

PENALTIES FOR LATE PAYMENT OF PAYE

From tax year 2010/11 HM Revenue & Customs may charge penalties if PAYE is paid late.

This includes:

Tax

National Insurance

Construction Industry Scheme deductions

Student Loan deductions

This means you may have to pay a penalty if you do not make PAYE payments on time and in full **from May 2010**. The new late payment penalties will apply to all employers and contractors that do not pay on time. Large employers and contractors will still have to pay electronically but the new penalties will replace the mandatory electronic payment surcharge.

How much will the penalties be and when will they be issued?

HM Revenue & Customs will start to send out the new penalties for tax year 2010/11 from April 2011. The amount of penalty depends on whether payment is due on a monthly or quarterly basis, or annually.

Monthly and quarterly payments

For late monthly and quarterly payments the penalty will start at 1% of the late amount and will increase to 4% depending on how many times you pay late. You will not have to pay a penalty if only one payment is late in any tax year, unless the payment is more than six months late.

Monthly and quarterly amounts more than six months late

They may charge penalties of 5% of the amount that is late on any monthly or quarterly payments more than six months late. They may also charge further penalties of 5% if you have still not paid after 12 months.

Annual payments (for example Class 1A NICs and PAYE Settlement Agreements)

They may charge up to three penalties of 5% of the amount that is late, depending on the length of time that the amount is not paid in full.

What if I can't pay?

Please ring the Business Payment Support Service on 0845 302 1435 as soon as possible. In certain circumstances they may allow extra time to pay. If they agree extra time to pay, they will not charge further penalties on amounts included within the agreement from the date you approach them, provided you stick to the agreement.



STANDING ORDERS

We appreciate that many clients may be experiencing difficulty in settling professional fees during the current recession. We would remind clients that we offer a standing order facility whereby we agree a monthly level of payment which should, ideally, clear our fees over a twelve month period. If any client is interested in adopting such an arrangement please speak to the partner who manages your affairs and he/she will be delighted to supply you with more details.

EMAILS

If anyone would prefer to receive our newsletter by email then please let us know so that we can update our records.



This newsletter deals with a number of topics

which, it is hoped, will be of general interest

to clients. However, in the space available it is

impossible to mention all the points which may

be relevant in individual cases, so please contact

us for personal advice on your own affairs.

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ACCOUNTABILITY

THE NEWSLETTER OF FINLAYSONS CHARTERED ACCOUNTANTS
WINTER / SPRING 2010



THE PRE-BUDGET STATEMENT

So how will December's Pre-Budget Statement affect you? In the short term, the answer is probably 'very little' because, against a background of low or even negative inflation, income tax rates and allowances have been frozen for 2010/11 (except for people with an income over £100,000, whose personal allowances will be reduced, and over £150,000, who will be subject to the new 50% top rate of tax). National Insurance rates and bands, for employees, directors and self-employed people, will also be frozen at 2009/10 levels.

Company car drivers



Most company car drivers will find that their benefit-in-kind charge rises slightly – the benefit is charged as a percentage of the list price of the car, the percentage varying between 10% and 35% depending on the vehicle's CO2 emissions. As originally announced as long ago as the 2008 Budget, the charge for most cars will rise by one percentage point from April 2010 (though the maximum will remain 35%).

Where the employer provides fuel for private motoring, the fuel scale charge is calculated as the same percentage of a 'multiplier', which was £16,900

for 2009/10 but which the Chancellor announced will be £18,000 for 2010/11. Thus the scale charge for (say) a car with CO2 emissions of 173 g/km, which was 23% of £16,900 (£3,887) for 2009/10, will be 24% of £18,000 (£4,320) for 2010/11, an overall increase of more than 11%. (This assumes the car is petrol-driven; higher charges apply for most diesel cars.)

