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AUTUMN 2011

FRONTLINE

PENSION REFORM – ARE YOU READY?

Between 2012 and 2016 employers will be required to automatically enrol eligible workers into a qualifying pension scheme. The key aim of the policy is to help ensure that UK workers are saving enough for their retirement.

The scheme could be an existing company scheme (if it meets, or can be changed to meet, the necessary criteria) or it could be a NEST (National Employment Savings Trust): a simple low-cost pension scheme being introduced by the Government.

WHO IS AN 'ELIGIBLE WORKER'?

An eligible worker is an employee aged between 22 and the State Pension Age and earning above the income tax personal allowance (£7,475 in 2011/12). Workers aged between 16 and 22, or between State Pension Age and 75, who are earning more than £7,475 will not be enrolled automatically but can ask to be enrolled. Workers earning below £7,475 a year may opt in to their employer's workplace pension.

AUTOMATIC ENROLMENT AND PHASED IMPLEMENTATION

Auto-enrolment should take place within three months of a new worker commencing employment. Eligible workers have the right to opt out, but not until they have been auto-enrolled. Auto-enrolment is being phased in between 2012 and 2016 (larger employers first, smaller employers last). Employers with less than 50 workers will have their staging date set over 18 dates between 1 August 2014 and 1 February 2016. Further details on the likely timescales can be found on the Pensions Regulator website (**www.thepensionsregulator.gov.uk**).

COMPULSORY CONTRIBUTIONS

All businesses will need to contribute at least 3% on a band of qualifying pensionable earnings for eligible jobholders. However, to help employers adjust, compulsory contributions will be phased in, starting at 1% and rising to 3% by 2017.

Employees will also contribute to their pension scheme – this will start at 1% of their salary, before rising to 4% by 2017. An additional 1% in the form of tax relief will mean that there is a minimum 8% contribution rate.

EMPLOYERS: PREPARING FOR THE CHANGES

Although smaller employers will not be affected for a few years, it is essential to plan for the changes in good time. Consider the following:

Decide which scheme will suit your business and workforce – Decide on the type of pension scheme you will offer. Do you have an existing scheme that meets (or can be changed to meet) the Government's requirements? Consider whether an employer pension scheme or NEST is most appropriate for your organisation.

Discuss the changes with employees – How do you intend to communicate the changes to members of staff? Make sure you have a strategy in place for briefing employees and plan how you will manage any queries that arise.

Review your systems – How will you adapt your existing administration and payroll systems to accommodate the changes? What are the time and cost implications?

Budget for the cost increase – The changes will undoubtedly have financial implications for employers. Make sure you factor in the additional costs of contribution and administration into your budgets.

Please note, this is intended as a summary of the main changes. Please seek advice if you have any questions.

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WHAT A RELIEF!
CUTTING THE CGT BILL

Introduced in April 2008, Entrepreneurs' Relief is a valuable relief that reduces the amount of capital gains tax (CGT) payable on the disposal of qualifying business assets. This article includes advice to help you maximise the relief and minimise your CGT liability.

To qualify for the relief, certain conditions must be met. The amount of gains qualifying for relief is capped at the lifetime limit (currently £10 million). Gains up to the limit qualify for a reduced rate of capital gains tax of 10%.

QUALIFYING BUSINESS ASSETS

Generally, Entrepreneurs' Relief is available to individuals on the disposal (after at least one complete qualifying year) of:

- all or part of a trading business carried on alone or in partnership
- the assets of a trading business after cessation
- shares in the individual's 'personal' trading company
- assets owned by the individual used by the individual's personal trading company or trading partnership.

QUALIFYING CONDITIONS

Depending on the type of disposal, certain qualifying conditions need to be met throughout a qualifying one year period. For example you must have owned the business during a one year period that ends on the date your business was disposed of – if you are selling all or part of your business – or, if your business has ceased, on the day that it did so.

Relief is also available for associated disposals. However, this is a complex area and it is advisable to seek professional assistance.

