

# NEWSLETTER MAY 2011

## MIS-SOLD PAYMENT PROTECTION INSURANCE POLICIES

Many of our readers will have read about the climb down by the British Bankers' Association in relation to the mis-selling of Payment Protection Insurance policies (PPIs) by the high street banks.

Payment Protection Insurance is taken out by many individuals to cover any mortgage, loan or credit card liabilities, should the individual be too ill to work or has been made redundant and is therefore unable to repay these liabilities.

However, many of the policies which were sold on the advice of banks failed to pay out when claims were made because the individuals were not made aware of certain clauses within the policy. For example, many who were self-employed were under the impression that they were covered when the policy did not cover the self-employed. In addition, in many cases the PPI policy was included in a loan agreement between a customer and his bank but the individual was not informed of this fact and so did not realise that the cost of the policy was included in any finance charges.

If you have taken out a PPI and feel that you have been mis-sold the policy, consider the following:

- Not all policies were mis-sold, so check your policy first and take legal advice if necessary (but see our point regarding claims management companies below).
- You do not have to have made a claim to claim for a mis-sold policy.
- Even if, in the past, you have made a successful claim under your policy, you may still be able to make a claim for mis-selling.
- If you have already made a claim to the ombudsman, the latest decision by the courts and the BBA will not affect your claim.
- If you have an old PPI which has now expired you may still make a claim.
- If you feel that your PPI was mis-sold to you, you should in the first instance make a complaint to the organisation that sold you the policy. They have a period of five days to acknowledge your complaint and then eight weeks in which to inform you as to whether they agree with your complaint. If you are not satisfied with the treatment you receive you can take your claim to the Financial Ombudsman Service and you have a period of six months to do this.

A final warning: we would advise that you think twice before instructing a claims management company to make a claim on your behalf. They will charge a fee, whereas if you handle matters yourself it is free. Even if you take advice from a solicitor this will often be cheaper than going through a claims management company.

Even if you are successful with your complaint, don't expect to receive an immediate payment. Potentially there will be many millions of individuals who will making claims and so payments will be slow and may take weeks or months.

## COMPANY PENSION SCHEMES – A SUMMARY OF THE FORTHCOMING LEGISLATION

Over the past years the government and others have become increasingly concerned that the UK will, in the future, find it more and more difficult to fund the State Pension. This is due, in the main, to the fact that individuals are living longer and for this reason have more years in retirement, without income from employment to fund their lifestyles. A number of measures are to be introduced to help alleviate this problem, including the gradual increase in the statutory retirement age.

A worrying statistic has emerged which states that some eight million workers in Britain are saving nothing for their old age and are relying solely on the State Pension when they retire.

In order to get individuals into the habit of saving for their old age, last year the government announced the creation of the National Employment Savings Trust (NEST). This trust is operated independently from government and is controlled by a board of trustees. However, businesses can opt for managing their own pension schemes provided that any scheme meets certain criteria contained in the legislation.

The philosophy behind NEST is to encourage low earners who would not normally have a personal pension scheme or are not part of a company pension scheme to save for retirement.

Between 2012 and 2016 millions of individuals will be auto-enrolled into NEST unless they opt out and are included in a pension scheme operated by their employer, such schemes being compulsory from 1 October 2012 for larger companies employing 50 staff or more.

If a company does not have its own pension scheme all workers aged 22 years or more and who earn over a minimum threshold will automatically be enrolled in NEST. A minimum contribution of 8 per cent of an employee's salary will be invested in the scheme which will be made up of a 4 per cent contribution by the employee, a 3 per cent contribution by the company and 1 per cent in the form of tax relief.

Note that there is nothing to prevent an individual from contributing more to his or her pension and wherever possible this should be encouraged, should the individual's personal circumstances warrant it.

It is estimated that those businesses who do not at present have a pension scheme and who want to keep matters as simple as possible will opt for the NEST scheme whilst those larger businesses with existing schemes or more complex employment structures will decide to create and administer their own schemes.

## HM REVENUE & CUSTOMS – POWERS AND RIGHTS

There is an understandable and entirely natural concern by individuals and businesses who receive or are about to receive visits from the tax authorities. This will apply even if we have complied in every regard with the taxation rules and regulations.

