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CHARTERED ACCOUNTANTS

Registered to carry out audit work by the Institute of Chartered Accountants in England and Wales

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Money Matters

AUTUMN 2006

UK200 News

Question:

What are Accountants and Lawyers for?

Answer:

To help you manage your business, increase profits and avoid paying more taxes than necessary. Secondly to help you cope with the increasing regulatory burden in today's business climate.

UK200Group Accountants and Lawyers are a real source of business support and advice. We - and our clients - are fortunate to have this strong source of support and professional advice within the Group on the myriad taxes, employment issues, cost structures or succession planning, management, finance or legal problems which often face SMEs. Personal issues can also be resolved, such as your next car - is it better to buy or lease? UK200Group of Accountants and Lawyers is a widely experienced local resource at your service.

IHT - attack on trusts

You will be aware that Gordon Brown's Budget statement included changes to the inheritance tax (IHT) treatment of some trusts. These created alarm and uncertainty.

Although there have been some amendments made, it remains advisable to have a health check on any trusts that you may have created or on your will if it provides for the creation of a trust.

This area is highly technical and accordingly this article covers only the very key issues.

Lifetime transfers into Accumulation and Maintenance (A&M) trusts and Interest in Possession (IIP) trusts have always been exempt from IHT if the settlor lived for the next seven years. Also they have not been subject to the periodic or exit charges suffered by other trusts.

From 22 March 2006, the rules currently applying to discretionary trusts will apply to both A&M and IIP trusts. So there may be:

- a chargeable transfer on entry with a lifetime rate of up to 20%.
- a periodic charge of up to 6% every 10 years
- an exit charge when funds leave the trust.

Existing A&M trusts which provide that the assets in trust will go to a beneficiary

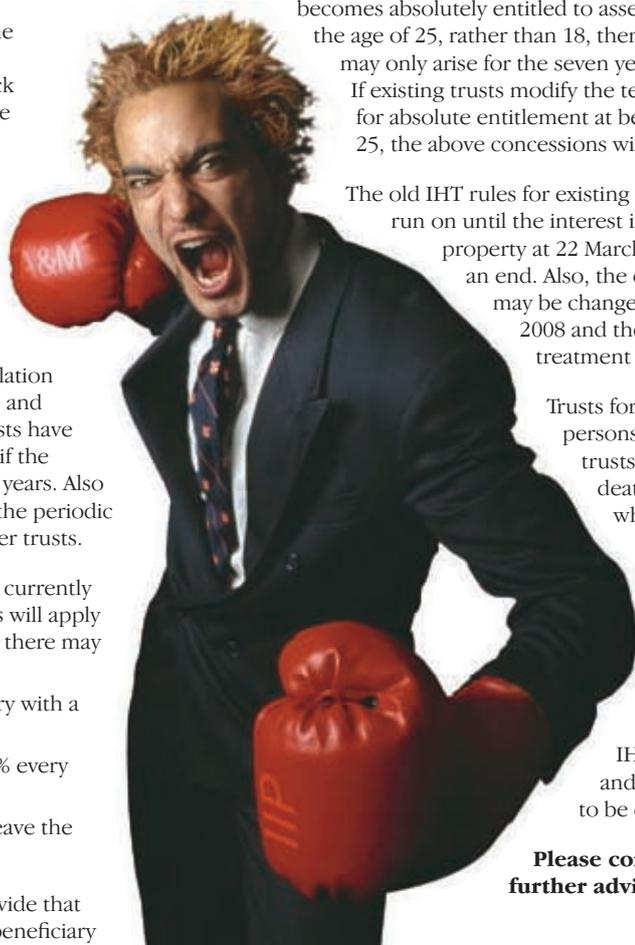
absolutely at 18 retain the old IHT treatment. However, few trusts provide for this since 18 is widely considered to be too young. Therefore, one of the amendments to the legislation is that if a child becomes absolutely entitled to assets at or before the age of 25, rather than 18, then IHT charges may only arise for the seven years post age 18. If existing trusts modify the terms to provide for absolute entitlement at between 18 and 25, the above concessions will also apply.