LIFETIME LIMIT

There is a maximum lifetime limit on the amount of Entrepreneurs' Relief you can claim on qualifying gains. As announced in the 2011 Budget, for disposals on or after 6 April 2011 the lifetime limit is £10 million.

MAXIMISING RELIEF

Husbands, wives and civil partners each qualify for Entrepreneurs' Relief in their own right, giving potential relief on £20 million of gains per couple. This may be further increased in a family company situation.

However, to qualify, each individual must meet the qualifying conditions for the one year qualifying period. This means that forward planning is essential if you want to maximise relief. This is particularly pertinent where shares need to be transferred between spouses, as it is essential to do this at least a year in advance to ensure that the conditions are met throughout the qualifying period.

Each spouse must also hold at least 5% of the shares and voting rights to qualify for relief, but in anticipation of a sale an equalisation of holdings might maximise relief if it can be processed more than a year ahead.

If, on the other hand, one spouse holds less than 5% of the shares and the other spouse has met the qualifying conditions, assuming the lifetime limit has not been exceeded, transferring the small holding to the qualifying spouse just before the disposal will also mean relief can be obtained on all the shares. This approach can also be adopted if time is short and one spouse has not held a 5% holding for the requisite qualifying period.

The 10% rate applies to all gains qualifying for relief, irrespective of whether the taxpayer is a higher rate taxpayer. This can generate CGT savings of up to £1.8 million.

Please contact us for further advice on how to minimise your CGT liability.

THE AGENCY WORKERS DIRECTIVE

Regulations under the Agency Workers Directive come into force on 1 October 2011. From this date UK agency workers will have the same basic employment and working conditions as if they had been recruited directly by the hirer.

The equal treatment entitlements relate to pay and other basic working conditions (see below) and will apply when the worker completes a 12 week qualifying period in the same job with the same hirer. The entitlements after 12 weeks are: key elements of pay; duration of working time e.g. if working is limited to a maximum of 48 hours a week; night work; rest periods; rest breaks and annual leave.

In addition, pregnant agency workers who have completed the 12 week qualifying period will be entitled to paid time off for antenatal appointments.

Employers should note that it is not retrospective and for those agency workers already on assignment, the 12 week qualifying period will start from 1 October 2011.

VAT TIMING PENALTIES – SOME GOOD NEWS FOR BUSINESSES?

Following the introduction of a single penalty regime, making an error on your VAT return can prove costly. However, there may be some good news for businesses after HMRC confirmed that it is taking a 'softer' approach to the penalties charged as a result of timing errors.

CORRECTING ERRORS

Where an error is made on a VAT return, it is often possible to correct the error on a subsequent return. The procedures for correcting errors in VAT returns are set out in Notice 700/45, which is available to download from the HMRC website (www.hmrc.gov.uk).

However, following the introduction of a single penalty regime for inaccurate tax returns and other documents (including those for VAT), any form of mistake made in calculating your VAT return figures could attract a penalty. These rules also make provisions for inaccuracies relating to timing differences e.g. where the VAT on an invoice should have been included in an earlier period.

Where a timing error has occurred, a penalty is not charged on the full amount of the error. Rather, if a return contains an inaccuracy that relates to a timing error which is automatically reversed in a subsequent tax period, the penalty is calculated on a reduced amount. The penalty is not charged on 100% of the tax involved, but on 5% of the delayed tax for each year of the delay. Where the delay is less than one year, this is reduced proportionately.

HMRC's Briefing gives the following example:

If someone reclaims £100,000 VAT on a purchase in period 1 when it should have been reclaimed in period 2, they claim £100,000 too much in the first period but £100,000 too little in the second. Any penalty for the over claim in period 1 is not calculated on the £100,000 but on a reduced amount to take account of the automatic reversal of the inaccuracy in period 2.

REVISED POSITION

Until recently, HMRC's approach has been that, in order for the penalty to be calculated on the reduced potential lost revenue figure, the taxpayer had to have submitted the returns covering both the periods in question. As such, there are cases where HMRC has charged a penalty on the full amount because the second return had not yet been submitted.

