

Solicitors Newsletter Spring 2010

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If you would like an electronic version of this newsletter, now or for future editions, please e-mail e-newsletters@bennettbrooks.co.uk

Welcome to our Spring 2010 Newsletter, it only seems a few weeks ago that we were sending out our Autumn edition.

We had a great response to our last lead article on incorporation with a number of firms now reaping the significant tax benefits from incorporating. If you are considering incorporation but haven't quite yet got around to it call us today and we will happily arrange a free meeting to outline the specific benefits for your firm.

The articles in this Spring issue have been prepared by the various members of our legal services team and include items on company valuation for owner managed Limited Companies in PI claims; what we have learned from the first batch of LSC tendering with some tips for the next tender process; a guest article from our client Ignite Strategic Partners Ltd on communicating with clients as well as our usual tax round up.

We act for over 250 practices throughout England and Wales and are always looking to expand our client base. If you would like any information about our services please contact me on my direct **01606721311** or look at our website www.servicesforsolicitors.co.uk.

Yvonne Wood FCA,
Managing Director

Legal Services Update

As an update to the specialist services that we offer, here is a taster as to some of the services bennettbrooks have been busy with recently...

Tax Planning

Focusing on the forthcoming tax rises with the introduction of 50% tax rate, incorporations have been a common feature of recent months, where firms are keen to benefit from the tax efficiencies and greater control of taxable income achievable through the limited company structure and the generation of goodwill.

Compliance Reviews

Will your firm get a clean bill of health from a PSU monitoring visit? Mock PSU visits that we carry out provide a complete review of a firm's compliance with the Code of Conduct, client care and accounts rules, with a comprehensive report as to what action needs to be taken and continued support, should you need it, to implement them.

LSC Tendering

At the date of going to press the criminal contract

deadline had passed and the civil contract process had commenced with the submission date of 21st April fast approaching. Our legal team have been busy assisting legal firms across the country in submitting their bids and providing support for those completing their own. With time running out, our team is ready to assist in any aspect of the tendering process.

Seminar CPE Accredited Programme - 2010

Our specialised legal seminar programme is soon to be released for 2010, which is CPD accredited with the SRA. Please refer to our website (www.servicesforsolicitors.co.uk) for news of what courses we will be running up to October, which will include areas of accounts rules update, code of conduct compliance, financial management and forensic.

If you would like to talk to a member of our legal team with any aspect of the services we provide, please contact us on **0845 330 3200**

LSC Tendering, the story so far...

First there was immigration, then criminal, then mental health; and now social welfare/family and low volume categories (e.g. clinical negligence) are the final run of LSC contract tendering applications.

Peter Lane, who heads the quality assurance section of our Legal Services Department, has over the past couple of months been travelling the width and breadth of the country assisting solicitor clients with their

applications ahead of the various deadlines imposed by the LSC. The demand for Peter has been so great that Stuart Littler, who oversees the accounts and compliance team, has been drafted in to assist.

The on-line tendering process has been greeted with apprehension by firms who have to grapple with the vast amounts of information that the LSC have requested; and dealing with the physical submission (or 'publishing' as the LSC like to call it) of the

information via the LSC's on-line portal has proved problematical.

For those of you who have still to deal with the tenders for social welfare/family and low volume categories contracts, we have put together some pointers which we hope will be of assistance to you. To give due warning, although you may think the deadline of midday 21st April (4th May for low volume categories) still gives you plenty of time, the process is not straight forward; however a little preparation may minimise the potential frustration. The LSC are not known for providing simple processes!

