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## Newsletter May 2010

Shortly after the publication of this newsletter we will know the political flavour of the next Government, even if a blended variety! Hopefully before the June newsletter is distributed we will have some idea of changes proposed to tax legislation. Until then we are stuck with the present half-way house situation.

However there are still regulations to abide by and impending deadlines, particularly the filing of the annual payroll returns - all online of course!

This month we have taken a look at possible tax changes following the general election, set out an expanded reminder section in the newsletter for payroll compliance, included an article which explains the importance of "Reasonable Care" when providing information for your tax returns and finally an article which explains how to apply for a dispensation regarding the filing of benefit in kind forms to HMRC.

We would also like to remind VAT registered traders, with turnover under £100,000 and who continue to send in paper returns, that from 1 April 2010 all cheque payments made by post will be treated as being received by HMRC on the date when cleared funds reach HMRC's bank account. This means that you must allow enough time for the payment to reach HMRC and clear into HMRC's bank account no later than the due date shown on your VAT Return. A cheque takes three bank working days to clear. Banks working days are Monday to Friday, excluding bank holidays.

Our next newsletter will be published on 8 June 2010.

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## Directors Run The Risk

### **Directors Run The Risk**

The businessmen and women of Cumbria do not need to be warned that the worst can happen at any time. The floods of last autumn just go to show the risks businesses face on a daily basis. The people of Cumbria, particularly those running companies employing the local population, deserve much sympathy and support whilst they are bravely rebuilding.

The people of Carlisle and Morpeth may be able to see clearly now the rain has gone and can show how things can improve after a while. The impact of a disaster however can never be underestimated. Neither can the time needed to put things right afterwards.

### **Insurance**

Businessmen and women experiencing disasters of this kind have found that proper insurance is the first comfort to rely upon. Many will also have learned harsh lessons of where corners may have been cut in the interest of keeping costs down. Besides bad weather, business insurance can cover a myriad of risks including:

Flood	Fire	Theft	Terrorism
Consequential loss	Public liability	Employers' liability	Personal Accident
Directors and Officers' liability	Damage to property	Damage to plant	Business interruption

### **Is There Anything Missing? Have I Forgotten Anything?**

Although a wide variety of commercial insurances cover many very important items for the business, they often neglect the most important business assets. These will be the people running the businesses themselves and those key to the businesses success. Without these people, the business does not exist so it is surprising that directors will often insure the company vehicles, premises and employees but forget about themselves.

## Risk Assessment

Businessmen and women should take the following test to see if there is a gap in their business cover:

1. If one of the business owners, directors or vital employees was to be away from the business for a prolonged period of time:
  - a. Would the business suffer a financial loss?
  - b. Would the business cease trading or have to be sold?
  - c. How much might it cost to lay off all the staff?
  - d. How much outstanding debt is there?
2. Would the remaining directors have enough money to buy the outstanding company shares or share of the partnership?

This test helps to identify key risks and also quantify what might be at stake.

## What Are The Risks?

The risks of the prolonged absence of a prime mover or shaker in the business may be greater than one may expect. Heavily worked individuals need to be aware that there is a one-in-four chance of suffering a critical illness before retirement age. The risks for females are one-in-five.\* In an average boardroom of five males aged 45, there is a 51% chance that one of them will die before age 65.\*\* And yet these risks are rarely covered in general business insurance.

It is relatively straightforward to organise policies to cover these important business assets. Life assurance cover for a fixed period is less expensive than one may expect, especially when commission from the policy can be given up to reduce the premiums. Directors and Partners should seek out a reputable fee based adviser for advice.

Partners and directors may find it useful to include the previously mentioned test above in their next risk assessment and determine what they have at risk.

If you would like to discuss the issues raised in this article then please do not hesitate to contact us.

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\*Source: ERC Frankona RE

\*\* ONS UK Life tables for males between 2005 and 2007.

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## What can we expect after 6 May 2010?

At the time of going to press we do not know who will lead the Government for the next few years, but whoever, it will be a crucial time for UK plc. All parties seem to agree that the new Parliament will need to deal with the reduction in our national debt. Accordingly any tax concessions are likely to be eclipsed by increased taxation in other areas. We have listed below some of the taxes that might change post the May election:

1. VAT - not confirmed but there is speculation that the standard rate will be increased from its current 17.5% to possibly 20%.
2. Corporation Tax - the Conservative Party have announced a 1% reduction.
3. National Insurance - the Conservatives have pledged to cancel the 1% increase due from 6 April 2011.
4. New higher rate taxes? In addition to the changes already in place for high income earners, the 50% higher rate, loss of personal allowances and restrictions on pension payment tax relief, we may see further changes - the so-called Robin Hood taxes.
5. Increases in annual tax-free allowances for income tax purposes. The Liberal Democrats have promised a tax-free £10,000 allowance for all.
6. Although the expected change to the tax status of Furnished Holiday Lets property was abandoned prior to the close of Parliament, the measure will probably be re-introduced following the election.
7. Capital Gains Tax - again there is speculation that the current 18% CGT rate will be increased to discourage schemes that seek to have income reclassified as capital gains avoiding the higher rates of income tax.

We shall have to wait and see. As soon as new information becomes available following the election we will include the changes in our newsletter.

