

Newsletter September 2009

This month we have included a note of possible future changes in the Construction Industry, details of what happens to your pension fund when you die, notice of a tax amnesty for US citizens in the UK and an update regarding further changes at Companies House.

The next newsletter will be published on Tuesday 6 October 2009.

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Construction subcontractors beware!

HMRC have indicated that they are considering reclassifying self-employed construction workers as employed. They have actually launched a consultation process with interested parties.

Reclassified workers would be taxed through the PAYE system regardless of the length or brevity of each employment assignment.

HMRC are convinced that a significant number of construction workers are taxed as if self-employed even though they are providing their services to contractors effectively as if they were employees.

HMRC are calling this status issue "false self-employment". HMRC plan to introduce legislation to protect income tax and national insurance revenue that they feel is being lost.

The consultation document that HMRC have published assumes that these changes will happen and simply seeks input as to how such changes should be introduced.

Comments on this proposal have to be sent to HMRC before the 12 October 2009; so change, if it is coming, may not be that far away!

What happens to your pension fund when you die?

The quick, or perhaps not so quick answer to this question can be found in the small print of your pension fund rules and regulations. The tax position and the practical answers tend to fall into the following broad headings.

Up to age 75 you will have a degree of flexibility in the way in which you choose to take benefits from your fund. After age 75 you will be required to crystallise your fund - draw an income from your fund or buy an annuity. Interestingly after age 75 you also lose the right to take a tax free lump sum.

Usually you can crystallise your pension fund from age 50 (until 5 April 2010), 55 after 5 April 2010. Once you have crystallised your fund, then in the event of your death before age 75 your dependents have two

choices:

. your spouse, civil partner or other dependants can use your fund to provide a pension. Any pension received would be taxed as earned income in the usual way, or

. your beneficiaries could elect to take the entire fund less a tax charge of 35%. (If you die before you have crystallised your fund, there would be no tax charge.)

Once you have taken an annuity (i.e. you have purchased the right to a guaranteed income for the rest of your life) when you do die the right to the income ceases unless:

. the annuity provides for a guaranteed minimum period of payment and part of that minimum period is unexpired, or

. the annuity provides for a spouse or civil partner's pension.

In all cases once an annuity is purchased the right to recover any of the pension fund surrendered is lost.

After age 75 the situation is a little more complex!

If an annuity is purchased the above comments still apply. However it is possible to take an alternatively secured pension, an ASP, This provides for an income, a pension, but does not require you to part company with your pension fund. If you die whilst taking an ASP the following choices apply:

. the fund may be used to provide a pension for a spouse, civil partner or other dependent, subject to tax.

. on the subsequent death of the spouse, civil partner or other dependent the fund can be passed to a charity with no tax charge.

. if the fund is not passed to a charity it is subject to inheritance tax (at 40%). The residual 60% then remains unallocated. The legislation is unclear on how the unallocated fund can be used or indeed how long it remains unallocated. However if the pension scheme rules allow, it may be possible to add additional members and benefit them accordingly.

So the answer to the question, what happens to your pension fund when you die, is complicated. If you need clarification regarding your own scheme have a word with an Independent Financial Advisor, who we can recommend. If you need advice on the tax consequences we would be happy to take a look for you.

Tax Amnesty - United States of America

On the 23 March 2009 the IRS launched a 6 month voluntary disclosure process that allows US citizens to bring their tax affairs up to date in the US without triggering the full impact of the penalties normally levied when non-disclosure is discovered. The following commentary is quoted from the IRS web site at <http://www.irs.gov/newsroom/article/0,,id=210027,00.html>

"Taxpayers with undisclosed foreign accounts or entities should make a voluntary disclosure because it enables them to become compliant, avoid substantial civil penalties and generally eliminate the risk of criminal prosecution. Making a voluntary disclosure also provides the opportunity to calculate, with a reasonable degree of certainty, the total cost of resolving all offshore tax issues. Taxpayers who do not submit a voluntary disclosure run the risk of detection by the IRS and the imposition of substantial penalties, including the fraud penalty and foreign information return penalties, and an increased risk of criminal prosecution."

US citizens are required to file a US tax return each year even if they have no tax liability. They should also include details of their interests in the UK whether they be limited companies, UK bank accounts or other UK investments, or interests in trusts.

The present amnesty ceases on the 22 September 2009.

More changes at Companies House

From the 1 October 2009 a director's home address can be protected from disclosure. If you would like take advantage of this new concession you need to register a service address, which could be your registered office address, with Companies House. This can be done online www.companieshouse.gov.uk from the 1 October 2009.

If you take no action your home address will be taken as your service address until changed.

Just a quick reminder that other recent changes include:

1. You must be aged 16 or over to be appointed as a director.
2. You no longer have to appoint a company secretary, although you can do so if you wish.
3. You no longer need to hold an AGM unless you opt to do so.

Tax Diary September/October 2009

1 September 2009 - Due date for corporation tax due for the year ended 30 November 2008.

19 September 2009 - PAYE and NIC deductions due for month ended 5 September 2009. (If you pay your tax electronically the due date is 22 September 2009)

19 September 2009 - Filing deadline for the CIS300 monthly return for the month ended 5 September 2009.

19 September 2009 - CIS tax deducted for the month ended 5 September 2009 is payable by today.

1 October 2009 - Due date for corporation tax due for the year ended 31 December 2008.

19 October 2009 - PAYE and NIC deductions due for month ended 5 October 2009. (If you pay your tax electronically the due date is 22 October 2009)

19 October 2009 - Filing deadline for the CIS300 monthly return for the month ended 5 October 2009.

19 October 2009 - CIS tax deducted for the month ended 5 October 2009 is payable by today.

DISCLAIMER - PLEASE NOTE: The ideas shared with you in this email are intended to inform rather than advise. Taxpayers circumstances do vary and if you feel that tax strategies we have outlined may be beneficial it is important that you contact us before implementation. If you do or do not take action as a result of reading this newsletter, before receiving our written endorsement, we will accept no responsibility for any financial loss incurred.

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