In order to alleviate some of the more common concerns of taxpayers, HM Customs & Excise have published a number of frequently asked questions, together with their answers. We set out below some of the most common questions that have been asked.

**Question: When you contact me, will you tell me which tax, duty or tax credit your questions relate to?**

*Answer:* We will always tell you specifically what tax, duty or tax credit we want information about. For example, we will usually telephone you to say that we intend to visit to inspect your VAT, customs or excise duties records. And if we intend to make an enquiry into your income or corporation tax return or tax credit entitlement we will tell you in writing. If you are still unclear about which tax, duty or tax credit our questions are about, you should ask us and we will tell you unambiguously.

**Question: Will you tell me in advance that you want information from me or want to look at my records?**

*Answer:* We will normally tell you in advance that we require information or want to look at your records, although we may, in certain circumstances, make an unannounced visit to look at your VAT, customs or excise duties records.

**Question: If you want to have a meeting about my income and corporation tax or tax credits affairs, will you want to hold it at my business premises, as your practice is now for VAT, customs and excise?**

*Answer:* We already hold meetings at business premises for income and corporation tax (for tax credits, meetings more usually take place at your home) by mutual agreement, as this will often be the best way of quickly resolving any outstanding issues. But for income and corporation tax and tax credits we only do this with your consent. The reasons for deciding whether we need a meeting, and if so where it should take place, will not change. And you will continue to have the same rights you do now to decline our suggestion of a meeting.

**Question: If you contact me to tell me you intend to inspect my VAT records, for example, will you extend your inspection to include my income or corporation tax or tax credits affairs once you are on my premises?**

*Answer:* We will only review the records relating to the tax, duty or tax credit we have told you we will be looking at. If we intend to review a number of taxes, duties or tax credits at the same time we will tell you in advance, and we will give you the opportunity to decline. If in the course of their review an officer of HMRC obtains information that is relevant to other areas of HMRC they may pass on that information for immediate or future follow-up action.

**Question: If an officer visits me to inspect my VAT records, for example, will they be accompanied by an officer who wants to review records I've kept for PAYE & NICs, income or corporation tax, or tax credits?**

*Answer:* Only if we've told you in advance, and you've agreed to the meeting covering the different taxes. One officer of HMRC may want to look at a number of taxes at one time, but if we intend to do this we will tell you in advance and give you the opportunity to decline.

**Question: What happens if during the course of your inspection, review or enquiry you obtain information about one duty or tax credit that you think is also relevant to another duty or tax credit?**

*Answer:* We will always make it clear to you at the beginning of our inspection, review or enquiry which tax, duty or tax credit we intend to ask questions about. And we will only ask for information that relates to the area we have told you we will be looking into – we will not request information that may only be relevant to another area. But if when we consider the information we have properly obtained we think it may also have a bearing on another area we will pass that information on for immediate or future action. There is no change here – the IR and HMCE have always been able to exchange information they considered would be relevant to the other department.

**Question: What can I do if I think the visiting officer is asking for information they are not entitled to request?**

*Answer:* If you are unclear why you are being asked for a particular piece of information you should ask the visiting officer to explain their reasons for requesting it. If you are not satisfied with the explanation you should say so, and you can refuse to provide the information if you consider it is not relevant to the area the officer is looking at. If you and the officer cannot agree about the relevance of the information, and the officer still considers they need it, they will be able to use formal powers to obtain it if they can show it is relevant to the area they are dealing with. If you want a further explanation you should contact the officer's manager. The officer will provide their manager's contact details if you ask them to.

**Question: If you want to look at my records relating to more than one tax, for example VAT and PAYE & NIC, will you try to co-ordinate your visits? For example, should I tell you if I receive a phone call to book a VAT visit if you have already told me you intend to inspect my PAYE records?**

*Answer:* Yes, this will help particularly in the transitional period. We will try to co-ordinate our visits if you ask us to, or we may suggest it if we think it would be helpful. But this may not always be possible.

**Question: Do these answers apply in all circumstances?**

*Answer:* These answers apply to most of the compliance contacts you will have with us. They will not apply if we think you may have committed serious fraud.

