

EXCLUSIVELY FOR CONTRACTORS

MONTHLY GUIDE FEBRUARY 2003 ISSUE 63

Can The Taxman Investigate You?

The end of last month was the last opportunity for the Inspector of Taxes to look into your tax affairs for the year ended 5 April 2001. He can only start to poke around this year if he has a really good reason for doing so. This means that he has to have obtained access to some information that proves you have underpaid tax. This is called 'discovery'. It could be that he has discovered that some expenses that you have deducted were not valid but usually it means that he has found a source of income that you have omitted from your return. However, if the Inspector has already had information in his possession but has not acted on it, he cannot use this as an excuse to reopen your affairs.

There is plenty of case law backing up this but the essential point is that as long as you have given the Inspector sufficient information for him to have understood the position then it is up to him to act on it and if he does not then he cannot use it as an excuse to pester you.

The interesting thing to learn from this is that not only do you, the taxpayer, have deadlines to keep to but so does the Inspector of Taxes.

For all of you who have submitted (or have got us to submit on your behalf) your tax returns for year ended 5 April 2002 by the due date,— 31 January 2003, the Taxman has until 31 January 2004 to investigate your affairs as long as he does not 'discover' an error after that date.

SHOCK DEFEAT FOR INLAND REVENUE

Those of you with profits from unapproved share options schemes could be in for an unexpected windfall following a Court of Appeal decision which the Inland Revenue will not be appealing against.

Let's assume the following facts:-

	£
Value of share when you receive option	1.00
Value of share when you exercise your option	4.00
Value of share when you sell it	5.00

Income tax on unapproved schemes has always been paid on the difference between the price of the share when you exercise your option compared with the price of the share when you actually receive it,— in this case £3.00. Previously you would then have paid Capital Gains Tax as follows:-

	£
Sale proceeds	5.00
Less original price of option	1.00
Amount on which you have paid Income Tax	3.00
Total Cost	4.00
Profit assessable to Capital Gains Tax	1.00

Following the Court case calculations will be changed in the following way:-

	£
Sale proceeds	5.00
Less exercise price of option	4.00
Amount on which you have paid Income Tax	3.00
Total Cost	7.00
Loss for Capital Gains Tax	2.00

It doesn't sound much when you're looking at one share but supposing you had 100,000!

The Government won't like this and it is likely that changes to the legislation will come in the budget, if not before. However, those of you who have sold shares in an unapproved scheme at any time in the last six years should check the basis on which Capital Gains Tax has been paid because you may be in for a sizeable refund.

INTEREST ON CREDIT CARD ACCOUNTS

Did you know that where credit card balances are not paid off in full then in most cases interest is calculated on the whole of the previous month's balance. So, those people who have a number of credit cards and regularly make payments on account on all of them without paying off the balance on any, could end up paying far more interest than they realise.

If finances are tight in a particular month then the best thing to do could be to make the minimum payment on one or two cards but pay off the total amount outstanding on others.

The Government are showing signs of clamping down on financial organisations,- an example is by making banks pay interest on accounts which are in credit and it is a surprise that something like this which in our opinion is very sharp practice indeed is allowed to continue unchecked.

One alarming recent statistic is the increase in personal bankruptcies. In many cases these have been caused by considerable amounts owed to credit card companies. How long can the consumer boom last if it leads to this? Christmas may well have seen the best trading that the major stores are likely to have for some time to come.

MONITORING EMAILS

You can generally rely on the French to come up with something surprising! In a recent case between Nikon and an ex-employee the French Supreme Court ruled that the European Convention on Human Rights means that employers do not have an automatic right to monitor emails either received or sent by their employees. The basis of this ruling is that the Convention says that individuals have a right to privacy in communications.

Now,— many companies monitor use of emails by staff and in some cases they do it to ensure that their staff are complying with regulations imposed on the company itself ie. as in the Finance Industry and this ruling will be a cause of concern for them.

In the UK, the Information Commissioner (yes,— we have one of those!) will be issuing a Code of Practice which hopefully will help people in coming to terms with the European convention and our own legislation.

This has the potential to cause problems for a long time to come!

STAKEHOLDER PENSIONS

Only about half of the people in this country are providing through pension schemes for their retirement. The other half are therefore relying on the state to look after them in their old age.

Stakeholder pensions were introduced by the Government to give all employees the opportunity to contribute towards their own retirement arrangements. All but the smallest businesses are now legally obliged to have the framework of a stakeholder scheme in place so that any employee

can contribute into his or her pension arrangement. To make sure that they got a good deal from the arrangements the Government at the same time restricted the costs of the scheme to 1% of contributions paid in.

So, at one stroke it looked as though the Government had not only helped people to make their own arrangements for retirement but had also taken a big swipe at the 'greedy' financial services sector. It was also an open secret that after the stakeholder arrangements had been in place for a year or two the Government would make it mandatory for employers to contribute to the scheme, with some incentive probably being provided in the form of a reduction of Employers' National Insurance Contributions.

Our own experience as a firm of Accountants with a wide client base is that although stakeholder schemes have been set up according to the legislation, very few employees take advantage of them. The attitude seems to be that they would rather have the additional money in their pockets and let the future take care of itself. Looking at the performance of pension funds over the last two or three years there is some justification for this view in the short term if not the long.

Now, however, problems are arising from the pension providers. 1% is not very much and Standard Life and Norwich Union, who between them sell one half of all stakeholder plans, are looking very hard at their position in the market and are talking about reducing commissions paid to brokers. Even with all the financial scandals involving pensions that have been around of late, it must be obvious that the brokers who are used to working on considerably higher commissions than 1% will actively revolt against these schemes if their commission goes down further. After all, they have to make a living as well. So,— what happens next? Watch this space!

WOULD YOU BELIEVE IT?

A robbery trial at Kingston Crown Court was halted when a woman juror went into the wrong Court after lunch. It took her two hours to realise that she was in the wrong trial and the male juror who should have been sitting in her seat did not hear the announcement after lunch that the case was resuming.

Gives you faith in the jury system doesn't it?

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