



NEWSLETTER - April 2008

Happy New Year!

For everyone living in "Tax World" we know that the real New Year started on Sunday, unfortunately there is very little room for celebrations as the year-end returns will shortly be due.

The P11D completion process can be complicated, and the submission of incorrect returns can expose an employer to significant claims dating back many years by HM Revenue & Customs ("HMRC"). Jon Henderson of *adtax* is running a practical training session on the P11D process, and registration details can be found below.

There are plenty of day-to-day payroll items to consider, and especially relating to the year end process. Large employers should be aware that HMRC have been undertaking routine maintenance of their website, and this has not helped on-line filing. In addition, further 'down-time' is being scheduled and so the submission of data should be carefully planned.

This newsletter covers the following topics;

Employment Tax

- *Taxation Awards 2008*
- Employer local agreements with HMRC
- Dispensations and per diems
- Homeworking & broadband
- Redundancy schemes & clearances
- Miscellaneous updates

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

Regards
The adtax team

LexisNexis Taxation Awards 2008

We are absolutely delighted to announce that *adtax* has been short-listed as finalists in the LexisNexis Taxation Awards 2008 in the category of 'Best Tax Team in a Boutique Firm'.

We have been working with employers and businesses of all shapes-and-sizes for over five years, and in that time have built up a reputation for high quality work and innovative approach to tax solutions.

We would like to thank all those who we have worked with over the years, and in particular those clients who were kind enough to submit references for the awards.

To be nominated by our peers is an honour in itself, and to make the final shortlist even more so.

The finals are being held in the Hilton, Park Lane on 22nd May, and we will be keeping our fingers crossed. We'll let you know the outcome in due course!

Adtax Seminar Programme

Following on from the successful End of Year, compliance and tax planning workshops last month, there is still time to register for our P11D Workshop.

The P11D Workshop is being run by Jon Henderson at The Rose Bowl on 23rd April, and will cover:

- P11D completion and penalties
- Calculation of reportable benefits
- Changes from 2007/08
- Future payrolling of benefits
- Common errors and mistakes in completing form P11D
- Interaction with Dispensation
- Class 1 NIC and Class 1A NIC
- PAYE Settlement Agreements & Taxed Award Schemes

The training seminar is proving extremely popular, and places are still available. To register please call Jon on 0845 659 0655 (jhenderson@adtax.co.uk) or register via the website www.adtax.com and click on 'seminars'.

Employers & Local Agreements with HMRC

Over the years, many employers have reached agreements with their respective PAYE tax office about operation of PAYE and reporting in unique circumstances. Such agreements can include using substitute forms P46 or P11D, not using BR as a

default tax code in the P46 procedure, submission of data in spreadsheet format or on CD ROM.

If you have over 50 employees you must, from 6 April 2009, submit all starter and leaver information on-line.

In addition, any local agreements outside of HMRC 'Official' guidelines are now likely to be rejected, exposing an employer to late filing penalties.

If you have previously relied upon concessionary treatment or a local arrangement, these must now be reviewed as they will cease on 6th April 2008.

For more information or guidance please call Paul Coombes on 0845 659 0655 or (pcoombes@adtax.co.uk)

Dispensations & Per Diems

In our February newsletter we highlighted HMRC's change in stance relating to revocation of Dispensations. We have been contacted by a number of clients asking for further clarification, and the clarification of the risks they face.

In essence, HMRC have advised that they will now seek to revoke any Dispensation from the date it was granted where they feel "*there is evidence of misrepresentation or negligence by an employer*", and examples include where a Dispensation application did not provide all the relevant information or if there has been a change in the way expenses or benefits are now being provided to employees, and HMRC were not notified of the change.

Whilst this is unlikely to affect the majority of employers, it is essential that employers regularly review their current Dispensation and the manner in which expenses and benefits are provided. If there have been variations, then HMRC should be made aware of the changes and the impact on reporting.

In addition, employers must review employee's expense claims to ensure that the Dispensation is still current in light of expenses being reimbursed – as any expenses or benefits not included within the Dispensation (unless exempt by Statute) must be reported on an employee's P11D. This can create further work for both employer and employee.

