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This year the traditional date for the Budget has been delayed for a month until 22 April. At the date of preparing this newsletter we are still "in the dark" regarding any changes Chancellor Darling will make to our tax position for 2009-10.

This month we have included a couple of articles on property issues and articles on PAYE code changes, changes to the National Minimum Wage penalty regime, the new penalties if you fail to register your liability to pay self employed National Insurance, and an update on medical check-ups provided by employers.

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Have you seen our new range of tax factsheets? Our tax factsheets cover business, personal and employment taxes and VAT advice and compliance. However, they only provide an overview and advice should be sought in respect of your own circumstances. Each month we will be adding new factsheets to the list.

Follow this link to find out more.

<http://www.armstrongwatson.co.uk/yourneeds/page/429>

If there is a topic that interests you please contact us if you wish to discuss it further.

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The property market is experiencing some very difficult times which has dramatically changed the tax landscape for property developers.

Banks continue to look for high yields on developments to support lending. As the developers' margins are shrinking this means many developments have stalled or been shelved while we wait for the market to pick up. In the meantime developers are missing the potential to take advantage of suppressed land prices and builders.

We are working with clients to factor in the benefit of tax relief at the project finance stage to make sure that the yields are as high as possible. Deals that would otherwise stall are going ahead.

By involving us at an early stage we can help you make the most of:

- Capital allowances – particularly on integral features which did not qualify until recently;
- Vacant properties – a building that has been out of business use for 12 months attracts 100% corporation tax deductions on a lot of the fit-out spend;
- Remediation – businesses can get super-deductions and even cash back from HMRC for expenditure that prevents, limits or corrects harm or contamination.

By addressing these issues at an early stage and working with architects, surveyors and lawyers we can lead a team which gives you the greatest amount of net profits possible. Many of the opportunities in this area are lost when looking after the event.

We are also addressing the potential tax problems for developers that have, through market conditions, been forced to let out their developments rather than selling them on. Moving from a development business to a rental based investment business can cause huge problems unless the relevant steps are taken at an early stage.

Our property tax specialists provide coordinated advice on corporation tax, VAT, SDLT, capital gains tax and the construction industry scheme. In difficult times it is vital not to miss a trick.

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We have seen numerous cases in recent years, whereby property owned by a taxpayer is occupied, often rent-free, by a relative. For example, this situation frequently comes about via a transfer from the occupier of the property, down to the next generation, commonly with a view to avoiding care home fees should full time care be required at some point in the future.

Unfortunately, these arrangements can often be successfully challenged by the local council under the 'Deliberate Deprivation' rules, but that is not the only bombshell which may suddenly be visited upon the unwary. In the event of a sale of the property, forced or otherwise, Capital Gains Tax (CGT) will usually be levied upon the profit made on sale. The sale or transfer of any taxpayer's main home is normally exempt from CGT under the Principal Private Residence (PPR) rules, but this does not apply where the taxpayer, the legal owner, is not the occupier.

A solution may be at hand, however, via the use of a 'Constructive Trust'. This basically seeks to argue that the occupier living in the property does so in the capacity of a trust beneficiary, allowing the 'trust' to take advantage of an extension to the PPR rules.

There are representations to be made to HM Revenue & Customs, and evidence to put before them,

before they will consider such an arrangement effective, and expert professional advice needs to be taken before even considering such an option. In particular, the arguments that a valid trust exists will be much stronger if they are made well in advance of any sale.

The benefits to establishing a 'Constructive Trust' are very real and can be substantial, and if you are in a position where you own a property occupied by a relative, then please do contact us for advice.

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If your local tax office sent you a demand to pay tax you would obviously take some interest in the issue - is this change correct? When do I have to pay it?

Would you feel the same if you received a notification of change to your PAYE code number?

Your tax code is set at the level at which you pay no tax. If your tax code is 600L, you can earn up to £6,000 a year (£500 per month) tax free. If towards the end of a tax year this reduces to say 400L, your annual tax free allowance will have dropped to £4,000. Depending on the degree of reduction and the timing of the adjustment, you may suffer an immediate and perhaps significant drop in your take home pay.

What to do?

Your tax code can be revised in a downwards direction for a number of reasons. Some of the more frequent causes are set out below:

- State Pensions - your State Pension is paid to you with no deduction for tax. Unfortunately the pension is treated as income for tax purposes and if you are employed and in receipt of the pension, HMRC will seek to collect any tax due by reducing your tax code.
- Benefits in kind - if your employer provides any form of taxable benefit, company car, health insurance etc.
- Unpaid tax from previous tax years.

An interesting situation arises if the total reduction in a tax year exceeds your basic tax free allowance. For instance if at the beginning of a tax year your tax free allowance was set at £6,500, but your untaxed State Pension for the forthcoming year was £10,000, this would result in a negative code of -350. (£6,500 - £10,000). On your Notice of Coding this would be displayed as K350. A K code means that you have no allowances to set off against your salary before tax is calculated - in fact, in the example set out above, £3,500 will be added to your taxable earnings! An increase in a K code will increase your tax deductions and reduce your take home pay.

If you receive a notification that your tax code has changed do check it out, H M Revenue & Customs has been known to make mistakes!

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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 discovers 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.

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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.

Up to 6 April 2009 the penalty was £100 and you had three months after commencement of trade to let HMRC know.

From 6 April 2009 the rules are changed as follows:

1. Anyone who becomes liable for Class 2 contributions must notify HMRC immediately.
2. 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.
3. There will be no penalty if you have a reasonable excuse for the late notification.

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HMRC has 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.

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1 April 2009 - Due date for corporation tax due for the year ended 30 June 2008.

19 April 2009 - PAYE and NIC deductions due for month ended 5 April 2009. (If you pay your tax electronically the due date is 22 April 2009).

19 April 2009 - Filing deadline for the CIS300 monthly return for the month ended 5 April 2009.

19 April 2009 - CIS tax deducted for the month ended 5 April 2009 is payable by today.

1 May 2009 - Due date for corporation tax due for the year ended 31 July 2008.

19 May 2009 - PAYE and NIC deductions due for month ended 5 May 2009. (If you pay your tax electronically the due date is 22 May 2009).

19 May 2009 - Filing deadline for the CIS300 monthly return for the month ended 5 May 2009.

19 May 2009 - CIS tax deducted for the month ended 5 May 2009 is payable by today.

19 May 2009 - The payroll forms P35 and P14s must be filed by this date - employers late in filing these forms may receive a penalty.

31 May 2009 - Ensure all employees have been given their P60s.

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DISCLAIMER - PLEASE NOTE: The ideas shared with you in this email are intended to inform rather than advise. Taxpayers circumstances do vary and if you feel that tax strategies we have outlined may be beneficial it is important that you contact us before implementation. If you do or do not take action as a result of reading this newsletter, before receiving our written endorsement, we will accept no responsibility for any financial loss incurred.

Armstrong Watson

15 Victoria Place, Carlisle CA1 1EW

Tel: 01228 690100 Web: www.armstrongwatson.co.uk

Email: taxnewsletter@armstrongwatson.co.uk

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