However, HMRC has now reviewed its position for these cases. Where it is satisfied that, but for its intervention, the inaccuracy would have been automatically corrected in a subsequent return, taxpayers will receive the reduced penalty based on the rules for delayed tax.

It is important to note that this only applies to timing inaccuracies – i.e. those that are automatically reversed in a subsequent period after they are made without you having to do anything more.

TAKE ACTION IF NECESSARY

If you have been charged a penalty on the full amount of the error in these circumstances, we can contact HMRC to request that the penalty is reviewed. Please contact us if you require assistance. More details on the recent changes are available on the HMRC website under Business Brief 15/11.

If you have made an error in your VAT return, it is important to notify HMRC as soon as possible. We can help with your VAT queries and concerns – please contact us for further advice.

THE BRIBERY ACT COMES INTO EFFECT

The Bribery Act 2010 came into force on 1 July 2011. It covers bribery which takes place in the UK and overseas, by employees and third parties employed by the organisation.

The Act outlines four offences of bribery and introduces a new corporate offence of bribery. In summary, it provides:

- a general offence of active bribery, which prohibits giving someone a financial or other advantage to induce them to perform their duty improperly
- a general offence of passive bribery, which prohibits requesting, receiving or accepting a bribe
- an offence of bribing a foreign public official in order to win business, keep business or gain a business advantage for the organisation
- an offence relating to failure by a business to prevent a person associated with it from committing the above offences on its behalf in order to win business, keep business or gain a business advantage for the organisation.

The maximum penalty for bribery has risen from seven to 10 years imprisonment and/or an unlimited fine. Disqualification from acting as a director for a substantial period of time may also arise in some cases.

An organisation will have a full defence against the corporate offence if it can show that it had ‘adequate procedures’ in place to prevent an act of bribery. According to the official Ministry of Justice (MoJ) guidance, procedures should be proportionate to the organisation’s bribery risks. What counts as ‘adequate’ will therefore depend on the bribery risks faced by a business and its nature, size and complexity.

KEEPING AN EYE ON YOUR CASHFLOW

Cash is the lifeblood of a business, but with so much emphasis usually put on profitability, it can be easy to overlook this fact. Of course, the bottom line is important, but poor cash flow management can drive a growing and/or profitable company out of business.

The risk is especially great for expanding companies. For example, if billing is delayed at the same time as stock is accumulated to fulfil increased orders, you can find yourself short of the cash needed to pay suppliers and employees.

THE BENEFITS OF PROJECTION

Cash flow projections are critical, especially in times of need, but you don’t have to wait for a crisis to benefit from good cash flow planning. A properly developed cash flow projection can help a business foresee and prepare for potential shortages. Cash flow management can also help you:

- Maintain adequate cash reserves to pay bills, expand the business and invest in facilities and product development
- Reduce interest costs through managed borrowing
- Increase interest income by transferring surplus funds into interest-bearing accounts temporarily, if appropriate
- Receive discounts through bulk purchasing
- Improve relations with the bank manager

Businesses that prepare cash flow projections often learn something about their systems, the dynamics of their business, and the process often has other positive outcomes. For example, you might discover that you need to pay more attention to certain customers, or that you can defer payments to suppliers more beneficially.

Please contact to discuss how we can help you.

LATEST PAYE ERRORS REVEALED

HMRC has sent letters to up to 4.7 million taxpayers informing them that they paid either too much or too little income tax in 2010/11.

Every year HMRC conducts a reconciliation exercise to check that people have paid the right tax via the PAYE system. Last September, HMRC faced severe criticism when it emerged that 5.7 million people had not paid the correct tax via PAYE for the years 2008/09 and 2009/10, which led to about 1.4 million people having to pay an extra £1,428 each on average, while about 900,000 taxpayers had their debts of up to £300 written off. The explanation given by the Revenue was that a new, more effective computer system had revealed previous calculation errors.

This year the reconciliation exercise for 2010/11 took place in late July. HMRC estimates that between 1.7 and 3.5 million people will be repaid an average of £340 each, while 1.2 million will owe £500-£600 each.