Some helpful hints:

1. Having the right IT requirements that are compatible with the LSC portal – if your software is of a certain age (prior to Microsoft Windows 2000) then you will not get very far!
2. Learn what 'macros' are on Microsoft Excel, and more importantly how to disable them, as without that you will be unable to access some of the forms that you need to complete.
3. Registering – although anyone can register, the actual form can only be published to the LSC using the registration of a 'key personnel', i.e. sole practitioner, partner or director.
4. If the firm has not already got the Specialist Quality Mark (SQM) then you will need to apply for this as part of your tendering application. You will therefore have to ensure that your office manual is up to scratch and in an electronic format, so that it can be attached to the on-line application.
5. The tender is made up of a 'Pre-Qualification Questionnaire' (PQQ) and 'Invitation to Tender' (ITT), both needing to be submitted for the application to be completed – each one of these contains various 'buyer attachments', which are files that can be downloaded and which have to be completed and attached ("uploaded") to the application prior to submission. It is best to review which downloads you require and save them

all on your own desk top. You can then work on these at your own pace and without having the LSC portal open, which avoids getting timed out and losing what you have completed so far!

6. Review the forms prior to completing them, namely the PQQ and ITT, and get all the required information and documents together ahead of completing them, as this saves time and reduces the possibility of being timed out.
7. Even where something is not relevant to your actual application, if it is marked with an asterisk, the bid will not be successfully submitted without an entry in the relevant section – so get ready with the copy and paste of 'not applicable'.
8. Continually save the information as and when you are completing the forms, just in case you get timed out or the system crashes, which may result in you losing whatever you have inputted.
9. Identify beforehand the procurement area(s) for which you are intending to bid. At the last count there were at least 160 on the system, and you need to identify the relevant one(s) and complete them. The guides do provide a map of the country with the various areas identified; however the list on the tendering screen is not in alphabetical (or any other logical) order.
10. Identify beforehand the number and types of New Matter Starts (NMS) for which you want to bid, taking note of the relevant maximum and minimum requirements, which vary depending on the category and procurement area.
11. Not all documents are required to be submitted with the on-line application, and some can be submitted via post at a later date; but these must all be presented to the LSC by the prescribed date - otherwise no contract will be awarded. We would advise that you try to submit all the forms at the same time through the on-line portal, so then at least it is done and you know there if nothing outstanding that may get overlooked.

12. When you “upload” the attachments to the portal ahead of “publishing” them to the LSC, check in the relevant sections that they have actually been uploaded and are properly attached.
13. If everything is nearly complete, we would recommend that you go ahead and “publish” the application so you know it is in the system ahead of the deadline date. At any time up to the closing date, you can log on, go to “My PQQ” or “My ITTs”, select “edit response”, and amend the response and/or delete a current attachment and upload a new attachment. However, you must save the amendments and re-publish (“confirm”) the bid before you come out of the portal.

Should you wish Bennett Brooks to assist in your application, then please do not hesitate to contact **Peter Lane** on **01606 721300** or at peter.lane@bennettbrooks.co.uk or stuart.littler@bennettbrooks.co.uk.

When is a Partner not a Partner? When they are an employee!

We have recently asked H M Revenue and Customs to conduct several status reviews on individuals who had been taxed as “fixed interest” partners. The arguments we have used to prove our case and the consideration HMRC has made proved that an article on the subject may be useful to practices.

Many practices have partners that are taxed as fixed interest partners on the basis of say the higher of 1% of the profits and a specific sum, say £50,000. We usually call these “salaried partners”. Often the practice will pay the partners a figure calculated to be the net amount after tax and retain the tax deduction within the practice until the tax falls due for payment. It is just this sort of case that could be subject to a status review. Clearly most practices want their “salaried partners” to be taxed under Schedule D as true partners as this eliminates Class 1 National Insurance and thus reduces the cost to the practice.

So, what have HMRC taken into consideration when making the status review and therefore what can practices put in place to make sure that the status of their “salaried partners” is more certain.

