

Bernard Harrington and Company

Business Intelligence

moving forward with you

Another new tax to pay!

From 1 December 2003, the face of stamp duty, first introduced in 1694, is to be changed forever through the introduction of Stamp Duty Land Tax. In summary:



- What was an unenforceable duty on documents transferring rights and interests in property for value is to become a transactions tax on transfers of UK land and buildings.
- The existing stamp duty regime will continue to apply to documents transferring stocks and marketable securities and transfers of land into or out of partnerships by partners or former partners.
- That existing regime will also apply to transactions completed and leases granted on or after 1 December 2003 where those conveyances or grants fulfil contracts or agreements entered into before August 2003 or thereabouts.
- For transfers of other property (including debts) under contracts made on or after 1 December 2003, stamp duty will cease to apply.
- For agreements to transfer 'chargeable securities', whether or not written or followed by a document of transfer, stamp duty reserve tax continues to apply.

Even if its name suggests a link with the past, we will have in reality a tax on land transactions. Although the scope of the tax is restricted to land in the UK, it does not matter whether any party to the transaction is present or resident in the UK, nor indeed if there is a document effecting the transaction nor whether any such instrument is executed in the UK. What we will have on 1 December 2003 is a self assessed, 'modernised' tax on transactions involving transfers of interests in UK land and buildings.

The abolition of stamp duty on property other than UK land and buildings and shares provides some relief to those acquiring unincorporated businesses. The removal in 2000 of stamp duty on transfers of intellectual property, in 2002 on goodwill and in 2003 on debts is obviously welcome. Although the rates of duty have for the time being at least been frozen, the new calculation of lease duty is going to mean much greater charges for the grantees of new leases.

If at all possible, you should consider bringing forward the date of grant of new leases of commercial property. This is a matter your property lawyer will be able to advise on. We have produced an extensive – but readable – guide to Stamp Duty Land Tax which is available to all readers of this newsletter, as a PDF document, on request.

Implementing price rises

We have produced a new factsheet "Implementing price rises" which looks at the way in which price reviews can be introduced effectively and with regard to your customers' needs. This is an important area and one that can have a dramatic effect on profitability. Please let us know if you would like a copy.



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Inside this issue:

<i>Another new tax to pay</i>	1
<i>Implementing price rises</i>	1
<i>Tax & NIC rules for Christmas parties</i>	2
<i>National minimum wage</i>	3
<i>I don't believe it - new discrimination laws</i>	3
<i>Statutory dispute resolution procedures</i>	3
<i>The Do's and Don'ts of workplace monitoring</i>	4
<i>Where is it going</i>	4
<i>Get that VAT back</i>	4
<i>Corporate insolvency - new rules</i>	5
<i>Claim yourself</i>	5

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Like you, we're straightforward people. We give you straight advice, you take your business forward. No nonsense. Straightforward isn't it?

Tax & NIC rules for Christmas parties

This year's Budget saw the tax free amount for parties doubled to £150 per head per year. The rules apply not only at Christmas but to any annual party or similar function, as well as to gifts generally. The article deals with some of the most common questions employers ask about the tax and NIC rules.



Q. Can I give a tax free cash Christmas bonus or cash gift to my employees?

No. A cash gift or bonus is the same as normal pay and is subject to tax and Class 1 NIC in the usual way. The payment should be put through the payroll. This also applies to any vouchers you give that can be exchanged for cash.

Q. Can I give my employees a Christmas gift such as a bottle of wine, a turkey or gift vouchers from, say, a high street store without them having to pay tax?

You can, so long as you have an arrangement with the Inland Revenue called a PAYE Settlement Agreement (PSA). If you set up one of these, the employer pays the tax and NIC that is due and in doing so relieves the employees of any tax liability. A PSA also cuts down on record-keeping and paperwork, but you need to set these savings not only against the cost of paying the tax but also the additional NIC which you will have to pay on the total tax due under the PSA..

Q. What if I don't want to arrange a PSA?

Any non-cash vouchers that employees can exchange for goods will be subject to tax and Class 1 NIC. For tax, you should enter the cost of providing the vouchers on either a form P9D or a form P11D at the end of the tax year. For NIC, the cost of providing the vouchers should go through the payroll at the time you give them to the employees.

For employees earning less than £8,500 the second hand value of the gift is subject to tax and should be reported on a form P9D at the end of the tax year. For directors and employees earning £8,500 a year or more, the amount is subject to tax and Class 1A NICs. The value of the benefit is the greater of the second hand value and the cost of the gift to you, and this amount should be entered on form P11D.

