

Autumn 2011

prime review

helping your business work for you

HMRC announces new target areas to be investigated to recover outstanding taxes

You will be aware of HMRC's attempts to recover unpaid taxes through targeting specific sectors in recent years. Two further target groups have been identified by HMRC to investigate – e-traders and those traders currently not VAT registered but have reached the compulsory VAT registration threshold.

The VAT crackdown is set to hit later on in the year, giving those who are unregistered for VAT to get their affairs in order. The initiative is expected to be along the same lines as previous campaigns where HMRC encouraged non-payers to disclose what they owe before taking action against those who failed to come forward.

If your business is approaching the VAT registration threshold and you would like any advice, please don't hesitate in calling our business services manager Colette White on 024 7651 8555.



Chelsea Flower Show silver gilt award for Kenilworth-based bridal dressmaker

Kenilworth-based bridal dressmaker Julie Dutton contributed five dresses to a garden and interactive stand at Chelsea Flower Show which gained a silver gilt award. The planting scheme was created by Chris Beardshaw.

Two wedding dresses, designed and handmade by Julie, appeared on the garden display created for WorldSkills London 2011 which took its inspiration from 'The power of plants'.

Using a 'wedding theme' – featuring these two unique eco-wedding dresses made from sustainable bamboo, WorldSkills aimed to illustrate how a number of countries, communities and individuals are harnessing the Power of Plants to develop skills, jobs and careers and foster creativity.

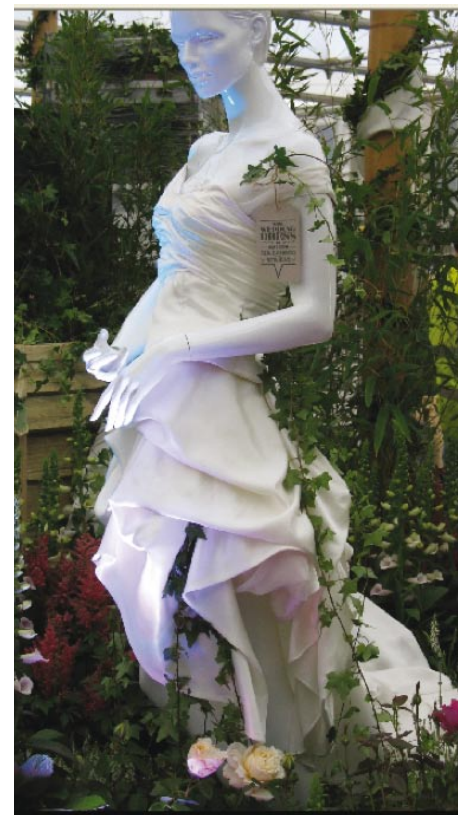
Positioned alongside compost bins the dresses created a striking contrast. The trains of each dress flowed into and around the garden to the compost bins demonstrating that they were made from plant fibre and natural material, and are biodegradable – fully recyclable wedding dresses!

Another of Julie's dresses was on show in the window of Peter Jones in Sloane Square, as part of the Power of Plants promotion. Two further ethical bridal gowns were used on press day.

Aiden Jones, Executive Director of WorldSkills London 2011 says of Julie:

'Our success was down to an enormous team effort and your help in supplying five superb dresses, was essential in helping us to develop an eye catching stand, a great window display and a successful photo opportunity. It was especially rewarding to be given the accolade of a silver-gilt medal from the RHS judges for our stand - a tremendous success and real achievement given the exacting standards the judges are looking for.'

Just like many sole traders Julie didn't want the burden of fulfilling the statutory accountancy requirements associated with running a business; instead she outsourced the work to Prime so she could focus on designing.



prime
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Employer Penalties

Employers who fail to pay their PAYE liabilities on time every time and in full may face penalties.

Since 6 April 2010, HMRC have had the right to impose late payment penalties on all employers, regardless of size, who fail to make their monthly or quarterly PAYE payments on time. The payments covered by these rules not only include PAYE but National Insurance contributions, Construction Industry Scheme deductions and Student Loan deductions.

