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NEWSLETTER MARCH 2009

PRE 6 APRIL – MISSING NICs

Many of our readers will be aware that an individual must have made the required National Insurance contributions (NICs) in order to be entitled to the full state pension. Readers will also be aware that if an individual has failed to make the required contributions, he or she can top-up their "NIC pot" with a lump sum payment. However, some readers may not be aware that from 6 April this year it will become much more expensive to carry out this top-up exercise.

At present a man or a woman can make an additional payment of £421.20 which will buy them one year's missing NIC contributions. The problem is that as from 6 April this year, the payment per year rises to £627.60, an increase of some 49%.

Whether or not to make payments for one or more years will depend on your individual circumstances, but if you do decide that to purchase extra years is a worthwhile exercise, make sure you make your payment before 6 April.

Potentially the individuals with the most to gain from buying additional years are women who have nine years' worth of NICs. This is because you need a history of ten years NICs to be entitled to the basic state pension. By purchasing the missing year they will be entitled to the basic state pension.

But for those who have ten years contributions, it might still be worth considering buying additional years. Once again, this will depend on your individual circumstances. For example, buying additional years will not usually be an advantage for younger people or some married women.

THE CREDIT CRUNCH AND ITS EFFECT ON CAPITAL GAINS TAX

As we are all too aware, the state of the UK and global economy has meant that share prices have fallen dramatically over the past months. Whilst this will concern those who hold shares that have fallen in value, they may still be able to get some comfort by making use of any capital losses before 6 April this year.

There will be a number of individuals whose shares have made a real loss and those who have shares that have lost value so that any profits have fallen below the capital gains tax allowance of £9,600 for the tax year 2008/9. If you are in this position you should remember that any capital losses can be carried forward indefinitely and can be set against future capital profits.

You have two choices:

1. Sell any such investments prior to 6 April 2009 in order to crystallise any losses; or
2. If you don't want to sell the investment carry out an exercise known as "Bed and Sipp". This involves selling your investment and then buying it back through your pension scheme.

Let us take a simple example to illustrate both of the above alternatives. In each case we will assume that you only have one investment, ie shares in a company which you originally purchased for £10,000. However, the shares are now worth £15,000 meaning you have made a gain of £5,000. If you were to sell these shares your gain of £5,000 is below the £9,000 threshold for capital gains tax and so no tax will be payable.

But if you think that the shares may in some years increase in value, you could sell your shares and have a personal pension plan buy back these shares.

THE SPRING BUDGET

Readers will be aware that the Chancellor of the Exchequer, in his pre-Budget summary last year, set out a number of measures that would be included in the spring Budget. As the Budget is to be very late this year (22 April) we will not be able to include full details of the Budget in this article. However, set out below are a number of facts that were announced last year and which concern taxation, pensions and National Insurance contributions:

Income tax rates

	2008/09	2009/10
Starting savings rate 10% *	£0 - 2,320	£0 - £2,440
Basic rate: 20% *	£0 - £34,800	£0 - £37,400
Higher rate: 40% *	Over £34,800	Over £37,400

* There is a 10p starting rate for savings only. If an individual's non savings taxable income exceeds the starting rate limit, the 10p starting rate for savings will not be available for savings income.

Income tax personal and age-related allowances

	2008/09	2009/10	Change
Personal allowance (age under 65)	£6,035	£6,475	+£440
Personal allowance (age 65-74) (1)	£9,030	£9,490	+£460
Personal allowance (age 75 and over) (1)	£9,180	£9,640	+£460
Married couple's allowance (age less than 75 and born before 6 April 1935) (1) (2)	£6,535	£6,865	+£330
Married couple's allowance (age 75 and over) (1) (2)	£6,625	£6,965	+£340
Married couple's allowance – minimum amount (2)	£2,540	£2,670	+£130
Income limit for age-related allowances	£21,800	£22,900	+£1,100
Blind person's allowance	£1,800	£1,890	+£90

(1) These allowances reduce where the income is above the income limit by £1 for every £2 of income above the limit. They will never be less than the basic Personal allowance or minimum amount of Married Couple's allowance.
(2) Tax relief for the Married Couple's allowance is given at the rate of 10 per cent.

Pension scheme allowances

	2008/09	2009/10	Change
Annual allowance	£235,000	£245,000	+£10,000
Lifetime allowance	£1,650,000	£1,750,000	+£100,000

From 6 April 2010 the lifetime allowance will increase to £1.8 million and the annual allowance to £255,000. The Chancellor also announced that he would hold the increased rates up to and including 2015/16.

Corporation tax
The planned increase in the Small Companies Rate from 21% to 22% from 1 April 2009 has been deferred until 1 April 2010.

The loss carry back rules are to be extended, for Corporation Tax accounts ending between 24 November 2008 and 23 November 2009 and Income Tax accounts ending in 2008/09, by allowing the loss carry back for three years (previously one year). The amount that can be carried back to the previous year remains unlimited but there is a maximum carry back of £50,000 in total to the earlier two years.

Pensions
Pension Credit
The Pension Credit in to be increased from £124 to £130 for individual pensioners and from £189 to £198 for pensioner couples.

State Pension
The Chancellor confirmed that the State Pension will increase in line with the highest rate of inflation this year. This will mean an increase in the basic State Pension for a single person from £90.70 to £95.25.

National Insurance contributions
The Lower earning limit is to be increased from £90 per week to £95 per week with the upper earnings limit increasing from £770 per week to £844 per week.