The good news is that there will be a nil benefit-in-kind charge for the five tax years 2010/11 to 2014/15 where a director or employee is allocated a company car powered solely by electricity. The paradox here is that, while the electric cars currently available may not be suitable for many business users, it appears (subject to sight of the final legislation) that it will be possible for director-shareholders to take an electric vehicle as a second company car, for use by another family member (for example, a student son or daughter). All the expenses could then be charged to the company, but the benefit-in-kind charge would be nil. And you could, if you wanted, have a third, fourth, fifth . . . company car.

Capital gains tax

Before the Chancellor made his Pre-Budget Statement, there was speculation in the newspapers that he would increase capital gains tax from 18% to 25%. In the event, no such announcement was made. It is possible that an increase could still be announced in the Spring Budget, to take effect from 6 April 2010 (or even from Budget Day itself), so – all other things being equal, which of course they never are – there may be an argument for making any substantial planned disposals before the Budget.



Inheritance tax

The Chancellor announced that the inheritance tax threshold, which was to have increased to £350,000 from 6 April 2010, will now be frozen at £325,000.

Employed or self-employed?

You may recall that last July the Government published a consultation paper, proposing that the long-running arguments about employment status in the construction industry could be ended by simply deeming everyone working in the industry to be an employee, for tax and National Insurance purposes, unless they provide either their own, substantial equipment (for example, a JCB owner-driver); or all the materials necessary to do a job (for example, under a 'supply and fix' contract); or the services of other workers (for example, a team of bricklayers), rather than just their own labour.

The Chancellor's Pre-Budget Report made it clear that this proposal is still under active consideration and a further announcement is expected shortly. However, it now seems very unlikely that any major changes could be introduced in April 2010, making the earliest practicable implementation date April 2011.

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PENALTIES FOR LATE PAYMENT OF PAYE

PERTH OFFICE

4 Albert Place, Perth PH2 8JE

Tel: 01738 626163 Fax: 01738 440485

Email: info@finlaysonsa.co.uk

CRIEFF OFFICE

15 High Street, Crieff PH7 3HU

Tel: 01764 654044 Fax: 01764 655487

Email: info@finlaysonsa.co.uk

PARTNERS Alasdair P.R. Brown C.A. Leslie J. Findlay C.A. James H. McEwen F.C.C.A. Sandra C. Paterson C.A. **ASSOCIATE** Jeremy J. McDonagh F.C.C.A.

Temporary workers

There is likely to be a tightening of the rules which allow some employees, whose working pattern is to have a series of temporary jobs found through an employment agency, to maximise their tax relief for travel and subsistence expenses by being continuously employed by the agency's 'umbrella company' which hires them out to client firms. However, it is not yet clear exactly what is proposed.

Business taxation

Firstly, there was no announcement about 'income splitting' and so it appears that the current tax régime for husband-and-wife companies will continue, at least for 2010/11.

Secondly, the Chancellor announced that the planned 1% rise in the small companies' rate of corporation tax (from 21% to 22%) will be deferred until 1 April 2011.

He also confirmed that the temporary 40% first-year allowance for expenditure on machinery and vehicles (other than cars) will, as previously announced, expire on 31 March 2010 for companies and 5 April 2010 for unincorporated businesses. This will not affect the availability of the 100% Annual Investment Allowance for expenditure up to £50,000, though it should be noted that the Conservative Party have said that they will abolish this allowance if they win the General Election.

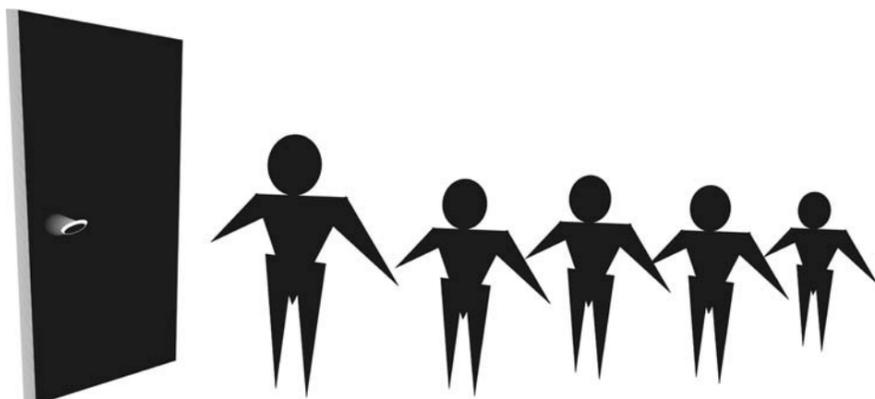
Finally, the Chancellor proposed a 100% first-year allowance for electric vans bought new (not second-hand) on or after 6 April 2010 (1 April 2010 for companies). However, this proposal is subject to European Commission approval under EU competition law.

