

Hobsons : Newsletter December 2010

Tax News

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Our final newsletter for 2010 includes an article setting out the case for an early application to seek out extended terms to pay your tax on 31 January 2011; how to benefit from tax concessions when you organise your Christmas party; a tax break for unmarried couples; and a warning that HMRC could be looking for hard evidence that you have actually occupied a second property as your principal private residence.

May we take this opportunity to wish you all a very merry Christmas and a healthy and prosperous New Year?

Our next newsletter will be published in the new year, Thursday 13 January 2011.

Tax to pay, no cash available?

Many of us are facing self assessment tax payments on 31 January 2011; in these difficult economic times more than a few of us are going to find we need assistance in making payment on the due date. Before you reach for the phone to extend your overdraft, or take out your credit card, don't forget you can always approach HMRC and seek Time To Pay.

Rumour has it that the taxman has tightened up his approach - credit will not be so readily available this coming year.

If you know what your tax payment is going to be and if your cash flow needs support in making the payment, call the Time To Pay team now. And of course call us if you'd like help negotiating terms with HMRC.

The Business Payment Support Line is: 0845 302 1435 - lines open seven days a week.

For your information we have copied into this article the principles HMRC will follow when considering each case:

"Time To Pay (TTP) arrangements fall within the scope of HMRC's discretion provided the following principles are followed:

- Objective criteria are applied in each case
- TTP arrangements are entered into on a case by case basis
- TTP is only agreed where HMRC is satisfied that the customer cannot pay their liability on the actual due date(s)
- The customer offers the best payment proposals that they can realistically afford. If their ability to pay improves during the TTP period then they must contact us and increase their payments/clear the debt
- TTP is only agreed where HMRC believes that the customer will have the means to pay the taxes included in the TTP arrangement and any other taxes outside the arrangement which become due during the TTP period
- The TTP period is as short as possible
- The same principles are applied to all taxpayers, although the detail of processes can be tailored to reflect the risk/return associated with different liabilities. As a rule the larger the liability the greater the risk and the greater the need for more information.

Other guidelines

Under no circumstances can HMRC ever reduce the amount of tax due as part of a TTP arrangement.

If repayments of tax become due during the TTP period HMRC must offset these against the debt. HMRC cannot on the one hand allow TTP whilst at the same time issuing a repayment of tax.

We can only agree TTP based on the customers means to pay and can't base it on other factors. For instance we can't allow TTP on the basis that a business could invest this money to produce greater payments of tax in the future.

For business taxes the TTP duration should be less than 12 months. Exceptionally periods in excess of 12 months can be considered.

Applicable interest will always be charged when payments are received after the due date, irrespective of whether TTP has been agreed or not.

HMRC is bound by TTP agreements that it enters into but is entitled to withdraw if

- new facts come to light that don't support TTP
- the customer has misled us or been untruthful
- the customer defaults on the arrangement or does not satisfy the conditions of their TTP
- any other reason comes to light where it becomes apparent that tax is at risk

Christmas cheer courtesy of the taxman

If you are organising a well-deserved works party this Christmas we have sketched out below the current reliefs available:

The cost of a staff party or other annual entertainment is allowed as a deduction for tax purposes. Also 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 events offered to staff generally is not taxable on those attending provided that the average cost per head of the functions does not exceed £150 p.a. 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. No deduction will be allowed for the £150 exemption.
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 chargeable by the employer when an employee receives gifts totalling more than £50 in a year. Turkeys, however, are zero rated for VAT purposes!

Merry Christmas!

Unmarried couples - tax bonus...

Usually UK tax law discriminates in favour of married couples or partners who have entered into a formal Civil Partnership.

Not so with the principal private residence relief (PPR).

Married couples or civil partnerships are only allowed a single PPR and if more than one property is owned by the couple, any election to say which property should be considered their PPR, must be made jointly. However, this does not apply to unmarried couples.

If an unmarried couple own two residences then maximum relief can be obtained by each owning one property outright rather than owning the two properties jointly. However, it is advisable that each person make an appropriate election in favour of the property they own.

Timing of elections is important so affected couples should seek tax advice as soon as possible.

Flipping 'eck

You are no doubt aware of the use of the word "flipping" in relation to avoidance of capital gains tax? Remember the MPs making assertions that holiday homes and other let properties had been occupied as their part-time home, electing for it to be the principal private residence, and sometimes for just a week or so, in order to qualify for significant tax advantages when those properties were subsequently sold?

Well it seems that HMRC have started brushing up on their investigative skills in this area and taxpayers using this ploy will need to have more evidence than simple assertions to substantiate their claim - HMRC will need hard evidence that you have actually occupied the second property as your home.

This evidence could take the form of:

- Council tax and utility bills for the property, if you claim that you were in residence over a winter period make sure that the utility bills support this.
- Invite the local policeman or vicar round for tea, someone HMRC will believe if they are asked to support your claim.
- Change the correspondence address with your banks.

And so on.

Tax Diary November/December 2010

1 December 2010 - Due date for corporation tax due for the year ended 28 February 2010.

19 December 2010 - PAYE and NIC deductions due for month ended 5 December 2010. (If you pay your tax electronically the due date is 22 December 2010)

19 December 2010 - Filing deadline for the CIS300 monthly return for the month ended 5 December 2010

19 December 2010 - CIS tax deducted for the month ended 5 December 2010 is payable by today.

31 December 2010 - Deadline for filing 2009-10 self-assessment online and claiming for under payments (under £2,000) be collected via tax code in 2011-12.

1 January 2011 - Due date for corporation tax payable for the year ended 31 March 2010.

19 January 2011 - PAYE and NIC deductions due for month ended 5 January 2011. (If you pay your tax electronically the due date is 22 January 2011)

19 January 2011 - Filing deadline for the CIS300 monthly return for the month ended 5 January 2011

19 January 2011 - CIS tax deducted for the month ended 5 January 2011 is payable by today.

31 January 2011 - Last day for electronic filing of Self-Assessment returns for 2010

31 January 2011 - Due date for payment of any balance of self-assessment liability for the tax year ending 5 April 2010, plus any payment on account due for the tax year ending 5 April 2011.

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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