



## Crisis Management and Business Continuity Planning



## R & D - Not just for men in white coats!

Research and Development, in our experience, is the often forgotten and misunderstood tax relief. R&D conjures up images of "men in white coats" but virtually any business can in theory qualify.

To get relief, the expenditure does have to be for the advancement of knowledge, but not for the development of a product already in existence and furthermore does not have to be successful. Relief can amount to 175% of the expenditure and will usually result in a tax refund.

If you think you have a claim please contact your usual advisor who can help you capture the information needed.



Nobody likes to think that the worst might happen to their business, but when it does it can have devastating consequences. A reported one in five companies suffers a major disruption every five years and 92% of those affected by fire or flood never recover. The best thing you can do to protect your business is be prepared.

To find out more about the importance of crisis management and how to go about creating your own business continuity plan, please use the fax back form below to request a free copy of our factsheet.

## FAX BACK 01582 480901

For more information on any of the items featured in this issue, please tick the appropriate box(es) below and fax this page to 01582 480901

- Please send me a copy of your Crisis Management and Business Continuity Planning factsheet
- Please send future issues by e-mail to

.....

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... and much more

*"...attention to detail, a true understanding of your personal and business needs and foresight in pointing out any pitfalls or opportunities in the future - Foxley Kingham provide all this and more..."*

# Tax Investigations – Are you covered?

Just days after HMRC's increased powers of investigation came into effect we received our first report of a 'cross tax' investigation started out of a routine VAT inspection.

The letter received by the business advising of the visit confirmed the 'officer' had received cross tax training and once the records had been reviewed, the officer revealed he was an Inspector of Taxes and issued a formal Full Enquiry notice. Ironically, no VAT queries or issues were raised!

The new regime is clearly well underway and proving to be as aggressive as anticipated, so if you don't already have tax investigations protection, once again we strongly urge you to sign up now...

The cost, if you are targeted for an investigation, could be crippling, particularly if your cashflow is already under pressure as a result of the downturn. However, for a small fee you can protect against the financial impact with our tax investigations service.

**To find out more, please call  
Christine McAneny on 01582 540800.**

## National Minimum Wage to Rise in October

A rise in the National Minimum Wage will come into effect in October. The new rates are as follows:

For workers aged 22 and over, the minimum wage will increase from £5.73 per hour to £5.80 per hour.

For workers aged 18-21 the minimum wage will increase from £4.77 per hour to £4.83 per hour.

For 16 and 17 year olds the minimum wage will increase from £3.53 pence per hour to £3.57 per hour.

*Please note that from **October 2010**, the adult rate will extend to include 21 year olds.*



*In the meantime ...*

## National Minimum Wage Penalty Charges

We urge all employers to read the following changes to the penalties that will automatically be levied after 6 April 2009 if you fail to observe your obligations regarding payment of National Minimum Wage rates.

From 6 April 2009, a new automatic penalty will be levied where HMRC compliance officers find arrears of the National Minimum Wage (NMW).

Penalties will range from £100 to £5,000 and those employers who settle within 14 days of notification will receive a 50 per cent discount of the penalty for prompt payment. The penalty must be paid in addition to any arrears owed to the workers. The most serious cases of non compliance may be tried in a Crown Court and subject to an unlimited fine.

To reflect this change, the current system of separate NMW enforcement and penalty notices will be replaced by a combined notice of underpayment and penalty. This will be issued whenever HMRC discover that arrears were outstanding at the start of their enquiries.



The notice will detail the amounts due to workers and any penalty due on those arrears. For PAYE reference periods starting on or after 6 April 2009 the penalty will be half the total underpayments shown on the notice. HMRC can pursue arrears claims for workers going back up to six years.

You will be able to appeal both the amount of the arrears and the penalty to an Employment Tribunal (an Industrial Tribunal in Northern Ireland) under new appeal rights. You can call the National Minimum Wage Help line in confidence on Tel 0845 6000 678.

