CHARTERED ACCOUNTANTS, TAX CONSULTANTS & FINANCIAL PLANNERS

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Welcome to this month's eNews.

As HMRC continue to widen their definition of tax avoidance and evasion, we take a closer look at how the tax changes on dividends might affect you, as well as the new reporting requirements for employment intermediaries.

There are of course still plenty of tax planning opportunities and so we have included a useful reminder on investing under the Enterprise Investment Scheme and how to save money when buying a car.

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DIVIDEND TAX

The dividend tax changes announced in the Summer Budget continues to concern business owners and many clients are seeking advice on their dividend policy for 2015/16 and beyond.

Unfortunately, we still have few details on how the new tax system will work, and in particular on how the new £5,000 dividend tax allowance will fit within the structure of personal allowances and tax rate bands. The draft legislation was not included in the second Finance Bill 2015 and HMRC have also not issued any technical notes or guidance.

What we do know is that the 10% dividend tax credit is set to be abolished on 6 April 2016, so the amount of dividend paid will be the amount that will be taxed, rather than the dividend being grossed up as at present.

A tax payer's position will depend on the amount of dividend income he receives, as well as his marginal tax rate. The following table may be used as a guide, comparing the 2015/16 position with what we expect the position to be in 2016/17, although each individual's circumstances should be considered in full:

Taxpayer	Better off	Same	Worse
Basic rate	Never	Dividends < £5,000	Dividends > £5,000
Higher rate	Dividends < £21,667	£21,667	Dividends > £21,667
Additional rate	Dividends < £25,250	£25,250	Dividends > £25,250

So basic rate tax payers will never be better off under the new rules. If their dividend income is less than £5,000 next year, they will be no worse off, but for every pound over £5,000 in dividends, they will be 7.5p worse off than they are now.

Basic rate tax payers should therefore ensure they make full use of this year's basic rate tax band when looking at their dividend policy, provided their company's reserves will permit this. Any dividends may be credited to loan accounts if the company is short on cash.

Higher and additional rate tax payers might want to defer dividend receipts until 2016/17 if they expect to receive less than £21,667/£25,250. If dividends are expected to be more than this, tax payers might want to accelerate dividends into 2015/16.

We would be pleased to talk through the changes with you and the impact it might have on your business, so please do get in touch.

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QUARTERLY REPORTING FOR EMPLOYMENT INTERMEDIARIES

Employment intermediaries are now required to file quarterly reports under the revised agency workers legislation (ITEPA 2003, section 44). The first report was due to be submitted on 5 August 2015, although we understand it is unlikely that HMRC will impose penalties for late filing of the first reports, as they are still revising the guidance.

The difficulty with the new reporting requirements however is in determining whether you are an "employment intermediary" in the first instance.

The catch-all term "intermediary" applies to any business contracting to supply workers to a client, even if it is not a recognised or registered employment agency. Whilst the rules were only meant to apply to employment agency type businesses, the legislation is so widely drafted that it may catch a provider of services as well, rather than just a provider of workers. This might mean that if a business uses anyone not on their payroll to provide services to an end client, a report might be needed.

The new reporting requirements are onerous. The intermediary must provide details of its workers to HMRC, which will include making a report of any personal service companies (PSCs) that it engages.

The report essentially sets out details of workers where the "intermediary" has failed to apply PAYE correctly, or where it is using PSCs, and will provide HMRC with a target list for checking status issues and potential IR35 challenges on PSCs.

The report has to be made online using a template provided by HMRC, at least quarterly, although HMRC will accept more frequent reports, if it suits the intermediary.

The reporting process is still very much a work in progress for HMRC and accounting bodies have put various examples to HMRC for clarification. If you are concerned that the new reporting rules may apply to you and your business, please do get in touch.

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NMW CAMPAIGN TARGETS HAIR AND BEAUTY SECTOR

HMRC are targeting employers in the hairdressing and beauty sectors who pay their staff below the national minimum wage (NMW).

HMRC and the Department for Business, Innovation and Skills (BIS), supported by the National Hairdressers' Federation and the Hair and Beauty Industry Authority, will work with hair and beauty businesses to help them understand their pay obligations to their employees.

In a new approach, HMRC will provide employers with tools and guidance to check if they are paying the correct amount.

Employers who take this opportunity to 'self-correct' will not have to pay penalties, nor will they be 'named and shamed'. If employers choose not to comply with their NMW obligations, HMRC will take action to ensure that employees are paid what they are owed.

As detailed in the press release 'BIS analysis shows that 42% of businesses in the sector do not pay level 2 and level 3 apprentices the correct minimum wage – the highest underpayment rate of any sector. Those paying under the minimum wage now have a chance to put things right. If they fail to do so it could result in their business being publicly 'named and shamed' and facing a fine of up to £20,000 per employee.'

