March 2010 Newsletter and Budget update for employers

In this topical newsletter we provide details of recent developments in the March 2010 budget, in particular insofar as they relate to employment tax and NIC matters. We have also provided a reminder of some other changes previously announced, which are shortly to take effect.

Employers with arrears of PAYE – HMRC may require securities
The Finance Bill 2010 will create an HMRC entitlement to require employers to provide a financial security, if the employer has a history of serious late or non-payment of PAYE. The ethical question of whether HMRC should be entitled to alter its own status, in effect from non-preferential to preferential creditor, remains a moot point.

Are Cars Electric?
With apologies to Gary Numan fans for the misquote; we see that the previous references to "wholly electrically propelled cars" are now to be removed. From April 2010, cars or vans will now be subject to *no* taxable benefit if they are *unable to produce any* CO_2 *emissions*. If the CO_2 emissions are rated at 75g/km or less, a nominal 5% benefit calculation rate will apply. A full 100% first year capital allowance is also available for business expenditure incurred on new zero-emission vans (i.e. vehicles primarily suited to the conveyance of goods or burden) on or after 1 April 2010.

For higher CO_2 rated vehicles, predictably, car benefits will increase from April 2012. All CO_2 emissions thresholds will be moved down by a further 5g/km, in effect creating an additional car benefit tax and Class 1A NIC charge (of 1% x list price). However a further low 10% charge band will apply to company cars with emissions up to 99g/km.

Employer Supported Childcare schemes
Where childcare is delivered through salary sacrifice arrangements, employees paid at or near the National Minimum Wage (NMW) often have to be excluded from the scheme. Under new proposals, any such NMW based exclusion will not now be seen as a breach of the 'available to all' requirement in the legislation.

Whilst this is welcome, it remains to be seen whether childcare vouchers retain their popularity in the light of HMRCs vision (published in February) of its procedure to limit voucher tax relief to basic rate from April 2011. These convoluted proposals include an employer requirement to assess the employee's marginal tax rate at the *start* of the year, along with some complex rules on what constitutes 'income' for this purpose.

Other salary sacrifice issues
In recent months HMRC has moved to clarify its interpretations of the 'bicycle to work' and 'workplace bus' tax exemptions. Furthermore, the legislation which exempts workplace canteens is to be formally amended, to exclude certain structured canteen salary sacrifice and flexible benefit arrangements. Whilst these moves seem to be something of a sledgehammer to crack a nut, they do demonstrate that 'flex' schemes warrant careful initial structuring and ongoing periodic reviews.

Increases in tax and NIC rates
As expected, the trend is toward increases in both tax and NIC rates. As well as the new 50% tax rate for 2010/11 and tapering out of personal allowances for the highest earners, additional NIC rates will apply from 2011/12. Nearly all NIC rates will be increased by 1% from April 2011.

Pensions
From April 2011, tax relief on pension contributions is to be limited to basic rate for the highest earners. Reporting obligations will arise where an employee's total income (including employer contributions) exceeds £150,000. Following recent consultation, the Treasury has now decided some

specifics on how the 'taper' process will operate for incomes over £150,000, and how annual contributions will be valued for Defined Benefit scheme members (i.e. using 'Age Related Factors').

On a slightly more favourable note; the Government is looking to simplify the rules governing the commutation of small pension pots (e.g. those where funds are worth up to £2,000) and allowing couples to pool small pension pots in order to achieve a better value annuity etc.

Bank payroll taxes (BPT)
It is confirmed that banks and building societies will have to pay an additional BPT of 50%, insofar as any discretionary bonuses exceed the prescribed £25,000 per employee limit (the BPT is in addition to any normal PAYE and NIC withholding obligations). The Government also intends to consult on requirements for enhanced disclosure of remuneration in the financial services sector.

Anti avoidance measures
The 2010 Budget conveyed a whole raft of proposed anti-avoidance measures. The following represents only a brief summary:

a) **Close companies that release or write-off loans** made to 'participators' in that company (or to associates thereof) can no longer claim a Corporation Tax (CT) deduction. This seeks to close the potential for loans to be written off without conveying a benefit in kind, or indeed any other tax or NIC charge.
b) **Employment Related Securities** are targeted in a number of ways, and consultation was announced on moves to counter 'geared growth' employment security arrangements. In the meantime, shares in subsidiaries of listed companies may no longer be used in Company Share Option Plans (CSOPs) – this is subject to a 6 month transitional period for existing CSOPs. CT deductions will also be denied for payments into Share Incentive Plans (SIPs) which are perceived to be artificial, or if the value of the SIP shares is being manipulated.
c) **Tax and NIC avoidance disclosure requirements** will be increased. The additional measures include new "trigger points" for timing of disclosures, definitions of periodic information required, obligations for persons 'introducing' clients to schemes, additions to the "hallmarks" used to define such schemes, and increased penalties for failures.
d) **Offshore non-compliance,** when linked to an overseas jurisdiction which does not exchange information with the UK, will result in increased penalties.
e) **Employment Benefit Trusts** which are intended to avoid tax and NIC will also be specifically targeted from 6 April 2011.

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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