Cheques for people previously overtaxed are being issued in August and September, and calculations for underpayments will be sent in batches after that, with the last going out in December.

Those presented with a bill will have time to challenge the calculations if they think they are wrong. If the challenge is unsuccessful then the money will be taken from their earnings each month via a change to their PAYE tax code for 2012/13. Up to £3,000 per individual will be collected this time via PAYE, more than the previous limit of £2,000.

CASHFLOW CHECKLIST

20 signs that your business could be facing cashflow problems

In times of economic uncertainty, cash is undoubtedly king. To help you focus on your cashflow and profitability we have prepared this checklist. Simply answer 'yes' or 'no' to say whether each statement is true for your business. If you have more 'no' answers than you are comfortable with, you may be facing cashflow problems.

	Yes	No
When we receive a job, we know we can complete it and be paid on our terms		
We send a bill as soon as we complete a job		
Invoicing documents are accurate, complete and clear		
Our credit procedures alert us to problem customers so that we can follow up on outstanding accounts		
We monitor and enforce our credit terms and obtain deposits from 'doubtful' payers		
We finance capital expenditure in the most cost-effective manner		
Our pricing reflects time spent on jobs and covers associated risks		
Employees understand the importance of the business's cashflow		
We complete work efficiently		
We catch mistakes before they reach customers		
Mistakes cause us to improve processes		
We keep a close eye on budgets throughout the year		
We determine the viability of outsourcing work		
Adequate controls are in place to control employee overtime		
We are effective in negotiating materials and supplies contracts		
We forecast cashflow monthly and base our financial arrangements on our projections		
Our bank is our partner and understands our business and its financial needs		
We always see that work is done by the least expensive, capable employee		
We link staff pay to productivity and company profits		
Our standard operating procedures are written down and everyone follows them		

Call us to discuss an action plan.

CHANGES TO THE LOW VALUE CONSIGNMENT RELIEF THRESHOLD

With effect from 1 November 2011, the Low Value Consignment Relief (LVCR) threshold – the level below which goods imported from outside the EU are VAT-free – is being reduced from £18 to £15.

LVCR was introduced in the UK in 1984 at a level of £18, the maximum permitted under EU law. However, the burgeoning growth of UK online sales for items such as CDs and DVDs has led to claims that British businesses are facing a competitive disadvantage.

At the 2011 Budget the Government said its intention was to stop the LVCR from being exploited and to 'improve the competitive position of UK small and medium enterprises'.

Although some experts have argued that November's £3 reduction in import tax is unlikely to have a significant impact, the Government has signalled that it will review the issue again at the 2012 Budget with a view to reducing it further.

TAX BREAKS FOR CHARITABLE GIVING

There is a wide range of tax reliefs available for gifts to registered charities. This article considers some of the most popular reliefs available and includes details of the forthcoming changes proposed by HMRC.

GIFT AID

The Gift Aid scheme is well-known and provides relief for gifts to charity. Community Amateur Sports Clubs are also able to benefit from the scheme. The scheme applies where gifts are made by UK taxpayers. The donor must complete a Gift Aid declaration confirming that the gift is to be treated as a Gift Aid donation. The gift is treated as being made net of the basic rate of income tax and the charity then reclaims the basic income tax from HMRC. If the individual is a higher or additional rate taxpayer, tax relief on the difference between the basic rate and the higher or additional rate, as appropriate, is reclaimed via the Self Assessment tax return.

EXAMPLE

Lucy is a higher rate taxpayer. She makes a donation of £80 to a charity under the Gift Aid scheme.

The donation is treated as being made net of the basic rate of tax. The gross donation is £100 (£80 x 100/80). The charity reclaims the tax of £20 from HMRC.

As Lucy is a higher rate taxpayer she is entitled to relief at 40% (i.e. £40). Basic rate relief (£20) is given at the time the deduction is made (as Lucy pays the net amount to the charity). The balance of the relief is given via Self Assessment by extending the basic rate band.

