

WINTERS

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I N F O C U S

Winter 2004

Letters from the tax man

Recent weeks have seen the Inland Revenue issue three circular letters on widely differing subjects. The Revenue did not consult on these letters, did not let accountants know that they were being issued and often did not let accountants have a copy of them!

The first letter seems to be targeted at self employed businesses with a turnover of under £150,000. At first glance it has a 'we are on to you' tone, which appears quite threatening. However it has been confirmed that the recipients have been selected centrally and that local offices do not know the reasons for selection!

The letter infers that something is wrong with the 2003 self assessment return and that it should be reviewed to avoid the possibility of interest and penalties. The letter does not, however, indicate exactly which expenses the Inland Revenue is referring to! The letter is also accompanied by a standard set of questions and answers. The questions covered are of a most basic nature and some of the answers are open to debate.

Two other letters have been sent to certain contractors and subcontractors in the construction industry. The Inland Revenue is currently undertaking a review of employment status within the construction industry. The letter suggests that those businesses or individuals that have received a copy of the letter may well have a problem with this issue. The letter then suggests that the employment position should be reviewed. However once again there is little indication of exactly why the Revenue believes that there may be a problem.

These letters may be significant. If you have received one you really should get in touch with your contact partner or either of our tax partners, Roy Bristow, roy.bristow@winters.co.uk or Kevin Fisher, kevin.fisher@winters.co.uk.

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Winters in the Wintertime....

Winter is normally a time to be resting indoors in front of a log-fire. Not so at Winters! It's all go at the moment....

We're currently just completing some refurbishment work on the office. Our reception has been moved and brightened up significantly and two new offices have been built. The overall look, and in particular the new laminated wooden floor, seems to have modernised the arrival area to everyone's satisfaction. We hope many readers will have the opportunity to see the changes for themselves soon and would say thank you to those of you who have kindly put up with any inconvenience if you have visited us during the works.

Former Howard, James and Co. staff and partners from our Yardley Street office have now moved into 29 Ludgate Hill. Some of you will have worked out the connection with the refurbishment! We've had a chaotic weekend or 2 but thanks to considerable effort by a number of staff and a partner or 2, we seem to be 'up and running' without losing any time during the working week. The new 'team' seem to be getting along famously, not a cross word to be heard! Perhaps this is our honeymoon period – long may it last. Certainly we're all confident clients are receiving a seamless and continuous service.

Please accept the good wishes of all at Winters at this festive time of year.

Late payments

All businesses are entitled to claim statutory interest and debt recovery compensation of up to £100 for the late payment of commercial debts.

The Forum of Private Business (FPB) has long campaigned to bring an end to late payment practices and was instrumental in helping to get the statutory right to interest on late payments passed into law. A recent survey on the FPB website (www.fpb.co.uk) revealed that 63.6% of businesses replying said that late payment had adversely affected their business.

A recent Lloyds TSB Commercial Finance survey highlighted that late payment is still a problem. When it came to excuses for late payment, these included 'the boss has died and the cheque book was in the suit we buried him in' and 'I've just been diagnosed with agoraphobia - I can't go out to post the

cheque'. Whilst these far-fetched excuses may bring a smile to your face, businesses pushed to the edge waiting for debts to be paid are unlikely to see the funny side. There is no doubt that late payment is a serious issue that can act as a significant barrier to growth.

The Better Payment Practice Group has produced an updated version of its Guide To Paying And Being Paid On Time. It offers advice on credit-checking new customers, collecting payments promptly and creating a good relationship with both suppliers and

customers. The guide can be found at www.payontime.co.uk

The Lloyds TSB survey concludes that it is in the best interests of all businesses to address the problem and put in place systems aimed at improving payment practices across the board.



New European health insurance card



Those of you who travel in Europe will no doubt be familiar with form E111. Supplementary to your usual travel insurance, the form entitles travellers from the UK, who are eligible, to free or cheaper emergency medical treatment in the European Economic Area (EEA). The EEA covers member states of the European Union (EU) plus Iceland, Liechtenstein and Norway. Switzerland is also covered.

This old style form is due to be replaced by a new plastic European Health Insurance Card. The new card will not hold electronic or clinical data. In line with EU regulations, the card will be issued on an individual basis and not a family basis as at present, so children

will not be covered by their parent's card.

