

ACCA UK's Technical Advisory Service summarises recent points of interest.

technically speaking

Arctic Systems – victory for the taxpayer

The long-running Arctic Systems court case has finally come to a close. The House of Lords' decision in favour of the taxpayer will bring a sigh of relief to around 200,000 small businesses. Detailed analysis of the ruling can be viewed at <http://uk.accaglobal.com/uk/members/technical/taxation/>

employment issues

NATIONAL MINIMUM WAGE

From 1 October 2007 the national minimum wage will increase again as follows:

- adult rate (workers aged 22 and over) will increase to £5.52 per hour
- development rate for 18 – 21 year olds will increase to £4.60 per hour
- development rate for 16 – 18 year olds (above compulsory school leaving age) will increase to £3.40 per hour (NB. 16 and 17 year old apprentices are exempt from the young workers' rate)
- the rate for accommodation offset will increase to £30.10 per week (£4.30 per day).

Full details online at www.dti.gov.uk/employment/pay/national-minimum-wage/index.html

HOLIDAY ENTITLEMENT

Minimum holiday entitlement (including bank holidays) rises from 1 October 2007 from 20 days per annum to 24 days and to 28 days from 1 April 2009 (was 2008). Businesses will need to build the cost and reduction of employee availability into business plans and contracts. Full details

including transitional provisions at www.berr.gov.uk/employment/holidays/index.html

SICK PAY

Agency workers are entitled to statutory sick pay unless their contract with the agency is for a specified period of three months or less following the High Court's decision in the Thorn Baker case. Special rules exist where the original three month period is exceeded or the worker has two or more contracts with the same agency totalling more than three months. See www.hmrc.gov.uk/employers/thornbaker.htm

LATE NIGHT TRAVEL

HMRC has issued clarification on the tax and NIC position in respect of 'home to work' travel costs. It highlights late working and the use of a taxi. The cost of taxi journeys will not be assessable as a benefit in kind only if all the following conditions are met:

- the employee is required to work later than usual and until at least 21.00
- this occurs irregularly; and
- by the time the employee ceases work – either public transport has ceased, or – it would not be reasonable to expect the employee to use public transport – AND the number of occasions in the tax year on which a taxi is provided is no more than 60.

For the exemption to apply all the above conditions must be satisfied on each occasion an employee is provided with a taxi for a journey from work to home. Full details at www.hmrc.gov.uk/employers/clarifies-tax-ni.htm

legislative update

MONEY LAUNDERING REGULATIONS

The new money laundering regulations were published as Statutory Instrument 2007/2157 on 25 July 2007. They are available online at www.opsi.gov.uk together with the explanatory memorandum.

The businesses covered by the new regulations are most UK financial firms. In addition the regulations cover legal professionals (when undertaking some activities), accountants, tax advisers, auditors, insolvency practitioners, estate agents, casinos, high value dealers when dealing in goods worth over 15,000 Euro and trust or company service providers.

HMRC will be the supervisory body for Money Service Businesses (MSBs) and Trust or Service Company Providers (TSCPs) not supervised elsewhere. ACCA practitioners will continue to be supervised by ACCA and practitioners, unlike some clients, will not have to register with HMRC.

As previously commented, it is envisaged that CCAB guidance will be issued prior to the regulations coming into effect on 15 December 2007. ACCA practitioners should continue to follow JMLSG and CCAB guidance meanwhile. HMRC is publishing draft guidance at www.hmrc.gov.uk/mlr/regs.htm and there is regularly updated information available at www.hmrc.gov.uk/mlr/latest-news.htm

PENSIONS ACT 2007

The Pensions Bill received its Royal Assent on 26 July 2007. The Pensions Act 2007 raises the state pension age (in stages) and restores the link with earnings (from 2012 at the earliest).

It also reduces to 30 the number of years' contributions required for a full state pension for both men and women from April 2010.