There is no limit on the donations that can be made under Gift Aid as long as the individual has paid enough tax.

However, there is a cap on the benefits that may be given to a donor in exchange for a donation. The benefit allowed in relation to gifts of £10,000 is capped at £2,500 (£500 before April 2011) or 5% of the donation if lower.

During 2012/13 HMRC is planning to introduce a new online system for registering Gift Aid details and making Gift Aid claims. In addition, from April 2013 charities will be able to claim Gift Aid on small donations of £10 or less (up to a maximum of £5,000 a year) without the need for a Gift Aid declaration.

PAYROLL GIVING

Under payroll giving employees can make gifts to charity through the payroll. The donations are deducted from gross pay and as a result tax relief is given at source.

SHARES AND SECURITIES

Income tax relief is available for certain gifts of shares and securities to charities. This relief extends to gifts of shares and securities listed on a recognised stock exchange or on the Alternative Investment Market (AIM), shares in an authorised unit trust, open-ended investment company and in certain collective investment schemes. Relief is given on the market value of the shares at the time they are given or sold to the charity, plus costs of disposal, less any consideration received. Relief is claimed via the Self Assessment tax return.

GIFTS OF PROPERTY

Income tax relief is also available for certain gifts of land and buildings to charity. As with shares, the relief is given on the market value of the property plus incidental costs of disposal, less any consideration. Again, it can be claimed via the Self Assessment tax return.

WORKS OF ART

The Government is to consult on introducing a tax reduction for taxpayers who give a work of art or historical object of national importance to the State.

REDUCED RATE OF INHERITANCE TAX

In relation to deaths occurring on or after 6 April 2012 a reduced rate of inheritance tax will apply where 10% or more of the deceased's net estate (after deducting IHT exemptions, reliefs and the nil rate band) is left to charity. This rate of inheritance tax on the remainder of the estate is reduced from 40% to 36%. The proposals are subject to consultation.

Please contact us to discover how you can make the most of the tax reliefs available. We would be delighted to assist you.

A RISKY BUSINESS? VCTs VERSUS THE EIS

Investments under the Enterprise Investment Scheme (EIS) and investments in Venture Capital Trusts (VCTs) are generally considered relatively high risk. However, tax breaks aimed at encouraging new risk capital mean that EIS and VCT investments may have a place in your investment strategy. Here we examine the key features of each scheme and look ahead to the reforms scheduled to take effect in April 2012.

THE ENTERPRISE INVESTMENT SCHEME (EIS)

The EIS is designed to encourage wealthy individuals to invest in smaller higher-risk trading companies whose shares are not listed on a recognised stock exchange. It provides certain tax reliefs for investors who subscribe for qualifying shares in qualifying industries.

KEY FEATURES:

- Tax relief is available to investors who purchase new shares in EIS companies
- An EIS company must satisfy HMRC that it meets certain conditions
- Shares must be paid up in full when issued and must be full-risk ordinary shares
- Investment can be made directly to the company or via an EIS fund
- Income tax relief and capital gains tax deferrals are available to the investor
- Whilst any capital gain on the investment may be exempt, relief against other gains or income is available (meaning you could get up to 50% income tax relief in the event of a loss).

VENTURE CAPITAL TRUSTS (VCTs)

Launched shortly after the introduction of the EIS, VCTs allow individuals to invest in a range of small unquoted companies and spread their risk. VCTs are companies listed on the London Stock Exchange, and are similar to investment trusts.

KEY FEATURES:

- VCTs invest in trading companies by providing them with funds to help them grow
- VCTs must be approved for the purposes of the scheme
- Investors subscribe for, or buy shares in, a VCT
- In return investors may benefit from income tax and capital gains tax reliefs
- VCTs are exempt from corporation tax on gains arising on the disposal of their shares.

AT A GLANCE: VCTs VS. THE EIS

The reliefs for VCTs and the EIS are similar in many respects, but there are some significant differences. The table on the right highlights the main reliefs.