Jennie Granger, HMRC Director General of Enforcement and Compliance, said:

'This innovative campaign is about helping employees who have been underpaid get the money they are legally due back into their pockets. It will help them understand where they can report underpaying employers confidentially.

It is also about helping employers check if they are making mistakes, and self-correct if they are. Some employers will need a bit of a reminder to check they are getting it right, and some will need stronger action from us, so we are bringing in more enforcement officers to support this campaign.

I urge all employers and employees in the sector to check that salary is being paid correctly, as we will use these extra resources to find and investigate where it is not. Check you're paying NMW correctly – it's worth it.'

Employers in the hair and beauty sector are being asked to come forward as part of the National Minimum Wage Campaign by:

- Advising HMRC they want to take part in the campaign.
- Disclosing details of arrears now paid to their workers and confirming that wages worth at least the NMW are now paid to all workers.

If you would like help with NMW issues please do contact us.

Internet link: GOV.UK nmw campaign

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THE ALCOHOL WHOLESALER REGISTRATION SCHEME (AWRS)

The AWRS is being introduced on 1 October 2015 by HMRC in order to tackle alcohol fraud.

The AWRS will apply to existing and new wholesalers of alcohol, trading at or after the point at which excise duty has become payable. In addition, from April 2017, all businesses who trade in or retail alcohol will need to make sure that any UK wholesaler that they buy from are registered with HMRC.

From 1 January 2016, wholesalers will need to satisfy a "fit and proper" test, assessed by HMRC following the submission of the wholesaler's AWRS application and then, if necessary, HMRC will carry out a pre-registration visit.

HMRC will be looking to ensure that:

- There is no evidence of illicit trading.
- The applicant, or any person with an important role in the business, has not previously been involved in any significant revenue non-compliance fraud.
- There are no connections between the business, or key persons involved in the business, with other known non-compliant or fraudulent businesses.
- Key persons involved in the business have no unspent criminal convictions which HMRC consider relevant – for example offences involving any dishonesty or links to organised criminal activity.
- The application is accurate and complete and there has been no attempt to deceive.
- There has not been persistent or negligent failures with any HMRC record keeping requirements.
- The applicant has not previously attempted to avoid registration and traded unauthorised.
- The business has provided sufficient evidence of its commercial viability and, or, its credibility.
- There are no outstanding, unmanaged HMRC debts or a history of poor payment.
- The business has in place satisfactory due diligence procedures to protect it from trading in illicit supply chains.

These criteria are not exhaustive and HMRC may refuse approval to a wholesaler for reasons other than those listed if they have concerns that the applicant is a serious risk to HMRC.

As a wholesaler, you should now review your processes and supply chains to ensure that you are sourcing only legitimate alcohol. When HMRC review the registration, they will look for evidence that you have a good standard of record keeping and robust safeguards to avoid exposure to illicit trade. This includes effective due diligence on your suppliers and, where appropriate, your customers.

HMRC will scrutinise all applications and carry out any site visits between 1 January 2016 and 31 March 2017. Therefore, as a wholesaler, you will hear the outcome of your application by, at the latest, 1 April 2017.

Critically where a business fails the scheme's 'fit and proper' test, HMRC may remove a business's right to wholesale alcohol at any time during the introduction of the scheme.

Penalties

New criminal and civil sanctions will be introduced for wholesalers from 1 January 2016. In addition, any alcohol found in the premises of unregistered businesses may be seized whether or not the duty has been paid.

Clearly the new scheme will be a further administrative burden on businesses but if you would like any help with processes, please do get in touch.

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CHEAP CARS FOR FAMILY MEMBERS

Low emission cars can be provided to directors or family members in a very tax-efficient manner.

Benefit in Kind

The director will pay tax on the taxable benefit of the car, but where the car has CO2 emissions of between 51 and 75 grams per kilometre, the taxable benefit is only 9% of the car's list price. The benefit charge reduces for lower emission cars.

The business will need to pay class 1A national insurance on the benefit, at 13.8%.

Capital Allowances

A car does not qualify for the annual investment allowance, which is the amount a business can spend in any year on capital items and get tax relief in full in the year of spend.

However, low emission cars do benefit from a first year allowance of 100%. This tax break was meant to end on 31 March 2015, but has been extended until 31 March 2018.

This means a business will also get full tax relief in the year it buys a car with emissions of less than 75g/km on or after 1 April 2015.

Choice

The level of emission factors continue to be reduced by the government to discourage investment in company cars, but the choice of low emission cars is now much wider. For example, an Audi A3 Sportback 1.4 TFSI e-tron, with a list price of £35,340 and emissions of 37g/km will cost a higher rate tax payer only £706 per annum, and will save the business £7,068 in tax, giving a net cost for the car of only £28,272.