The Class 2 rate will rise to £2.40 per week (at present - £2.30) and the Class 3 rate will increase from £8.10 per week to £12.05 per week.

The lower profits limit for Class 4 NIC will increase from £5,435 per year to £5,715 per year with the upper profits limit increasing from £40,040 per year to £43,875 per year.

COMPLIANCE CHECKS BY THE REVENUE

Her Majesty's Revenue & Customs (HMRC) has introduced a new framework for compliance checks, which takes effect from 1 April 2009. This will affect the way that HMRC conducts enquiries, visits and inspections, and employers will need to be prepared for the changes.

The changes affect how HMRC manage compliance checks across most taxes including income tax, capital gains tax, VAT, PAYE, the construction industry scheme and corporation tax. The new powers may be extended to other taxes in the future.

Main problem areas
Historically, the following are the main areas where problems often arise:

- gross payments to casual employees;
- payments to alleged 'self employed' persons;
- lump sum expenses;
- private petrol;
- spouse's travel and subsistence;
- travel to work from home and vice versa;
- trips for purposes other than purely business, e.g. trade fairs, golf, social outings;
- home telephone;
- entertaining;
- expenses for use of home as an office;
- club subscriptions;
- goods and services provided free or below market value;
- luncheon expenses;
- clothing;
- accommodation;
- work undertaken at an employee's home; and
- medical expenses.

Businesses should initially focus on these areas and check that everything is in order prior to a compliance visit.

With regards to casual labour, any employer paying £1 a week or more to an employee without a form P45 must request a form P46 to be completed. If the employee signs that it is his or her only or main employment, then PAYE and national insurance need not be deducted unless the payment is in excess of the national insurance primary threshold. HMRC apply this procedure strictly and, where forms P46 have not been completed, they will charge employers for tax and NI contributions on the grossed-up amount of these payments, often regardless of whether or not any tax has actually been lost.

Regardless of whether tax or national insurance is payable, businesses must keep proper records of payments and persons paid.

Recording benefits and expenses
Records must provide details of all relevant benefits and expenses paid to employees for each tax year to 5 April. The amounts shown must be the VAT inclusive amount, where relevant. HMRC are likely to challenge all doubtful claims in regard to business mileage limit. This will be relevant where an employee has a company car but has made arrangements to exclude a benefit in kind arising on fuel. Full mileage logs should be maintained for every vehicle, whether owned privately or by the company - an inspection team will ask for evidence of business mileage.
The fuel scale charge is an 'all or nothing' benefit, so if the business pays for any private fuel and is not fully reimbursed by the employee, the employee must accept the corresponding private fuel benefit and it must be reported on form P11D.

For all categories of expense/benefit, pay careful attention to anything incurred in the name of an individual director/employee, but paid or reimbursed by the business. NIC problems will arise if this is not treated correctly.

FRAUDS AND SCAMS – ADVICE FROM THE REVENUE

Her Majesty's Revenue & Customs has published guidance on its website concerning a number of frauds and scams concerning the sending of fraudulent emails, purporting to have been sent from HMRC. Set out below is an extract from this guidance:

"Points to look for
We want to make sure you can recognise a fraudulent email if you receive one, so we have compiled this list of key points to look out for.

- The padlock - when you log on to HMRC Online Services you are always in a 'secure session' - which is shown by the padlock in the bottom right hand corner of your web browser.
- Your name - fraudulent emails are not normally addressed to you personally, they can be missing addressee details or contain something vague such as 'Dear valued customer'.
- The sender - HM Revenue & Customs (HMRC) was formed on the 18 April 2005 following the merger of Inland Revenue and HM Customs and Excise departments. Those former departmental names no longer exist. Recent fraud attempts have used the following fake departmental names.
- Embedded links - the email may include a link that you are asked to follow to take you to a website. Following the link takes you to a site that may look genuine, but it is most probably a fake. In the email, if you hover your mouse pointer over the link it will show the real address you will be directed to."

TAX CREDITS – MORE USER FRIENDLY ADVICE FROM THE REVENUE

Her Majesty's Revenue & Customs (HMRC) has given details of improvements made to its website in order to make the subject of Tax Credits easier to understand. This is a complex topic at the best of times and the changes made to the website are to be welcomed.

The new pages give clear and practical guidance to help individuals understand tax credits.

The new content includes information on:

- when payments are due, including Bank Holiday dates
- how tax credits are worked out
- joint overpayments and separation
- immigration, and getting Tax Credits if a family is outside of the UK
- acting on behalf of someone else for Tax Credits

PENSIONS – FACTS AT YOUR FINGERTIPS

The subject of pensions is complex and at times can be a minefield. It is important that all those contributing to either the state, a company or a personal pension scheme are aware as to what their contributions will give them in the form of a pension when they retire. It is also important that those in receipt of a pension are confident that they are receiving the correct amount.

In order to assist potential and actual recipients of a pension, Her Majesty's Revenue & Customs (HMRC) publish a series of Factsheets on their website. These Factsheets have recently been revised, and are as follows:

- Pensions and Individuals
- Pensions and International
- Pension and Employers
- Pensions and Scheme Administrators

The Factsheet that will affect most individuals is "Pensions and Individuals". This Factsheet deals with matters such as:

- The tax rules regarding saving for a pension
- The tax limits
- How tax relief works
- When you can take your pension
- The taxation of pensions
- Lump sum payments
- The administration of pensions

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