

JANUARY 2009 - INTRODUCTION

Welcome to the first enews of 2009. In this month's enews we report on a very busy time in the world of tax, with the filing deadline for self assessment tax returns keeping us all working hard.

Please browse through this month's articles using the links below and contact us if any issues or questions arise.

- **Higher late filing of accounts penalties – watch out!**
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Higher late filing of accounts penalties – watch out!

If you run your own company you will no doubt be aware that company law requires all companies to file a copy of their annual accounts at Companies House by their 'due date'. Penalties become payable if these accounts are filed late.

With effect from 1 February 2009 higher late filing penalties will be imposed on those companies that file their accounts late.

Due date

You may recall that under normal circumstances a company must file a copy of its accounts at Companies House within ten months of its year end.

For accounting periods that begin on or after 6 April 2008 (that is April 2009 year ends and onwards for most), a new Companies Act has reduced this period to within nine months of the year end.

Higher penalties

The higher late filing penalties compared with those which previously applied are as follows:

Length of delay, measured from the date the accounts are due	Previous Penalty		Penalty from 1 February 2009	
	Private company	Public company	Private company	Public company
Up to 1 month	£100	£500	£150	£750
1 to 3 months	£100	£500	£375	£1,500
3 to 6 months	£250	£1,000	£750	£3,000
6 to 12 months	£500	£2,000	£1,500	£7,500
Over 12 months	£1,000	£5,000	£1,500	£7,500

For accounts prepared under the new Companies Act, the penalties will also be doubled for late filing in two successive years.

Limited Liability Partnerships (LLPs)

The shorter filing deadline and higher penalties also apply to LLPs. However, the doubling of penalties for the late filing of accounts in two successive years will only apply for two successive late filings of accounts for financial years that begin on or after 1 October 2008.

Internet link: [Companies House late filing penalties](#)

PAYE tax codes about to be issued

HMRC have advised that they are about to issue PAYE tax codes to employees for the 2009/10 tax year.

If you receive a coding notice it is worthwhile letting us have a copy for checking. This will enable us to ensure that you are paying the correct amount of tax on your pay and benefits and that any underpayments of tax which are being collected through a coding notice deduction are being correctly dealt with.

HMRC's guidance on PAYE tax codes includes some frequently asked questions and can be found using the second link below.

Internet links: [HMRC news](#) [HMRC FAQs](#)

Holidays

On returning to work in the New Year, many will be reaching for the travel brochures to plan their next holiday getaway. Now would be a good time to ensure that your employees' (or your own) holiday entitlement has been correctly calculated, especially as many employees' entitlement may need to be increased due to a change in the minimum holiday entitlement, which takes effect later this year.

The current minimum statutory holiday entitlement is 4.8 weeks (24 days per annum for an employee working a normal 5 day week). This entitlement has applied since 1 October 2007 and is inclusive of Statutory Bank Holidays.

A further increase in entitlement from 4.8 weeks to 5.6 weeks (28 days per annum) applies from 1 April 2009.

Where the holiday year end is not 31 March, then employers must pro-rate the entitlement.

For example for an employee working a normal 5 day week with a year end of 31 December 2009 then their minimum holiday entitlement would be:

3 months x 4.8 weeks =	6
9 months x 5.6 weeks =	21
Total entitlement	27 days

The Business Link website gives a link to enable an individual's entitlement to be calculated. This is particularly helpful for part time employees.

Internet links: [Business link holiday calculator](#) and [BERR website](#)

Pay HMRC by Direct Debit

HMRC have announced that they are now able to offer more customers the option of paying by Direct Debit. If taxpayers are registered to use Self Assessment Online, PAYE Online for employers or Corporation Tax Online they can now set up Direct Debit payments online. Taxpayers can also make tax credit repayments by Direct Debit.

In addition, HMRC have also introduced the option of online credit card payments.

HMRC have advised that VAT customers should continue to submit VAT Returns and pay by online VAT Direct Debit. This method can be accessed by using the VAT Online link from the 'do it online' menu on the HMRC homepage.

Internet links: [HMRC direct debit payment](#) and [HMRC credit card payment](#)

Government help for businesses

Richard Lambert, CBI Director-General, has given his analysis of the Government's announcement on lending in the economy.

In his analysis:

"This intervention will not stop the recession in its tracks, but it should prevent the current problems from becoming a steeper downward economic spiral... But they [the measures announced] are a necessary precondition for a return to stability which our economy badly needs."

The BERR website provides a link to a one stop shop for businesses looking for support. This can be accessed using the second link below.

If you have concerns and would like help in this area please do get in touch.

Internet links: [CBI press notice](#) [BERR website](#)

Reduction in the standard rate of VAT

The standard rate of VAT was reduced from 1 December 2008 from 17.5% to 15%. HMRC have published some further frequently asked questions which clarify the correct treatment in several situations.

