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NEWSLETTER

October 2017

October 2017 Newsletter

Can I start by giving an update on the items raised in the earlier Newsletters this year.

The Government has, this month, issued the second Finance Bill to reintroduce those items which had to be omitted from the previous Finance Bill as a result of the Election. In brief, much of the content is very similar to the previous Bill although there is no mention of an increase in Probate fees. However the new 7.5% tax on dividends in excess of £5,000 which was introduced in April last year, is in the new Bill, to have the £5,000 limit reduced to £2,000 from next April.

Probably the most important news is that 'Making Tax Digital' has been postponed and it will not now be introduced until April 2020 at the very earliest. However, VAT registered businesses that have a turnover in excess of the VAT threshold (currently £84,000) will be required to keep digital records with effect from April 2019.

In our February Newsletter we ended by warning of the new tactics on tax evasion being adopted by the Taxman. Nothing illustrates this better than a tax case last month where a Richard Fuller, from Hampshire, was jailed for 2 years and three months for not declaring Capital Gains on the sale of properties between 2007 and 2014. The tax that he had evaded over this period amounted to £157,725.

Incidentally a third Finance Bill will be issued this year, shortly after the Autumn Statement.

Accounts format

The format of Accounts is changing, for both Companies and unincorporated businesses and indeed there is now a wider choice of formats.

The former still have to have full accounts prepared for the Directors, but the accounts for Shareholders and for filing at Companies House have changed. One can of course choose to file full accounts although most Companies only wish to have the very minimum of information in the public domain. This used to take the form of 'Abbreviated' accounts. However these have now been replaced by either 'Abridged' or 'Filleled' Accounts, or indeed Filleled Abridged Accounts. To make matters even more complicated, smaller Companies can now file Micro accounts. If anyone wishes to have more information on this subject I will be more than pleased to oblige. However I suspect that you would wish us to continue to prepare accounts for shareholders and for filing at Companies House which show the least amount of information.

Unincorporated businesses also now have a choice of Accounts format. Accounts can be prepared on either an accruals basis, using invoices for purchases and sales as the core transactions, or on a cash basis where receipts and payments are the core transactions. The latter basis, from this April, can only be used for businesses with a turnover of under £150,000. Some clients have requested that we dispense with the preparation of accounts altogether and just provide them with the figure on the Tax Return, which obviously reduces our fees.

Self-employed status

The Taxman has for decades introduced scheme after scheme in an endeavour to re-categorize self-employed people as employees, where they consider their status to be incorrect. Their latest effort is to attempt to say that these people work through an agency, and as such the legislation forces them to be an employee. They state that any third party who stands between the engager and the worker will be deemed to be an 'agency'. This will include an individual or any Personal Service Company owned or managed, (directly or indirectly) by the worker. As an agency they will then be responsible for deducting PAYE and National Insurance from the workers, as would any employer.

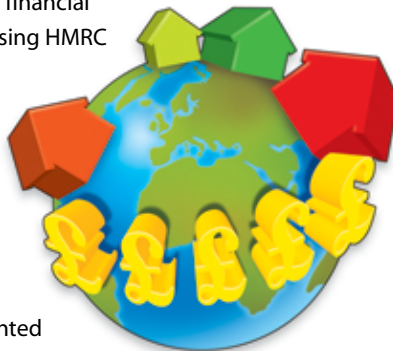


To fall within the new regulations all the following must also apply -

- The worker personally provides, or is personally involved in the provision of, services to another person (normally the main contractor) as a consequence of a contract between that person and a third person (normally the ultimate customer).
- The manner in which the worker provides the services is subject to (or to the right of) **supervision, direction or control** by any person.
- Money is received by the worker in consequence of providing the services; and This money does not constitute employment income apart from under the agency legislation.
- Some workers are specifically excluded from these 'agency rules', including actors, entertainers, musicians or models. The rules also do not apply where the worker is always based either at home or a workshop and not controlled or managed by the client.
- A report must be sent to HMRC each quarter (to 5th July, 5th October etc.) within one month of the quarter end. Penalties are £250 for the first offence, £500 for the second and £1,000 for subsequent offences. Penalties for continual failures can be £600 per day, although the 'clock' is reset if a year has elapsed between late reports.

