

Newsletter December 2007

This month's newsletter opens with a seasonal comment on staff parties and gifts. We have also included an update on new legislation pending; a timely reminder for self assessment tax payers who have still not supplied their tax return details for last year; a note on the transfer of unused married couples allowance; and finally an update on the proposed new tax credit for claimants of certain enhanced capital allowances.

The next newsletter will be published on Tuesday 8th January 2008.

May we take this opportunity to wish all our readers a very happy and prosperous new year.

[The one year rule](#)

[Staff entertaining - the Christmas party!](#)

[Self Assessment filing deadline, tax year 2006-2007.](#)

[Energy efficient plant - tax credits.](#)

[Long service awards](#)

[New legislation - publication imminent.](#)

[Married Couples Allowance - born before 6 April 1935.](#)

[Tax Diary December 2007/January 2008](#)

The one year rule

One of the common myths of Employment Law is that some employers still believe that if an employee does not have one year's service they can be dismissed and the employee has no claim at a tribunal. This is not the case. We therefore feel it important to set the record straight.

Employers should think very carefully before taking a decision to dismiss an employee with less than a year's service without following the statutory procedures. Not following the procedure will result in an automatically unfair dismissal and an increase in any compensation awarded.

Though as a general rule an employee needs a year's service before being able to bring a claim there are instances where dismissal within that one year period can result in a claim. These could be, dismissal for being a trade union member, or a reason connected to pregnancy. There is also the possibility that an employee might succeed in another claim, such as a discrimination claim, as a result of the dismissal.

Either scenario would result in increased compensation. So think very carefully, before you dismiss anyone. In all cases regardless of length of service the statutory 3 step procedure should be followed as a minimum!

Long service awards

You may be aware that it is possible to pay long service awards to employees but you may not have thought of this as a tax saving opportunity. Long service awards can also be paid to directors who have served for more than 20 years regardless of the size of the company or number of employees.

Tax legislation states that for service in excess of 20 years, awards consisting of assets valued at up to a maximum of £50 for each year of service (to a maximum of 20 years) can be made without a tax charge. If you are a director who has served for over 20 years you may wish to consider buying yourself a watch, some jewellery or another asset up to the value of £1,000 with no additional tax to pay.

However please remember that the award must be in the form of an asset and cannot be cash. Please contact us if you wish to discuss this further.

Staff entertaining - the Christmas party!

The costs of a staff party or other annual entertainment is allowed as a deduction for tax purposes. As long as the criteria below are followed, there will be no taxable benefit charged to employees.

1. The event must be open to all employees at a particular location.
2. The cost is only tax deductible for employees and their partners (which would include directors in the case of a company) but not sole traders and business partners in the case of unincorporated organisations.
3. An annual Christmas party or other annual event offered to staff generally is not taxable on those attending provided that the average cost per head of the function does not exceed £150. Partners and spouses of staff attending are included in the head count when computing the cost per head attending.
4. All costs must be taken into account, including the costs of transport to and from the event or accommodation provided, and VAT. The total cost of the event is merely divided by the number attending to find the average cost. If the limit is exceeded then individual members of staff will be taxable on their average cost, plus the cost for any guests they were permitted to bring.
5. VAT input tax can be recovered on staff entertaining expenditure. If staff partners/spouses are also invited to the event the input tax has to be apportioned, as the VAT applicable to non-staff is not recoverable. However if non-staff attendees pay a reasonable contribution to the event, all the VAT can be reclaimed and of course output tax should be accounted for on the amount of the contribution.

A final note on gifts for employees.

Trivial seasonal gifts for employees!

Employers may find the following Revenue concession useful - we have copied the note directly from the HMRC handbook:

"An employer may provide employees with a seasonal gift, such as a turkey, an ordinary bottle of wine or a box of chocolates at Christmas. All of these gifts are considered to be trivial and as such are not taxable. For an employer with a large number of employees the total cost of providing a gift to each employee may be considerable, but where the gift to each employee is a trivial benefit, this principle applies regardless of the total cost to the employer and the number of employees concerned."

One final caution regarding VAT and staff gifts. VAT is due from the employer when an employee receives gifts totalling more than £50 in a year. Turkeys however are zero rated for VAT purposes!

Merry Christmas!

New legislation - publication imminent.

As we write this newsletter we are expecting the Revenue to publish details of changes to the following areas of tax:

1. Capital Gains Tax

Draft legislation is due for publication December 2007 explaining the detailed changes to CGT from 6 April 2008. This will provide us with the small print. At present all we have to go on are the disclosures made by Alistair Darling in his Pre Budget Report on 9 October 2007.