One situation which helps to explain the complexity of the issue is as follows:

'Treatment of tickets to events (theatre, football season tickets etc.)

1. I am a concert promoter. I do not issue VAT invoices but received payment in October 2008 for a concert that will take place in April 2009. Can I adjust the VAT?

The short answer is no. The special rules for supplies spanning the change in the VAT rate apply where payment is received (or a VAT invoice is issued) before 1 December 2008 where the goods are to be supplied or services performed on or after that date.

In the case of tickets to a concert (or theatrical performance etc) what you are selling is the right to attend a particular event. As in this instance the right to the event was granted in October 2008, the supply does not span the change in the rate and VAT of 17.5% should be accounted for.

The same principle applies to football season tickets. If these were bought and paid for prior to 1 December 2008 they are subject to the 17.5% VAT rate with no scope for adjustment

Update 21 January 2009

Since the above guidance was published on 8 December 2008 it has become clear that a number of businesses were not aware of HMRC's view of the correct VAT treatment of tickets to events. Some have assumed that where a ticket was sold prior to 1 December 2008 for an event due to take place on or after that date that the 15% rate should apply.

Where a business has mistakenly refunded its customers the difference between the 17.5% VAT originally charged on ticket sales and the 15% rate HMRC will operate a light touch and will not seek to recover the VAT that has been refunded. This treatment applies to refunds that were made up to the date of the publication of this update.'

Note that HMRC will apply a 'light touch' where businesses have incorrectly applied the rules up until the issue of the update on 21 January 2009.

As this particular situation illustrates, the change in the VAT rate is causing widespread confusion. If you have any concerns please do get in touch.

Internet link: [HMRC VAT rate guidance](#)

Health in Pregnancy grant

Pregnant women are being urged to apply for the new Health in Pregnancy grant of £190.

In order to qualify the baby must be due on or after 6 April 2009.

The one-off payment is intended to help pregnant women 'stay fit and healthy in the run up to the birth, and help meet some of the costs as the big day approaches'.

Claim forms are issued by midwives or other health professionals from week 25 of pregnancy and there is a time limit of 31 days in which to claim the grant.

Internet link: [Health in pregnancy](#)

New HMRC penalties

There is a significant change in the approach which HMRC will be taking in dealing with tax returns relating to periods starting on or after 1 April 2008, where the return is due to be submitted on or after 1 April 2009.

HMRC have the legal right to enquire into any return and if they find that there is an error in that return which has caused tax to be underpaid, they have the power to levy a penalty which is usually based on the tax underpaid. It is these powers that are to change from April 2009.

New penalties

Under the new regime, there will be a presumption that every taxpayer has taken reasonable care in completing their tax return. What constitutes reasonable care will depend on the size of the case – a large company will be expected to have sophisticated accounting systems in place, whilst an individual will be expected to have records of all their income and expenses.

No penalty will arise if it can be shown that the error was due to a simple mistake by the taxpayer. The three levels of behaviour that will give rise to a penalty are defined as:

- careless action;
- deliberate action; and
- deliberate action with concealment.

Level of penalties

The legislation sets a maximum penalty for each type of offence. The rules then allow a certain level of reduction, taking into account only the level of disclosure, but there is a minimum penalty below which the Inspector will not be able to go.

These levels are considerably in excess of the levels which have, historically, been negotiated with HMRC for similar types of offence. It seems inevitable that the cost of making an error is going to increase significantly and the utmost care needs to be taken in keeping records to ensure that they are accurate and complete.

The future

We are expecting HMRC to finalise guidance on these matters in the next few months and we will keep you up to date with developments. We will also let you have details in due course of the other changes that are being introduced, such as powers to obtain information from taxpayers and third parties. In the meantime, if you have any queries about this area, please do not hesitate to contact us.

Internet link: [HMRC guidance on penalties](#)

HMRC warn about email fraud

HMRC are warning taxpayers that recently they have been made aware of the following scams:

'Online Update' email

We have received reports of emails being sent asking recipients to 'update your account to the new EV SSL certification'. This is a scam email attempting to steal User IDs and passwords.

The email is being sent from Onlineservices@HMRevenueCustoms.org

HMRC's advice to taxpayers who think they have received a fraudulent email is to not follow any links within the email, disclose any details or respond to it. They recommend that the email is sent to them at phishing@hmrc.gsi.gov.uk. HMRC advise that they cannot reply on each email they receive, but the information will be used to help reduce online fraud.

HMRC advise that taxpayers should never disclose personal information such as User IDs or Passwords.

HMRC have also advised that they are aware of a large number of emails being sent offering taxpayers a tax rebate. They advise that HMRC would not inform customers of a tax rebate via email or invite them to complete an online form to receive a rebate of tax. They also advise that recipients should not visit the website contained within the email or disclose any personal or payment information.

Internet link: [HMRC security fraud attempts](#)