NEWSLETTER

BAXTERS

Chartered Accountants

Baxters Limited, 3 Nightingale Place,
Pendeford Business Park, Wobaston Road,
Wolverhampton WV9 5HF

Telephone: 01902 787171
Fax: 01902 787274
Email: info@baxters-ca.co.uk

Director: A G Baxter FCA

www.baxters-ca.co.uk

Food for thought

The furore surrounding the 'pasty tax' and the subsequent U turn by the Chancellor was covered in detail by the media so where exactly are we now?

Cold takeaway food is zero rated and hot takeaway food is liable to the standard rate of 20% VAT. However, the definition of 'hot food' on which 20% should be charged has altered from 1 October 2012. Hot food means where it is:

- provided hot for the purposes of allowing it to be eaten hot (the old rule)
- cooked, heated or reheated to order for example toasted sandwiches
- kept hot, or where the natural cooling process is delayed for example where a business keeps food in hot cabinets, hot plates under heat lamps, etc. or where heat is applied in order to slow the cooking process. This means that cornish pasties and sausage rolls would therefore continue to be zero rated when they are cooling naturally in the racks but not when they are stored in heated cabinets
- provided in heat retaining packaging or other packaging specifically designed for hot food for example foil lined takeaway packaging
- advertised, marketed or promoted in any way that indicates that it is supplied hot.

If you would like any further information on this or other VAT changes which may affect your business please contact us.

WINTER 2012

Payment Protection Insurance (PPI)

This is a subject that is something of a hot potato at the moment with widespread coverage in the media and via the internet about making a claim if you believe you have been mis-sold this product.

However, are there any tax implications to be aware of if you make a successful claim?

HMRC have confirmed that generally no tax is due on the repayment element of premiums or the refund of related interest paid to those who have been mis-sold PPI. However, the 'additional 8% interest' is taxable.

So how is the tax accounted for?

The matter is not clear cut as this interest may or may not have had the 20% basic rate (BR) tax deducted already. The position depends on the type of company making the interest payment. If banks and building societies are paying the interest there is no obligation on them to deduct BR tax because it is not interest on a deposit. There are also specific exemptions for banks and building societies from the need to deduct tax from yearly interest. The outcome is that some banks are deducting BR tax on the 8% gross interest and some are not.

Other companies generally do have to deduct BR tax and they then have a statutory requirement to advise the customer when making the payment that BR tax has been deducted and the gross and net amounts of interest.

Any recipient therefore needs to carefully check their tax position as action may be required. The correct tax position will depend on their individual circumstances but in general the position will be as follows:

- a non taxpayer who has had BR tax deducted from the interest should make a claim to have the tax repaid to them by HMRC
- a basic rate taxpayer who has had BR tax deducted will have no additional liability but will need to include it if they need to complete a tax return
- a higher/additional rate taxpayer who has received interest with or without tax deducted or a basic rate taxpayer who has received interest without deduction will have to notify the interest to HMRC and pay the appropriate tax charges.

If in doubt contact us to ensure that the information is correctly accounted for and reported to HMRC.

Employers - have you thought about pensions for employees?

New duties on employers have been introduced to help more people save for their retirement and these duties include:

- the automatic enrolment of employees (and perhaps some other people who do work for the employer) into a pension scheme and
- a requirement to make contributions for those people into a pension scheme.

Employees will also have to make contributions.

This is the effect of the new law known as 'automatic enrolment'. The law came into force for very large employers on 1 October 2012 but fortunately, the automatic enrolment rules have staggered implementation dates based on the number of employees.

An employer can work out precisely when the automatic enrolment rules apply as the implementation date (known as the 'staging date') is based on the number of persons in an employer's PAYE scheme on 1 April 2012. The higher the number of employees an employer has on that date, the earlier the staging date.