1. Documentation – the first port of call is documentation in all its forms. Start with the contract when the partner joined the practice or was promoted into partnership and the appointment letter. What do those documents say about remuneration, profit share, participation in management and contribution of capital. Also look at more peripheral documentation such as emails announcing the appointment, press releases and business cards. Does the partner appear on the bank mandate for both office and client accounts? What documentation is provided each month to the individual showing their fixed share of profits and tax

deductions, does this look like a payslip? How are annual fixed interest profit share increases notified to partners and are they based on practice or departmental performance or are they being inflation rises etc

2. Oral or implied terms – regardless of the content of any documentation, HMRC will want to consider any oral or implied terms and how the arrangement works in practice. What involvement do the salaried partners have in the management of the practice, for example attendance at and participation in management meetings and dealing with specific management tasks.
3. Capital – does the salaried partner have any requirement to introduce capital into the partnership over and above any tax retained? Does the partner participate in any losses the practice may incur and do other partners indemnify the partner against claims under joint and several liability.

This problem would not arise if the practice is a Limited Company as the position is more certain. An individual is either a shareholder or not and only shareholders can receive dividends. Payments to non shareholders can only be remuneration and therefore are subject to PAYE and NI deductions.

There have been many articles in the press indicating that HMRC are targeting professional practices for review and this is an area that certainly could be challenged in the event of such a review.

Anytime Information – keeping ahead of the competition

E-mail can provide the modern business with cost-effective, instantaneous communication. However unless the resulting information can be easily located and retrieved, organisations risk confusion, duplication of effort and poor client-service.

Social networking has significantly changed the mass expectation of how information should be delivered; we no longer expect to “go looking”, instead information should actually find us, and with minimal effort. Platforms such as Facebook seamlessly present social data from multiple sources, in digest, at one convenient place, regardless of time, location or experience.

This “anytime information” can equally be applied to and harnessed within the world of business, adding value to existing clients and differentiating a practice from its competitors.

Client portals

One solution that is growing in popularity with customers is a client portal. This is essentially a secure area on your website for clients to access and obtain their information and messages.

Adding a portal to your website could allow you to proactively provide clients with the information they need, when and wherever they require it – demonstrating exceptional customer

service and surpassing your existing client expectations.

A basic portal should allow clients to:

- View and update the information you hold “on file” about them – without their having to ask you
- Access the specific documents that form part of your service – perhaps deeds, a will, conveyance information or another relevant document see how the service you provide is progressing – for example how far through the conveyance procedure are they, when will you next meet with them, what are their key court or hearing dates

On top of this a more developed portal might:

- Integrate with your case / document management suite to allow more in-depth access to information you hold on a client’s behalf
- Work alongside your billing platform to allow electronic invoicing and payment
- Promote the marketing of your additional services through well placed graphical advertisements
- Provide access on multiple devices, including mobile telephones and PDAs

Worthwhile implementation

- A well thought out client portal should differentiate your business through a vastly improved perception of your customer-service-levels. Used proactively, it will allow a production team to spend a greater amount of its time earning fees, focusing on core-business activity, and targeting growth.

If you’d like to discuss portals, why not give me a call?

Greg Stanton

Director - bennettbrooks IT

Turning a compliance obligation into a marketing opportunity

Regulatory compliance is the necessary evil of the legal profession and with there being no let up in a solicitor’s obligations, why not take every opportunity to get something out of your time and effort taken up with adhering to this ever increasing regulation.

It is now nearly two years since the amendments in the Solicitors Accounts Rules came into force in July 2008, one of which related to dealing with residual client funds held in the client account. Rule 15 (4) introduced a specific obligation to inform the client at the end of the matter the amount of funds retained and the reason for the retention. The client must then be informed in writing at least once every twelve months thereafter of the amount of client money still held and the reason for the retention and for as long as the money is retained. Adequate systems therefore need to be in place for such funds to be identified on the anniversary of the end of the matter and sufficient means of communicating the details to the client.

Solicitors are often compared with accountants who are not always considered the best at selling their services to the general public. A firm’s client base provides an ideal (and free!) opportunity to market and cross sell your services. Every interaction with a client provides an opportunity to demonstrate your full range of services that you offer. The opportunities should not be considered as bombarding the clients or be frowned upon as hard selling, but can be subtly added to whatever medium you use when communicating to your client.

