Budget 2009 action update – Top Ten to mitigate Employment Taxes

1. **Avoid new penalties and interest** by ensuring PAYE/CIS Returns and Remittances are filed and paid on time. Late filing penalties will start with fixed rate amounts, moving to tax geared amounts initially at 5%, but in extreme circumstances could progress to be as high as 100%. Late payment penalties are a new concept and again will be tax geared, starting at 2% and subsequent charges rising to 5% of tax unpaid. Interest rates for late payments are to be harmonised across all taxes, and the proposed new regime is due to commence for PAYE from April 2010.

2. **Ensure accounting procedures fully capture PAYE and related data,** as Large companies will be required to notify HMRC of the identity of their Senior Accounting Officer who will be obliged to certify the systems are adequate or specify any inadequacies. HMRC says that penalties may be chargeable on the Senior Accounting Officer personally, as well as the company, for any careless or deliberate failures to meet the obligations.

3. **Avoid being identified on HMRC's published list of Tax Defaulters**. This position could arise where penalties are imposed and the loss of tax exceeds only £25,000 – a relatively small sum for larger businesses. HMRC intends to publish the names and details of individuals and companies in cases of deliberate default. To avoid this, in essence means taking a proactive approach for any known problems and responding constructively in the light of any HMRC reviews. However, as before, challenging of questionable HMRC decisions should not amount to non-cooperation or intentional default.

4. **Review pension contributions and utilise £20,000 'special annual allowance'** for pension relief, taking into account both employee and employer contributions, for High Income employees. From April 2011 the intention is to restrict, to the basic rate of income tax, tax relief for pension contributions for people with taxable income of £150,000 or more. This will then make increased pension savings unattractive for many people in this category. Additional unapproved pension funding may prove to be a better alternative in some cases.

5. **Move to low CO_2 emission cars** to reduce employer NIC & employee tax/NIC. The intention from April 2011 is to reduce the lower 15% rate CO_2 threshold to 125 g/km (from 130 g/km) and abolish the reductions and discounts given to certain vehicles propelled other than by petrol. In effect, the focus of the tax charge will move to a simple calculation based on the CO_2 figure itself, rather than providing discounts depending on how the CO_2 figure is achieved. The lower figure now moves even closer to the 120g/km which identifies "qualifying low emission cars" (QUALECs) for which a 10% rate (13% for diesels) is applied in calculating the taxable benefit.

6. **Move away from expensive cars** costing over £80,000 before April 2011. From this date the list price "cap" for calculating the taxable benefit will be abolished.

7. **Stop paying for private fuel** and avoid tax, NIC and VAT related charges. With the ever lowering of the CO_2 emission thresholds and anticipated increases in rates of tax and NIC, the cost of this benefit has become inefficient for the vast majority of company cars users. In many circumstances, the tax charge on the employee is higher than the actual cost of the petrol used. This is an effective tax rate of over 100%, and means the employer's significant fuel, NIC, and VAT costs deliver no financial benefit to the employee. A cheaper alternative may be for employers to 'buy out' car fuel, either by a one-off lump sum or an ongoing small cash allowance.

8. **Select company cars with less than 160 CO_2 emissions** to enhance capital allowances. Confirmation of the new rules introduced for April 2009 mean that expenditure on cars with CO_2 emissions of 160g/km or less will attract writing down allowances of 20% per annum, whereas those exceeding this figure will be eligible only at 10%. Whilst this does not directly affect the employee's tax bill, it should reduce vehicles' whole life costs. Any net savings to the business can in turn be used to improve the range of vehicles available to staff, if desired.

9. **Reconsider arrangements for Living Accommodation provided via lease premiums**. For leases of 10 years or less, the intention for tax purposes is to treat the lease premiums as if these were rent. In effect the taxable benefit would be the amount of the premium spread over the duration of the lease, plus any rent, paid by the employer.

10. **Consider all tax/NIC efficient Benefits-in-Kind linked with Salary Sacrifice**. Continued increases in rates of tax and NIC, associated with the increasing burdens of reporting and making timely payments, provide opportunities to explore cost effective alternatives to standard remuneration packages. A number of areas exist, some of which are promoted by both Government intention and HMRC support (e.g. Workplace Nurseries, Childcare Vouchers, Cycle to Work arrangements etc.), where significant savings for both employer and employee can be achieved.

About us

Employment Tax for Business is an independent tax consultancy. Based in the North West of England, we provide services to clients throughout the UK. Our business partners have previously led the employment tax departments of major international accountancy practices. Our role is to provide clients with the very highest level of technical expertise, commercial awareness, and personalised service, tailored to individual client needs.

Contacts

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