client briefing

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Bird Simpson

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Benefits, expenses and pay – what you need to know now

In the wake of the recent Budget, here's a timely reminder of the changes to the tax treatment of employee benefits, expenses and pay for future years.

Cars Currently, the percentage used to calculate a company car benefit is 5% of the car's retail list price when new for CO_2 emissions up to 75g/km, 10% between 76g/km and 99g/km, then it rises from 11% to a maximum of 35% for emissions of 220g/km or more. A 3% supplement applies to diesel cars. There is no benefit for zero-emission cars. Over the next four years, these factors will all change:

- **2013/14:** 1% increase for emissions between 95g/km and 219g/km.
- **2014/15:** 1% increase for emissions between 76g/km and 214g/km.
- **2015/16:** The special treatment of low-emission cars will cease. The percentage will be 13% for emissions up to 94g/km, then rising from 14% to a maximum of 37% for emissions of 210g/km or more.
- **2016/17:** The charge will be a percentage of 15% for emissions up to 94g/km, then rising from 16% to a maximum of 37% for emissions of 200g/km or more. The 3% diesel car supplement will cease.

Private fuel The car benefit percentage is multiplied by a fixed amount, which has increased from £18,800 to £20,000 in 2012/13.

Smart phones An employee can be provided with one tax-free mobile telephone, and HMRC now concedes that this exemption includes smart phones. If you have paid tax and class 1A national insurance contributions (NICs) in respect of the provision of smart phones, you can backdate any tax repayment claims to 2007/08.

Advisory fuel rates An employee can claim the actual cost of fuel used in a company car for business trips; but often it is far easier and more convenient to use the HMRC advisory fuel rates. The current rates until 31 August 2012 are:

Engine size	Petrol	LPG
1,400cc or less	15p	11p
1,401cc to 2,000cc	18p	13p
Over 2,000cc	26p	19p

Engine size	Diesel
1,600cc or less	12p
1,601cc to 2,000cc	15p
Over 2,000cc	18p

The rates will be reviewed on 1 September, and for September either the current or new rates can be used.

IR35 and non-executive directors The March Budget included a proposal that office holders and controlling persons integral to the running of an organisation will have PAYE and NICs deducted at source by the organisation by which they are engaged. There will be legislation in the Finance Act 2013. The change should not affect genuine freelance workers and contractors. But the tax position can be quite complex where non-executive directors are paid through personal service companies, and such arrangements should be reviewed.

Enterprise management incentive (EMI) and entrepreneurs' relief (ER) The 5% shareholding requirement to qualify for ER will be removed where an employee acquires shares on the exercise of EMI options. The relaxation will apply to options exercised after 5 April 2012. The requirement to hold shares for 12 months after exercising the EMI options means that the change may be of little benefit for many employees.

Tax hurdles for higher income earners

The Budget was both kind and cruel to high income earners. There is no change to tax relief for pension contributions, and the income tax additional rate will be reduced to 45% – 37.5% for dividends – after 5 April 2013.

Additional rate taxpayers should consider legitimately delaying income until next year. If you have your own company, then bonuses and dividends can be postponed, and this has the added benefit of later due dates. Delay cashing life policies, if these will result in chargeable gains. If you are self-employed, you may be able to bring forward revenue and capital expenditure that will reduce your assessable profits for 2012/13. And where possible make pension contributions and charitable donations this year rather than next.

From 6 April 2013, the proposal is that a cap will be applied to most reliefs that are currently unlimited. The cap will be the higher of £50,000 or 25% of a person's income, and excess amounts will not qualify for a tax deduction. From the moment this was announced, charities expressed concern that a cap would discourage philanthropic donations, and the furore was such that the Government has just announced that charitable donations will not now be included – they can continue to be made without limit.

