



Autumn 2013 Newsletter

In our Autumn newsletter we consider a number of topical items including updates on RTI, pension auto enrolment/tax relief and defining cars/vans.

1 RTI further update

The rationale and government justification for creating the extra RTI work for employers is of course the introduction of the Universal Credit (UC) system. Perhaps unsurprisingly the planned 'big bang' approach has now been dropped, and the new UC process will now be phased in on a regional basis, which started in October.

Meantime HMRC has reassuringly confirmed that, in the first few months of full RTI obligations for employers, no late filing penalties have so far been issued. However from October HMRC is introducing 4 'generic' RTI notifications which are designed to advise employers whom they perceive to be at risk of incurring penalties in future. These cover failure to file an RTI return, a 'late filing' notice, and two separate possible notices about late payments. Employers may be sent a summary by email, though may need to log into HMRC's PAYE Online Services for Employers to view the full detail of the notice.

2 Incorrect employee expenses tax deduction claims

Recent statistics show that HMRC receives an average of 5,800 claims per week for expenses tax deductions, however a substantial proportion of these (18%) are in fact refused. HMRC considers that incorrect information circulating around employees is one main reason for inaccuracy. It is certainly true that many employees have difficulty (or are missing out completely) on making legitimate claims. This is especially so where employers do not reimburse the full amount of expenses permitted by law. However bridging the gap between the complex tax rules and creating simplified guidance for staff can be quite a challenge. As always the first step for employers would be to ensure their P11D dispensation is comprehensive, up to date and effective.

3 Pensions Auto enrolment update

The Pensions Regulator has produced an online tool which will identify an employer's 'staging date'. In effect employers will have an introduction date formally nominated (in stages), and each staging date is particular to the employer's PAYE reference (also as this detail is not password etc protected, it should be assumed this staging date information will be generally available e.g. to employees as well as employers).

Whilst the online assistance is welcome, some of the more difficult considerations will no doubt still require professional help. For instance does any existing staff pension scheme already meet the minimum standards for auto enrolment, e.g. is it UK registered and requires contributions at the minimum percentage rate, based on 'qualifying earnings'. Where a new pension provider is to be selected, an understanding of the likely costs, investment strategies offered, and services to be included by the provider, would also be needed.

4 Pensions changes to Annual Allowance and Lifetime Allowance

Many pension providers have been issuing Annual Allowance pension statements for the 2012/13 tax year (and possibly 2011/12 if not previously issued) to all pension scheme members 'contributing' more than £50,000 to a pension scheme in the year. Whilst HMRC has provided an online tool to offer some help in determining whether there is a tax liability to report, there are complexities to the calculations, especially where the question of 'unused relief' in earlier years must be addressed. The problem will be more widespread from April 2014, when the annual allowance will go down to £40,000.

A further potential banana skin for higher pension savers is the reduction in the Lifetime Allowance from £1.5 million to £1.25 million, also from April 2014. For anyone who already has a pension pot over £1.25 million, there are different personal elections available to 'fix' the allowance and ensure no retrospective 'charges'; however applications may have to be made to HMRC by 5 April 2014.

As these limits continue to be reduced more individuals will be affected, and this creates a significant challenge for employers, pension trustees, and pension members alike. Valuation of contributions and pension pots is a complex business, especially for a direct benefit (final salary) pension. Whilst employers will of course wish to avoid offering 'financial advice' to staff, a failure to identify a problem till it is too late to do anything about it may also be damaging. Please contact ET4B if you require assistance in communicating these changes.

7 Form P85 and new Statutory Residence Test

HMRC has recently issue an updated form P85 for individuals leaving the UK. This is to tie in with the additional information required by the new Statutory Residence Test introduced in the Finance Act 2013. For instance the P85 document now asks about how many days per year, after they go abroad, will the employee work in the UK more than 3 hours per day (this is a new factor to be considered in one of the three 'automatic overseas residence' tests). If the employee does not meet one of the 'automatic overseas residence tests' then the P85 questions will for instance seek to ascertain whether they have retained 'sufficient ties' in order to remain UK resident – again a new consideration.

Whilst there is extra complexity in the new rules, it is hoped that the creation of a more finite Residence decision making process will provide more certainty in the long run.

8 Alternative Dispute Resolution for large or complex cases

In a report published in September, HMRC summarised the results of ADR scheme which has been run as a 'pilot' basis for the last 2 years, but which has now been fully adopted. We agree with the report's key message i.e. that the pilot has proved to be worthwhile; it clearly has been useful in speeding up dispute outcomes in suitable cases. Whilst in effect ADR involves HMRC undertaking an internal review of its own work, the department's willingness to secure relevant external input (including the use of independent tax professionals on a secondment basis), seems to have ensured a more effective and collaborative approach in many cases. For anyone who has encountered so called specialists within HMRC, who in reality may lack practical applied knowledge and detailed technical support, then the ADR process may be preferable to the cost of formal appeal Tribunals or simply conceding the point to 'make HMRC go away'.

9 Car or van – can you spot the difference?

As most readers will know, the tax treatment of company cars is significantly different from company vans. From an income tax perspective, company cars are subject to relatively high charges based on the list price (rather than actual value) and CO² rating of the vehicle. Similarly company car fuel remains an 'all or nothing' benefit, which is becoming more punitive (i.e. tax-ineffective) with each passing year.

Vans or 'commercial vehicles' on the other hand have, generally more lenient, fixed rate taxable benefits applied. These can even be reduced to NIL if the only private use is incidental or incurred on 'ordinary commuting'. In addition the employer may be able to secure a VAT input tax deduction on the purchase in appropriate cases, significantly reducing the overall net vehicle cost. Whilst this beneficial treatment may encourage both employee and employer toward the 'van' rather than the 'car' route, it can be difficult to tell the difference between the two types of vehicles. Vehicles for which difficulty arises tend to fall within the three separate categories of vans with rear seats/windows, double cab pick-ups and vans derived from cars. For additional information see a more detailed summary on our website 'blog' at <http://et4b.co.uk/blog/car-or-van>.

If you would like our further assistance on any of these matters, please contact us.

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