For assistance in updating Dispensations, or for reviewing employee's expense claims for tax compliance, please call Dave Grimley on 0845 659 0655 (dgrimley@adtax.co.uk)

Per Diems & Round Sum Allowances

Where an employer reimburses an employee's subsistence claim for allowable business journeys, HMRC usually insist on valid receipts being obtained to vouch the expenditure and for VAT reporting.

A number of employers prefer to provide agreed scale rate payments for breakfast, lunch or evening meals to minimise the review process and administration.

In addition, where an employee is seconded to a temporary workplace a per diem rate is paid in lieu of both travel and subsistence claims.

Where round sums are provided, these will be fully liable to PAYE & NIC unless prior agreement has been reached with HMRC that the sums do no more than simply reimburse the employee's expenditure on subsistence.

In recent years HMRC have tended to resist claims for round sum scale payments or per diems. This stance is now changing, and we are submitting claims as part of Dispensation applications for a number of clients.

Naturally, there is some 'paperwork' required to substantiate claims, and we can assist employers on the exercise they need to undertake.

In addition, for any employee's who undertake overseas travel (whether on a longer term or ad-hoc basis) the payment of pre-agreed per diems can greatly reduce the administration burden – i.e. the ever changing exchange rate does not need to be taken into consideration, receipts do not need to be maintained or translated etc – which can significantly save time for both the employer and employee.

If you would be interested in further information on UK scale rate payments, or overseas rates please call Dave Hedges on 0845 659 0655 (dhedges@adtax.co.uk)

Homeworking Expenses and Broadband

Firstly, we should point out that simply because an employee works at home this does not automatically make their home a workplace. This is an exceptionally complex area of employment tax, and the issues surrounding permanent and temporary workplaces could fill a newsletter in its own right.

However, where an employee works regularly at home under formal home working policies, they

may incur extra costs whilst working at home. The additional costs, such as heating or lighting of the work area, can be reimbursed – whilst other payments cannot e.g. council tax bills, water rates etc.

Previously HMRC have allowed an employer to pay £2.00 per week towards these costs, and from 6 April 2008 this is increased to £3.00 per week. In cases where this amount is paid, an employee does not need to keep records to substantiate the reimbursement.

It is also reasonable for an employer to pay in excess of the £3.00 per week, but they would need to substantiate and keep records to justify the additional claims.

We are increasingly noticing vigorous challenges by HMRC during PAYE Audits relating to the reimbursement of broadband costs. Again, this is a complex area but where an employer contracts for the provision of broadband services for a home working employee (where certain criteria are met) and this is to allow the employee to work at home and private use is insignificant, HMRC accept that no taxable benefit arises.

Where an employee already has broadband access and wishes to claim a contribution towards the costs, this will almost certainly generate a PAYE & NIC liability, unless the employee can clearly demonstrate that there has been an additional cost of the broadband since working at home.

As with all expenses and benefits, we would strongly advise obtaining formal HMRC clearance via a Dispensation to prevent any ambiguity or future challenges.

Further details are available from Dave Grimley.

Redundancy Payments

One area that is invariably reviewed by HMRC, either during a PAYE Audit or as an aspect review, is that PAYE & NIC treatment and reporting of redundancy and termination payments.

We have given previous guidance on the tax & NIC treatment of different components making up a redundancy or termination payments, and these can be found in our newsletter archive available via our website – www.adtax.com

It is envisaged by many that 2008 will be a challenging year for employers, and if any redundancy schemes are being planned or proposed we would strongly recommend that advance

clearance is obtained from HMRC as to the treatment.

This has the significant advantage of not only mitigating the exposure for claims of underpaid duties on the employer, but also assists employees with their own tax affairs. HMRC will give clearance under SP1/94, and we have considerable experience in managing the application on behalf of employers with HMRC. It is essential, however, that the tax aspects are considered at the earliest stage possible and we can work with HR, payroll, finance and tax departments to ensure a consistent approach is taken with regards any payments, and to minimise tax exposure risk.