AVOIDING LATE PAYMENT SURCHARGES

A feature of the self-assessment system is that it imposes a surcharge on income tax paid more than 28 days late – for example, if the final payment for 2008/09, due on 31 January 2010, is not paid by 28 February 2010.

However, HMRC's current practice (possibly prompted by the general recession) is not to levy a surcharge if a trader is suffering temporary cash flow problems and, before the surcharge becomes due (for example, before the end of February), he contacts HMRC's Business Payment Support Service to explain his position and negotiate a 'time to pay' arrangement. Interest will, however, remain payable under the usual rules.

The point of contact is the Business Payment Support Line on 0845 302 1435, open 8am to 8pm Monday to Friday and 8am to 4pm Saturday and Sunday. Further information may be found at www.hmrc.gov.uk/pbr2008/business-payment.htm.



Employing family members

Although, for 2010/11, there will be no change in the 'Earnings Threshold' (the point at which National Insurance contributions become payable by employers and employees), the 'Lower Earnings Limit' will rise from £95 to £97 a week. This is important because, where earnings fall between the Lower Earnings Limit and the Earnings Threshold, 'nil rate National Insurance contributions' apply – this apparent contradiction in terms means that no contributions are payable, by employee or employer, but the employee's contribution record is still franked for pension and benefit purposes. For 2010/11, the 'nil rate band' will run from the Lower Earnings Limit of £97 a week (£421 a month) to the Earnings Threshold of £110 a week (£476 a month).

Where family members work part-time in a family business, it is important to remember that worthwhile pension rights can be accrued, at no cost, by paying them a salary just over, rather than just under, the Lower Earnings Limit. Accordingly, if anyone is paid less than £97 a week, it may be very worthwhile to increase their wages from April.

Value Added Tax

As previously announced, the standard rate of VAT reverted to 17.5% from 1 January 2010. Traders using the Flat Rate Scheme for Small Businesses should note that, as part of the Pre-Budget package, HMRC have published a revised table of flat rate percentages for use from the same date. It must be emphasised that this does not simply reinstate the percentages in use before the temporary 15% rate came into force in December 2008 – for example, the flat rate for 'Retailing food, confectionery, tobacco, newspapers or children's clothing', which was 2%, rises to 3.5%, and that for 'Post Offices', which was 2%, becomes 4.5%. However, some other percentages have moved downwards – for example, the flat rate for 'Computer repair services', which was 11% before the temporary 15% rate came into force, and 10.5% from December 2008 to December 2009, becomes 9.5% from 1 January 2010.

Existing Flat Rate users should therefore check that the new percentage does not make their use of the scheme uneconomic, and traders not currently using the scheme may wish to consider whether a lower flat rate makes it more attractive.



PENSION POINTS

Two, unrelated, points are worth bringing to clients' attention. Firstly, on 6 April 2010 the minimum age at which an individual may begin to draw his or her retirement pension, under a company pension scheme, a personal pension plan or any other tax-approved pension arrangement, will rise from 50 to 55. However, anyone whose pension commenced before 6 April 2010 will be able to continue drawing it, even if he or she is not yet 55. Accordingly, some people currently aged between 50 and 55 may

wish to consider taking their pension before 6 April, even if they do not intend to retire yet.