**LATE FILING PENALTIES AND FINES – THE TAX AUTHORITIES GET SERIOUS**

Some of us may remember those halcyon days when, if we were a little late in paying our PAYE or corporation tax we got a rap over the knuckles from the Inland Revenue and at worst had to pay a little interest on overdue tax. Well no more! As the years have gone by we have been faced with ever increasing penalties and/or fines for the late filing of tax returns and the payment of tax due. In addition, with the advent of computerisation HM Revenue & Customs are becoming more and more sophisticated in their collection methods and procedures due, to a large degree, to the advent of on-line filing. (Although some would argue that, at times, the reverse is true!)

As we enter a new tax year it is worthwhile setting out again the key dates when taxes are due and the increased penalties which can now be levied. Readers should note that a number of penalties have been increased from 6 April 2011.

Note that the deadlines and penalties set out below relate to income tax returns. We have not dealt with PAYE or corporation tax returns and payment dates in this article. Should you wish to see these dates, please contact us.

HM Revenue and Customs (HMRC) has advised as follows:

**“Deadlines for sending in a tax return**

***31 October: all paper returns***

If you send a paper return it must reach HMRC by midnight on 31 October.

You only have longer than this if you received the letter, telling you to send a tax return, after 31 July. In this case you'll have three months from the date you received that letter.

***31 January: online returns***

Your online tax return must reach HMRC by midnight on 31 January.

You only have longer than this if you received the letter telling you to send a tax return after 31 October. In this case you'll have three months from the date you received that letter.

There's an earlier deadline of 30 December if you want HMRC to collect any tax due through your Pay As You Earn (PAYE) tax code. You can only ask for this if you owe less than £2,000. Although HMRC will try to collect the tax due through your code, it can't be done in every case.

**Penalties if you miss the tax return deadline**

If you miss the deadline, the longer you delay, the more you'll have to pay. So it's important to send your tax return to HMRC as soon as you can.

If, for example, you send your tax return back six months late, you'll be asked to pay the first three penalties shown in the table below.

All of the penalties shown in the table below will be charged even if you have no tax to pay or have paid the tax you owe.

**Penalties for sending your tax return late**

<i>Length of delay</i>	<i>Penalty you will be asked to pay</i>
One day	Initial £100
Three months	£10 each day - up to maximum of £900.
Six months	£300 or 5% of the tax due, whichever is the higher.

Twelve months                    £300 or 5% of the tax due, whichever is the higher.

In serious cases you may be asked to pay up to 100% of the tax due instead.

The deadlines and penalties above also apply to each partner in a partnership.

### **Deadlines for paying your tax**

#### ***31 January***

You must pay any amount due by 31 January following the end of the tax year.

For example, for the tax year 2010-11 (ending on 5 April 2011) you must pay any tax due by 31 January 2012.

The payment deadline is the same for both paper and online returns.

You'll need to pay one or both of the following:

- Any tax you still owe for the previous tax year
- The first of two 'payments on account' (advance payments) for the current tax year. You won't always be required to pay these - it'll depend on the amount of tax due and the kind of income you receive.

HMRC will usually send you a 'Self Assessment Statement' that shows the amount due. If you don't receive this, you'll need to work out the tax due yourself. You can use your tax calculation and previous statements or log in to HMRC Online Services and use the 'View Account' option.

#### ***31 July***

This is the deadline for making any further payments on account if you've been asked to do so.

For example on 31 July 2011, you'd make your second payment on account for the 2010-11 tax year.

### **Interest and penalties if you don't pay on time**

If you miss the deadline, the longer you delay, the more you'll have to pay. So it's important to still send your payment to HMRC as soon as you can.

If, for example, you pay more than six months late, you'll be asked to pay the first two penalties shown in the table below.

### **Penalties for paying late**

<i>Length of delay</i>	<i>Penalty you will be asked to pay</i>
Thirty days	5% of the tax unpaid at that date
Six months	A further 5% of the tax unpaid at that date
Twelve months	A further 5% of the tax unpaid at that date

### **Interest charges if you pay late**

You will have to pay interest on all outstanding amounts, including any unpaid penalties, until payment is received.”

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<sup>i</sup> *The articles in this newsletter are of necessity summaries of the topics covered. The publisher has taken all due care in the preparation of this publication. No responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication can be accepted by the authors or the publishers. The publisher accepts no responsibility for the content of any material provided by third parties or for the content of any hypertext site referred to in this publication. The Publisher accepts no responsibility for the content of any website of other document referred to in this publication.*