Case Law is ever changing in this area, e.g. the issue of custom and practice in relation to Payments In Lieu of Notice (PILON), and what was relevant and current for previous redundancy schemes or terminations may no longer be relevant.

We also undertake in-house training and development to HR and tax teams, and if this is of interest please call Dave Grimley.

Miscellaneous Updates

Tax Rates and Bands

We have been asked by a number of employers to clarify the position with regards tax bandings to be used from 6th April.

Usually, the Revenue will issue the new tax bandings and rates to be used following the Finance Bill receiving Royal Assent – usually in June.

However, due to the abolition of the 10% band and the basic rate band dropping to 20%, there is a great deal of confusion as to the correct payroll parameters.

Employers will need to ensure the new rate (20% basic rate) is used from 6th April, along with any increase in allowances advised by notice of coding changes. However, the basic rate bandwidth extension to £36,000 should only be implemented on the first pay day after the 17th May 2008.

CIS Returns and Postage

HMRC has advised that a significant number of contractors are contacting them regarding penalties levied for the late filing of the CIS300, where the contractor believed that the return had been posted in sufficient time to arrive at HMRC processing centre by the 19th of the month.

Further investigation by HMRC has shown that either the contractor did not leave enough time for the return to be delivered (by not taking into consideration second class post, weekends, bank holidays etc) or had simply not put a stamp on the pre-printed envelope (or had put the incorrect postage on the envelope to take into account the size or weight of the envelope). These situations have resulted in the returns being received late, and HMRC have advised that they have reviewed the post marks on the envelopes as part of their review exercise.

We would recommend that contractors either clearly understand the postage costs and timelines involved, or register for on-line CIS filing to help avoid late filing fines.

Further details can be obtained from Paul Coombes.

Car Fuel Multiplier Increase & Private Mileage

Following our last article, we have been contacted by a number of employers to enquire how an employee can gauge the level of private miles they would need to travel in their company car for the private fuel scale charge to be worthwhile.

Whilst every case is unique, the following is a good starting point:

2008/09

1. £16,900 x CO2 percentage* = taxable benefit (A)
2. (A) x 20% or 40%** = tax payable by employee via self-assessment/ coding (B)
3. (B) divide by price of fuel per gallon*** = number of gallons the 'tax bill' would buy (C)
4. Multiply (C) by the average m.p.g. for the car = (D)

(D) is the approximate break even number of private miles an employee would need to travel for the fuel benefit to actually be beneficial.

* Include diesel supplement if necessary

** NB! The benefit may take a basic-rate employee into higher rates

*** Multiply the pence per litre by 4.546

Should you wish to change any benefits or policies we would also strongly recommend that HR/ legal departments are involved in any changes to employee's terms and conditions. Further details can be obtained from Simon Rhodes, Partner and Head of Employment Team at Trethowans Solicitors on 023 8082 0547.

Carbon Offset and Company Cars

Some car importers and distributors are now mentioning Carbon Offset Charges to buyers of new cars. The way that this is dealt with for list-price purposes for P11D reporting differs depending on how the charge is applied.

If the charge is part of the “inclusive price”, whether or not the employee pays for the charge or whether it is discounted, it does form part of the list price for reporting purposes.

If the charge is not part of the inclusive price it does not form part of the list price for benefit calculations. In addition, as no “accessory” is acquired it does not form part of the second stage of the calculation (or a later addition if the option is taken out at a later stage).

Further details can be obtained from Jon Henderson, and will be expanded upon in the P11D training session.

And finally....

Do you have any employees who are in a final salary pension scheme (whether open or now closed) who are likely to retire in the next two years? If so, they may be able to utilise tax planning opportunities to realise tax refunds for the last and penultimate years of employment - effectively meaning that they may pay little or no tax in the final years of employment. Whilst we are unable to give any financial advice, we are working with a regulated firm of pension specialists to highlight these opportunities. Details can be obtained from Dave Grimley.

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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