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## Payroll filing and compliance 2009/10

There are three annual payroll returns and associated payments to HMRC that need to be made during the next three months for the tax year 2009-10. They are:

### Due date 19 May 2010

Almost without exception the annual form P35 and associated P14s need to be filed online on or before 19 May 2010. Any PAYE/NIC contributions due for 2009-10 should have been settled by 19 April 2010 (22 April 2010 if you paid electronically).

If you are late in filing these returns penalties will apply. You will be charged a penalty of £100 per 50 employees for each month or part month that your return is outstanding from 20 May 2010 until your returns are filed correctly. (The maximum penalties HMRC can claim are limited to one year.)

To file online you must be registered and have the appropriate passwords. If you have not done this yet we can help. The clock is ticking...

### Due date 31 May 2010

You must give your employees a copy of their P60 for 2009/10 on or before this date.

### Due date 6 July 2010

After the end of the tax year you need to complete and file your key expenses and benefits forms - a form P11D or P9D for each employee to whom you've provided expenses and benefits during the tax year, and one form P11D(b) to declare the overall amount of Class 1A NICs due on all the expenses and benefits you've provided.

All of these forms must be submitted to HM Revenue & Customs by 6 July. Penalties for late filing of the P11D(b) return are the same as the P35 return - £100 per month or part month from 7 July 2010, maximum penalty period one year.

By 6 July you must also provide your employees with details of benefits advised to HMRC.

### What about mistakes on returns?

It is possible to verify your returns before you press the button to file online. This should clear up most of the basic errors. However if it is subsequently discovered that there are still errors in the filed information it will be rejected and you will be notified. Beware as from a penalty point of view your returns are only deemed to be filed on the first occasion they are filed correctly!

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## Reasonable care

HMRC expects that you take reasonable care in preparing information that underpins entries made on your tax returns.

For all returns made for 2009/10 they are entitled to judge the accuracy of your returns based on three criteria:

1. Lack of care
2. Deliberate mis-statement, and
3. Deliberate & concealed mis-statement

If you underpay tax as a result of an incorrectly filed return HMRC are now empowered to charge a penalty which can range up to a maximum of 100% of the additional tax due following an investigation.

If HMRC do consider that you have taken reasonable care, but they still discover tax has been underpaid, no penalty will be charged.

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## Benefits in kind, making your life easier

During the next two months those involved with payrolls will be working to prepare the forms P11D which advise HMRC of benefits paid to employees and directors. If your business provides any sort of beneficial payment or gift of goods to employees, generally speaking these are reportable on form P11D and most will be taxable as a benefit in kind - as if they were payments of salary etc.

To make your life easier there are some beneficial payments that you can include in a dispensation. For example the provision of certain business travel for employees. Items covered by a dispensation do not have to be returned on the annual P11D form. (Payments for the use of a company car or van are not included here as they are covered by separate rules.)

Essentially you can apply to HMRC to dispense with the need to include expenses or benefits for which your employee gets a full tax deduction. If the employer does not have a dispensation then all reimbursed expenses must be reported on the relevant form P11D.

For many businesses this could take some of the pain out of this annual chore.

HMRC require that you need to have the following systems in place to qualify for a dispensation:

You must have an independent system in place for checking and authorising expenses claims. At a minimum, this means having someone other than the employee claiming the expenses check that:

- the amount claimed isn't excessive
- the claim doesn't include disallowable items

If it is not possible for you to operate an independent system for checking and authorising expenses claims, for example, because you are the sole director of your company and you have no other employees, you will only be able to obtain a dispensation if you:

- ensure all expenses claims are supported by receipts for the expenditure
- demonstrate that the claim relates to expenditure that can be covered by a dispensation, your receipts may be sufficient for this purpose, but if not you must retain additional information.

Once a dispensation is granted it will last indefinitely although HMRC may review from time to time to make sure the conditions under which the original grant was made still apply.

Generally speaking dispensations are granted from the application date. However HMRC may agree to apply the dispensation from the beginning of the tax year in which you apply. As we are now at the beginning of a new tax year, 2010/11, this is a good time to send in a claim for dispensation. Please call if you would like assistance to do this.

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## Tax Diary May/June 2010

**1 May 2010** - Due date for corporation tax due for the year ended 31 July 2009.

**19 May 2010** - PAYE and NIC deductions due for month ended 5 May 2010. (If you pay your tax electronically the due date is 22 May 2010)

**19 May 2010** - Filing deadline for the CIS300 monthly return for the month ended 5 May 2010.

**19 May 2010** - CIS tax deducted for the month ended 5 May 2010 is payable by today.

**19 May 2010** - The payroll forms P35 and P14s must be filed by this date - employers late in filing these forms may receive a penalty.

**31 May 2010** - Ensure all employees have been given their P60s.

**1 June 2010** - Due date for corporation tax due for the year ended 31 August 2009.

**19 June 2010** - PAYE and NIC deductions due for month ended 5 June 2010. (If you pay your tax electronically the due date is 22 June 2010)

**19 June 2010** - Filing deadline for the CIS300 monthly return for the month ended 5 June 2010.

**19 June 2010** - CIS tax deducted for the month ended 5 June 2010 is payable by today.

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