Members with clients looking to make voluntary contributions to ensure a full state pension should bear in mind the effect of the change to the qualifying period. More information at www.opsi.gov.uk

FINANCE ACT 2007

The Finance Bill received Royal Assent on 19 July 2007. The Act can be downloaded from www.opsi.gov.uk

AUDIT THRESHOLDS

The Government has issued a consultation document on draft regulations to increase the EU and company audit thresholds entitled Implementation of Directive 2006/43/EC on Statutory Audits and Consolidated Accounts. The deadline for responses is Monday 15 October 2007. Full details at www.berr.gov.uk/consultations/page40856.html

The Government has also published its response to the Implementation of Directive 2006/46/EC on Company Reporting – Amending Accounting Directives. This includes proposals to increase the thresholds for small and medium sized companies and the associated audit threshold by 20%. The provisions have to be implemented by September 2008 and the enabling legislation will be included within the Companies Act 2006 (Accounts and Reports) (Amendment Regulations) 2008. The publication is available online at www.berr.gov.uk/files/file40523.pdf

News from HMRC

In respect of dependent relatives and Principal Private Residence Relief (PPPR), HMRC has revised its interpretation of letting relief where a private residence was occupied by a dependent relative before 6 April 1988 and has been let subsequently. Previous HMRC guidance had been that where a property that qualified for principal private residence relief – by virtue of occupation by a dependent relative before 6 April 1988 – was subsequently let, it would not qualify for 'lettings relief'. The changed view is that lettings relief may be due. Further details at www.hmrc.gov.uk/cgt/cgt-recent-changes.htm

HMRC has issued guidance on amending tax returns for letting relief. If taxpayers wish to amend their 2005/06 return they must do so by 31 January 2008. Taxpayers who have already filed their 2006/07 returns have until 31 January 2009 to amend their returns. If there is an open enquiry into a return and HMRC is able to amend it at the conclusion of the enquiry, they will amend it to reflect their current view. However, if taxpayers are no longer able to amend their returns, it will not be possible to adopt the revised view for the tax year in question by making a claim for error or mistake relief (in accordance with section 33 TMA 1970) as the return will have been made in accordance with the practice generally prevailing at the time. Taxpayers who disagree with HMRC's interpretation will have to take the matter to the commissioners.

HMRC has published guidance on Capital Gains – Avoidance Through the Creation of Capital Losses. This provides HMRC's interpretation of TCGA 1992 section 16A, inserted by Finance Act 2007, and how the legislation applies. This looks at the creation and use of contrived capital losses to avoid UK tax. The new legislation applies to capital losses which arise on disposals on or after 6 December 2006. The guidance previously issued on 27 July 2006 relating to the anti-avoidance rule for companies remains valid. The legislation

that applied to companies liable to corporation tax now also applies to any person liable to capital gains tax. Further guidance is available at www.hmrc.gov.uk/cgt/cgt-recent-developments.pdf and www.hmrc.gov.uk/budget2006/capital-losses-july06.pdf

HMRC has issued guidance on new Management Expenses Anti-avoidance Provision to explain the targeted anti-avoidance rule (TAAR) brought in via section 28 of the Finance Act 2007. This targets arrangements made by companies subject to corporation tax where the main (or one of the main) purposes is to seek to produce a wholly or partly contrived deduction for management expenses or other tax advantage. Where the rule applies, its effect is to disallow relief for such management expenses. The provisions apply to expenses of management paid on or after 20 June 2007. For further details see www.hmrc.gov.uk/ct/guidance-antiavoidance.pdf

Statutory Instruments 2007/2165 and 2007/2166 amend the list of energy-saving plant and machinery and environmentally beneficial plant and machinery for the purposes of the 100% enhanced capital allowances, effective 19 July 2007. The Statutory Instruments and Explanatory Notes can be downloaded from www.opsi.gov.uk HMRC's Tax Credits Ready Reckoner is available at www.hmrc.gov.uk/taxcredits/reckoner.pdf

