one exclusion, which together explain the basics:

Conditions

1. The employer must require that the employee be enrolled at the educational establishment for at least one academic year and must attend the course for at least twenty weeks in that academic year. Or if the course is longer, the employee must attend for at least twenty weeks on average, in an academic year over the period of the course.

2. The educational establishment must be a recognised university, technical college or similar educational establishment, which is open to members of the public generally and offers more than one course of practical or academic instruction. For example an employer's internal training school or one run by an employer's trade organisation will not satisfy the educational establishment condition for this relief.

3. The payments, including lodging, subsistence and travelling allowances, but excluding any tuition fees payable by the employee to the university etc, should not exceed £15,480 for the 2007-08 academic year, which commences 1 September 2007.

Exclusion - This exemption does not apply to payments of earnings made for any periods spent working for the employer during vacations or otherwise. These payments would be taxable as earnings in the normal way.

Tax Diary October/November 2007

1 October 2007 - The National Minimum Wage rises to £5.52 per hour; £4.60 for employees aged 18 - 21; £3.40 for those aged 16 or 17.

1 October 2007 - Due date for corporation tax due for the year ended 31 December 2006.

19 October 2007 - PAYE and NIC deductions due for month ended 5 October 2007. (If you pay your tax electronically the due date is 22 October 2007)

19 October 2007 - Filing deadline for the CIS300 monthly return for the month ended 5 October 2007.

19 October 2007 - Any CIS300 returns filed late after this date will automatically trigger a minimum penalty of £100 per return, per month overdue. (These penalties have been waived by concession for the period April - September 2007, See article above.)

19 October 2007 - CIS tax deducted for the month ended 5 October 2007 is payable by today.

1 November 2007 - Due date for corporation tax due for the year ended 31 January 2007.

19 November 2007 - PAYE and NIC deductions due for month ended 5 November 2007. (If you pay your tax electronically the due date is 22 November 2007)

19 November 2007 - Filing deadline for the CIS300 monthly return for the month ended 5 November 2007.

19 November 2007 - CIS tax deducted for the month ended 5 November 2007 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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