The new cards will be valid for up to five years and will continue to be free of charge. We can expect to see the new cards sometime in 2005.

In the meantime old style forms E111 will remain valid until 31 December 2004. Therefore, if you are planning to travel in Europe during 2005, you should apply for a new E111 as those issued before 19 August 2004 will not be valid next year. Your new E111 will be valid until 31 December 2005.

The current application form includes a tick box, which, if completed, will ensure that you are automatically issued with the new card in 2005.

School fees

Parents with children at fee paying schools, or those who will have in the future, will be interested in the results of a recent case.

The case concerned the liability of a company to pay additional national insurance (NI) on the school fees paid on behalf of the director's son. The company paid some of the school fees and the dispute revolved around whether the company was meeting a personal liability of the director and owner, Mr Frost.

Not long after his son's birth, Mr Frost filled in and signed a form of application for his son's admission to a school. Initially the Frosts paid the school fees. However from the end of the first term the fees were invoiced by the school to the company.

The Commissioner found that, on lodging the signed application form, Mr Frost indicated that he would be responsible for his son's fees, if his son should be accepted as a pupil. It was clear that Mr Frost was offering to make himself liable for payment of the school fees, term by term, for so long as his son might remain at the school. There was no written contract. There was no evidence of a renegotiation of contractual arrangements between the school and the company.

Moreover a parent has both a legal duty and a moral obligation for the education of his or her child. A limited company had no connection with, or responsibility for, the child. It was highly unlikely that the school would have been prepared to substitute the company for the parents as the person with which it dealt contractually.

Hence the liability had only ever been that of the parents to pay the school fees and, therefore, additional NI was due.

The moral of the story is that if the payment of school fees is to be done in a tax and NI efficient manner, there is a high degree of paperwork and advice required.

Please contact us if you would like to discuss the implications of this case in more detail.

Cars and vans: the next chapter

A regular topic of discussion in the Winters' tax department is that of company cars and managing tax aspects relating to them.

It is over two years since the current tax rules for company cars were introduced. When the regime began in April 2002, the minimum 15% charge applied for 2002/03 to cars with CO₂ emissions not exceeding 165 grams per kilometre (gm/km). The qualifying level of CO₂ emissions for the 15% charge is being gradually reduced so that the starting point from next April will be 140 gm/km.

For example an employee with a company car having a list price of, say, £28,000 and emissions of 185gm/km has seen their benefit in kind rise from £5,320 in 2002/03 to £6,720 from next April. For a 40% taxpayer this means an increase in tax of over £500 a year.

The potential savings associated with diesel cars should not be overlooked by those seeking to reduce their benefit. A 3% supplement is added to an employee's benefit unless the car is Euro IV compliant. More and more diesel cars now satisfy this standard.

When submitting the P46(car) for such cars the fuel type should be entered as 'L' not 'D'.

A further benefit of 'staying green' is that businesses buying cars with emissions not exceeding 120gm/km may qualify for a 100% write-off of the cost in year one. Go to www.comcar.co.uk to see the list of cars qualifying under this heading and those that are Euro IV compliant.

As far as employer provided vans are concerned the government has finally decided what the new rules will be. We provide a brief summary of the changes below.

Until 5 April 2005

Nothing changes and the flat rate charge of £500 (or £350 for older vans) continues. The charge applies where an employee has use of a van and the charge includes private fuel.

From 6 April 2005

The charge is reduced to nil if there is 'restricted private use'. It remains at £500 (or £350) otherwise. Restricted private use means that the van is primarily provided for business use and the private use is predominantly commuting from home to work.

Advance notice: from 6 April 2007

The rules will be amended further. Unless there is restricted private use, the charge will be a flat rate of £3,000 plus £500 for private fuel.

It will therefore be crucial, in order to ensure that no tax charge arises, that:

- a given vehicle qualifies as a van rather than a car and
- the van is available for restricted private use.

Our tax partners, Roy Bristow, roy.bristow@winters.co.uk or Kevin Fisher, kevin.fisher@winters.co.uk support the rest of the Winters' team in the provision of advice relating to this area. Do get in touch if you need help; planning is, as ever, important.

