

Mike Evans Employment taxes Blog – February 2012

Hi to all my readers and welcome to this February 2012 edition of my Employment Taxes and CIS Blog, which I am writing in my office with a picture postcard of snow in the garden; pretty but unfortunately it can be quite disruptive on the roads and pavements. I hope it's not causing too much disruption to you and your families.

Well let me begin with some 'news items' that I have picked up from the HMRC website's 'What's new' page. HMRC has announced that the official rate of interest, which has been set at 4% since 6 April 2010 is to remain unchanged for the 2012-13 tax year, subject to review in the event of significant rate changes; which currently appears highly unlikely. The official rate of interest is used to calculate the cash equivalent (value) of an interest free or low interest beneficial loan, when the amount of the loan outstanding at any time in the tax year exceeds £5,000. The official rate of interest in force at the start of the tax year is also used to determine the cash equivalent (value) of the 'additional charge' for taxable living accommodation for properties that cost more than £75,000; yes only £75,000, this limit never having been increased since its introduction!

HMRC has stated that a record 9.45 million Self-assessment tax returns were filed on time this year and that a record 7.65 million or nearly 81% of them were filed online, so well done as I am sure that AAT members were responsible for completing and submitting many of them. I am happy to say that I only filed a handful!

Now some 'good news!' HMRC had planned, as part of the introduction of RTI (Real Time Information) to introduce a leaver statement instead of the existing form P45, but after consultation and pressure from employers and payroll professionals, I am pleased to say that HMRC has had a rethink and has decided to retain the P45 for all employees; so well done to HMRC.

We are now in the middle of that period when HMRC will be issuing new tax codes for next year, 2012/13, with good news for many where the standard personal allowance for the under 65's is increasing from £7,475 to £8,105; although the reduction in the basic rate band will stop those of us fortunate enough to be 'higher rate taxpayers' from enjoying the benefit of the personal allowance increase. I used to think that higher rate taxpayers were 'rich people.' Talking about 'rich people,' the increase in personal allowances does mean that those earning over £100,000 per annum will now lose the whole of their personal allowance if their income exceeds £116,210; which is perhaps where they should speak to an Independent Financial Advisor about possibly making pension contributions to help retain their personal allowances. In any event, I think we need to carefully check the new notices of coding to ensure that they are correct. I remember the problems that a number of my clients had last year and more recently my daughter was issued with a Code D0, when she could only dream of earning enough money to pay higher rate income tax.

HMRC has issued a warning to Employers who plan to take on more staff for the Olympic and Paralympic Games that they must check their labour providers, who are often agencies that supply temporary workers to meet seasonal and market demand – sometimes called "gangmasters". With the Olympics leading to an increase in businesses needing temporary workers, HMRC is urging them to carry out checks on their labour suppliers and wants them to ensure, where possible, that the gangmasters are paying VAT and other taxes. HMRC says that businesses affected include those in catering, food processing, construction, hotels, leisure and security and HMRC has warned that there is a risk that employers could unknowingly hire workers who are in the UK illegally or are earning below the National Minimum Wage. This could result in enquiries by HMRC and costs for the business, damaged reputation and even prosecution. We have been warned!

There has been nothing new on the CIS what's new page since September and I have previously told you about the October 2011 changes to the CIS penalties, so perhaps we should look on this as 'no news is good news.'

Moving on, many AAT members will recall me telling you that February is my ideal month to carry out a review of the payroll before the end of the current tax year, 20011/12, with two more monthly payrolls and a few more weekly payrolls to run and perhaps make some corrections.

However, if I were carrying out a review for a Client, I would start with a check on 'off-payroll' matters, including checking the employment status of any individuals treated as self-employed and looking at payments for casual labour and round sum expenses that may have gone through petty cash or expenses. On the self-employed front, I would look at any contract, engagement letter or anything else that would indicate the terms and conditions of engagement and I would look at the method and frequency of payment. As I have so often said to AAT members, all too often some individuals are paid on a self-employed basis when on the face of it they are clearly employed under a contract of, not for service. I appreciate that many people are suspicious of HMRC's Employment Status Indicator (ESI) tool, but I will always run a check on this and when it confirms self-employment status, I will keep that as a permanent record.

As for casual labour and I will always say that this is of greater concern to employers and contractors in the Construction Industry, the individual could be employed or self-employed. Remember, if the worker is self-employed in the Construction Industry, the Contractor must verify the tax payment status before paying a new worker for the first time and any payments for construction operations must be reported on the CIS300 monthly returns. If the casual worker is an employee, the employer must pay over the PAYE/NICs accurately and on time. I think employment is more often the status of casual workers and there is the minimum recording requirement for PAYE, where an employer must keep a record of the name, address & wages paid to the worker in each pay period. The PAYE threshold of £144 per week is reduced to just £1 if no P45 is provided, or form P46 is not completed, or the worker ticks Box C on P46, or has another job or a State or occupational Pension.

Expenses which are paid in round sums, unsupported by receipts and sometimes paid in respect of personal costs of the employees can give rise to a PAYE and/or Class 1 NICs liability. I would be looking to see if any round sums have been paid and whether they are covered by a P11D dispensation or are otherwise acceptable to HMRC, such as incidental overnight expenses that do not exceed £5 per night in the UK or £10 per night overseas. HMRC publishes worldwide subsistence rates for allowances that can be paid tax free and without the need for reporting when employees are working overseas. These can prove quite useful if an HMRC compliance officer suggests there is any profit element any round sum expenses or per diems paid to employees working overseas.

Part of my end of year review will be to look at any non-standard PAYE tax codes or National Insurance category letters, which is sometimes easy to do with some payroll software packages. It does not need to be too time consuming and I would concentrate on NT and BR tax codes, remembering that from 6 April 2011 Code BR was replaced with Code 0T, non cumulative, for new joiners who fail to provide a P45 from their former employer or cannot sign statement A or B of the P46 and for employees receiving an occupational pension whilst remaining in the same employment. Code 0T, non cumulative, should also have been applied to any payments made to an employee after they have left the employment. This might be worthwhile reviewing to see if any were missed. Any NT tax codes should be reviewed to see if they still apply, which might not be the case if an employee who was expected to be abroad for a full UK tax year had to come back early; or where a student earns more than £7,475 and the tax code should have changed to 0T.



Most employees will be on Category A for their NI contributions, but do we have the paperwork to justify any non-standard category letters e.g. a certificate of age exception (CA4140 or CF384) for

an employee over pension age and on Category C; remembering that Age 60 is no longer the state pension age for women. Category X means no Class 1 NICs, employee or employer, so do we have evidence that a young employee has not reached age 16 and do we have a certificate of coverage (A1 or E101) for an employee seconded from the EU/EEA or from a Country with which the UK has a Reciprocal Agreement. NICs are not normally due for the first 52 weeks from an employee seconded to the UK from one of the many non-agreement countries, but do we have evidence of the start date, that they have been seconded and where they have come from?

Well folks I could carry on writing, but time is pressing and I don't want to send you to sleep; and I must get back to a new E-learning project that I am working on for the AAT.

So it's 'bye for now,' but I look forward to seeing some of you at your Branch meetings, starting in Canterbury at the East Kent Branch on 16 February, but also taking in West London on 22 February and West Surrey on 29 February. I will also be in York with Tim Buss on 28 February, presenting the Business Expenses Course and both there and in Newcastle on 3 March, I will be giving advice on end of year issues.

Cheers

Mike E