Here at Prime we recently received the first formal demand from HMRC received by one of our clients for £5,000 as a result of late payment of monthly PAYE liability. The client had made all of the monthly payments but having sent cheques around the 18th of each month, HMRC claim these are late as they had not received cleared funds by the due date. We are fighting this on behalf of our client, who is now seriously considering outsourcing their payroll requirements to Prime.

Unfortunately some employers may be blissfully unaware that a penalty may be due as HMRC's approach during 2010/11 has been to issue a warning letter only, and even this has been at their discretion. The receipt or not of such a warning letter is not necessarily an indication that a penalty notice will be levied. In fact HMRC have up to two years after the payment default to issue a penalty notice. The penalties are risk assessed so HMRC may not charge the penalties to all late paying employers.

We operate a fully accredited BACS bureau which can handle all of the PAYE payments, as well as securely paying your employees which takes the burden away from you and allows you to concentrate your time on more important matters affecting your business.



So how do the penalties work?

No penalty will be imposed for the first late payment in a tax year but subsequent breaches may attract penalties from 1% to 4% depending on the number of late payments of PAYE/NIC etc per tax year. A further penalty of 5% may be charged if any amounts are still outstanding after 6 months and then again after 12 months.

Don't owe anything?

It is important to let HMRC know that you have nothing to pay either by:

- completing the online form: www.hmrc.gov.uk/payinghmrc/pay-e-nil.htm
- sending a signed payslip with the amount completed as "NIL"
- phoning 0845 3667816 with your HMRC accounts office reference and advising them which period no payment is due for.

If you currently run your own payroll and have concerns about possible late penalties please contact Kerrie Lucas on 024 7651 8567



All change on the CIS express

Penalties for late construction industry scheme (CIS) contractor monthly returns will be changing from October 2011.

The good news is that, in many cases, the new penalties may be lower than the previous position. In particular, for new CIS contractors there will be an upper limit to some of the penalties charged.

New rules from October 2011

The new penalty system starts in October 2011. The first return to attract a penalty is the return due for the month starting 6 October and ending 5 November 2011.

Penalties will be charged as follows:

- Initial failure to meet the due date of the 19th of the month – a penalty of £100.
- Return still outstanding two months after the due date – a further penalty of £200.
- Return still outstanding six months after due date – a 'tax geared' penalty becomes due. This penalty is the greater of 5% of

any deductions shown on the outstanding return and £300.

- Return still outstanding 12 months after the due date – a second 'tax geared' penalty becomes due.

Contractors new to CIS

Under the new rules, if a contractor has not sent any previous returns and is filing the first returns late, there will be an upper limit of £3,000 on the total fixed penalties (£100 and £200) that may accrue.

This upper limit does not apply to any 'tax geared' penalty except that, where it applies, it removes the £300 minimum penalty that would otherwise be charged where the tax geared penalty is less than £300.

If you require any further information or would like help in filing CIS returns please call Kerrie Lucas on 024 7651 8567



Spotting the winning ticket in the premises lottery

A common tax issue that arises is where a business incurs expenditure on repair work to its business premises. The tax treatment generally allows a 100% tax deduction for genuine repairs as revenue expenditure but if the nature of the expenditure is more of an improvement or alteration, then the situation is not so clear cut. HMRC are likely to argue that the expenditure is capital rather than revenue and deny the tax deduction.

As capital, the expenditure would then only qualify for tax relief if eligible for capital allowances. This primarily means under current tax rules that it must qualify as plant and machinery, as most 'premises' expenditure does not get relief.

A case heard last year at the First Tier Tribunal (FTT) illustrates these very points. The company in question was involved in the manufacture and retailing of curtains and accessories. The business premises were a two storey building which contained a showroom and warehouse on the ground floor together with a workshop, offices and kitchen on the first floor. Extensive work was carried out to the premises and out of total costs of £67,000 a tax deduction of £53,000 was claimed as repairs.