Legal rights for same-sex couples

The Civil Partnership Bill introduces, in the words of the Department of Trade and Industry, 'ground-breaking proposals providing legal status for same-sex couples'.

Currently same-sex couples have no way of gaining formal legal recognition of their relationships. Under the Bill they would be able to make a formal legal commitment by entering into a civil partnership. However for heterosexuals, such a partnership would not be available as an alternative to marriage.

A partnership registered in this way would give:

- responsibility to provide reasonable maintenance for civil partners and children of the family
- full recognition for the purposes of life assurance
- ability to succeed to tenancy rights
- social security and pension rights
- ability to gain parental responsibility for partner's children.

The Inland Revenue has confirmed that in relation to tax credits, same-sex couples will be brought in line with other couples whose joint income is taken into account in determining what award is given. Currently both partners in a same-sex couple claim separately based on their individual circumstances.

Although there is no mention of the position with regard to either inheritance tax or capital gains tax, it is the Inland Revenue's intention to give civil partnerships parity with married couples in these areas and legislation to achieve this will be enacted in due course.

The Bill is not expected to become law for some time. When it does, in the interests of creating parity across the UK, it is intended to legislate for the whole of the UK.



For further information on the products and services Winters can offer you visit our web site at www.winters.co.uk

New customers for Complex Personal Returns teams

The Inland Revenue has announced some changes to the customer base of the Complex Personal Returns (CPR) teams. The changes will lead to an increase of around 6,000 cases.

CPR teams deal with more complex tax returns or those of individuals with high levels of income. As before, cases will be identified by reference to high levels of income and/or wealth and some indication of actual or potential complexity with the tax affairs.

One specific change relates to directors of smaller companies. This year CPR teams will deal with some of these cases, for example where the director's total income is high and different tax offices already deal with the director and the company.

For the first time there will also be a small number of transfers from CPR teams to other tax offices where the Inland Revenue believe that their affairs are no longer particularly complex.

New Customs and Excise website

Allison Broadey, our VAT consultant has been experimenting with the new HMC&E website.

'Not bad at all' is Allison's conclusion. The new website is part of Custom's programme to improve and enhance online services. Businesses can now complete an improved online VAT return and request changes to basic business details. The site's information services allow the creation of personalised pages with email alerts, document tracking and clipboard features. Further improvements will continue to be added to the site.

The website address is www.hmce.gov.uk

Allison can be contacted with any VAT query on allison.broadey@winters.co.uk.

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The missing millions!

Have you ever considered whether you may be the owner of some of the estimated £15 to £20 billion of unclaimed, lost or abandoned money held in the UK?



Research suggests that one in 12 adults in the UK could discover £5,000 or more that they have either lost touch with or never knew existed.

This money is lying unclaimed in financial institutions throughout the UK. Its owners have either lost touch with it, perhaps through mislaid documents, or they never even knew that it existed, perhaps because they inherited it without realising.

While account providers are expected to take appropriate

measures to locate the owners of money in inactive or dormant accounts, this is not always successful. The Chancellor has spotted this and would like to distribute the funds to charity.

While there is no central registry holding all of the information about these unclaimed life policies, pensions, unit trust holdings, dormant savings accounts, uncollected dividends, etc. there are organisations able to help. Unfortunately not all of this help comes for free

but if you would like to track down your forgotten money you could try:

- the Unclaimed Assets Register (UAR), part of Experian (www.uar.co.uk) or
- FundsReunited (www.fundsreunited.com).

Alternatively you could write to the inquiry departments at individual banks, building societies and at National Savings. You never know, it just might be worth it...

Maternity pay

A woman taking maternity leave is generally entitled to 90% of her full pay for the first six weeks. This is broadly based on the earnings in the fifth and sixth months of pregnancy. A pay rise coming into effect later than this is not taken into account.

The European Court of Justice has ruled that the UK method of calculating maternity pay is

discriminatory and therefore unlawful. A pay rise, even if outside this period, should be taken into account so long as it came into effect before the end of the period of paid maternity leave. The decision could mean that women who have taken maternity leave and failed to get relevant pay rises taken into account will be able to claim what they are owed.

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