Examples of staging dates

Number of employees	Staging date
250	1 February 2014
62	1 July 2014
50	1 April 2015

For those with less than 50 employees the earliest start date is 1 June 2015 but the precise date will depend not only on the actual number of employees on 1 April 2012 but also on the employer's PAYE reference number. The earliest staging date for an employer with up to 30 employees on 1 April 2012 is 1 June 2015 and the latest date is 1 April 2017.

Importantly, it does not matter how many employees an employer has on the staging date - there may be considerably more (or less) than on the 1 April 2012. If you are an employer, look at the number of employees you had on the 1 April 2012 to know where you stand.

Employers with less than 50 employees but are part of a larger PAYE scheme

You may be an employer of a company which has less than 50 employees but the company is part of a group of companies and therefore has a shared scheme with the other group employers.

There are special rules for such employers.

As the staging date is determined by the total number of persons in the group PAYE scheme on 1 April 2012, the date may be earlier than if based on the number of workers in the company alone.

This is demonstrated below. For this reason the company can, if it wishes, move the staging date to a later prescribed date.

Example

Company Z has 35 employees on 1 April 2012. The normal staging date if this was a separate PAYE scheme is 1 October 2015. If company Z was instead part of a group PAYE scheme with 240 members then the staging date would be 1 April 2014. If company Z wants to, it can defer it's own staging date to 1 July 2016.

An employer can find out the detailed staging date rules from 'thepensionsregulator.gov.uk'.

So I've checked my staging date and it's a long way off then?

Well it may appear that way but an employer needs to have everything in place by the staging date. We would suggest an employer needs to have an idea of what it means for them at least a year before the staging date and an outline table drawn up for the various matters that need to be arranged.

Please talk to us if you would like further information and how we can help you manage the implementation of automatic enrolment.

VAT Flat Rate Scheme

The flat rate scheme for small businesses was introduced to reduce the administrative burden imposed when operating VAT. Under the scheme a set percentage is applied to the turnover of the business as a one off calculation instead of having to identify and record the VAT on each sale and purchase made. Where the scheme is used this means there is generally no separate claim for input VAT on purchases and expenses.

Under the scheme an eligible business calculates the VAT payment as a flat percentage of VAT inclusive turnover. For this purpose 'turnover' includes all supplies made by the business. The percentage to be used depends on the type of business activity carried on. If the business is newly registered for VAT and also decides to operate this scheme then a further 1% flat rate deduction applies in that first year of registration.

The scheme is generally open to a small business whose annual taxable turnover excluding VAT does not exceed £150,000. Traders must now leave the scheme when their taxable turnover (including VAT) exceeds £230,000. The calculation must be made annually on the anniversary of the business joining the scheme.

Although the business would account for and pay VAT at the flat rate percentage under the scheme, it will still be required to prepare invoices to VAT registered customers showing the normal rate of VAT. This is so that the customer can reclaim input VAT at the appropriate rate.

Example

Cook & Co is a partnership operating a café. The flat rate percentage for this type of activity is 12.5%. Its results for 2012 are as follows:

VAT inclusive turnover:	£
Standard rated catering supplies	*73,500*
Zero rated takeaway foods	*5,500*
Total	*79,000*
Flat rate VAT would be 12.5% on £79,000	*9,875*

Under normal VAT accounting it would be £73,500 x 20/120 = £12,250 less any input VAT claimed.

Although input VAT cannot be generally claimed, the purchase of capital assets costing more than £2,000 (including VAT) may be dealt with outside the scheme. This means the business can claim input VAT on such items on the VAT return in the normal way. Where each input VAT is reclaimed then VAT will have to be accounted for on a subsequent sale of the asset at the normal rate instead of the flat rate.

Please contact us for a more bespoke review of whether this scheme would be useful for your business.

Use of home as office - expenses for the self-employed

The changes in technology during the last decade have been massive. Developments in mobile devices and cloud based computing provide accessible and flexible communication. However, travelling has become more and more difficult and expensive. Working at home has become the answer for many self-employed people.