Adherence with Rule 15 provides an ideal opportunity, whilst writing to the client, to remind them of the range of services that the firm offers. To make the process less time consuming, by creating a standard template for notifying clients for the reason for retaining the funds, a simple closing paragraph detailing your range of services within the template will do the job.

Leaving your compliance obligations to one side for a moment, throughout the course of a matter, you interact with the client on

many occasions, and each one gives you an opportunity to remind them of what else you can do for them...does your letter head actually note what services you offer (don't assume the client knows), insert an extra line on your email signature which highlights your services and always provide noticeable links to your website on all correspondence, emails etc.

Your client base is readily available and provides the cheapest outlet to help attract new business by cross selling and retaining existing clients, especially with the pressures of the economic down turn and the prospect of increasing competition.

Stuart Littler heads the Solicitors Accounts Rules compliance services offered by Bennett Brooks Legal Service Department, who can assist in all compliance matters including assessing your systems to ensure compliance and how these can work in promoting the services of your firm. Stuart is contactable on stuart.littler@bennettbrooks.co.uk.

Personal injury where the Claimant is an owner director of a Ltd company

There are many occasions when a client says "I had no idea you could help with that" so I thought I would detail an area that I am regularly asked to assist with. Some Solicitors and Counsel feel comfortable dealing with the majority of financial claims resulting from personal injury but occasionally a matter arises where it is necessary to use a forensic accountant to fulfil his duties to his client. Such a matter is a Personal Injury/Clinical Negligence matter where the Claimant is a director and shareholder in his own Ltd company.

When a Claimant is a director & major shareholder in a Ltd company and a key person in the business, it is likely that complications will arise in the method by which money is withdrawn from the company. It is hard to believe, but, I regularly see the argument put forward that the Claimant did not earn much from a profitable company as his salary was, say, only £5,700pa irrespective of the profit the company made!

Let us look at an example:

Mr Widget, the Claimant, owns 90% of the share capital in his company and his wife owns the other 10%. The Claimant did all the work and was the key person in the business. The Company made an average profit of £200,000pa prior to the accident, after deducting a pension contribution to director's pension scheme of £10,000pa. After the accident his injuries were so bad that he could not work again and the company closed. On average he had paid his wife a salary of £40,000pa and himself a salary of £5,700pa. They took dividends of £100,000 a year between themselves leaving sufficient in reserves for future expansion of the company.

The accounts can be summarised as follows:

	£
Profits before tax	200,000
(After Director's salaries and pension)	
Less Corporation Tax	(42,000)
	<hr/> 158,000
Less Dividends	(100,000)
Set aside for future projects	<hr/> £58,000

How much has he lost now that his business has closed? The defendants will hope and readily accept a claim for the salary of £5,700pa but this is clearly incorrect.

A forensic accountant would consider the following points:

Find out exactly what the Claimant's wife did in the business as she may have contributed very little. The Court would expect the reality of the situation to be reflected. (Ward-v- Newalls Insulation [1998] 1 WLR 1722, CA) If it can be established that her contribution to the business was minimal it may be possible to add back her salary and replace it with realistic remuneration for what she actually did. In this case let us suppose that she was paid a salary to reduce Mr Widget's exposure to higher rate tax band and to provide her with a regular income. It is discovered that she attended the office once a week to check the petty cash. It might be argued that the contribution to the business is for 3 hours a week and the value of the work is £10 an hour or £1,560pa. Therefore it is appropriate to add back Mrs Widget's salary (plus employer's NIC) back to the profits and substitute the appropriate salary for the work she did of £1,560.

Investigation reveals that the company pension scheme was set up for Mr Widget's own benefit and can therefore be added back to the profits.

After an examination of the Balance Sheet, it is considered that although the Claimant has set aside £58,000pa on average to fund future expansion, the reserves in the company are more than adequate and reflect the cautious approach to business he has taken. In future the Claimant would have been in a position to recover his investment either in dividends or on the eventual sale. It is considered appropriate take account of this £58,000 by way of a dividend.