## Self-employed NIC penalties

From 6 April 2009 there is a change in the penalty you will pay if you are late notifying HMRC that you have commenced self-employment. Previously the penalty was £100 and you had 3 months after commencement of trade to let HMRC know.

From 6 April 2009 the rules are changed as follows:

Anyone who ceases or becomes liable for Class 2 or Class 3 contributions must notify HMRC immediately.

A penalty may be levied (between 30% and 100% of the "lost contributions") if notice is not given by 31 January following the end of the tax year in which you become liable.

There will be no penalty if you have a reasonable excuse for the late notification.



## Length of Service in Redundancy Selection

The Court of Appeal has upheld the High Court's decision in *Rolls Royce Plc v Unite the Union* that including length of service as a criterion in a redundancy selection policy is not unlawful age discrimination. It was stressed, however, that the decision in this case relied upon the fact that length of service was just one criterion amongst many and was not determinative of the selection.

Employers should note that if they rely on selection criteria based on "last in first out" or where length of service is given a determinative weighting, they could find it difficult to argue that their selection policies are not discriminatory on the grounds of age.



## Age Discrimination: ECJ Rules on Heyday Challenge

The European Court of Justice (ECJ) has now given its judgment in the Heyday Challenge to UK Age Discrimination laws, ruling that the compulsory retirement age of 65 is *not* unlawful. Unfortunately the ECJ decision is not the end of this long running case which must now return to the UK High Court to rule on whether the compulsory provisions in the UK Age Regulations can be objectively justified.

Although it is likely that it will, employers should still be aware that until the High Court's decision, employees may still bring unfair dismissal claims following being retired at 65 on the basis of the arguments put forward in the Heyday Challenge. In such circumstances the Employment Tribunal will continue to stay such claims until the High Court gives its judgment.



## Medical check ups

HMRC have now agreed that all medical check-ups provided by employers to an individual employee will be treated as tax and NIC free, even if the check-ups are not available to all employees.

This clarifies a number of changes in their approach, and informal concessions, in the last few years. The change will be acknowledged in the forthcoming Finance Bill 2009.

## Paying your Self

You can use Direct Debit to pay your self assessment tax, either in a single payment or by setting up a Budget Payment Plan which allows you to make regular, manageable instalments towards a future liability.

To set up a direct debit, go to

[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

and select the Self Assessment service from the do it online menu. Log in on the Welcome to Online Services page and select Direct Debit payment from the Main Menu. You will be asked to select the tax or duty you want to pay. Click on Self Assessment and you'll have the choice of setting up a Single Payment or a Budget Payment Plan.

If you are a new user you will first need to register and enrol for the Self Assessment service on the Welcome to Online Services page. Before going online you will need to have the following to hand:

- Bank or building society account number and sort code
- 11 character SA Unique Taxpayer Reference (10 digit UTR plus letter 'K') shown on the SA payslip, and
- Details of how much you wish to pay and when.



# Tax Tips

## Using Property Values

The fall in property prices is not always bad news when we are looking at Tax planning. With high prices it has been difficult to move property without triggering a tax charge with no funds to pay it. Lower values can reduce or even eliminate this tax charge. Entrepreneurs Relief is reduced where a property is held outside a company and rent is paid. To add to this, the 100% business property relief for IHT is halved where the property is outside a company. Now may be the time to look to sell the property to the company. This would remove these problems and could provide the director shareholder with added funds in their loan account that can be drawn down instead of salary. Issues such as SDLT would also need to be taken into consideration.

This may also assist with practical considerations. For example the funding of repairs or alterations to the property, which is outside the company, will be alleviated by selling the property to the company. Previously there may have been a tax charge if funds were taken out to pay for the repairs.

If you would like to discuss this further or discover other planning ideas using property please contact your usual advisor.

