

the bottom line

Welcome to the Winter edition of 'the bottom line' our taxation and accountancy information newsletter. This issue deals with the Pre-Budget Report, the Cost of Employment, Tax Residence and News in Brief.

Pre-Budget Report

The Chancellor of the Exchequer's December Pre-Budget Report brought few surprises from a Chancellor, who cynics might say, had one eye on the forthcoming Labour Party leadership election. As always there were a few nasties hidden in the press releases published shortly after the speech, including further anti-avoidance legislation entitled, Ensuring Fairness for All Taxpayers, but on the whole the Statement could be summarised as more of the same. Below is our summary of the main points.

2007/08 Income Tax Rates and Allowances

The main personal allowance will increase by £190 to £5,225, the age related allowances for people aged between 65 and 74, and those aged 75 or more will rise to £7,550 and £7,690, respectively.

No announcement was made in respect of the income tax bands.

The National Insurance Rates are unchanged but the Class 1 lower earnings threshold increases to £87 per week and the upper earnings threshold to £670. The primary and secondary thresholds increase to £100 per week.

Class 2 weekly contributions increase to £2.20 and Class 3 to £7.80.

Class 4 will be levied at a rate of 8% on profits between £5,225 and £34,840 plus 1% on profits above this level.

Individual Savings Accounts (ISA)

The Government intends to make the Individual Savings Account a permanent savings scheme. It also plans to simplify the rules.

Working and Child Tax credits

The 2007/08 tax credits will rise in line with inflation. It is also proposed to bring forward the deadline for renewing Tax Credit claims by one month to 31st July 2007 although provisional claims will still be allowed provided final figures are provided by 31 January 2008.

Fuel and Passenger Duty

Fuel duty rates were increased by 1.25p per litre. Passenger duties increase by 100% with effect from 1 February 2007.

New Construction Industry Scheme

The Chancellor confirmed that the new Construction Industry Scheme will come into effect from 5 April 2007. If you are affected by the scheme and are unsure how the new rules will impact on you, please contact us.

Stamp Duties

Changes were introduced to block two specific avoidance schemes and also to restrict relief on certain transfers to and from partnerships.

VAT

Changes are to be made to the Partial Exemption regime in respect of any proposed "Special Method" to the effect that businesses will need to declare the suitability of their proposals in the submission to H M Revenue and Customs.

European Union Travellers Allowances

In order to cut down avoidance in this area the tax free allowance

for travellers returning from trips outside the UK is to be doubled to £290.

Managed Service Companies

When the IR35 legislation concerning personal service companies was introduced some organisations established umbrella companies to protect contractors from the IR35 rules. Legislation is to be introduced to target Managed Service Companies and Partnerships in a similar fashion to IR35 and personal service companies. Anyone who may be affected by this measure who is not sure how it could affect them should contact us.

Pensions Taxation

There is to be a tightening of the rules relating to Alternatively Secured Pensions to reduce the scope for these arrangements to be used to pass on pension assets to other people, specifically members of the individual's family. There will also be some other changes to pensions rules, back dated to 6 April 2006.

Anti-Avoidance Rules

A number of "loopholes" are closed from 6 December 2006. In particular the use of losses from "contrived" capital loss schemes by individuals, trustees or personal representatives will be restricted. Artificial schemes using manufactured payments, exchange losses and gains, annual payments, double tax relief and others are also blocked.



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The Cost of Employment

Over the last few years, businesses have been inundated with many significant changes in employment legislation. The government has been slow to implement the new laws. The effects of the legislation have been twofold; firstly costs of compliance with regulations by businesses have significantly increased, and secondly the legislation protects the employee's rights to such an extent that small and medium sized businesses, wherever possible, seek to find alternatives to employment such as outsourcing, subcontracting etc.

It is not possible in an article of this length to deal in detail with the major effects of the new legislation but we have attempted to highlight the areas of significant change that have come into force in October 2006 or are due for implementation in the next year.