Therefore the following calculation of his net loss of earnings would be made:

	£	£
Profits before tax		200,000
Add Mrs Widget's salary	40,000	
Employer's NIC thereon	4,388	44,388
Mr Widget's Salary		5,700
Mr Widget's Pension Scheme		10,000
Profits before remuneration		260,088
Appropriate Remuneration		
Mrs Widget	1,560	
Mr Widget	5,700	(7,260)
Profits Available to Shareholders		252,828
Less Corporation tax		(53,094)
Possible Dividend		199,734

Mr Widget's net loss of earnings amounts to £149,187 pa (75% shareholdings) which is considerably more than the defendant's might have initially offered of £5,700. It will be noted that Mrs Widget cannot bring a claim for her loss of earnings because she is a third party to the matter. However, it might also be argued that as she contributed very little to the business, then her dividend should be attributed to the Claimant and his loss could therefore be increased. This is quite a strong argument as the Claimant has the controlling interest and she may only hold shares in the company for tax purposes.

In my experience every case is different and has to be examined carefully, car and other benefits paid out of the company's profit can be lost if the Claimant ceases to work. The treatment of taxation is complex and the assessment of the continuing profit is riddled with pitfalls for the unwary.

Michael Swift FCA MAE QDR MCI Arb

A bigger client base? Just by communicating better? Are you kidding?

You're busy. You've clients to brief and documents to draft. Your desk's overflowing. So let me help...

It'll take around four minutes to read this article. Here's what it could do for you:

- It will provide you with a brief distraction
- You'll learn something
- It'll help you enhance your reputation, and that of your practice
- It'll give you some ideas of how to ethically expand your client base in a really great way, and at little or no cost.

It's about how well we communicate!

The Journal of the American Medical Association published startling research that analysed the specific communication behaviours associated with malpractice history amongst a group of medical professionals.

Approximately 50% of those professionals had never been sued. The other 50% had been sued at least twice.

It's no coincidence that those who had never been sued were the ones who spent more time with patients (on average, just three minutes!), explained more clearly what to expect, used humour more, and tended to ask for patients' opinions, checked their understanding, and encouraged patients to talk.

The stats also showed that there was little correlation between skill, and experience and the likelihood of being sued. In other words, it wasn't about competence, it was about communication!

Those who spent more time with patients and where more skilled at building rapport were rarely sued. Most importantly, their patients always spoke well of them and had no hesitation in recommending them to others.

We prefer to form relationships with people who we feel are like us, who share our values and outlook. YOU can learn to create that level of rapport by developing harmonious relationships based on mutual respect. It's the art of making someone feel comfortable and valued.

Combining such effective communication skills with exemplary technical expertise

can only dramatically improve client retention and make them advocates of you and your practice.

As reported in the Sunday Times in March 2010, "Discovery" is the buzzword in social media – finding something that's been recommended by people you trust. Geometric progression is the technical mathematical term for doubling numbers. Facebook, launched in February 2004 and today has 400m users. Now, that's discovery and geometric progression in action.

If you had one client who was an enthusiastic advocate and they talked to two of their contacts with such conviction that those to people also spoke to two others, and so on, then after five levels of contact 16 people would have heard positive messages, after ten levels 512, after twenty 524,288!

Now then, do you have the skills to generate such relationships? Let's be frank, the skills that make you brilliant lawyers don't necessarily make you great communicators...

According to the Professor Susan Daicof, lawyer turned physiologist, in her provocative book 'Lawyer Know Thyself: A Psychological Analysis of Personality Strengths and Weaknesses' the most common personality traits of a lawyer are a marked drive to achieve, a preference for an impersonal, strictly logical approach to problem solving, an orientation favouring assertiveness and competitiveness, and an emphasis on rights and obligations over emotions and interpersonal relations.

She further suggests that this can create a "gap in understanding and communication between lawyers and clients..."

