



July 2011 Enews

In this month's enews we report on the late issue of taxpayer statements and penalty notifications. Please contact us if you would like any further detail on any of the issues.

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HMRC LATE ISSUING STATEMENTS

HMRC have advised that there are apparently more Self Assessment statements than usual to issue this year. Normally these would be issued in July but this year some will be issued later. The majority of statements have been sent on time.

However, many taxpayers wait for the statement to confirm what they need to pay. More importantly, if HMRC have asked taxpayers to make a second payment on account in July, they normally have to pay this by 31 July. However, due the delays in issuing some statements HMRC have advised:

'If you receive your statement in August, you should still pay the tax due as soon as you can. You'll only be asked to pay interest on the tax due on the second payment on account if you still haven't paid it more than 30 days after you receive your statement.'

If you have any concerns regarding payment please do get in touch.

Internet link: [Press release](#)

TRIBUNAL CRITICISES HMRC FOR DELAY IN ISSUING PENALTIES

In a potentially wide-ranging case, HMRC have been criticised for deliberately issuing penalties for late forms P35 (Payroll end of year forms) several months late, which generated more penalties than were necessary. A summary of the case is reported below.

This case has potentially wide ranging implications for other employers. Please do get in touch if you would like further guidance in this area.

The case (TC01286: Hok Ltd) concerned an appeal against a penalty of £400 for late filing of the 2009/10 P35. The penalty was calculated at £100 per month for four months. In October 2010 a further penalty of £100 was issued, given that the filing had taken place on the 15 October 2010 once the company had been alerted to its default.

The company argued that it thought it did not need to file the appropriate returns because its only employee had ceased employment part way through the year. It acknowledged that it was wrong and that HMRC was entitled to levy a penalty. However, the company argued that, if HMRC had notified it of its default, it would have been remedied at a far earlier time, thus avoiding ongoing penalties.

During the Tribunal HMRC stated that it runs a:

‘...structured programme to enable penalties to be issued regularly throughout the year, rather than waiting for the late return to be submitted and then issue a final penalty. These penalties, although aimed at encouraging compliance and having the effect of reminding are not designed to be reminders for the outstanding return.’

The Tribunal was amazed by this and stated that:

‘...HMRC deliberately waits until four months have gone by and does not issue the first interim penalty notice until, as in this case, September of the year of default.’

‘There can be no logical reason whatsoever for HMRC to delay sending out a penalty notice for four months so that, in effect, a minimum penalty of £500 will be levied unless the taxpayer has unilaterally realised that it has failed to undertake the necessary filing.’

‘In our judgement it would be a very simple matter for HMRC to set its computer settings so that a default or penalty notice was sent out immediately after the 19 May in any year, instead of some four months later. That might generate less penalty cash for the State, but it would be fair and conscionable as between the taxpayer and the State (acting by HMRC).’

‘As, in our judgement, HMRC has neither acted fairly nor in good conscience, in the manner described above, we do not consider that any penalty is

recoverable over and above the £100 penalty for the first month unless HMRC proves (the onus being upon it) that even if such a penalty notice, which would have acted as a reminder, had been issued, the default would nonetheless have continued. It has proved no such thing.'

Internet link: [Tribunal](#)

ONLINE OLYMPICS ADVICE

Small and medium-sized companies hoping to win Olympics contracts are invited to take advantage of a free HMRC online advice seminar which is available to download by following the link below.

According to the press release HMRC:

'...it is estimated that the Olympic and Paralympic Games will involve more than 50,000 contracts, worth about £6 billion. The sectors affected range from construction, engineering and manufacturing to creative, merchandising and retail, and contracts will be available at or near the 34 Games venues around the country.'

'The seminar will cover issues such as talking to a bank about financing, ensuring that the right systems are in place to comply with procurement policies and how firms go about making a bid for an Olympic contract. It will also explain how businesses can get support and guidance on any tax obligations and entitlements.'

Internet link: [Press release](#)

PAYMENTS COUNCIL TO KEEP CHEQUES

The Payments Council has announced that cheques will continue for as long as customers need them and the target for possible closure of cheque clearing in 2018 has been cancelled.

This change is as a result of public concern about the proposed phasing out of cheques by 2018. The issue has been of concern to many small businesses who continue to make payments by cheque and charities which receive substantial amounts of donations from the public by cheque.