If there are no significant changes to the October position, we can expect the Revenue to provide the draft legal framework for CGT from 6 April 2008 that will operate without the benefits of indexation or taper relief. There is also the possibility that a simplified form of retirement relief may be included to reduce the tax payable when businesses are sold. It is rumoured that the first £100,000 of gains on retirement may be exempted from charge to tax, or subject to a lower rate of say 10%.

We will include a further update on this topic in the January 2008 newsletter.

2. Income Shifting

Where a husband and wife are in business together there is a risk that the Revenue will become interested in the commercial justification for the way in which they split earnings or profit.

During 2007 the Revenue were defeated in the House of Lords in the Arctic Systems case. Here HMRC sought to assess the husband on his wife's income from their business, on the basis that he was responsible for the lion's share of the income generation and management. The Revenue's position failed due to flaws in their legal arguments. As a direct result of this outcome the Revenue promised to legislate to enable them to challenge similar cases in the future.

We are expecting HMRC to publish details of new legislation to deal with income shifting, either late November or December 2007. This will have ramifications for all husband and wife business arrangements. (It will also include businesses run by Civil Partnership couples.) Again we will advise clients as soon as we have the detail and will publish our comments in a forthcoming newsletter.

3. Residence and Domicile

Changes to the tax rules regarding residence and domicile are also expected late November or early December 2007. We will publish details as soon as they become available.

Self Assessment filing deadline, tax year 2006-2007.

Clients who have not yet provided information so that we can complete their self assessment tax returns for 2006-2007 may like to take note of the following points:

1. The deadline for filing the return is 31 January 2008.
2. Late filing will incur a fixed penalty of £100 per return outstanding. The £100 fine is capped at the amount of tax due. So if your self assessment liability for 2006-7 is less than £100, the penalty will be reduced to the same amount. This concession does not apply to late filed partnership returns.
3. The late filing penalty for partnership returns is £100 per partner.
4. Until we have your return completed we cannot provide an accurate computation of your tax payments due in 2008. i.e. the balance of any tax and/or class 4 National Insurance for 2006-2007, payable on the 31 January 2008; any first payment on account which may be due for 2007-2008 on 31 January 2008; any second payment on account for 2007-2008 which may be due 31 July 2008.

If they are not yet provided can we request that you let us have your tax return details as soon as possible please.

Married Couples Allowance - for those born before 6 April 1935.

The Married Couple's Allowance reduces the amount of income tax a married couple or civil partners have to pay. The amount you can claim depends on your ages and, for couples who married before 5 December 2005, the husband's total income from all sources. For civil partners and couples who married on or after 5 December 2005, the amount depends on the total income of the spouse or civil partner with the higher income.

For the tax year 2007-2008 the allowance is available when either partner was born before the 6 April 1935.

The maximum allowances available for 2007-2008 are:

- £6,285 at 10% - if either you or your spouse or civil partner was born before 6 April 1935 but aged under 75 (so the allowance can be worth up to £628.50 off your tax bill)
- £6,365 at 10% - if either you or your spouse or civil partner is aged 75 or more (so it can be worth up to £636.50 off your tax bill).

What many couples may not realise is that if this allowance is not fully utilised by the entitled partner any surplus can be transferred to their spouse or civil partner, and used to reduce their tax bill. As you would expect there is a form that needs to be filled in!

Energy efficient plant - tax credits.

It has been possible to claim 100% enhanced capital allowances (ECA's) for the purchase of certain energy efficient plant, since 2001.

It has now been proposed that this allowance be extended so that companies who cannot get an immediate cash flow benefit, if for instance they are making losses and paying no tax, be allowed to surrender the 100% allowance for a cash payment from the Government. Details of the claim process have yet to be formalised; clients will be advised as soon as they are made available.

However companies should take this into account when planning future purchases of qualifying plant. Readers may find the following notes useful:

1. The tax credit system will be broadly based on the present research and development tax credit for small and medium sized enterprise.
2. Companies would be allowed to surrender the part of their trading losses attributable to ECA's.
3. At present the scheme would be limited to companies.
4. Cars with low carbon emissions that presently qualify for the 100% ECA will be excluded from the payable tax credit arrangement.

Tax Diary December 2007/January 2008

1 December 2007 - Due date for corporation tax due for the year ended 28 February 2007.

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

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

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

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

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

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

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

31 January 2008 - Filing deadline for all individual, partnership, and trust self assessment tax returns for the year ending 5 April 2007.

31 January 2008 - Due date for payment of any balancing self assessment tax and/or NIC class 4 contributions due for the year ending 5 April 2007.

31 January 2008 - Due date for payment of any first payment on account of self assessment liabilities for 2007-2008.

DISCLAIMER - PLEASE NOTE: The ideas shared with you in this email 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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