Following the recent increase in the Bank of England's base rate, HMRC has announced increases in the interest rates on late payments of tax and tax repayments. Full details at www.hmrc.gov.uk/rates/interest.htm

HMRC guidance on post-retirement benefits can be found in the Pensions Tax Simplification Newsletter 28 and Employment Income Manual. See www.hmrc.gov.uk/pensionschemes/newsletter28.htm#5

VAT AND EXCISE DUTY

Details of the 5% VAT rate on products purchased personally by over 60s for domestic installation can be found in Revenue and Customs Brief 47/07 at www.hmrc.gov.uk/briefs/vat/brief4707.htm

From 19 July 2007 UK excise duty is due on all alcohol and tobacco products sent through the post. This applies to goods posted from both within and without the European Union. Details of how to pay the duty is to be found in Public Notice 143.

With effect from 1 August 2007, advisory mileage rates for company car drivers have been increased and will also be accepted for VAT purposes, provided that VAT receipts have been obtained. Details of the new rates are at www.hmrc.gov.uk/cars/advisory_fuel_current.htm

Accounting Standards Board (ASB)

ASB issued Statement of Principles for Financial Reporting: Interpretation for Public Benefit Entities in June 2007. This can be downloaded at www.frc.org.uk/asb/press/pub1348.html

Amendment to FRS 3: Reporting Financial Performance is effective for accounting periods beginning on or after 1 January 2007. This relates to companies within the scope of FRS 26 and can be downloaded at www.frc.org.uk/asb/press/pub1353.html

annual investment allowance

The 2007 Budget promised consultation on the £50,000 'annual investment allowance' proposal. The consultation document has now been issued along with details of the proposed changes to capital allowances from April 2008. This includes the new annual investment allowance proposal of 100% allowance for the first £50,000 invested in plant and machinery (other than cars) to all businesses, regardless of size or legal form.

Other suggestions include a new plant and machinery pool category for integral features (attracting a 10% rate unless part of the annual investment allowance £50,000) and proposals in Chapter 5 on how a hybrid rate (a time apportionment of capital allowance rates) for existing asset pools may operate.

If you are advising clients on future expenditure, the consultation document outlines the current proposals. You may wish to highlight to clients the proposed changes, taking note of the eight hybrid rate examples from Paragraph 5. They are:

- example 1 and 2 – application of the hybrid rate
- example 3 and 4 – hybrid rate for expensive cars
- example 5 – hybrid rate for 10% pool
- example 6 and 7 – time apportionment of the annual investment allowance
- example 8 – phased withdrawal of the industrial buildings allowance. The consultation document can be found at www.hm-treasury.gov.uk/media/C/4/consult_businessstax_250707.pdf

trusts alert

We are nearly 75% of the way through the transition period from Finance Act 2006 to 5 April 2008. Clients with interest in trusts will need to take steps to ensure that they are not caught out by the changes in legislation, effective from 2008/09. They need to:

- consider changing a trust to avoid IHT charges
- consider winding up a trust to avoid the higher income tax rate
- consider changes to 'revertor to settlor' trusts.

Action must be taken by 5 April 2008.

other news

The PLUS-listed market segment of PLUS is included on the up-to-date list of recognised stock exchanges found at:

www.hmrc.gov.uk/fid/rse.htm

The Pensions Research Accountants Group (PRAG) has published the latest revision of the Pensions SORP which is effective for accounting periods commencing on or after 6 April 2007, although earlier adoption is recommended. The SORP has been revised primarily as a result of the presentation requirements of FRS 25 (IAS 32) and parts of FRS 26. The main changes are:

- investments and derivatives should be valued on a fair value basis
- accounting policy on the exclusion of actuarial liabilities is moved from the Notes to the foot of the net assets statement
- provides updated guidance on the disclosure of contributions.