The old IHT rules for existing IIP trusts will run on until the interest in the trust property at 22 March 2006 comes to an end. Also, the current interest may be changed before 6 April 2008 and the old IHT treatment may be retained.

Trusts for disabled persons and certain trusts created on death for a child or which create a life interest are exceptions to the new rules.

All existing trusts should be reviewed to ensure future IHT is minimised and wills may need to be changed.

Please contact us for further advice.



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Cut your tax bills - go green

Recent government reports suggest that many businesses do not realise that the fuel efficiency (or otherwise) of a car may affect the amount of tax due from both employees and employers.

The list price of the vehicle and certain accessories is the starting point for working out the tax bill for employees who receive a company car. This can be very different to the price paid and can usually be obtained from the manufacturer.

The exhaust emissions of the car are then used to find a percentage (see table), which is applied to the list price. This will give the value of the benefit of the car which will be taxed. The employer will also pay Class 1A NICs of 12.8% on the same amount.

Example

Charlie has a company car throughout 2006/07. It has a 2.5 litre diesel engine with CO² emissions of 198 g/km and a list price of £26,000. The percentage from the table is 26%, plus the diesel supplement of 3%, so the benefit is £7,540 (£26,000

@ 29%). If Charlie is a higher rate taxpayer, his tax bill will be £3,016 (£7,540 @ 40%). The employer will be liable to Class 1A NICs of £965 (£7,540 @ 12.8%).

Of course, driving a different car could cut the tax bill.

Example continued

If Charlie had a company car throughout 2006/07 with a 1.6 litre diesel engine, with CO² emissions of 135 g/km and a list price of £17,000, the percentage from the table would be 15%, plus the diesel supplement of 3%, so the benefit would be £3,060 (£17,000 @ 18%). If Charlie is a higher rate taxpayer, his tax bill would be cut by £1,792 ((£7,540 - £3,060) @ 40%). The employer's NICs bill would also be cut.

If cleaner company cars interest you, a good starting point is www.comcar.co.uk

Please contact us if you would like to review the position of company cars or would like to talk about the calculation of car benefits.

Company cars 2006/07 and 2007/08

CO2 emissions (gm/km) (round down to nearest 5gm/km)	% of car's list price taxed	Fuel benefit (£14,400 x %) £	Company cars
up to 140	15	2,160	<ul style="list-style-type: none"> For diesel cars add a 3% supplement, but maximum still 35%. This is waived for Euro IV diesels. For 2006/07, no waiver for diesels registered on/after 1 January 2006. Discounts apply to certain environmentally friendly cars. For cars registered before 1.1.98 charge is based on engine size. The list price includes accessories and is subject to an upper limit of £80,000. List price is reduced for capital contributions made by the employee up to £5,000.
145	16	2,304	
150	17	2,448	
155	18	2,592	
160	19	2,736	
165	20	2,880	
170	21	3,024	
175	22	3,168	
180	23	3,312	
185	24	3,456	
190	25	3,600	
195	26	3,744	
200	27	3,888	
205	28	4,032	
210	29	4,176	
215	30	4,320	
220	31	4,464	
225	32	4,608	
230	33	4,752	
235	34	4,896	
240 and above	35	5,040	Fuel benefits <ul style="list-style-type: none"> The fuel benefit charge is proportionately reduced if provision of private fuel ceases part way through the year. The fuel benefit is reduced to nil only if the employee pays for all private fuel.

VAT claims and business mileage

To reclaim the VAT back on business mileage allowances paid to employees a business has to keep a proper VAT receipt. A debit or credit card slip, which most people are routinely given at the garage, is not sufficient. These rules were introduced at the beginning of the year but it is only now that HMRC are starting to check for these receipts on VAT visits.

The rules apply to the situation where employees purchase fuel themselves and then make an expenses claim based on a mileage allowance or their actual fuel costs. Employees driving company cars, as well as those employees who claim a mileage allowance for driving their own cars for business journeys, are caught by the rules.