	VCT	EIS
Maximum investment	£200,000	£500,000
Minimum holding period	5 years	3 years
Income tax relief on investment	30%	30% (20% for shares issued before 6 April 2011). Carry back to previous tax year permitted
CGT relief	Gains exempt	Gains exempt if held for more than three years. Deferral relief available
Loss relief	No	Yes – against income tax and capital gains tax
Dividends	Tax-free	Taxable

RECENT AND FUTURE CHANGES

Various changes were announced in the 2011 Budget to help smaller companies compete for finance.

These included raising the rate of income tax relief on EIS investments from 20% to 30% (for shares issued from 6 April 2011).

Further changes also apply for shares issued from 6 April 2012 (subject to State Aid approval). From that date:

- the employee limit for both EIS and VCT purposes will be increased to fewer than 250 employees (currently 50)
- the gross asset limit will be increased to £15 million before the investment (currently £7 million before and £8 million after)
- the maximum annual amount that can be invested in a company will be increased to £10 million (currently £2 million)
- the annual amount that an individual can invest under the EIS will be increased to £1 million (currently £500,000).

Before investing under the EIS or in a VCT, we recommend that you seek professional advice.

This article is intended to provide an overview of each scheme and it is not comprehensive. Please contact us if you wish to explore these options further.

CHANGES TO THE FUEL ADVISORY RATES AND BANDS

HMRC has published new advisory fuel rates, which apply to all relevant journeys made on or after 1 June 2011.

The advisory fuel rates relate to company cars and are accepted by HMRC either for employers reimbursing employees for the cost of fuel for business mileage, or for employees reimbursing employers for the cost of fuel for private mileage.

Employers are not obliged to reimburse their employees at the advisory rates, as long as any alternative rates can be justified, for example using a higher rate per mile where an employee is required to use a four-wheel drive vehicle in the performances of his or her duties.

The rates are usually revised biannually, although HMRC recently confirmed that it will review the rates at the beginning of each calendar quarter – on 1 March, 1 June, 1 September and 1 December. In view of this, it will no longer consider making changes if fuel prices fluctuate by 5% from the published rates.

There is also a new band for diesel cars which caters for vehicles with engines up to and including 1600cc.

<table>
<tr><th colspan="4">CAR – FUEL ONLY ADVISORY RATES</th></tr>
<tr><th>ENGINE CAPACITY</th><th>Petrol</th><th>Gas</th><th>Diesel</th></tr>
<tr><td>1400cc or less</td><td>15p</td><td>11p</td><td rowspan="2">12p</td></tr>
<tr><td>1401cc - 1600cc</td><td rowspan="2">18p</td><td rowspan="2">13p</td></tr>
<tr><td>1601cc to 2000cc</td><td>15p</td></tr>
<tr><td>Over 2000cc</td><td>26p</td><td>18p</td><td>18p</td></tr>
<tr><td colspan="4">Rates from 1 June 2011 and are subject to change.</td></tr>
</table>

We can advise on tax-efficient motoring options for your business – please call us for assistance.

REVENUE GOES ON THE OFFENSIVE

HMRC is carrying out a series of campaigns throughout 2011/12 in an attempt to tackle what it sees as tax avoidance.

During the summer, it launched a new campaign to target VAT rule-breakers trading above the £73,000 turnover threshold who have not registered for VAT. Those that notify HMRC of their intention to take part before the deadline, and then make a full disclosure, may face a reduced penalty rate.

HMRC has also published details of a separate campaign that will target those who use e-marketplace sites such as e-Bay and Amazon to buy and sell goods as a trade or business. While occasional sellers are unlikely to be liable to tax, people earning a living as self-employed traders may need to pay income tax, national insurance and VAT.

PRIVATE TUTORS

In addition, HMRC also intends to scrutinise the tax affairs of private tutors and coaches who are able to earn either a main or secondary income from their expertise. The campaign covers people providing private lessons, regardless of whether they have a teaching qualification, and could include, for example, fitness/dance/lifestyle coaches through to national curriculum subject tutors and others.

If you have any questions or concerns about the issues raised here, please contact us.