Please contact your usual AG adviser for further details.

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ENTERPRISE INVESTMENT SCHEMES & SEED ENTERPRISE INVESTMENT SCHEMES (EIS/SEIS)

EIS and SEIS are designed to help smaller higher risk trading companies raise finance by offering a range of tax reliefs to investors purchasing new shares in companies. This can either be by direct investment in the company, or through a fund which itself invests on your behalf in a number of qualifying companies. The benefits include the following: -

1. **Income Tax**

   Currently individuals may claim up to 30% income tax relief on EIS investments, up to a maximum of £1,000,000 each tax year.

   For SEIS, the income tax relief is 50% on investments up to a maximum of £100,000 each tax year.

2. **Capital Gains Tax**

   Providing the shares are held for a minimum of three years, there is no capital gains tax on the disposal of the shares.

3. **Capital Gains Tax Deferral Relief**

   If you have realised capital gains on any assets in the last three years, or are likely to in the coming twelve months, then gains up to the value of an EIS investment can be deferred until the EIS investment is disposed of.

4. **Exempt Capital Gains**

   It is possible to exempt capital gains arising on the disposal of other assets in the last three years, or in the coming twelve months, by reinvesting in SEIS shares. This is subject to an annual limit of £50,000 of gains.

5. **Inheritance Tax**

   Generally, EIS and SEIS qualifying companies qualify for exemption from inheritance tax after two years. Such investments can play an important tax planning role.

The rules for investing under EIS/SEIS are complex and contain a number of bear traps. However, the incentives are significant and for more information on this, please do get in touch.

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TAX TRIBUNAL FEES

The government is considering introducing fees for tax payers to take cases to the first tier tribunal (FTT) or upper tribunal (UT) in an attempt to recoup some of the annual £1billion running costs faced by the courts and tribunal service.

Currently, a fee does not have to be paid to the tax tribunals to have an appeal heard, although legal costs may be incurred but that is a different matter. It is proposed that, in future, listing a case will cost between £50 and £200, and, if there is a hearing, the fee could be anything up to an additional £1,000. Cases heard on papers only will not incur the latter fee.

Whilst £1,200 is a small figure in the context of a multi million pound avoidance scheme, many cases are dealt with by the tribunal at the other end of the spectrum.

The proposals mean that it could cost £250 to appear before a tribunal in order to appeal against a £100 late filing penalty. It surely cannot be right that you have to pay the state for the right to challenge a tax decision made by the state.

Whilst HMRC have announced that they will be taking a lighter touch approach to penalties, we have seen no evidence of this in practice and hope HMRC rethink the proposals.

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TERMINATION PAYMENTS

One of the myths with making termination payments to an exiting employee is that the first £30,000 can always be paid tax free. The area is fraught with complexity but broadly, subject to the availability of specific tax reliefs, the tax and NIC treatment will depend on whether the payment is contractual or not.

Given the complexities, HMRC have now issued a consultation on the simplification of termination payments. One of the proposals is to replace the current system with a smaller initial exemption, dependent on the length of service, which will be applied to any termination payment.

For further details, please see here. The consultation ends on 16 October 2015.

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TIME TO PAY ARRANGEMENTS – MANDATORY DIRECT DEBIT

If a taxpayer has difficulty paying their tax liabilities HMRC may agree 'time to pay arrangements' whereby the taxpayer agrees to pay off the amount owing by instalments after the due date. These arrangements are only entered into where the taxpayer is genuinely unable to pay by the due date and is able to commit to agreed payments to bring their tax up to date.

HMRC have announced that where time to pay arrangements are agreed the payments will now need to be made by Direct Debit. This has always been HMRC's preferred method of collection but this became mandatory from 3 August 2015.

However, HMRC do state that:

'We recognise that there will be exceptional circumstances where a customer is unable to set up a direct debit, perhaps because their bank account will not allow it. In such cases payment by other methods may be agreed.'

Internet link: GOV.UK blog

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PENSION SCHEMES FOR AUTO ENROLMENT

The Pensions Regulator (TPR) has published some guidance aimed at the 1.3 million small and micro employers who are preparing for pensions auto enrolment. The guidance aims to help employers find a good quality **pension scheme.** TPR research suggests one in five (290,000) employers will not seek advice when choosing a pension scheme, while one in ten (130,000) do not know how to select a scheme, or think it will be difficult.

The information includes details of a list of 'master trust' pension schemes open to employers of all sizes, and which have been independently reviewed to help to demonstrate that they are administered to a high standard.

TPR have also made available a **quick guide** for small and micro employers on what to look out for when choosing a scheme suited to their needs. They have also updated their webpage guidance to advisors.

If you would like help complying with your auto enrolment duties please do get in touch.

Internet link: Press release

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