The starting point is that the self-employed pay tax on the profits that the business makes or their share of those profits if they are in a partnership. What costs can be claimed and set against that profit? In general terms the costs must be incurred 'wholly and exclusively' for the purposes of the trade to be tax deductible. This may not always be easy to determine so HMRC have specific guidance in this situation.

If some business activity is carried on from home then some tax relief may be available. HMRC accept that even if the business is carried on elsewhere, a deduction for part of the household expenses is still acceptable provided that there are times when part of the home is solely used for business purposes.

Wholly and exclusively does not mean that business expenditure has to be separately billed or that part of the home must be permanently used for business purposes. However, it does mean that when part of the home is being used for the business then that is the sole use for that part at that time.

Apportioning costs

HMRC will accept that costs can be apportioned and in practice if a small amount is being claimed they will usually not be too interested. For example an estimate of £3 a week with no record keeping or other requirements will normally be acceptable to them. However, if more is to be claimed then the following factors would need to be considered:

- the proportion in terms of area of the home that is used for business purposes
- how much is consumed where there is a metered or measurable supply e.g. electricity, gas or water
- how long it is used for business purposes.

Generally, HMRC will accept a reasonable proportion of costs such as council tax, mortgage interest, insurance, water rates, general repairs and rent as well as cleaning, utility charges and metered water. Additionally other allowable costs may include business calls on a home telephone, a proportion of the line rental and expenditure on an internet connection where the connection is used for business purposes.

What about equipment used in the business? The depreciation of assets is covered by a set of tax reliefs known as capital allowances. Equipment at home, such as a laptop and desk, may qualify for a capital allowance claim based on the estimated business usage of these assets.

What about travel?

Another consequence of working from home is the potential impact on travel costs. The cost of travel from home to the place of business or operations is generally disallowed, as it represents the personal choice of where to live. The fact that the individual may sometimes work at home is irrelevant. However, where there are no separate business premises away from the home, travel costs to visit clients should be allowable. The crux of the matter is where the business is really run from.

A final point to be aware of is that capital gains tax contains an exemption for the sale of an individual's private home, known as principal private residence (PPR) relief. Where part of the dwelling is used exclusively for business purposes, PPR relief will not apply to the business portion of the gain. Occasional and very minor business use is generally ignored.

To summarise, it is possible to make various claims but be clear about the rules, keep good records and be sensible about how much to claim.

Another income tax return deadline is looming

What! £1,200 penalty just because an income tax return hasn't been submitted?

Income Tax returns for the 2011/12 tax year are due to be with HMRC by 31 January 2013. This is the second tax year for which HMRC can charge significantly higher penalties for the late submission of returns. There are around 500,000 people who discovered in August or September what this means because they had still not submitted their 2010/11 tax returns. These returns should have been with HMRC by 31 January 2012.

The penalties that were issued were for a minimum £1,200, comprising:

- the maximum £900 in daily penalties for non-filing
- a further late filing penalty of £300 or 5% of any tax still due (whichever is higher).

These penalties are in addition to the initial £100 late filing penalty for missing the 31 January filing deadline, which would have been issued in late February and early March.

So if we are pressing you for information to complete your tax return, this is because we have your best interests at heart.

In summary, the key dates for the 2011/12 income tax return in respect of penalties where the deadline for submission is missed are:

Date	Penalties for late returns
1 February 2013	An initial £100 fixed penalty, which applies even if there is no tax to pay, or if the tax due is paid on time.
1 May 2013	Start of the £10 for each day penalty - up to a 90 day maximum of £900. This is as well as the fixed penalty above.
29 July 2013	The maximum daily penalty will have been reached of £900.
1 August 2013	The tax return is now over six months late, so in addition to the above penalties, there is a further penalty of £300 or 5% of the tax due - whichever is the higher.