Company car drivers who are paid a fuel-only rate need VAT receipts to at least cover the full amount of the mileage expenses claimed for business use.

Where employees are paid a rate per mile, typically 40p, for using their own car, VAT receipts will only be required to cover the fuel element of the expenses - typically 10p to 18p per mile. If the fuel element is, say, 12p, and 100 miles are claimed, the VAT receipts retained need to be at least £12.



Pensions White Paper

It is not long ago that stakeholder pensions were introduced. Then we had A-Day and now further changes to pensions are being considered. A White Paper was released on 25 May and contains many proposals which would change the pensions system quite radically.

Amongst the main proposals are the following:

- a low cost savings scheme, through personal accounts, in which employees would be automatically enrolled unless they were members of their employer's scheme which met a minimum standard
- employers would be required to make contributions while the employee is in the scheme
- employees would contribute 4% of earnings between approximately £5,000 and £33,000. Employers would pay 3% on the same band of earnings and a further 1% would be added from the

employees' basic rate tax relief (some employees would receive higher rate tax relief too)

- there would be measures to help smooth the introduction of compulsory employer contributions
- non-employees and the self employed would be able to opt into the personal accounts scheme
- the basic state pension would be re-linked to earnings from 2012 but only if it could be afforded at that time
- the state second pension would become a simple, flat rate top-up to the basic pension
- there would be a gradual rise in the state pension age, rising to 66 between 2024 and 2026, from 66 to 67 between 2034 and 2036 and then to 68 in 2044 to 2046.

These are only proposals, of course, and we will keep you informed of future developments.

The Work and Families Act 2006

The Work and Families Act 2006 is part of a raft of family friendly measures which had their origin in a ten year strategy for childcare - Choice for parents, the best start for children - published in 2004.

The Act is enabling and the detail will follow, but the essential changes are as follows:

Maternity pay

The Act extends the maximum period for maternity pay and adoption pay to 52 weeks from the current period of 26 weeks. This will be done in two stages - the first increasing the period to 39 weeks from 1 April 2007.

Paternity leave

Fathers or partners responsible for children will become entitled to additional paternity leave of up to 26 weeks. The Act also provides that regulations can be made to allow fathers to claim paternity pay (beyond the two weeks that they are currently entitled to) if the mother, being entitled to maternity pay, returns to work.

Flexible working

Parents of children under 6 (or under 18 if disabled) have a right to request flexible working. From April 2007 the Act extends this right to employees with the responsibility for caring for a spouse or relative. Relative has not yet been defined.

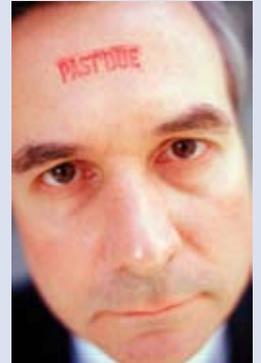
Employers can refuse a request for flexible working, but they must have good reason. Flexible working can mean anything from compressed working hours to merely having access to a phone.

Annual leave

New regulations are to be made on the amount of annual leave entitlement. The government is committed to make paid leave for bank holidays additional to the minimum 20 days annual leave currently provided for. Therefore the annual leave entitlement is expected to rise to 28 days as part of these new measures.

Age and employment

From 1 October 2006 the Employment Equality (Age) Regulations 2006 come into effect. This means that direct discrimination, indirect discrimination, harassment and victimisation will be unlawful on the grounds of age. The following areas are covered by the legislation.



Recruitment and selection

- It will be unlawful to specify a particular age unless an employer can show it is objectively justified, such as fixing a maximum age for recruitment to reflect training requirements or when there is a genuine occupational requirement such as a young actor for a particular role.
- When writing job adverts employers must avoid using language which may imply they are looking to recruit someone of a particular age, such as 'lively' 'young' or 'mature'.
- With regard to recruitment only, the legislation does not apply for over 65s.

