

Changes to the way agency workers are taxed

We have seen a lot of activity trying to get workers who work via agencies into PAYE. The Queen's Speech in June announced a 'Targeted Anti Avoidance Measure', a TAAR, which will target firms who facilitate false self-employment for the purpose of avoiding NIC.

On the same day HMRC published more guidance on the changes to the agency legislation introduced from 6 April 2014 making it plain that the legislation **must** be applied from 6 April 2014 and outlining how HMRC see the interaction of the new legislation and IR35 and umbrella companies. HMRC Guidance Note 3 June 2014 Taxation of Agency Workers. ■

People working through their own limited companies

The legislation and rules that apply to small limited companies where the only employee(s) are the directors and shareholder is known as IR35. HMRC has rewritten its guidance into a better format - it was previously a series of questions and answers. See HMRC Guidance Note 6 June 2014 Intermediaries legislation (IR35) - updated guidance. ■

Commercial Rating

It is likely that there will be a revaluation of all commercial property from April 2017 using the value of all commercial property on 1st April 2015. This time gap allows the Valuation Office time to prepare the necessary lists.

With a year to go until the valuation date it is important to highlight that the outcome of rent reviews, lease renewals and new lettings over the next 12 months will be a key determinant of the level of rates to be paid for 2017 onwards.

If you have issues with your commercial rates Liz Bridge has contacts who can give a bit of free advice, which might give a useful steer. Contact Liz by email at Liz@thetaxbridge.com. ■

VAT - Building a new house where historically valuable facades and sides are retained

There are rules which say that before a new build which retains part of a previous structure can be zero rated the planning permission must specify that the frontage must be retained. Case law now suggests it may be enough to show that the project received planning permission without specific reference to the facades. If this applies to you seek help from Liz Bridge, Liz@thetaxbridge.com ■

VAT - Installing energy saving materials?

Care is needed because the reduced rating is much more restricted than many firms think. There have been two cases at tribunal this month which show the problems.

■ A firm installed polycarbonate roofing panels as roofs for conservatories. These panels were said to give far higher insulation than any other glass roof. The court held that they did not qualify for reduced rating because the panels were roofs and not 'insulation for roofs' which is the wording of the legislation.

■ A firm installed draft-proofing strips when overhauling sash windows. HMRC argued that the draft proofing was simply a minor part of the overhaul and therefore could not be zero-rated because it was an indistinguishable part of a larger standard rated supply. HMRC lost because the court found on the facts that the draft proofing was done separately and was sometimes a supply made without any other supply.

Beware if the installation of energy saving materials is done during a much larger contract of overhaul or repair, HMRC are likely to argue that it is not a supply in its own right. ■

VAT - Hope for all firms charged a penalty for late returns

In Trinity Mirror PLC v HMRC TC03490, a newspaper was successful in appealing a £70,900 late filing VAT penalty on the grounds of proportionality.

■ The company filed its quarterly VAT return one day late in 2008. It had filed a return one day late six months earlier and the second default resulted in an automatic 2% VAT default surcharge.

■ The company lodged an appeal relying on the principle of proportionality contained within the EU VAT Directive "...a penalty must not be disproportionate to the gravity of the infringement".

■ The company had a strong compliance record.

■ HMRC argued that the penalty was necessary to discourage large companies from late filing.

The Tribunal held that the fine was unfair and an excessive punishment for a minor infringement.

There is no power in section 29 VATA 1994 which allows the Tribunal to mitigate or otherwise reduce the amount of this type of surcharge and so a discharge of the total penalty is the only possible course open to a Tribunal which concludes that the penalty is disproportionate. If you are charged a tax-based penalty which results in a large penalty for a small offence this will be a useful case to quote. ■

PAYE - End of year reconciliation

HMRC have started the annual automated PAYE end of year reconciliation process for 2013-14 and should have finished it by mid September. If they discover tax over or under paid they send the employee a form P800 showing the over or under payment. Cheques for refunds of overpayments should be received within 14 days of receipt of the P800. Under payments will be coded out on the 2015-16 coding wherever possible. If the amounts are too large for coding adjustment HMRC will start the process of explaining how to pay the outstanding tax. ■

PAYE - Scheme ceased?

If you have a PAYE scheme that you no longer need you can avoid receiving non-filing notices and generic messages and penalties by ensuring that the final submission is made correctly.

For 2014-15 when making a final full payment submission (FPS) for the year, the employer should;

- Run their final payroll.
- Complete the boxes 'final submission because scheme ceased' and date scheme ceased on the FPS for the pay period. And;
- Enter a leaving date on each employee's payroll record.

Employers that have already sent all the payroll information should complete the boxes 'final submission because scheme ceased' on the employer payment summary (EPS)

For 2013/14 RTI employers that have already received an interim penalty warning letter, but stopped paying people in 2013-14 and have already submitted all their payroll information should follow the EPS actions to stop the penalty.

If PAYE information is outstanding, employers should also send an earlier year update to make a final submission for the year.

If you get a penalty notice do not do nothing – attempt a correction and phone the helpline. ■

PAYE - Penalty notice reminders

There are still employers that have not filed their end of year returns for 2012/13. They will have received reminders and penalty notices in September 2013 and Jan 2014 but will not receive a further penalty notice although penalties will continue to build.

Similarly there are some employers who have an outstanding 2013-14 return. They be reminded by letter and will get a penalty notice in September 2014.

If a penalty notice arrives in your office do not do nothing on the basis that you believe that a return was filed. **Always** follow up and find out why HMRC believe they have not received a return. Many people filed a test submission by mistake, and some returns seem to have been trapped in limbo by the Government Gateway. **Always follow up a penalty notice.** ■

New advisory fuel rates for company car drivers apply from 1 June 2014

These rates apply from 1 June until further notice. Advisory fuel rates are set by HMRC. Employers can use these rates to reimburse company car drivers for business fuel. These rates should not be used in relation to vans.

These amounts also apply for VAT purposes, but employers can only reclaim input VAT if the employee supplies a receipt. (Rates for March 2014 are in brackets.) ■

Engine Size	Petrol	Diesel	LPG
1400cc or less	14p (14p)		9p (9p)
1600cc or less		12p (12p)	
1401cc - 2000cc	16p (16p)		11p (11p)
1601cc to 2000cc		14p (14p)	
Over 2000cc	24p (24p)	17p (17p)	16p (17p)

NIC

The Queen's speech also announced a change which will assess and collect Class 2 and Class 4 NIC contributions, which are paid by the self-employed, at the same time through self-assessment. ■

If you have a query about any of the issues raised in this issue of Newsline please contact Liz Bridge.

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