Secondly, anyone wishing to 'top up' their National Insurance contribution record (to buy additional National Insurance Retirement Pension) should note that voluntary contributions for 2007/08 can be paid at £7.80 a week (£405.60 for the year) until the end of the current tax year (in practice, 1 April 2010, because of Easter). Thereafter, contributions for that year will cost £12.05 a week (£626.60 for the year).



NEW REQUIREMENT TO FILE ONLINE

In order to reduce their own costs, HMRC are gradually moving from encouraging, to requiring, traders to submit Tax Returns online.

Firstly, all employers will be required to submit their annual PAYE Returns for 2009/10 and later years online. Hitherto, this has applied only to firms with 50 or more employees. Employers who have until now made paper Returns (on Forms P35 and P14) need to start planning how they will comply with the new requirement – basically, the choice is either to ensure you have suitable software to submit the Returns yourself, or to arrange to outsource the preparation and submission of Returns.

Secondly, VAT Returns for prescribed accounting periods beginning on or after 1 April 2010 are supposed to be submitted online, unless the trader's annual turnover is less than £100,000 (excluding VAT) and he was first registered for VAT before that date. However, penalties for continuing to file a paper Return will not be imposed until April 2011.

Thirdly, from April 2011 Corporation Tax Returns will have to be submitted online – however, one expects that most small companies will have their accountants file their Returns.

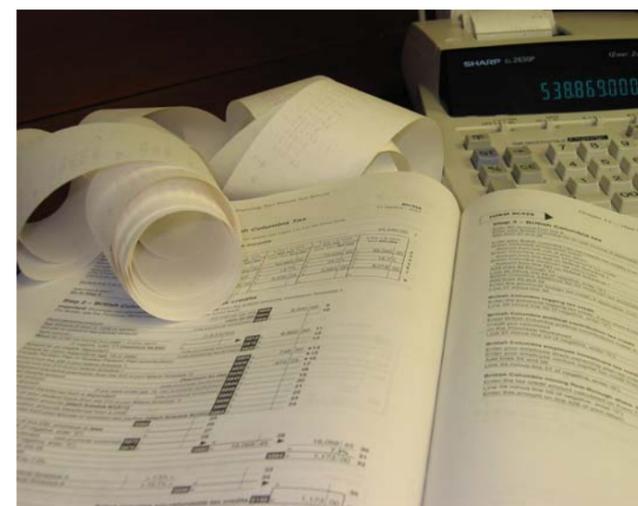
From 2010 VAT, and from 2011 Corporation Tax, will have to be paid electronically. However, this does not mean that traders will be obliged to adopt online banking. Any method of payment may be used, provided the remittance reaches HMRC as an electronic transfer of funds – this would include, for example, paying over-the-counter at a bank, using

an ordinary cheque and the official payslip. Of course, online banking may offer advantages, such as convenience and a reduction in the delay between the funds leaving your account and being credited to the recipient's account.



ONLINE VAT RETURN SERVICE

Online filing of VAT returns will be mandatory for return periods beginning on or after 1 April 2010 unless you were registered for VAT before that date and have an annual VAT-exclusive turnover of less than £100,000. Penalties for filing a paper return will range from £100 to £400 depending on your level of turnover.



For some people it will not be possible to file online if you have no computer or internet access. We can provide an internet submission service for clients who find themselves in this position. The business has to register for online filing with H M Revenue and Customs to allow returns to be filed online and we will also do this for you. Our charges for this service will be a one-off fee of £15 plus VAT for registration and thereafter £15 plus VAT per return submitted.

If you would like us to provide this service for you the registration process must be started as soon as possible. To register your business we will need the following:

VAT registration number.

Date the business was first registered for VAT.

Date of the quarter end for the last return submitted.

Amount payable or repayable on the last return submitted.

It may be that the business has been VAT registered for some time and you do not have a record of the registration date. If this is the case you will have to telephone H M Revenue and Customs helpline on 08450109000 and they will advise you.

Once registered we will supply you with a stock of pro-forma VAT returns. Seven days before each VAT period end you must return the relevant form completed and signed so that we can enter the details online and file before the due date.