Service related benefits

- Employers may continue to use length of service criteria to reward staff, as long as the period of service is not more than five years. A simple example would be where an additional day's annual leave is granted for each year of service. A length of service criteria exceeding five years can still be lawful providing it fulfils a business need, for example as a reward for loyalty.

Retirement

- There will be a national default retirement age of 65, with lower ages having to be objectively justified on a case by case basis.
- When an employer wishes to retire an employee of over 65 they will have to notify the employee between 6 and 12 months in advance of the intended retirement date and tell the employee of the right to request to work beyond the retirement date. If such a request is made, it must be made by the employee no less than three months before the intended retirement date. All employers must consider such requests, meet to discuss it, and provide a response within a reasonable time frame. Provided the correct procedure is complied with, there will be a presumption that a dismissal at or above the age of 65 is a planned retirement and there will be no right to claim unfair dismissal.
- An employee aged 65 or over who is dismissed for any reason other than a planned retirement will have the right to bring a claim for unfair dismissal.



CONSTRUCTION INDUSTRY COUNTDOWN

The much delayed new Construction Industry Scheme will dispense with the current system of cards, certificates and vouchers. When contractors take on a new subcontractor they must contact HMRC to confirm whether payment should be made net of 18% tax or gross. This process is known as verification.

A timetable of what should be happening follows. Please get in touch if you would like more information.

November

HMRC will provide contractors with details of subcontractors they have used in the last two years who will be treated as verified. Contractors should check these records and then obtain the name, address, unique taxpayer reference or company registration number from those not contained on HMRC's list so that they can be verified before the start of the new system. Without verification, tax must be deducted at a higher rate yet to be agreed. (30% is being used in HMRC illustrations.)

December

Contractors can check their IT system via the HMRC internet gateway.

January

HMRC will issue contractor packs detailing the new rules.

February

Contractors should verify any subcontractors they are using who were not included on the list issued to contractors in November.

March

HMRC will issue details of all newly verified subcontractors to contractors.

April

6 April is the 'go live' date for the new system!

Handy hints for Excel

This new regular feature article aims to provide useful tips and tricks for business related software. In this issue we cover Excel's Date and Time functions.



Dates are stored in Excel as numbers - starting at 01-Jan-1900. So, the date 01/01/07 for example, is actually stored as 39083.

Times are stored as parts of a day as a decimal fraction so, 06:00 is stored as 0.25 and 22:00 is stored as 0.916666666666667!

Display Date and Time

To display the current date and time in a cell, type in the formula: =NOW()

This formula displays both the date and time in the cell. To display just the date, then use the formula: =TODAY()

These formulae update each time the sheet opens. To insert today's date into a cell and not have it update automatically,

press Ctrl and ; together.

Date and Time calculations

	A	B
1	01/11/2006	
2	19/02/1980	
3	26	26

For example, cell A1 contains today's date, cell A2 contains a date of birth.

To ascertain age, then one of two different formulae can be used:

The formula in cell A3 is =DATEDIF(A2,A1,"Y")

The formula in cell B3 is =YEAR(A1)-YEAR(A2). The cell B3 must be formatted to a general number.



Puzzle

What is the value of the last column in the grid? Answer below.

%	≥	%	%	171
≥	%	≥	≥	145
Σ	≥	Σ	Σ	
Σ	%	%	%	
121			?	

Who wrote that?

The following are allegedly genuine extracts from letters to HMRC:

'My husband died on 3 November. Is there any post-war credit still due as I understand a person has to be dead before they can claim any benefit?'

'I cannot pay the full amount at the moment as my husband is in hospital. As soon as I can, I will send on the remains.'

'I am a vermin destroyer but have not earned anything for a month. I shall be glad to call on you at any time.'

'Re your request for a form P45 for new employee. You already have it, and he is not leaving here but coming, so we haven't got it.'

'I am writing to inform you that I am now married. I realise I should have done so eight months ago, but I was not aware that I had to.'