According to the press release the:

'The Payments Council Board will continue to focus on security, efficiency and encouraging innovation in all types of payments to ensure customers have options best suited to the 21st century.'

Richard North, the Chairman of the Payments Council said:

'It's in the DNA of the Payments Council to consult and listen to all those people who actually make payments and use cheques. Listening to over 600 stakeholder groups, working with the banks and following our appearance before the Treasury Select Committee, we have concluded we should reassure customers that the cheque is staying.'

'Over the last two years we have learnt a great deal about what is important to our many stakeholders and we are really grateful to all of those groups and individuals who took the time to talk to us and help us reach this decision. We will use what we've learnt to keep improving existing systems, as well as introducing innovation, so that customers benefit from 21st century ways to pay. Innovation must be at the heart of what we do.'

Internet link: [Press release](#)

HMRC TARGET BUSINESSES NOT REGISTERED FOR VAT

HMRC have launched a campaign aimed at VAT rule-breakers. As part of this campaign they have confirmed that they will be sending letters informing certain businesses how to register to pay what they owe. The campaign is focusing on individuals and businesses trading above the VAT turnover threshold of £73,000 but who have not registered for VAT.

HMRC have advised that they will be sending in excess of 40,000 letters over the next few weeks. Those who come forward that have not registered to pay VAT have up until 30 September 2011 to let HMRC that they want to take part. If they make a full disclosure, most face a low penalty rate of 10% on VAT that has been paid late.

They will also be invited to disclose any other tax arrears. Where they have to pay a penalty on undeclared tax other than VAT, this will be lower than the customary penalty of up to 100% charged to those who fall outside the opportunity.

HMRC are warning that after 30 September 2011, using information pulled together from different sources, they will investigate those who have failed to come forward. Substantial penalties or even criminal prosecution could follow.

Mike Wells, HMRC's Director of Risk and Intelligence, said:

'This is our third campaign, raising more than £500m from voluntary disclosures and a further £100m so far from follow-up activity. Our campaigns are designed to ensure tax is paid so that the money is available to spend on public services used by everyone.'

'The aim is to make it easy for individuals and businesses to contact us, make a full disclosure of their income and face a reduced penalty on any tax owed.'

I urge people who have not registered their businesses for VAT to get in touch with HMRC and get their tax affairs in order simply and on the best available terms.'

Internet link: [Press release](#)

TAX CREDIT FRAUD

Following an HMRC investigation a West Midlands woman, Kerry Melia, a mother of six, has been sent to prison for eight months for tax credit fraud. She wrongly claimed in excess of £62,000 in tax credits by fraudulently claiming for nine fictitious children. The woman first claimed tax credits for her five children in 2005 (she subsequently had another child).

From 2007 onwards, she began adding fictitious children to her claim, stating that she was their foster mother. She then unsuccessfully attempted to add another six non-existent children.

David Gauke, Exchequer Secretary to the Treasury, said:

'The government will not tolerate dishonest people stealing public money which pays for vital services. This sentence shows that those who think they can cheat the benefits system should think again. The extra £900m we have invested in HMRC will allow them to carry on the fight against benefit cheats and tax fraudsters.'

Internet link: [Press release](#)

HOLIDAY ENTITLEMENT

With many thinking of their summer holidays, the Business Link website offers help in calculating minimum statutory entitlement.

An employee's holiday entitlement is generally set out in their contract of employment. The legal minimum entitlement is 5.6 weeks, which can include bank and public holidays. The calculator includes help on calculations for part-time work and other working patterns.

Internet link: [Business link holiday calculator](#)

REAL TIME INFORMATION

HMRC have issued some further guidance on Real Time Information (RTI) which may be useful to employers with regard to the introduction of RTI. RTI is a system of monthly/weekly PAYE returns which will replace the annual end of year forms.

The new web page entitled 'Improving the operation of PAYE: Real Time Information (RTI)' can be reached using the link below and the link includes access to some new Frequently Asked Questions which, HMRC advise may be added to from time to time.

HMRC have confirmed that employers who are not part of the pilot will have to join RTI in the period from April 2013 to October 2013. All employers will be using the RTI service by October 2013.

HMRC will pilot the RTI service with volunteer software developers and employers for a year, starting in April 2012 as part of a trial to ensure that the software is fully tested.

Internet link: [Real Time Information](#)