As a result of this extensive work the premises had a larger refurbished showroom and a reduced warehouse facility. The alterations to the premises were designed to accommodate a shift in the business to providing a bespoke curtain/blind making service along with their installation hence reducing the need to hold stocks of material.

HMRC accepted that expenditure on roof repairs and refurbishing the kitchen should be treated as repairs and allowed a tax deduction. However, they argued the rest represented capital expenditure on alterations and improvements aimed at refurbishing and increasing the size of the showroom and no tax deduction was allowed, except for that part of the cost which was eligible as plant and machinery.

In making its decision the Tribunal looked at the plans and other documentation available and concluded that the work had changed the character of the building as a whole. It was evident that the company

had chosen to adapt its premises to its business needs and so they agreed with HMRC that this should be regarded as capital expenditure.

What is plant anyway?

Another case heard at the FTT concerned a taxpayer who runs a country pub in West Sussex. She purchased a wooden gazebo which was placed in the pub's garden, but not bolted to the ground, to provide cover for customers who smoked.

HMRC argued that capital allowances on the cost of the gazebo were not due as the gazebo was not apparatus with which the business was carried on but premises in which it was conducted.

The Tribunal considered that where a gazebo was simply a fixed roof on pillars where customers could smoke outside the pub, then it would seem more likely that it could be described as part of the premises.

However, in this case, they concluded that the gazebo was not attached in any permanent way in the garden and remained moveable. They described the gazebo instead as 'more like an embellishment of the garden' rather than something which simply performs the function of housing the business, so capital allowances were due.

The moral is, if you are planning to incur repair/improvement expenditure or any capital expenditure in relation to your business, contact Sarah Nickols on 024 7651 8543 or Ian Frost on 0121 711 2468 in advance to discuss the likely tax treatment so that the optimum tax position can be planned for in advance.

Not a pool car

There have been several recent Tribunal cases which illustrate the dangers of the tax rules on what are generally known as pool cars. Pool cars are tax efficient as there is no taxable benefit. However, as always, there is no such thing as a free lunch.

The conditions for a car to be regarded as a pool car and so tax free are:

- the car was made available to, and actually used by, more than one employee
- the car was made available, in the case of each of those employees, by reason of the employee's employment
- the car was not ordinarily used by one of those employees to the exclusion of the others
- in the case of each of those employees, any private use of the car made by the employee was merely incidental to the employee's other use of the car in that year and
- the car was not normally kept overnight on or in the vicinity of any residential premises where any of the employees was residing, except whilst being kept overnight on premises occupied by the person making the car available to them.

In the first case, HMRC carried out an Employer Compliance Review and found that the company had provided the taxpayer with vehicles for several years. The taxpayer claimed that the vehicles were pool cars but no one else was available to use them as staff that needed cars for official use had other pool cars available.

The Tribunal found that the vehicles were not pool cars and that:

'... the Appellant's lack of fiscal knowledge had caused him to fall foul of (the rules) which in his case became penal causing him to become liable to a car benefit charge based on the £51,000 list price of the cars which amounted to £9,156 per year. The independent dealer value of the cars having regard to their age was some £6,000 for each car meaning that the Appellant could have bought the cars for less than the tax arising on the car and fuel benefit.'

In the second case, a Mercedes Benz CD320CDI, owned by the company of which the taxpayer was a shareholder and director was claimed a pool car.

The taxpayer stated that the Mercedes was kept in a steel container at the factory and that it was never taken home. It was also only used to visit customers. However, there appeared to be no mileage log. The Tribunal found that the taxpayer failed to provide satisfactory evidence to show that all five conditions were met.

The message is clear – the key to tax free success is to ensure all conditions are considered and in particular, proper records maintained. Please do get in touch with our tax managers Sarah Nickols on 024 7651 8543 or Ian Frost on 0121 711 2468 if you would like to discuss this area further.



Let's go Real Time - the future of PAYE

In July 2010 HMRC issued a Consultation Document looking at major reforms of the PAYE system using real time information. You may have read or heard about elements of the system but we thought that we would try to dispel a few myths.