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Carrying losses forward or back against profits of the same trade will not be affected, but there is no detail yet regarding the treatment of other loss relief claims. Individuals who suffer losses on investments in unquoted trading companies will be affected, and it may be worth making negligible value claims this year to crystallise losses before the cap bites. The cap will also affect qualifying loan interest, and it will apply across all uncapped reliefs on a combined basis.

Another proposal for next year is the introduction of a general anti-abuse rule. The introduction of such a general rule in other countries has shown how difficult it is to formulate a provision that clarifies what it does and doesn't cover and is practical to implement. The concern is that a general rule against tax avoidance could introduce enormous uncertainty into the tax system. The Budget also introduced several targeted anti-avoidance provisions with immediate effect, including a 15% stamp duty land tax rate where companies are used to acquire residential property valued at over £2 million.

If you are concerned that any of these changes will affect you, please contact us.

VAT revisions get ready to roll

In the March Budget, Chancellor George Osborne announced a range of measures aimed at ending anomalies in the VAT system that currently result in VAT being payable on some items while other similar products escape the VAT net. The changes attracted criticism, and the Chancellor has been forced into a U-turn as regards the more controversial aspects. The changes will generally take effect from 1 October 2012.

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The way that VAT is charged on food can often be bizarre. VAT is payable at the standard rate on hot takeaway food, but supermarkets have argued that their hot food, such as rotisserie chickens, is not for immediate consumption and is only kept hot to improve appearance and aroma – their hot food has therefore been zero-rated. The original proposal was that VAT would be charged on all food above the ambient air temperature when provided. VAT will now apply to food which is kept hot or where the natural cooling process is delayed, if food is cooked hot to order or if sold in heat retaining packaging. The meaning of 'premises' has been clarified so that shared food courts and tables and chairs outside a café are included.

Currently, the sale of a caravan towable by a typical family car is subject to VAT, but larger caravans escape VAT even though they may be used for holiday purposes. This treatment will be replaced by one that zero-rates only those caravans that have been designed and constructed for continuous year-round occupation. Originally, VAT was to apply at 20% from 1 October, but it will now be at the reduced rate of 5% - and not until April 2013. The VAT treatment of listed buildings is complex. Currently, repairs and maintenance are subject to VAT, but approved alterations are not. The rules therefore give an incentive for change rather than repair. The zero-rating of alterations will therefore be removed. The supply of self-storage is currently exempt from VAT, but other types of storage services are not. Again, the playing field is to be levelled by the removal of the exemption.

When hairdressers rent a chair to self-employed stylists, VAT must be paid on the rent charged. Nothing has actually changed, because the High Court had previously decided that such a supply cannot be exempt. The hairdressing business is supplying a whole package of services – not just the supply of 'land'. However, the matter has now been put beyond doubt and will force the remaining minority of non-complying salons to conform.

Child benefit changes – not as simple as A B C

If eithIf either you or your partner earn more than £50,000, then you may be about to lose your child benefit thanks to proposed Finance Bill changes.

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Although the child benefit will continue to be paid, usually to the mother, HM Revenue & Customs (HMRC) will take the equivalent value back through a special new income tax charge on the higher income partner. The change comes into effect for benefit paid from 7 January 2013, but now is the time to start looking to reduce your income and avoid the tax.

For people with 'adjusted net income' over £60,000 the income tax charge will be equal to the full amount of the child benefit payments. For income between £50,000 and £60,000, the tax will equal 1% of your child benefit for every £100 of income above £50,000. So, for example, if your income is £54,000, and your partner's income is less, you will pay additional tax equal to 40% of the child benefit paid to you or your partner.

Child benefit is £20.30 for first child and £13.40 for subsequent children, so a family with two children is entitled to £1,752.40 before the tax charge, which, in the example above, would reduce the benefit to £1,051.44. The Treasury estimates that 15% of families will lose all or part of their child benefit.

'Adjusted net income' is income after deducting the gross amount of your pension payments and donations to charity under gift-aid, so one way of keeping your child benefit may be to make additional payments into your pension scheme. As well as saving child benefit, you will benefit from the basic and higher rate tax relief on the pension payment.