Recognise anything there? That's not a problem if you do, because you can learn how to do better, and doing better will deliver genuine marketplace differential which soon translates to the bottom line and a growing reputation – and make you feel better about yourself and your work.

Try the following...

- Be mindful that word of mouth is the most powerful marketing tool.
- Moments of Truth – be aware that every time you or anyone in your organisation communicates with someone face-to-face, by telephone or email it is an opportunity to have a positive lasting impact.
- Be consciously competent; develop self-awareness and an understanding of your impact on others.
- Never articulate a negative emotion in the working environment while you are experiencing it – people tend to remember the emotion, not the content.
- Understand that people are different from you: vary your approach.
- Remember that 7% of meaning is in the words that are spoken, 38% of meaning is paralinguistic (the way that the words are said), and 55% of meaning is in facial expression and body language (Mehrabian's law).
- Turn away mentally and physically from what you're involved in and listen with rapt attention when someone is talking

to you. To keep looking at your computer when some has entered your office slowly erodes trust and respect.

- Be sincerely curious – ask, more than tell.
- Actively listen- summarising and paraphrasing to check understanding.
- Look to improve 100 things by 1%, not one thing by 100%.

Well, that's our four minutes together. Did I add value?

If you would like to know more about creating value through communication or give me feedback on this article call me on 07967 227704.

Alan Mullett

Managing Director of Ignite Strategic Partners Limited

For more information and to
speak to one of our team today
call **0845 330 3200**



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MOLD OFFICE

First Floor Offices,
42 High Street, Mold,
Flintshire CH7 1BH

ACCOUNTANCY & AUDIT

- Annual and management accounts
- Registered auditors
- Performance analysis and benchmarking
- Continual all year round support

PAYROLL

- Weekly/monthly payroll including expenses
- Administration - PAYE, NICs SSP, SMP holiday and absence, new employees/leavers
- Planning - incentive schemes, bonuses, pensions, retirement and savings
- Year end - completion of statutory forms

CORPORATE FINANCE

- Business mergers & acquisitions
- Incorporations
- Valuations
- Business sales
- Finance raising
- Due diligence

SECRETARIAL

- Company formation
- Preparation and filing statutory returns
- Preparation of minutes and resolutions

TAXATION

- Succession planning
- Self assessment
- Corporation tax
- VAT
- Tax planning - leaving you with more
- Capital gains tax

FORENSIC SERVICES

- Personal injury, fatal accident, negligence
- Pension loss, matrimonial, share valuation
- POCA, false accounting

IT SERVICES

- Implementation and support of executive information systems
- Sage Premier business partners

bennettbrooks
chartered accountants and management consultants

Telephone:
0845 330 3200

Solicitors Advisory Service News

2010 Summer Seminar Programme SRA CPD accredited

Our forthcoming seminar program is soon to be released covering a broad range of training opportunities specifically directed at current practice issues covering partner support, solicitor/fee earner support and practice manager/cashier support.

What's more...

It's free to our clients and for non-clients the cost will be credited against future work that you may wish for us to undertake within 12 months of the seminar.

What's being covered...

This year's programme will cover the following areas:

- **Solicitors Accounts Rules Update**
Following the changes last year, as a result of the Legal Services Act, every employee has an obligation to adhere to the Solicitors Accounts Rules. This course will cover the 'hot topics' from the SRA's monitoring units visits, as well as a general update to ensure all attendants are fully compliant, with practical solutions to common breaches and month end procedures, including client withdrawals, reconciliations, billing to name but a few.
- **Money Laundering Compliant**
An extensive but practical review of the money laundering regulations with workable solutions to common faults to ensure your firms procedures is compliant.
- **Client Care Compliance & Implementing Lexcel**
Peter Lane, our qualified solicitor, Lexcel and code of conduct compliance consultant will guide you through the compliance issues in respect of client care obligations under the code of conduct, including the changes that have recently come into force following the Provision of Services Regulations. Peter will also show how Lexcel can be of benefit to legal firms with guidance as to the implementation process and how to avoid common pitfalls.