The project consists of two separate elements:

Real Time Information (RTI) would collect information about tax and other deductions automatically each time employers ran their payroll. This information would be submitted automatically to HMRC at the same time employees were paid.

Centralised Deductions (CD) would build on RTI by moving the responsibility for calculating and deducting tax, national insurance and student loan repayments from employers to the electronic payment system.

It appears that the Government have decided to proceed with a phased introduction of RTI with a pilot beginning in 2012 and then implementation from April 2013. It also appears that CD will only be considered once RTI has been fully introduced and this seems unlikely before 2015.

RTI

With RTI, employers paying employees electronically would send HMRC details of employees' pay, the deductions of tax, NIC and student loan repayments and information about employees' identities.

The information would be produced automatically by the payroll system at the point of making the payment and would be sent to HMRC via the electronic payments system as part of the payment instructions.

HMRC think that this could simplify the processes when people change jobs, with no need to complete a P45/46 but with a notification through the new electronic system. Individuals changing jobs in the year would be more likely to pay the right amount of tax. It could also do away with end of year information. Access to real time data would also improve the benefits and tax credits system, with better administration and reductions in fraud, error and overpayment.

The basic process would be:

- most employers would be required by regulation to use the Bacs system to transmit RTI information with payment instructions;
- a common standard will be used for the transmission of RTI data at all stages of the payments infrastructure from payroll software through banking interfaces and Bacs submission software to the Bacs system itself;
- smaller employers (fewer than 50 employees) who do not pay their employees via Bacs will initially be able to submit RTI from their software, or via an agent, using an internet channel through the Government Gateway.

Employers would still need to issue payslips to their employees and issue P60s at the year end.

CD

The basic concept is that HMRC would construct a central calculator to work out the correct deductions of tax, national insurance and student loan repayments from an individual's pay. The employer would send the gross payment through the electronic payment system to the central calculator where the deductions calculated by HMRC would be made automatically. The resulting net payment would then be sent to the individual's bank account and the deductions would be paid directly to the government.

As employers would no longer be responsible for the tax, they would not need to operate tax codes.

Obviously, things are in their infancy and there will be a lot more information to come in future months. We will keep you fully informed of developments. Should you want to discuss this matter future and specifically to your business, please call our payroll manager Kerrie Lucas on 024 7651 8567

When 10% is really 4%...

You may recall in the Budget earlier this year that the Chancellor announced a new relief for Inheritance Tax (IHT) purposes that could reduce your IHT liability by 10%. As always the devil is in the detail and what is actually proposed is a relief that could reduce your IHT liability by 10% from 40% to 36%, in effect a 4% reduction in the main IHT rate.

The proposals broadly mean that for deaths occurring on or after 6 April 2012, estates that include charitable legacies of at least 10% of the net estate will benefit from the reduced 36% rate. There are a number of technical points that determine if the charitable legacies 10% target has been met and we can advise you further on this area if this is of interest to you.

Here is an example of how the proposed new relief is to apply.

Mike has an estate valued at £850,000 upon his death. He was always an active supporter of Cats Protection and in his will he provided a legacy to them of £52,500.

If he died in 2011 the IHT liability would be calculated as follows:

	£
Estate value	850,000
Less charitable legacy	(52,500)
Less available nil rate band	(325,000)
Taxable estate	472,500
IHT due at 40%	£189,000

The amount left for distribution to other beneficiaries, after accounting for the legacy and the IHT, would be £608,500.

If he instead died on or after 6 April 2012 (and the charitable legacy meets the 10% rule) then the estate would qualify for the reduced rate of IHT of 36%. This would result in a reduced liability of £170,100 leaving £627,400 available, after accounting for the legacy and the IHT, for distribution to other beneficiaries.

For any more tax advice, or to discuss how the legislation effects you personally, please call one of our tax managers Sarah Nickols on 024 7651 8543 or Ian Frost on 0121 711 2468.

Meet our directors...



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