Q. Can I provide a party for our staff at Christmas and in the summer, without employees being required to pay tax and NIC?

It depends on the cost of the parties. Tax and NIC are not due on any annual functions that cost you £150 or less per head per year in total. That is the limit for the tax year 2003-04 (previously it was £75 per head). This rule applies to any annual social functions available to employees generally or available generally to those at a particular location.

For example, if your Christmas party costs £100 per head and the summer party costs £60 per head, the Christmas party could be treated as being exempt from tax and NIC. For directors and employees earning £8,500 a year or more the cost of the summer party would be subject to tax and Class 1A NIC and you would need to show it on the form P11D. You do this at section N.

Q. I'd like to let my employees bring their partners along to the party. What are the rules for this?

As long as the cost per head of the function is £150 or less, there is no taxable benefit for the employee. If the cost per head exceeds £150, for a director or employee earning £8,500 a year or more the cost of the party for both the employee and their partner is subject to tax and Class 1A NIC. You would need to show it on the form P11D for the employee at section N.

For example, if an employee attends with his/her partner an annual event to which the exemption applies, and the cost per head is £100, there is no tax charge. On the other hand, if the cost per head of the event is £175, the employee is taxed on a benefit of £350.

Q. How should I calculate the cost per head?

It is the total cost of putting on the function including accommodation, transport, food, drink and so on divided by the total number of guests including non-employees.

National Minimum Wage

From 1 October this year, the minimum wage for adult workers rose from £4.20 to £4.50 an hour, while the minimum for 18-21 year olds increased from £3.60 to £3.80. Meanwhile, the Department of Trade and Industry has announced plans to increase the National Minimum Wage to £5.00 an hour next year.



I don't believe it - new discrimination laws

Small firms are being advised to make sure they are ready for new anti-discrimination laws that come into force in December. Recent research has suggested that 57% of companies have not prepared for the new legislation. Only a quarter of those questioned said that they were definitely prepared. The new rules will mean that from December 2003, discrimination on the grounds of sexual orientation, religion or belief will be illegal.

However, some experts are warning that companies could have difficulties adhering to the rules, due to a lack of clarification of certain terms, such as 'religion' - which is defined as 'any religious belief or similar philosophical belief'. A particular concern is that the detail and implications of the new laws are not entirely clear and some of the definitions will only be thrashed out as and when cases are brought to tribunal.



We advise all clients to ensure that they have clear policies on all forms of discrimination, and follow up any complaints immediately and with due sensitivity.

Statutory dispute resolution procedures

All employers and employees will be required to follow statutory minimum dismissal, disciplinary and grievance procedures, under proposals to implement provisions in the Employment Act 2002. Key provisions of the proposed regulations include:



- Standard dismissal and disciplinary procedures, which will normally apply where an employer wishes to dismiss an employee or take action on the grounds of conduct or capability
- Modified dismissal procedures, which apply in a limited number of situations, such as immediate 'gross misconduct' dismissal or a dismissal necessitated by circumstances outside an employer's control
- Standard grievance procedures, which generally apply when an employee wishes to complain about any actions by an employer that do not fall within the dismissal and disciplinary procedure
- Modified grievance procedures, which will be applied only when the employment has already ended

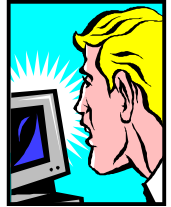
Where an employer has failed to follow the dismissal procedures, a tribunal will automatically find the dismissal was unfair, while going through the minimum procedure will not necessarily be sufficient to ensure the dismissal was fair.

In addition, if either party has failed to follow the procedures, the tribunal must increase or decrease compensation by 10% and may increase/decrease it by up to 50%.

Neither party has to follow the procedure in certain specified circumstances – including where the other party is violent, abusive or otherwise behaves unacceptably and where the issue is being discussed collectively.

The regulations do not at this stage implement provisions in the Act which make the dispute resolution procedures an implied term of all employment contracts. The need to commence them will, however, be considered in the light of evidence arising from evaluation of the impact of the regulations.

The Do's and Don'ts of workplace monitoring



Any monitoring of employees in the workplace – by for example, checking their personal e-mails or use of the Internet – must be open and transparent and carried out with the full knowledge of the employees involved, stresses 'Monitoring at work', the third part of the Employment Practices Data Protection Code. A shorter version – 'Guidance for small businesses' – gives smaller employers a concise summary of their data protection responsibilities when carrying out monitoring.