- **Save Tax - Tax Efficiencies of the Various Structures of a Legal Firm (updated for the introduction of ABS's & increase in higher rate tax bands)**

Given the increase in the higher rate tax band and the loss of personal allowances there is the prospect that a tax rate of 60% (not just 50%!) could be incurred from this April. This seminar will cover the options available to a legal firm in order to minimise the exposure to this higher rate, including the option of a 10% rate achievable through incorporation or if the partnership structure is one you prefer to stick with, then what options are available here.

- **Forensic Support Series**

Our legal forensic department assist legal practices across the country with a broad scope of support services. Our series of forensic specific seminars, provides training on a range of areas specific to this area of work, including:

- Understanding accounts for the PI lawyer
- Preparation of schedules of damages Understanding Ogden 6 tables

- Fatal accidents
- Instructing an expert
- Mediation for resolving disputes

Anything else you want...

We have a vast array of knowledge and experience within the legal industry and if you have other topics, not mentioned above that you would like us to include within our programme, then please contact us and we would be more than happy to incorporate any requests into this years programme.

When & where...

Watch out for the confirmation of the dates on our website and our email news cannons which will be released in April. The programme will run from May to October with extra dates available if required. Our seminar facilities in our Bromborough office will be used to host the seminars (address and directions available on our website). We do also offer the option to provide training sessions at firms offices (please contact us for further details if this is of interest to you).



Book your place **NOW**

email:
seminars@bennettbrooks.co.uk



Book your place **NOW**

telephone:
0845 330 3200

Book your place **NOW**

online:
www.servicesforsolicitors.co.uk

Tax Update Spring 2010

HMRC's inconsistent business support

In 2008 it was announced that the Government would provide support for those unable to pay their tax bills on time. But now it appears that HMRC is not as willing to help!

December 2008 HMRC launched the Business Payment Support Service (BPSS). The idea behind it was to help businesses and individuals who were struggling to pay their Income tax, corporation tax, NI and VAT bills. At first it was perceived as a short-term measure in response to the dreaded credit crunch. But the good news for taxpayers is that it was decided to extend the scheme indefinitely.

Not so helpful. Recently, we are aware of an inconsistent approach by HMRC to those asking the BPSS for extra time to pay. Some tax payers are being told by HMRC that the scheme is only open to first time users. In other words, you can only defer your tax payments on one occasion. However, we are aware of plenty of cases where the BPSS has been used by the same individuals/companies a number of times.

HMRC have confirmed that any taxpayer needing a time to pay arrangement can contact the BPSS for help whether or not they have deferred previous tax payments. However, you should note that there are some conditions to using the service. You can apply for help as long as you can show that you will be able to pay your tax during the agreed timescales. Preparing a budget for the Inspector, which clearly shows that you will be able to pay your tax, even though it may take some time, is a good idea.

Remember HMRC is in business to collect money and if they believe your finances are a lost cause, then the BPSS will refuse to allow you time to settle your tax bills. In fact, they could instigate collection

proceedings sooner on the ground that if there is a risk that your business will go under, they will want to get their hands on your cash before it is too late.

Phone calls from HMRC

HMRC are to start calling taxpayers at odd hours, seven days a week. How will you know if the call is genuine? If it is, should you give the inspector what he wants?

Previously HMRC have advised that they would not call you to discuss your tax affairs, unless of course you have asked them to. But it seems that things have moved on over the course of the last year.

Preparation. HMRC trained staff last summer to understand how the taxpayer might feel if they got a phone call out of the blue from HMRC.

Current topics. Currently, the most likely reasons for HMRC phoning you are Tax Credit claims and overdue tax payments. The indications are that this may be expanded to encompass questions about your tax return and general tax issues. If you receive a call from someone who claims to be from HMRC, how should you respond?