Age discrimination became unlawful in the UK from 1 October 2006. The legislation gives rights under the Act to employees, the self employed, directors, contract workers, former employees and job applicants. The discrimination can be direct or indirect and also covers harassment and victimisation on grounds of age of people of any age, young or old. The definition of age discrimination also includes discrimination based on apparent age, so individuals can bring a claim even if discrimination was based on an incorrect assumption about their age. Potential compensation claims are unlimited.

The regulations remove the upper age limit for unfair dismissal and redundancy rights, giving older workers the same rights to claim unfair dismissal or receive a redundancy payment as younger workers.

The Age Discrimination legislation also removes upper age limits for Statutory Sick Pay, Statutory Maternity Pay, Statutory Adoption Pay and Statutory Paternity Pay. This ties in with other changes as a result of the Work and Families Act 2006 which was effective from October 2006 onwards. This Act removes the six months service requirement for an employee to claim additional maternity/adoption leave such that if an employee is entitled to ordinary maternity/adoption leave they are automatically entitled to additional leave. With effect from April 2007, Statutory Maternity and Adoption Pay is being extended to 39 weeks with the aim of moving to 52 weeks, probably by Spring 2010. Fathers' rights will also

be extended enabling them to benefit from leave and statutory pay if the mother returns to work before the end of her maternity leave. "Keeping in touch days" have been introduced so that where employers and staff agree, an employee on maternity/adoption leave can go into work for up to 10 days during the leave period without that working bringing the leave period to an end. Holiday leave for all employees has been redefined such that employers are prevented from including Bank Holidays in the statutory annual leave entitlement; effectively this increases the legal holiday entitlement to 28 days. This is being phased in over the three years to October 2009.

With effect from 6 April 2007 disciplinary and grievance procedures (introduced in 2004) are to be extended to cover circumstances not envisaged when they were first introduced; these changes are to ensure that employers and employees are subject to the statutory resolution processes of new legislation, before any tribunal complaint is made. It is anticipated that the changes will tend to favour employers as they will generally result in penalising employees who fail to follow the procedure when complaining about their employers failure to consult.

In Summer 2007, England is to become a 'smoke-free' zone; all premises, if enclosed or substantially enclosed, are to be non-smoking. Employers must display prominent "Non-Smoking signs" and penalties will be imposed for non compliance.

Other legislative changes are afoot and it is likely that we will continue to see major changes in favour of employees and greater regulations for employers over the next few years.

Tax Residence - Days of arrival and departure

The recently published Special Commissioners case of Gains-Cooper has caused some concern about the interpretation of the so called "91 day" residence test. This test applies to a non-resident individual visiting the UK. Basically, an individual is allowed to return to the UK for up to 90 days in each tax year on average, ignoring days of arrival and departure when counting days of physical presence, and still remain non-resident. In this specific case the Commissioners found that on the facts, Gains-Cooper had never

established non-residence and therefore although his return visits satisfied the 91 day test this was irrelevant and he was UK resident throughout. HM Revenue and Customs have published their interpretation of the case in which they confirm that there has not been a change in their stance on the 91 day test as it was not relevant until an individual had actually left the UK and had established he was no longer resident here. Therefore there was no need to amend their guidance on the matter. If you believe you may be affected by this case please contact us.

NEWS IN BRIEF

Artic Systems Case

We refer you to our previous newsletters where we provided details of an important case going through the courts relating to the settlements legislation which had a potential impact on husband and wife businesses. The case has now gone to the House of Lords and will be heard from 5 to 7 June 2007, so hopefully 2007 will see an end to the uncertainty. Please do contact us for advice on how to complete your tax returns in the intervening period if you have any concerns about the effects on your personal position.

Companies Act 2006

The Companies Bill received Royal Assent on 8 November 2006. The new legislation, consisting of some 1,300 sections, represents one of the most fundamental changes to company law in twenty years. Although some sections come into force this January, a date has not yet been set for implementation of the majority of the Act although it will be in force before the end of October 2008. We will provide more details of the effect of the changes in a later newsletter.

UK - Japan double taxation agreement

The new UK - Japan double taxation agreement, which was approved by Parliament on 17 May 2006, came into force on 12 October 2006. If you would like further details of its effects on your business, please contact us.

VAT Registration

H M Revenue & Customs have recently announced that it may take up to twelve weeks to process new VAT registration applications.

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.