

# the bottom line

Welcome to the Autumn edition of 'the bottom line' our taxation and accountancy information newsletter. This edition deals with Extracting Profits from a Company, Pre-owned Asset Tax, Corporate Statutory Filing Deadlines and News in Brief.

## Extracting Profits From A Company

It is quite common for draft accounts to be drawn up after the end of a financial year which are then used to determine provisions for staff and directors' bonuses. Provided these bonuses met certain conditions and were paid within 9 months of the year end they were allowable for tax purposes in the year they were accrued. With effect for accounting periods commencing on or after 1 January 2005, Financial Reporting Standard 21 "Events After the Balance Sheet Date" applies, which threatens the flexibility of such provisions.

The Standard differentiates between:

- events that provide evidence of conditions in existence at the balance sheet date, (adjusting events), and
- events that relate to conditions arising after the balance sheet date (non-adjusting events).

For a provision for bonuses to fall within the adjusting events category and hence be provided in the accounts and obtain tax relief, the company must have a legal or constructive obligation to pay the bonuses at the year end. If bonus entitlements are provided in employment contracts there is a legal obligation and hence the

provisions may be included in the accounts. A constructive obligation may exist if for example there is a long standing practice of such payments after the year end, although this is more difficult to prove.

There are two options available to the company to ensure classification as adjusting events:

1. Draw up a written agreement setting out a defined basis for distributing bonuses. This may have an adverse effect on tax planning as it will lead to reduced flexibility.
2. Review the company results prior to the year end, calculate the bonuses and notify the staff accordingly. This will bring forward the due date for settlement of any PAYE and National Insurance liability for Directors. "Payment" for such purposes for directors is "if the amount of income for a period is determined before the period ends, the payment date is the time when the period ends".

Any bonuses that are treated as non adjusting events will not qualify for tax relief until they are reflected in the Financial Statements.

With regard to dividends these are also affected by the provisions of

FRS21. A dividend is only reflected in the annual financial statements if it has been voted prior to the year end.

It is no longer possible to vote a bonus or dividend after the year end to clear an overdrawn loan account. The overdrawn loan account will still be shown as such in the financial statements.

With regard to the magnitude of pension contributions, there is greater flexibility since "A" day with regard to the magnitude of pension contributions. In order to qualify as wholly and exclusively for the purposes of the trade, the whole remuneration package will be considered and not just the pension contribution in isolation. It will be necessary to consider comparable remuneration packages of unconnected employees, special reasons for the size of the remuneration package and pension contribution, salary sacrifice arrangements and contractual obligations. Contributions must be physically paid prior to the year end in order to qualify for tax relief.

Please contact us for further advice on year end tax planning and optimal remuneration/dividend packages for directors/shareholders.



**Greenback Alan**  
CHARTERED ACCOUNTANTS

11 Raven Wharf  
Lafone Street, London SE1 2LR  
Tel: +44 (0)20 7403 5959  
Fax: +44 (0)20 7403 3111

Email: [gba@greenback-alan.co.uk](mailto:gba@greenback-alan.co.uk)  
Web: [www.greenback-alan.co.uk](http://www.greenback-alan.co.uk)

## Pre-Owned Asset Tax

Tax returns for the year ended 5 April 2006 are the first that will require information with regard to Pre-Owned Asset Tax (POAT). This tax was introduced in order to target packaged Inheritance Tax (IHT) mitigation schemes that were seen by H M Revenue & Customs as getting around the rules. This tax will affect individuals that have purchased or invested in any arrangement that purports to achieve a saving in IHT while preserving the right to occupy, access or otherwise enjoy the asset in question. These schemes typically include the family home, chattels or investment bonds. Other less formal arrangements that may have been undertaken with no tax motive may also be caught by the rules. For example, where a parent makes a substantial gift to their child and then takes up residence or stays for

lengthy periods with that child in a property that the child has purchased with the benefit of those gifts, these may be subject to POAT.

It is the taxpayers responsibility to either declare a liability or take appropriate steps to satisfy themselves that their arrangements are outside the scope of the legislation. It is vital that you seek advice from us if you think that you may be caught by these provisions or to undertake IHT planning to mitigate POAT and IHT.

## Corporate Statutory Filing Deadlines

At present the accounts for a private company need to be filed at Companies House within ten months of the year end although this is to be reduced to nine months when the Companies Bill

is passed. It used to be possible to arrange for an automatic extension to this deadline if a company had overseas interests but this provision has now been stopped. It is possible to request in writing an extension to the deadline although this will only be granted in exceptional circumstances. The penalties for late filing begin at £100.

With regard to corporation tax, the self-assessment return needs to be submitted within 12 months of the accounting reference date for tax purposes. There is an extra-statutory concession which states that a return will not be treated as late if it is received within seven days of the filing date. The penalties again start at £100 and unlike income tax penalties are due regardless of the tax liability.

## NEWS IN BRIEF

### Self Assessment Filing Deadlines

We mentioned in a previous edition of the Bottom Line that it had been proposed that the filing deadlines for tax returns be shortened from 31 January to 30 November for e-filed returns and 30 September for paper returns. The leading accountancy and tax professional bodies strongly expressed their objections and their arguments were considered. On review the deadlines have been amended to 31 October for paper returns with no change proposed for the filing dates for e-filed returns. The new dates will be effective for the filing of self assessment returns for 2007/08.

### Tax on Golf Days!

H M Revenue & Customs are now more frequently asking employers for details of benefits provided to third

party employees and which ought to be reported to the individual concerned. If for example, a business provides a corporate golf day, it is required to give each attendee a summary of the cash equivalent of the benefit. H M Revenue & Customs have stated that they will pursue the tax from the individual.

### Age Discrimination

From 1 October 2006 the Employment Equality (Age) Regulations came into affect which have an impact on all businesses in terms of young and old employees, at recruitment stage and even after an individual has left. We will be covering this in more detail in our next newsletter but in the meantime if you have any queries, please do not hesitate to contact us. The regulations do also affect statutory payments such as sick pay, maternity pay and adoption pay.

### Tax Freedom Day

In the UK in 2006 tax freedom day has moved to 3 June 2006. This is the date to which an average person has to work simply to pay their tax liabilities! This means that you earn 212 days income for working for 365 days. In the US tax rates are such that their tax freedom day is six weeks earlier but this contrasts with most of mainland Europe which is 1 month later. Please contact us to help bring your tax freedom day forward!

### Greenback Alan News

With effect from 1 November 2006 we will be trading as Greenback Alan LLP, a limited liability partnership.

### Staff News

Our congratulations go to Ian Rowe and his wife Sara who are the proud parents of Lucy Isobel who was born on 31 August 2006 and who weighed in at 6lb 15oz.

### Contacts:

For further information about the issues raised in this newsletter or if you would like to find out about the range of services that we can offer, please contact Stephen Dabby, Morisha Christy, Tony Sian, Nick Nicolaou or Alex Green.