Is it genuine? HMRC staff do not work nine to five and so a call in the evening does not mean it's not a genuine tax enquiry. One official document states " It is HMRC practice to contact customers during the day, in the evening and at weekends where necessary to resolve and discuss tax matters". So if you receive a call on Saturday afternoon, how can you tell whether it's genuine or a fraudster trying to gain personal information?

We would recommend that you do not give out your tax reference or NI number, instead ask the caller to confirm at least the first few digits of these and your address. If they won't or they get it wrong then discontinue the call.

Our Services

Accountancy

Tax Advice

Solicitors Accounts Rules

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Business Planning

Mergers & Acquisitions

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If you are confident that the caller is from HMRC, you are still not obliged to talk if it is not convenient. We were told that "Generally speaking, customers are within their rights to refuse to speak to us at any time".

Also if you are not sure of the answer, don't guess or be pushed into giving one, as that could lead to more trouble, just politely advise that you will find out the information and get back to them.

Income - related reduction to the basic personal allowance

As announced in the pre budget report from the 2010-11 tax year the basic personal allowance will be gradually reduced for people with adjusted net income above £100,000 up to a maximum of their total personal allowance. The reduction is £1 for every £2 that the individual's income exceeds the income limit. The reduction applies regardless of an individual's age (i.e. it applies equally to people aged under 65, 65 to 74 and 75 and over). This actually means that the effective rate of tax for those individuals earning between £100,000 and £112,950 is 60%!!

Additional rate of income tax - 50%

From the 2010-11 tax year an additional rate of 50% will apply to individuals with taxable income over £150,000.

Electronic filing of VAT returns

Compulsory electronic filing of VAT returns for periods starting after 31 March 2010, will apply to all new businesses, and existing ones with an annual turnover greater than £100,000. Those with a turnover of less than that can continue to send paper returns until 2012.

Transitional period. As a concession, three further paper returns after 1 April 2010, will be permitted but thereafter you will be charged a penalty of 5% of the VAT due per return. For those without internet access there will be access to online filing at local VAT offices and most public libraries. But you must still register for online filing to use these. If you haven't done so yet, register for online VAT filing at www.hmrc.gov.uk/vat/vat-online/submit.htm.

Professionals in the spotlight

You may be aware that a few years ago HMRC launched an amnesty for individuals with offshore accounts so that they would come forward and

declare their offshore income. As this was a lucrative exercise the target has been widened and recently HMRC have announced the launch of the Tax Health Plan (THP) for medical professionals and confirmed that it would be providing similar disclosure facilities.

We understand that this action will soon move closer to home as the next target will be accountants, barristers, solicitors and other professionals in due course!! We will of course advise you as soon as we receive further details.

Nil penalty for late tax returns

If you were late in submitting your 2008-09 self assessment tax return, you will soon receive a notice from HMRC charging you a £100 penalty. If you paid all the tax you owed for 2008-09 by 31 January 2010, or didn't owe any tax, then the penalty can be reduced to nil. HMRC should do this automatically, but our experience shows that they don't always!

If this applies to you write to your local Inspector and point this out. He must reduce the penalty to nil, even if you were late with your tax return.

Late Payment. Whether or not you have submitted your 2008-09 tax return, if you still owed tax for that year and did not pay it before 28 February 2010, then you will incur a surcharge equal to 5% of the tax due.

Furnished Holiday Lets

Following on from our comments on the changes to CGT for Furnished Holiday Lets (FHL) in the Winter 2009 tax update, we now consider the impact on other taxes.

Inheritance Tax, VAT and Stamp Duty Land Tax are not affected by the change in legislation. Income Tax or Corporation Tax, however are affected. The principal consequence will be that losses arising in the FHL cannot be offset against any other profits except property profits. Many of our solicitor clients have enjoyed the offset of losses on FHL against their practice profits but this will cease from 6th April 2010. There are also capital gains tax consequences as allowances on fixtures and fittings and furniture will cease being replaced by a wear and tear allowance (usually) based on 10% of the net rents. However, allowances available to landlords for acquiring and installing energy saving insulation and draft proofing become available for the first time.