The answer to the puzzle is 146

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CIS - A New Dawn

In April 2003, Gordon Brown announced changes to the Construction Industry Scheme (CIS). The changes were originally due to take effect in April 2005 but were deferred initially to April 2006 and, at the eleventh hour, to April 2007. There is clearly a lot to think about before April 2007. The new system places great emphasis on contractors' procedures and backs this up with automatic penalties.



Under the new scheme the Revenue will be placing great emphasis on automatic penalties for late returns, failure to provide records or payslips etc but also a monthly emphasis on the employed/self-employed position of the subcontractors. If contractors get this wrong, once again penalties may apply.

This bulletin focuses on the main areas requiring consideration over the coming months. There are some fundamental issues which need to be considered prior to April 2007.

No vouchers

Under the new CIS, from April 2007 all of the old vouchers such as the CIS23, CIS24 and CIS25 will become redundant. In addition, the annual CIS return will also be scrapped. This at first appears to be an advantage of the new scheme.

However, the current requirements will be replaced by a monthly return. Contractors will have to make a **monthly** return to the Revenue:

- confirming that the employment status of subcontractors has been considered
- confirming that the new verification process has been correctly dealt with
- detailing payments made to all subcontractors and
- detailing any deductions of tax made from those payments.

The monthly return can be sent either manually or electronically and will relate to each tax month (ie running from the 6th of one month to the 5th of the next). The deadline for submission is 14 days after the end of the tax month. Even if no subcontractors have been paid during a month, contractors will still have to make a nil return. All contractors will be obliged to file monthly even if they are entitled to pay their PAYE quarterly.

No CIS cards

From April 2007 there will be no registration cards or tax certificates. Instead subcontractors must give

contractors their name, unique taxpayer reference and national insurance number (or company registration number) when they enter into a contract. So long as the contractor is satisfied that the subcontractor is genuinely self-employed the 'verification' procedure (explained overleaf) must be followed.

Employed or self-employed?

A key part of the new regime will be that the contractor has to make a monthly declaration that they have considered the status of the subcontractors and are satisfied that none of those listed on the return are employees. The Revenue have decided to back this up with a penalty of up to £3,000 if contractors negligently or deliberately provide incorrect information.

Remember that employment status is not a matter of choice. The circumstances of the engagement determine how it is treated.

The issue of the status of workers within the construction industry is not a new matter and over the last two years the Revenue have been making substantial efforts to re-classify as many subcontractors as possible as employees. The courts have considered many cases over the years and take into account a variety of different factors in deciding whether or not a worker is employed or self-employed. The tests which are applied include:

- the right of control over how, what, where and when the work is done; the more control that a contractor can exercise, the more likely it is that the worker is an employee
- whether the worker provides a personal service or whether a substitute could be provided to do that work
- whether any equipment is necessary to do the job and, if so, who provides it
- the basis of payment - whether an hourly/weekly rate is paid, whether there is any overtime, sick or holiday pay and whether or not invoices are raised for the work done

- whether the worker is part and parcel of the organisation or whether they are conducting a task which is self-contained in its own right
- what the intention of the parties is - whether there is any written statement that there is no intention of an employment relationship
- whether there is a mutuality of obligation; that is, an ongoing understanding that the contractor will offer work and the worker accept it
- whether the workers have any financial risk.

As can be seen from the above, there are a number of factors which must be considered and the decision as to whether somebody should be classified as employed or self-employed is not a simple one.

Clearly, the Revenue would like subcontractors to be classed as employees, as this generally means that more tax and national insurance is due. However, just because the Revenue think that somebody should be re-classified does not necessarily mean that they are correct.

It is interesting that the Revenue have developed software to address this matter but the software appears to be heavily weighted towards re-classifying subcontractors as employees. It should not be relied on and professional advice should be taken if this is a major issue for your business. Please talk to us as a matter of urgency if you have any particular concerns in this area.

Verification

The contractor will have to contact the Revenue to check whether to pay a subcontractor gross or net. Not every subcontractor will need verifying. Usually it will only be new ones.