Produced by the Information Commissioner to provide clear and practical guidance for employers on the implications of data protection law, the Code acknowledges that monitoring at work is a complex issue and aims to strike a balance between the interests of employees and employers.

Where is it going?

Have you considered what will happen to your estate on death? Estate planning begins by considering the following questions:

- WHO? Who do you want to benefit from your wealth? If you are married, consider what you want to provide for your spouse, and whether you want your children to share equally in your estate. Do you wish to include any grandchildren? Would you like part of your wealth to go to charity?
- WHAT? Should your business assets pass only to those of your children who have become actively involved in the business? If so you may want to compensate the others with assets of comparable value. You should also consider the implications of passing assets into mixed ownership.
- WHEN? - Consider the age and maturity of your beneficiaries. Should assets be placed into a trust now with restrictions on access to income and/or capital? Or should gifts wait until your death?

Tax Tip: Generation Skipping

Your children may be grown up and financially secure. Have you considered leaving some of your estate to your grandchildren? Known as 'generation skipping', this can mean that your wealth also skips a tax charge.

Income from capital gifted by grandparents or more remote relatives will be taxed as the child's, as will income distributions from a trust funded by such capital. The income arising from equivalent gifts by a parent to a child remain taxable on the parent as a general rule.

We can assist you with your personal and business planning. Call us today or visit the up-to-date Financial Planning Guide on our website.

Get that VAT back!

Recently, we were approached by a client who had started a bloodstock breeding business but had not yet sold any of his homebred horses. He asked if there was any way he could recover the VAT he had suffered on the purchase of three expensive mares. To his relief, we were able to advise him there are concessions available which allow VAT incurred on the purchase of stock on hand at the date of VAT registration to be reclaimed in the first VAT return.



Likewise, if you purchase a machine before you are registered for VAT but then think you will have extra work that will take you over the VAT threshold due to this machine you can claim back the VAT incurred on the machine when you are registered.

In simple terms, VAT incurred on assets bought prior to registration can be claimed as input VAT on the first VAT return provided they were bought not more than three years prior to registration and are still owned by and used in the business at the date of registration. For services provided to a business, such as fuel used by it and professional services, you can claim back all VAT charged to you in the six months prior to the date of registration. The effect of these provisions is that it may be advisable to register for VAT at a point after the business is started but before registration becomes compulsory.

Corporate insolvency - new rules



New rules on corporate insolvency should increase small firms' chances of reclaiming money owed to them by bankrupt debtors. Under the Enterprise Act 2002, the Crown's preferential right to claim unpaid VAT and PAYE from insolvent companies ahead of other creditors has been removed. Instead, the interests of all creditors must be taken into account when a company goes into liquidation. Under the new rules, a proportion of funds available to creditors with floating charges, usually banks, will be set aside for unsecured creditors.

The proportion set aside for unsecured creditors will be:

- Fifty per cent of a company's net property where it does not exceed £10,000
- Where the net property exceeds £10,000 the amount equals 50 per cent of the first £10,000 and 20 per cent of the net property between £10,000 and £60,000

The Act also includes provision for routes into administration without court orders for floating charge holders, companies and their directors.

Claim yourself

Is someone who owes you money refusing to pay up? Simply log on to Money Claim Online, register your claim and let the system do the rest. Run by the Court Service, the site allows consumers and small businesses to lodge claims of up to £100,000. Claims are sent electronically to Northampton and usually issued by its County Court on the same day. Defendants are notified by post and have 14 days to respond. If the claim is undefended – and more than 95 per cent are – you can request a judgement online and recover the money without leaving the house. If not, the claim is transferred to your County Court for trial. Court Fees can be paid online using a debit or credit card and you can also track the claim's progress on the web.



Round like a shot

GOING to bed the other night, I noticed people in my shed stealing things.

I phoned the police but was told no one was in the area to help. They said they would send someone over as soon as possible.

I hung up. A minute later I rang again. 'Hello,' I said, 'I called you a minute ago because there were people in my shed. You don't have to hurry now, because I've shot them.'

Within minutes there were half a dozen police cars in the area, plus helicopters and an armed response unit. They caught the burglars red-handed.

One of the officers said: 'I thought you said you'd shot them.'

To which I replied: 'I thought you said there was no one available.'



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Newsletter Content

This newsletter deals with a number of topics which, it is hoped, will be of general interest to clients. However, in the space available it is impossible to mention all the points which may be relevant in individual cases, so please contact us for personal advice on your own affairs.

Disclaimer

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