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NEWSLETTER FEBRUARY 2010

HMRC BANK ACCOUNTS – MAKE SURE YOU USE THE NEW ONES

Those clients who make payments to HM Revenue & Customs (HMRC) should note that during 2009 HMRC moved its banking services from the Bank of England to Citi and Royal Bank of Scotland Group. This meant that all HMRC bank sort codes and account numbers changed during 2009.

HMRC has posted the following advice on its website in relation to making payments.

"Although HMRC temporarily continued to accept payments made using the old Bank of England account details, this will change during 2010 when the old accounts will be closed. If you've not yet set up your payments to go to the new accounts please do so now – see below for more on how to do this. If you pay by Bank Giro, please make sure you use one of the newly issued payslips slips.

If you are paying HMRC by Direct Debit you don't need to do anything. Your Direct Debit instruction remains active.

Return of payments made to old accounts
From 2010, if you make a payment using the old bank account numbers it may be returned. This could result in your payment reaching HMRC late, which in turn could lead to your being charged a late payment penalty, interest or surcharges.

New account details for BACS Direct Credit, Internet/telephone banking or CHAPS
To check the new HMRC bank account details for payments by BACS Direct Credit, Internet/telephone banking or CHAPS please follow the link [on the website] and read the relevant guide for the type of tax or other payment you're making.

New account details if you pay by Bank Giro
When making a payment you must ensure that you are using a payslip that contains HMRC's new NatWest (which is part of the Royal Bank of Scotland Group) account details. Please don't use any payslips containing the old Bank of England details.

HMRC has updated most of its payslips that are issued to customers. If you only have payslips that contain HMRC's old Bank of England account details please contact the office that issued them to you and ask for replacements."

LATE PAYMENT OF PAYE – BEWARE THE PENALTIES!

HM Revenue & Customs (HMRC) has given details of penalties that may be charged from tax year 2010/11 if PAYE is paid late. The penalties relate to tax, National Insurance contributions (NICs), Construction Industry Scheme deductions and Student Loan deductions.

The penalties may be imposed if due payments are not made on time and in full from May 2010.

The new penalties for tax year 2010/11 will start to be sent out from April 2011 and the amount of the penalty will depend on whether payment was due on a monthly, quarterly or annual basis.

For monthly and quarterly payments, penalties will start at 1% of the late amount and will rise to 4% depending on how often payment is late. If only one payment is late in any year, no penalty will be payable unless the payment is more than six months late. If payment is more than six months late a penalty of 5% of the amount may be levied.

For annual payments such as Class 1A NICs, up to three penalties of 5% of the amount that is late may be levied, depending on the amount of time that the amount due is not paid in full.

INCREASE IN MINIMUM PENSION AGE

We would remind our readers that further to the government's announcement in 2003, the normal pension age will rise from 50 to 55 from 6 April this year. From that date, individuals will normally only be allowed to start receiving their pension from either an occupational or personal pension scheme when they are aged 55 or over. There are exceptions to this rule, such as when the individual has severe health problems.

Those individuals who are aged between 50 and 55 and who are already receiving a pension are not affected by the increase in the minimum pension age.

At the same time as the government announced the intended increase in the minimum pension age it also changed the rules relating to the taking of an occupational pension. Under the previous rules an individual had to leave his or her employment in order to access an employer's occupational pension. The government recognised that in many instances individuals did not wish to retire at the minimum pension age and wanted to continue to work. The rules have now been relaxed to allow access to an occupational pension even whilst still working.

NEW CODING NOTICES FOR 2010/11

HM Revenue & Customs (HMRC) has announced as follows:

"From January to March 2010, you may get a PAYE Coding Notice from HM Revenue & Customs telling you what your new tax code will be for the tax year 2010-11. Employers and pension providers will use the new tax codes from 6 April 2010, to make sure you pay the right amount of tax and get the tax allowances and reliefs you are entitled to.

A Coding Notice will not be sent to everyone. If you don't receive one, your employer or pension provider will still be able to update your tax code on 6 April 2010. If you have more than one job or pension, you may receive more than one Coding Notice.

This is the first time the annual coding process will take place using HMRC's new computer system for processing PAYE - the National Insurance and PAYE Service (NPS). Because of improvements introduced by the new system, HMRC expects more people than usual to receive a PAYE Coding Notice for 2010-11.

