



NEWSLETTER - January 2008

New Year Newsletter

We would like to kick off our first Newsletter of the year by wishing everyone a very Happy New Year and hope that 2008 is a successful one for you.

Before we advance into the detail of the newsletter, may we remind you that we are providing a joint breakfast seminar with Trethowans Solicitors that will be held on 7th February 2008 at the Rose Bowl, Southampton. Places are filling fast for this so please visit our website for more information and to register as soon as possible.

Please also note that further seminars are now planned for 2008 and details of these are enclosed.

This newsletter covers the following topics;

Employment Tax

- Further seminars announced
- Expenses and benefits through the payroll
- “*Demibourne*” updates

Corporation Tax

- Transfer Pricing – new approach at HMRC

As always, if there is any aspect you would like clarifying or to discuss, please do give a member of the team a call or log onto our website www.adtax.co.uk if you would like any additional information or to sign up for one of our seminars.

Regards
The adtax team

EMPLOYMENT TAX

Adtax Seminar Programme

Details of three seminars being held this year are detailed below. If you would like to attend one of our events then please give us a call, or register your interest on our website at www.adtax.co.uk, and follow the link to seminars.

1. End of Year Seminar and Budget Update

- 25 March, Bristol
- 26 March, Southampton

As with last year we will be running our free end of year seminar programme. These will include presenters from other tax disciplines covering a range of issues relating to the end of the tax year, annual obligations associated with it, and some useful tips for planning more effectively post 6th April.

We will also take the opportunity to consider the practical implications of the Chancellor's Budget.

2. P11D Workshop

- 23 April, Southampton
- 24 April, London

The humble form P11D is often overlooked. It is one of the documents HMRC review when considering whether to conduct some form of PAYE Audit. There are therefore significant benefits to ensuring that returns are submitted correctly and on time.

The field of income tax and NIC has become increasingly complex with increased risk that items will be returned in error being a natural consequence. A possible penalty of up to £3,000 per return results with the possibility of initiating an HMRC review with the time and expense that this will cause. It therefore pays to make sure you know not only what should be returned but also how you are to report this, reducing the audit risk profile of the business.

This seminar will seek to address these points providing practical advice, and highlighting potential pitfalls.

3. Construction Industry Scheme(CIS)

- 22 October, London
- 23 October, Southampton

By October 2008, the CIS will have been running for 18 months, the 'amnesty' will have been over

for 12 months and the first year's P35s detailing the amounts reported as deducted in CIS will have been returned. Dedicated CIS reviews of the new Scheme as well as the last year of the old Scheme are likely to be under way.

Given the complexities associated with CIS, we anticipate that HMRC are likely to take a keen interest in this type of review as the expected yields in unpaid tax, interest and penalties will be high, especially when considered alongside employment status – a key area currently with HMRC.

This seminar will confirm the rules under the new Scheme, provide an update on any changes or proposed changes, and help you mitigate the potential of a costly HMRC review.

Expenses and Benefits through the payroll

In the UK all the benefits and expenses which have been provided to employees throughout the tax year are reported to HMRC on the form P11D or P9D.

Any tax due is then calculated by HMRC and usually coded out via the employee's notice of coding. The P11D will provide the employee with **some** of the information which will then be included within his self assessment return allowing him to calculate any tax that is due under self assessment.

In many countries a system is used which places greater emphasis on the operation of the payroll scheme. Under these, payments of expenses and benefits are made via the payroll, thus dispensing with the need for an annual P11D return.

On 13 December 2007 an Impact Study on a proposal to incorporate benefits and expense payments into payroll was published. This can be found on HMRC website. In addition to the form P11D the Government is also looking at the possible removal of the £8,500 limit currently in place.

Any such change is not anticipated before 2011 but should it occur it would have a profound effect on the obligations placed upon UK employers not least in the day to day administration.

If you would like a copy of the report or would like to respond to the issues raised in it then it can be found on HMRC website www.hmrc.gov.uk/ria/exp-ben-in-payroll.pdf.

“Demibourne” continues!

At present the topic of employment status is probably the hottest of the hot topics from an employer’s perspective.

The *Demibourne* case significantly increased the cost for employers where a reclassification from self employed to employee status is successfully argued by HMRC. One could also argue that it put an inequality into this area and increased the stakes for both HMRC and the employer, making the resolution of such case much more difficult for both sides.

Since *Demibourne*, HMRC, aware of the complications that have been raised by the case, have been considering either a legislative or administrative change in this area to redress the balance.

However, due to the legal complications raised by this case HMRC have had difficulty responding. Some of the sticking points include the need for HMRC to safeguard any self assessment tax where a reclassification to employment occurs. In a number of instances prior to the *Demibourne* case, the reclassified worker has been able to successfully obtain a refund of the tax paid under self assessment even though the new found employer had used that tax for an offset against their PAYE bill. This effectively meant that the reclassified employee paid no tax for the period through which he was reclassified as an employee, leaving the Treasury out of pocket.

As employees and the self employed pay different forms of NIC, HMRC are also keen to ensure that the reclassified workers’ NIC records record the correct class of NIC.

Both of these points require a new look at the way in which the different ‘schedules’ of UK tax and NI interact and as such the ramifications of the *Demibourne* case are likely to be with us at least a little while longer.

CORPORATION TAX

Transfer Pricing – new approach at HMRC

HMRC, late in December, provided an update to the announcement they made in October 2007 in their document ‘Making a difference: clarity and certainty’, which amongst other things, outlined a new approach to transfer pricing enquiries.

The October announcement followed a period of public consultation and set out HMRC plans to involve a greater degree of specialism to their transfer pricing enquiries, focusing on higher risk areas and developing clear action plans with companies and working with them to monitor progress against those plans.

The update to this announcement made in December confirmed that the Transfer Pricing Specialists are now being appointed, with additional training being provided to enhance their specialist skills. It also outlined that plans are almost complete to ensure that enquiries of this nature are resolved within 18 to 36 months, depending on complexity, and also that, as from January, a new internal governance process will operate to address issues of consistency, resource allocation and wider strategic objectives.

Further announcements are planned for later in the Spring regarding statistics of the time taken to conclude enquiries and also the age of open enquiries.

The full article can be found on HMRC website, together with a link to the document issued in October 2007.

FURTHER INFORMATION

If you would like more information on any of the issues raised in this newsletter, then please do contact one of the team and we will be happy to provide further details.

And for copies of earlier newsletters please visit www.adtax.co.uk or drop us an e-mail and we will send you copies.

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