Another way of reducing income if you are an employee is to buy childcare vouchers through salary sacrifice, resulting in no tax and no employee's national insurance contributions on the amount of salary you give up.

The more control you have over your income, the more options you have. You might be able to transfer investments to your partner so that the income on them becomes theirs and taxable on them. If you are self-employed or carry on business through your own company, you may be able to pay your partner (but you must be able to justify the payment) or control the timing of some of your income to keep it below £50,000.

The only thing clear about the changes is how complex the process of finding a solution can be. Please get in touch with us if you think you may be affected.

Here comes auto-enrolment

This year, 1 October marks the beginning of the latest effort to increase private pension coverage. From this date, the largest employers – those with over 120,000 employees – will be required to enrol all eligible jobholders automatically into a qualifying pension scheme and to make minimum contributions based on their qualifying earnings. The smallest employers – those with fewer than 250 employees – will have start dates between April 2014 and April 2017.

Eligible jobholders These are workers aged between 22 and the state pension age – who are not already in a qualifying workplace pension scheme – earning more than £8,105 a year.

Qualifying pension scheme An existing pension scheme will have to meet certain minimum requirements if an employer wants to continue using it for active members or for other jobholders eligible for automatic enrolment. Where there is no existing scheme, employers have the choice of providing an occupational scheme, contributing to a personal pension scheme, or using the National Employment Savings Trust (NEST) – a low-cost government scheme aimed at smaller employers and lower earners.

Minimum contributions An employer's contributions will initially be a minimum of 1% of employee earnings between £5,564 and £42,475 a year, rising to 2% from October 2016.

The automatic enrolment requirement raises some important questions. For example, should an employer contribute more than the required minimum? If not, then employees' contributions will be correspondingly higher – with a possible backlash because of the reduced take home pay. Will an employer be able to maintain contributions into an existing scheme if it is opened to all employees? Lower contributions could be made for auto-enrolled employees, but this might disenfranchise them. Alternatively, would it be worth reducing contributions for all employees? However, this could cause resentment among existing scheme members. Using an alternative arrangement for auto-enrolled employees may be preferable, especially where an existing scheme is final salary based.

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But these decisions cannot be left until the last minute. Please contact us well in advance of your start date, and we can assess your workforce, advise you on pension scheme options, and help with budgeting for the increased costs. The Pensions Regulator will write to you at least twice prior to your start date, which can be found at www.tpr.gov.uk/staging.

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Dealing with late payments

Getting your customers to pay you promptly is critical to your cash flow and your ability to plan ahead. The longer it takes customers to pay, the more likely it is that they will not pay at all. Happily, there are steps you can take to encourage faster payment.

Your first move should be to carry out credit checks on new customers. If they are satisfactory, then agree credit limits and time scales before any transaction takes place. It is best to put your terms and conditions in writing. Don't just credit check your new customers: your existing customers' circumstances may change.

Issue invoices quickly and make sure they are clear. State when payment is due and warn that you will charge interest on late payments. Where a debt becomes overdue, actively chase the payment. Send a statement of account by post and email, but also phone the customer. If the customer does not commit to a payment date, tell them you will not be able to supply further goods or services until the bill is paid. Where a customer has cash flow difficulties, you might be able to agree a payment plan.

Alternatively, you could use a debt factoring or invoice discounting service, under which you borrow, in effect, against your unpaid invoices for a fee. But it can be expensive. If, after trying everything, your customer still does not pay, you can consider more formal means, such as a solicitor's letter or using a debt collection agency, although this can be costly. You can issue a statutory demand stating you will apply to court for the winding up of the customer's business if payment is not made.

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Legal action, where worthwhile, should be a last resort and remember that you cannot usually recover legal fees for debts under £5,000. Finally, remember to pay your own bills on time. Other businesses also need good cash flow.

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