What you need to do with your Coding Notice
You should:

- check it carefully
- read the notes printed on it and if you think your tax code is correct, take no further action
- keep it for your records

HMRC will tell your employer and/or pension provider what your new tax code is. HMRC will also tell your agent/accountant or anyone you have nominated to deal with your tax affairs.

REVENUE ISSUES REVISED GUIDANCE TO EMPLOYERS AND EMPLOYEES ON EMPLOYER SUPPORTED CHILDCARE

HM Revenue & Customs (HMRC) has updated its guidance to employers and employees concerning employer supported childcare. This guidance is contained in the following leaflets which can be downloaded from the HMRC website:

- How to help your employees with childcare (E18 (2009))
- Paying for childcare – getting help from your employer (IR115)

The above leaflets contain guidance on:

- Workplace nurseries
- Other childcare provision such as directly contracted childcare
- Childcare vouchers

Whilst employers are not required by law to provide employer-supported childcare to their employers, such support is often provided by employers and can be tax efficient as such support can qualify for Income Tax and National Insurance contributions exemption.

VAT WRONGDOING PENALTIES

Those of our readers who are registered for VAT should be aware that HM Revenue & Customs (HMRC), in an attempt to prevent abuse in the VAT and Excise tax systems, is from 1 April this year introducing new penalties known as wrongdoing penalties.

These penalties will be applied in the following circumstances:

Where a person:

- issues an invoice that includes VAT which the person is not entitled to charge
- handles goods on which Excise Duty has not been paid or deferred
- uses a product in a way that means more Excise Duty should have been paid
- supplies a product at a lower rate of Excise Duty knowing that it will be used in a way that means a higher rate of Excise Duty should be paid.

The penalties will be a percentage of the potential lost revenue. So, for example, if you issue an unauthorised invoice that includes VAT the penalty will be a percentage of the VAT amount.

The percentage rate will depend on whether the wrongdoing is:

- deliberate and concealed
- deliberate but not concealed, or
- not deliberate.

On the assumption that none of our readers will fall into the first two categories listed above but have done something wrong without reasonable excuse, the penalty is 10% of the lost revenue if the disclosure made by the business is unprompted and 20% if the disclosure is prompted.

A COMPANY'S AUTHORISED SHARE CAPITAL

As many of our readers who trade through limited companies will be aware, any company limited by shares and incorporated before 1 October 2009, had to have an authorised (or nominal) share capital. This was the maximum value of share capital that the company could issue if it wanted to. So, if a company had an authorised share capital of £1,000 and had on incorporation only issued one share, it could at any time in the future issue a further £999 worth of shares.

The government was of the opinion that this authorised share capital figure served no useful purpose and indeed caused unnecessary administrative work for companies who wished to issue shares which in value were more than their authorised capital. If a company wanted to do this it had to pass an ordinary resolution increasing its authorised capital and file this, together with a statutory form 123, at Companies House.

The Companies Act 2006 changes the legislation in that any company incorporated after 1 October 2009 no longer has to have an authorised share capital, unless it wants one. If the company's articles of association were silent as to authorised share capital then there would not be any. However, the company could include an article stipulating an authorised capital. (Note that the model articles introduced by the 2006 Act remain silent as to authorised share capital.)

So far, so good. But what about companies incorporated before 1 October 2009? These companies had to have an authorised share capital, details of which were included in the company's memorandum of association. The 2006 Act stated that any matter in a pre-1 October 2009 company's memorandum which was not included in a post 1 October 2009 company's memorandum was, by default, treated as being included in that company's articles of association, without the company having to do anything.

To take an example. A company was incorporated in, say, 2008 with an authorised share capital of £1,000. The paragraph stating the company's authorised capital is set out in the company's memorandum of association. On 1 October 2009 the share capital clause in the memorandum is automatically transferred to the company's articles (although physically this is not dome unless the company wishes to reprint its articles.)

But what happens if, in the future, the company wants to issue shares in excess of its authorised share capital? In this case the company will have to amend its articles either by a resolution increasing its authorised capital or (and this is usually the favoured approach) by passing an ordinary resolution removing the share capital clause form its articles. In this latter case the company will file a copy of the resolution, together with a copy of its original articles, at Companies House. As the company will now no longer have an authorised share capital it can issue as many shares as it wants to in the future.