Overseas assets and income

Along with many financial institutions, solicitors and financial advisers we have had to send out letters to clients, using HMRC wording and including one of their 'help sheets' (summarized below) as an attachment. This is a disturbing new development from the Government and one must presume that it is because you are probably more likely to read a letter from us, rather than just their saving in paper and postage costs.



However the response back from clients has highlighted one area of confusion, being that many clients are erroneously of the opinion that if they sell an overseas asset, e.g. a holiday home, and pay the appropriate taxes in that Country, then they do not have to pay additional tax in the UK. This is incorrect, as any gain must be reported on a Tax Return and the tax paid here on the difference in the tax that had been paid overseas and the tax that would have been paid had the asset been in the UK.

Things are changing – the tax world is becoming more transparent

- HM Revenue and Customs (HMRC) is getting tougher on those not paying the right amount of tax across their offshore tax affairs.
- From 2016, HMRC is getting new financial information about our customers from more than 100 jurisdictions – including details about overseas accounts, structures, trusts, and investments.
- HMRC is already using information, supplied by overseas banks, insurers, and wealth and assets managers, to identify the minority who are not paying what they owe.

Are you confident that your UK tax affairs are up-to-date?

You need to regularly check that you have declared all of your UK tax liabilities and, if needed, bring your tax affairs up-to-date. This is your responsibility.

Personal circumstances change. For example, you may have recently inherited assets overseas. Tax laws change too. All of this means that previous advice can be out-of-date, with costly consequences.

- If you are confident that your tax affairs are up-to-date and complete, then you don't need to do anything further.
- If you are unsure, we recommend that you speak to a tax adviser to find out if you need to take action now.
- If you find that you need to bring your tax affairs up-to-date, it can be easier than you think. You can choose to do this now using HMRC's straightforward online disclosure facility at www.gov.uk/guidance/worldwide-disclosure-facility-make-a-disclosure

If you have not paid the right amount of tax and choose not to take action now, you need to know that:

- *HMRC will find out about your money and assets overseas through new information from more than 100 jurisdictions.*
- *Penalties are increasing for those who are not paying the right amount of tax on their offshore assets, and you can even face criminal prosecution. Under new rules, you could face further penalties based on the value of the asset as well as the tax due, resulting in potentially life-changing consequences.*

If you choose to delay in coming forward, it's very likely to cost you more and there is also more chance that HMRC will come for you.

Come to us before we come for you

- *If you are confident that your tax affairs are up-to-date, and you have declared all of your UK tax liabilities, then you don't need to do anything further.*

We are already using early financial information to identify the minority who are not paying what they owe. If you need to bring your tax affairs up-to-date, it is your responsibility to do so – act now at www.gov.uk/guidance/worldwide-disclosure-facility-make-a-disclosure

Business Structure

There are many advantages to running a business on your own, with no partners or other directors and shareholders. Conversely it can be difficult not having others to consult when making business decisions. However another difficulty is often ignored, that being what will happen in the case of one's death or mental impairment, such as a stroke. Who will make the business decisions and who can authorize payments. Recently I have heard of several cases where the business has folded just because of that reason, with claims being made by both suppliers and customers as well as the additional cost of redundancy payments. Even a short period of time between a death and the proving of a Will appointing the Executor, can cause massive problems. To resolve this situation could a family member be a silent partner and a signatory to the bank account, or a minority shareholder who could then appoint a replacement Director ?





General Data Protection Act (GDPA)

This law, initiated by the European Union, will take effect from 25th May 2018, and affects all businesses, irrespective of size, if they deal with data collection, storage or usage of clients/customers personal data.

The main criteria are -

1. A client/customer can, at any time, withdraw the right of any business to use their personal data.
2. The law extends the scope of existing legislation to include all overseas companies who process the data of UK residents.
3. Contracts must show precise details of how data is being collected and used.
4. Additional consent is required if data is to be passed to a third party.
5. Businesses must assign a 'Data Protection Officer' if they have over 250 employees.
6. Any breaches of data must be reported to the Information Commissioners Office (ICO), within 72 hours.
7. A business must respond to a Subject Access Request (SAR) within 30 days.
8. Maximum penalties increase from £500,000 to over £15m (or 4% of turnover)

This newsletter deals with a number of topics which, it is hoped, will be of general interest to clients. However, in the space available it is impossible to mention all the points which may be relevant in individual cases, so please contact us for personal advice on your own affairs.



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