Employers - watch out if PAYE and NIC is paid late to HMRC

In April 2010, a new penalty regime was introduced by HMRC for the late payment of monthly PAYE and NIC by employers. The penalties are structured on a sliding scale. The more late payments in a tax year, the larger the percentage penalty applied to the aggregate of the late payments. A 4% penalty is payable if there are ten or more defaults during the tax year.

So if the total annual PAYE and NIC due from an employer in the tax year totals £200,000 but the employer has consistently paid the monthly PAYE one day late, HMRC may charge a penalty of £8,000.

The penalty system is not automated and HMRC review the position after the end of the tax year. So some employers had penalties issued in the summer of 2011 for the 2010/11 tax year and another round of penalties have been issued in the summer of 2012 for the 2011/12 tax year.

How do HMRC decide who gets charged?

HMRC have explained that at the end of each tax year, information about PAYE defaulters is extracted from HMRC's system and a spreadsheet is produced of '…the worst defaulters'. The individual records of the various employers on that list are then considered. In particular, the payment history is reviewed and the record of responses to calls from HMRC's Debt Management unit (the section of HMRC which administers tax debt collection). HMRC say they try to differentiate between employers who appear to be genuinely trying to pay and those who are not.

How does an employer avoid getting a penalty?

If all payments are made on time there is no penalty but you need to make sure you understand the payment rules.

The rules are based upon when HMRC receives the money, not when it is sent by the employer. For example if a payment is being made electronically, cleared payment must reach HMRC's bank account no later than the 22nd of the month following the end of the tax month or quarter to which it relates. If that date is on a weekend or bank holiday then it must be cleared by the last bank working day before the 22nd unless paying by Faster Payment.

If the business is struggling to meet some due dates, please talk to us as we will be able to advise about contacting HMRC to set up a 'time to pay' arrangement.

If the business has already missed some due dates this tax year, do not ignore letters or phone calls from HMRC on the matter. This could increase the risk of being added to the target list of employers who will get a penalty notice as a result.

As a Tribunal judge commented on an unsuccessful attempt by an employer to appeal against a penalty:

'In this case, there had been at least 18 unsuccessful attempts during the year to speak to the director to chase the late payments. On occasion, the response was rude or there was a straight refusal to pay. On many other occasions, calls were simply not returned.

It may well be that by a more constructive engagement with HMRC during the year, the appellant could have avoided the imposition of penalties at the end of the year.'

And finally, if the business does receive a penalty, please talk to us as there may be grounds for appeal against some or all of the penalty.

HMRC Latest Initiatives

The Government have made an investment in HMRC of over £900m to crack down on tax avoidance, evasion and fraud with the aim of raising an additional £7 billion each tax year by 2014/15.

This is partly being done through taskforces which bring together various HMRC compliance and enforcement teams for intensive bursts of activity targeted at specific sectors and locations where there is a perceived higher risk of tax evasion. The first taskforce targeted the restaurant trade from May 2011. HMRC's work to tackle evasion and avoidance also includes other campaigns, the Managing Deliberate Defaulters programme and penalties for undisclosed offshore income.

In 2011/12 twelve taskforces were launched in various locations in the UK looking at restaurants, fast food outlets, scrap metal dealers, fraudulent repayments, landlords, construction, property transactions and overdue returns. Earlier this year further taskforces were launched including indoor and outdoor markets, taxi firms, property rentals and restaurants. The overall target for 2012/13 is thirty such taskforces.

Other recent campaigns have targeted offshore investments, medical professionals, private tutors and coaches, plumbers, electricians, VAT defaulters and people trading on the internet.

The latest campaign which started on 18 September 2012 is targeting the legal profession in London, grocery and retail in South and North Wales, the North West and the South West, hair and beauty in the North East, restaurants in the South East and Solent and the motor trade in Scotland. HMRC have offered them all the opportunity to come forward within a set time period with the incentive that they will benefit from lower penalties. Higher penalties will apply for those who HMRC later catches up with. If you have any concerns as a result of these incentives please do contact us so that we can advise you of any action you should take.