The verification procedure will establish which of the following payment options apply:

- gross payment
- a standard rate deduction of 18%, which is the current rate of deduction
- a deduction made at the higher rate (yet to be announced but possibly around 30%) if the subcontractor has not registered with the Revenue or cannot provide accurate details to the contractor and the Revenue cannot verify them.

The Revenue will give the contractor a verification number for the subcontractors which will be matched with the Revenue's own computer. The number will be the same for each subcontractor verified at any particular time. There will be special numbers for subcontractors who cannot be verified. The numbers will have to appear on contractors' monthly returns and payslips.

Clearly, these numbers are a fundamental part of the new system and contractors will have to

ensure that they have a fool-proof system in place for obtaining and retaining them. It will also be very important to give precise details to the Revenue because, if their computer does not recognise the subcontractor, the higher rate deduction will have to be made.

A payslip?

Contractors will have to provide a monthly 'payslip' to all subcontractors paid, showing the total amount of the payments and how much tax, if any, has been deducted from those payments. The contractor will have to provide this for each tax month as a minimum. Contractors will be allowed to choose the style of the 'payslips' themselves but certain specific information will have to be provided including:

- the contractor's name
- the contractor's employers' tax reference
- the tax month to which the payment relates
- the subcontractor's name, unique tax reference or specific subcontractor reference
- the gross amount of the payment
- the cost of any materials which have reduced the gross payment and
- the amount of any deductions.

It may well be that contractors want to include such payments as part of their normal payroll system. However, if this option is chosen, it will need to be clear that although payslips are being generated for those individuals, they are not employees and have clearly been classed as self-employed.

Penalties

The whole system is backed up by a series of penalties. These cover situations in which an incorrect monthly return is sent in negligently or fraudulently, failure to provide CIS records for the Revenue to inspect and incorrect declarations about employment status.

However, two further penalties will be much more common on a day-to-day basis:

- for failure to send in the monthly return there will be a penalty of £100 per 50 subcontractors (or part thereof) per month
- for failure to provide a subcontractor with a 'payslip', a penalty of up to £300, plus a further penalty of up to £60 per day for continuing failure.

Clearly procedures and controls will be vital in avoiding these penalties.

Paying over the deductions

Contractors will have to pay over all deductions made from subcontractors in any given tax month by the 19th following the end of the tax month to which the deductions relate. If payment is being made electronically, the date will be the 22nd, or the next earlier banking day

when the 22nd is a weekend or holiday. If the contractor is a company which itself has deductions made from its payments as a subcontractor, then the deductions made may be set against the company's liabilities for PAYE, NI and any CIS deductions it is due to pay over.

What about subcontractors?

There will be transitional rules for subcontractors currently within CIS. A subcontractor under the existing CIS may not need to register under the new CIS if they have:

- a tax certificate (CIS5 or 6)
- a permanent registration card (CIS4(P))
- a temporary registration card (CIS4(T)) that has not expired.

However, if a subcontractor first starts working in the construction industry on a self-employed basis after 5 April 2007, or had a temporary registration card that has expired, they will need to register for the new CIS.

To register, a subcontractor will need to contact the Revenue by phone or over the internet and they will conduct identity checks. The rules for subcontractors to be paid gross are broadly equivalent to the current rules. There will be a business test, a turnover test and a compliance test similar to the existing regime.

Subcontractors not registered with the Revenue will suffer the higher rate deduction from any payments made to them by contractors.

What to do now

Things to think about include:

- reviewing the self-employment status of existing subcontractors
- reviewing computer systems/payroll systems to ensure that the monthly 'payslip' can be generated in the required format
- ensuring that advice and training is undertaken to ensure a good understanding of the self-employment tests
- ensuring that systems are put in place to cope with the verification process, payment process and monthly return process.

We are here to help you. Please talk to us to discuss the practicalities of implementing the systems that will be required to avoid the automatic penalties under the new regime.