## Turning losses into cash

The budget extended the loss reliefs available to businesses. Businesses can now claim up to £50,000 for each of two years of account, allowing a maximum of £100,000, which can be carried back for three years. The period over which losses can accrue varies between unincorporated businesses and companies, but

essentially the 08/09 and 09/10 accounting periods.

By shortening accounting periods it's possible to accelerate tax repayment claims for clients who have paid tax in the past three years, but are now suffering losses. The refund will be made upon submission of the return and does not need to wait for the normal due date of the tax.

Please contact your usual advisor if you'd like to find out more.



## Top Tips for Businesses Facing Late Payments

With everyone feeling the effects of the downturn, late payment is becoming an increasing problem. And with costs spiralling and debts mounting, the knock-on effect can be devastating, particularly for small businesses.

Here we look at some top tips to help you deal with customers who don't pay on time or simply refuse to pay at all.

### State your terms

The first and most important thing you can do to avoid late payments is to state the terms and conditions of the payment clearly on your initial invoice. Let the client know when you expect to be paid in advance.

### Charge interest

Every company has a legal right to charge interest on late payments (see article on right). While many small businesses don't like doing this for fear of losing the work, there's no harm in mentioning that late payment interest may be applicable on the invoice to encourage your clients to pay more promptly.

### Get some muscle

Small businesses often lack the financial muscle and skill sets to ensure they are paid on time. One solution is to put a sticker on your invoices stating 'we use a debt collection agency for overdue payments'. Clients will not want a debt collection agency knowing about their tardy payments as it could damage their credit references, so are more likely to prioritise your invoice over others that don't carry the same warning.

### Build relationships

One of the problems with late payment is that it's

often anonymous, particularly when dealing with larger companies. By identifying the person you need to speak to, always asking for them by name and building up a friendly working relationship you'll make it much harder for them to let you down.

### Built-in credit

A lot of big companies put pressure on their suppliers to safeguard their own profits. If you know that a client is likely to want an extended payment term, make sure you build this extra time into the price you charge them to start with.

### Assess your position

It's important to recognise the importance of your product within your customer's process. Can they go elsewhere to get what you are offering them? If you are providing a strategically important product or bespoke solution, you can afford to bargain harder. If not, tread carefully.

### Don't put all your eggs in one basket

Relying on one big client for most of your profits is a recipe for disaster; instead, try to get a mix of clients (both small and large companies), which will spread your risk. It's just not worth taking the gamble on one sole client, however big and well respected they are.

### Quit while you're ahead

The key question to ask yourself when dealing with a late payer is: 'Am I still making money out of this client?' If your profit margin is low to begin with, and waiting for the payment causes you to incur debts, then you could be making a loss out of the deal. Do your sums and make sure you know when it's time to cut loose.



## Compensation for Late Payment of Debts

We've discussed how you can reduce the risk of bad debt but what happens when despite your best efforts you still have customers who refuse to pay up? Here we see how enforcing interest on late payment of commercial debt may help you recoup whatever sums possible

Under commercial debt legislation, debts incurred by suppliers under contracts for the supply of goods and services can claim interest at a rate of 8% above the base rate, along with an additional £100 compensation for each unpaid invoice.

This is dependent upon the following:

- The contract must have been agreed after 7th August 2002
  - Both the purchaser and supplier of the goods/services must be acting in the course of business;
- and
- There must not be any other 'substantial' agreement between the purchaser and the supplier for terms for late payment.

If these are applicable to your contract, even if the invoice is only a day late, you could claim both the interest and the compensation fee. This applies to any debt even though it has since been paid, as the supplier has 6 years within which to bring its claim in England, Wales and Northern Ireland.

Note that any agreement between the parties with regards to late payment may supercede the legislation, provided it is substantial and therefore sufficient to compensate the supplier, and is both fair and reasonable. So, before considering taking any action it is important to review your agreement with the purchaser. Also bear in mind that pursuing a claim for interest may not always be cost efficient and may be detrimental to the ongoing business relationship.