

Tax Factsheet - February 2006

Welcome to the February 2006 edition of our monthly Tax Factsheet.

The issues covered in this Factsheet are aimed at providing outline guidance only, and further specific advice may be needed before decisions are taken.

Late 2004/05 Tax Returns

Most taxpayers will have both filed their 2005 Tax Returns and made the appropriate balancing and on account tax payment(s) by the deadline of 31st January 2006.

If you are late with your Tax Return, you should submit as soon as possible to mitigate any interest charges.

However, those late with either the filing of their Return, or the settlement of tax, should note the following:

- Please remember that the automatic £100 late filing penalty is limited to the amount of tax outstanding at 31st January. Therefore if the taxpayer is due a tax repayment or has paid any outstanding tax, no penalty will be due. An appeal should be submitted. If the outstanding tax liability at 31st January is less than £100, the penalty should be restricted to the amount outstanding.
- If the tax has not been paid by **28th February**, the Revenue will apply a 5% surcharge to any tax unpaid.

Please contact Robert Bradley on (01509) 212890 if you are late with your Tax Return or tax payments and would like any help or advice.

Turner and Smith Financial Services

We are pleased to announce the launch of Turner and Smith Financial Services, which provides clients with access to Independent Financial Planning, provided by Sterling Asset Management & Services Limited.

Our decision to form an alliance with Sterling was guided by the fact that Sterling is able to provide advice across the whole range of financial advisory areas.

Andrew Rastrick will provide financial planning for our clients. Andrew will be based at Westgate House on Mondays, and would be happy to meet you to discuss your needs “face to face”.

We are confident that this new venture will provide an opportunity for us to assist in maintaining the level of financial planning and service required by our clients.

Andrew Rastrick can be contacted through our office on 01509 212890 or by email at fs@turnerandsmith.co.uk.

Arctic Systems - an update

Comment has been made in previous editions with regard to the ongoing Jones v Garnett test case, which will ultimately establish the flexibility of husband and wife structured limited companies.

To recap; for tax reasons Mrs Jones received substantial dividend income from the company in which she has little practical involvement. HMRC challenged this arrangement and sought to tax Mr Jones on all the dividend income, as they claimed he and not Mrs Jones earned it.

The case was recently heard in the Court of Appeal, and the Joneses' won the latest round in their battle with HMRC. However they cannot be regarded as home and dry.

HMRC is determined to take the case to the House of Lords and have recently successfully petitioned the House to have the case heard before them.

In the meantime, HMRC may attempt to 'rectify' the Courts decisions to date by announcing changes to the law in this years Budget - due mid-March - and therefore couples may wish to consider paying dividends before the Budget, just in case.

Contact Robert Bradley if you would like to discuss this complex and unresolved area of tax planning.

Small companies - stop paying dividends!

The recent Pre-Budget Report announced the withdrawal of both the 0% Corporation Tax rate on the 1st £10,000 of taxable profit, and the non-corporate distribution (NCD) rate (which effectively taxed small company dividend payments at 19%).

From 1 April 2006 the replacement is a flat rate of 19% for all corporate profits up to £300,000. The marginal rate of 23.75% for profits between £10,000 and £50,000 is therefore also consigned to history.

The result could mean tax increases for many small companies, depending on how they extract funds. For example, a company which doesn't distribute profits that are under £10,000, will not pay CT under the existing rules.

However from 1 April, the same company will be faced with a CT bill of up to £1,900 depending on profit level.

If a company already takes the £10,000 by way of dividend and hence pays the NCD rate of 19% on it, then there should be no change to the CT bill.

With regard to the 'changeover' on 1 April, it seems the most likely effect of any transitional provisions is that the current NCD system will continue to match profits (time apportioned where necessary) arising before 1 April 2006 with dividends paid before that date.

If this is correct, 2 tax planning tips are possible:

1. Companies with current annual profits below £50,000 should avoid paying dividends until 1 April in order to maximise their entitlement to the 0% CT rate.
2. A dividend payment after 5 April may mean a 'bunching' of income in the next tax year for the shareholder. So consider the window for dividend payments to be made between 1 and 5 April.

Please give us a call if you would like further explanation of these changes.

Tax relief for expenses incurred by employees who work at home

A recent Tax Bulletin has tightened the conditions under which HMRC allow an employee to make a tax relief claim under S336 ITEPA 2003 for home working costs.

It has always been the case that a claim under S336 is permissible if the employee is obliged to incur expenses that are “*wholly, exclusively, and necessarily in the performance of duties of the employment*”.

Now though, it appears from reading the Bulletin, that a S336 claim will only be allowed if there are no appropriate facilities at the employers premises (or the nature of the job makes commuting difficult), and the employee can't choose where to work.

This interpretation does not fit in with the Government's policy of trying to encourage more home working, and it is also unclear how the guidance applies to reimbursed home working expenses.

Bear in mind it is HMRC guidance only - not legislative change - which has moved the goalposts. It seems unfair having recently introduced a £2 per week flat rate home working tax-free allowance, to then try and restrict the qualifying conditions. From a study of the wording of the legislation, it also appears technically inaccurate.

Contact Robert Bradley if you would like to discuss this issue.

Tax Diary February/March 2006

14 February 2006	Last day to defer Class 1 NIC's for 2006/07
17 February 2006	PAYE and NIC deductions due for the month end 5 February. <i>Due date is 19 February, but this is a Sunday.</i> (If you pay electronically, the due date is 22 February).
28 February 2006	5% surcharge on any unpaid 2004/05 income tax and CGT.
28 February 2006	Submit CT600 to Revenue for the year to 28 February 2005.
1 March 2006	Due date for Corporation Tax for year to 31 May 2005.

For further assistance on any of the issues raised, please contact Robert Bradley, Tax Manager at Turner and Smith on 01509 212890 or email robert_bradley@turnerandsmith.co.uk

All due care has been taken in the preparation of this fact-sheet. The authors can accept no responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication.