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# BUSINESS UPDATE

## SUMMER 2006

Inside this month's newsletter you will find an article discussing some of the reasons why employers must give their employees time off work. Annual leave, maternity and paternity leave are considered. The government's Work and Families Bill also includes proposals to extend employee's rights in some of these areas, including:

- an extension to both statutory maternity pay and maternity allowance to nine months from 1 April 2007. The aim is to move to 12 months entitlement by the end of this parliament, including extending eligibility for additional maternity leave
- the introduction of new paternity leave for fathers, enabling them to benefit from leave and statutory pay if the mother returns to work after six months but before the end of her maternity leave period
- the introduction of 'keeping in touch' days. Where employees and employers agree, a woman on maternity leave would be able to go into work for a few days, without losing her right to maternity leave or a week's statutory maternity pay or maternity allowance
- an extension to the period of notice for return from maternity and adoption leave from 28 days to two months.

## What's on your financial horizon?



Welcome to our summer newsletter. The Chancellor's 2006 Budget may seem like a distant memory as you begin to plan your summer holidays! Although it was not a particularly headline grabbing Budget some important changes and proposals were announced.

Amongst these was the date of withdrawal of the 0% starting rate of corporation tax, first announced in the Pre-Budget Report. The 0% rate was introduced in 2002 and applied to companies with taxable profits of £10,000 or less.

The attractiveness of this tax free band tempted many unincorporated businesses to incorporate, although this was somewhat tempered by the subsequent introduction of a 'non-corporate distribution rate' of 19% to the extent that company profits were distributed. The removal of the 0% rate took place with effect from 1 April 2006. It was replaced by a rate of 19% on profits up to £300,000.

You will find a brief summary of other important Budget news inside.

To the disappointment of many, one issue that the Chancellor did not make any 'good news' announcements on was inheritance tax (IHT). It is estimated that the government will collect approximately £3.5bn in IHT this year alone! It is a tax that is affecting an increasing number of people and inside we have included an article considering some of the tax planning opportunities that still exist.

**As always, we would be pleased to discuss any questions you have arising from the features included in our newsletter.**

## In this issue

- Forgotten PINs! Retailers beware
- Inheritance tax - planning ahead
- VAT news for hotel conferencing
- Allowing time off work
- Budget news
- Child Trust Fund news
- Checking your employment status
- National Minimum Wage - new rates announced

# Forgotten PINs! Retailers beware

Chip and PIN has officially been with us for over three months. While not all shops and businesses that accept credit and debit cards have updated their technology to accept Chip and PIN, most have. The costs associated with making the transition are often cited as an important factor for those that have not.

If your business has introduced Chip and PIN technology, you should expect card companies to automatically decline payments if a PIN is not used with a Chip and PIN card.

If you decide to override this decision and accept a transaction, for example with a signature instead, beware! You may be liable for any fraud or other chargebacks that result. Your bank will be able to let you know where the exact liability lies.

There are a few exceptions for individuals who do not have to use Chip and PIN, including overseas cardholders, the visually impaired or people who may have trouble entering or remembering a PIN. The latter category can apply for a special chip and signature card.



## Inheritance tax - planning ahead

Despite the increase in the inheritance tax (IHT) nil rate band confirmed in the Budget (up to £285,000 and expected to rise to £300,000 in 2007, £312,000 in 2008 and £325,000 in 2009), the payment of an IHT bill continues to loom on the horizon for the executors of many estates.

Ever-increasing house prices over recent years mean that the family home can itself easily exceed the nil rate band, even before any other assets are taken into consideration. This will mean an IHT bill of up to 40% on the excess! With this in mind, more and more people are being forced to consider the impact that IHT may have on their estates.

### Planning for the future

As with most tax planning, it pays to start early. This is especially important with IHT, as gifts made up to seven years before death may have an

impact on the IHT charged on the deceased's estate.

In general, basic IHT planning should try to ensure that a married couple make full use of both nil rate bands and should consider the relevance of other exemptions that exist for agricultural and business property. Lifetime planning should look to ensure that available exemptions are taken advantage of. With regard to the family home, it may be worth reviewing joint tenancy arrangements in association with a discretionary will trust, although this is a complex area and specialist advice will be required. Please talk to us if this may be of interest to you.

### Available exemptions

There are certain gifts that can be given IHT free. All individuals have an annual exemption of £3,000 and can make small gifts

of up to £250. On marriage, IHT free gifts can be made by the following:

Parent	£5,000
Grandparent	£2,500
Bride / groom	£2,500
Other	£1,000

### Practical advice

IHT planning is complex and there are many factors that have to be taken into account. Whatever planning you undertake, it is important that it is both practical as well as commercial.

Finally, it is always important to have a proper will. This will ensure that your assets go where they are intended and therefore that any IHT planning you undertake is effective.

**If you would like to find out more about IHT and your tax planning opportunities please contact us.**

## VAT news for hotel conferencing

HMRC have issued revised guidance on the VAT treatment of conference facilities provided by hotels. The guidance is relevant to hotels that provide conference facilities on a 24 hour delegate rate.

Now only part of the 24 hour delegate rate should be subject to VAT. The element of the costs which relate to room hire should be exempt from VAT, unless the hotel has elected to tax the premises, known as an 'option to tax'.

These changes will mean that some hotels may be entitled to a VAT refund and HMRC have also issued guidance on how this claim should be made.

HMRC have also confirmed that hotels that wish to continue charging VAT on the full cost of 24 hour delegate rates may do so. This may well be the simplest option for some hotels but may mean they lose out on some bookings from businesses which are unable to reclaim the input VAT they incur.

This change does not affect the VAT treatment of supplies of rooms where the main purpose is for supplies of catering, such as dinner dances, wedding receptions etc.

If this change affects your business and you would like to know more please get in touch.

# Allowing time off work

There are a number of reasons why staff may need time off work and it can be difficult to remember what is at the employer's discretion and what is required by law. It is always good practice to have clear policies on this issue and to treat all staff fairly. Such matters can be dealt with in contracts of employment or an employee handbook. Below we consider some of the most frequently asked questions relating to annual, maternity and paternity leave.

## How much annual leave is required by law?

The law requires employers to give all full time employees paid annual leave of at least 20 working days. An equivalent pro rata time off must be given for part-time employees. Annual leave can include bank and public holidays.

## Who is entitled to paid maternity leave?

All pregnant employees are entitled to paid Ordinary Maternity Leave (OML) of 26 weeks. During the first six weeks of OML employees must be paid at least 90% of their average earnings. Thereafter Statutory Maternity Pay (SMP) applies, currently £108.85 per week or 90% of weekly earnings if lower.

Pregnant employees who have completed at least 26 weeks service at the 15th week before the baby is due are entitled to take OML and Additional Maternity Leave (AML). AML is currently an additional 26 weeks and is unpaid.

Expectant mothers are also entitled to paid time off for ante-natal and parent-craft classes before their maternity leave.

## Who is entitled to paternity leave and how much time off must be given?

Paternity leave is available to a person with parenting responsibility for bringing up a child, who may be the biological father, or married to, or the partner of, the mother.

To be eligible to take paternity leave employees need to have completed at least 26 weeks service at the 15th week before the baby is due.

Eligible employees are entitled to take two weeks paternity leave within eight weeks of the child's birth. Paternity leave must be taken in a single block of either one week or two consecutive weeks and is generally paid at the same rate as SMP.

Similar rules also apply to the adoption of children.

The entitlements noted above represent the minimum required by law. Additional time off and enhanced pay can of course be made at the employer's discretion.

The government is currently proposing to extend employee's rights in a number of these areas. We will keep you informed of the changes as they happen.

# Budget news

**Gordon Brown presented his tenth Budget on Wednesday 22 March 2006. While there was little news on personal tax rates and allowances, there was surprising news that self assessment taxpayers can expect to have to file their returns earlier in 2008.**

**The Chancellor did announce further moves on tax avoidance, although the measures did not go as far as some commentators predicted.**

**Two significant surprises stood out the most on Budget Day.**

## An attack on interest in possession and accumulation and maintenance trusts

Lifetime transfers into accumulation and maintenance trusts or interest in possession trusts have always been exempt from inheritance tax (IHT) if the settlor lived for seven years following a transfer of assets to the trust. Such trusts are also not subject to the periodic or exit charges suffered by other trusts.

Legislation has been proposed to make transfers into these types of trusts immediately chargeable to IHT.

The changes came out of the blue! It is not clear why the government felt this change was necessary but it has serious consequences for IHT planning.

Trusts created prior to 22 March 2006 are subject to a transitional regime, which may allow them to escape future charges with appropriate planning.

Please talk to us if you have concerns over the changes to existing trusts.

## Get ready to file your tax return by September!

A review of HMRC online filing services has been published. The key recommendations are to:

- require businesses to file their VAT returns, company tax returns and PAYE in-year forms online in phases from April 2008
- introduce new filing deadlines for income tax self assessment returns of 30 September for paper forms and 30 November for online returns from 2008
- link the period that HMRC have to query a return to the date it is filed.

Whilst self assessment filing dates may be changed, payment dates will remain as 31 January and 31 July each year for the time being.

Some individuals may struggle to comply with the 30 September deadline and will, therefore, be forced to file online.



# Child Trust Fund news

**All children born after September 2002 are eligible for a Child Trust Fund (CTF) account if Child Benefit has been awarded for them and they are living in the UK. The government makes an initial contribution of £250 (£500 for children in lower income families) in the form of a voucher that is used to open the account.**

The Chancellor announced in his 2006 Budget that a further award of £250 will be made

when qualifying children reach the age of seven (£500 for children from lower income families).

Somewhat surprisingly it seems that a substantial number of parents are waiting until the last few days before expiry of their CTF voucher before attempting to open a CTF account for their child. Such late applications cause particular problems for account providers where the application is made by internet or telephone at the last minute, meaning that the CTF voucher

is received by the account provider after the expiry date. In response, the government has amended the CTF regulations to allow a seven day period after the expiry date for parents to get the voucher to their chosen provider.

Remember, once the account is open anyone can contribute up to the annual maximum of £1,200 tax free. This includes grandparents, other family members, friends and in time the child themselves.

## All is not lost!

If parents do not successfully use the CTF voucher before it expires all is not lost! Once a voucher has been issued parents have twelve months to open a CTF account. If they do not, HMRC will open a stakeholder account in their child's name. This will be with one of the CTF providers and HMRC will send parents the details of the account that has been opened. It is then up to the parent to manage the account and they do have the option to change the account or provider if they wish.

## Checking your employment status

Employment versus self employment status has been a thorny issue for many years.

From HMRC's perspective, those who are employed are generally easily dealt with by the taxation system. They are subject to tax and national insurance (NI) through the Pay As You Earn system. Those who are self employed are dealt with by the self assessment system and generally pay their tax and NI twice yearly, in arrears.

Many decisions over employment status have been hotly contested over the years, with HMRC generally arguing for employment status and the taxpayer arguing for self employment status. This is expected to continue with the introduction of the new Construction Industry Scheme (CIS) from 6 April 2007. There are potentially large penalties awaiting those contractors who do not establish the correct status of their subcontractors under this scheme.

In order to help contractors falling within the CIS decide on the status of the subcontractors they pay and also employees generally, HMRC have made an Employment Status Indicator (ESI) available on their

website. The ESI can be accessed at [www.hmrc.gov.uk/calcs/esi](http://www.hmrc.gov.uk/calcs/esi)

### Caution!

Those deciding to use the tool should do so with extreme care as it asks a series of leading questions which are used to form the basis for a conclusion of employed, self employed or unsure.

Where the tool is unable to come up with a conclusion it suggests the individual refers the particular circumstances to an HMRC Status Inspector. This could have all sorts of unexpected consequences, including a visit from HMRC.

HMRC also warn that the tool cannot be used to produce a binding ruling as to the status of a particular individual.

**If you have any questions regarding the introduction of the new CIS or about establishing employment status generally we would be pleased to hear from you.**

## National Minimum Wage - new rates announced

The new National Minimum Wage (NMW) rates that will come into effect from 1 October 2006 were announced just before the Budget. The adult rate will increase by almost 6%, the development rate by 4.7% and the 16 to 17 year old rate by 10%. These increases far exceed inflation rates.

Existing rate	New rate from 1/10/06
<b>Adult Rate</b> (Workers aged 22 and over) £5.05	£5.35
<b>Development Rate</b> (Workers aged 18-21 and the accredited training rate) £4.25	£4.45
<b>Workers aged 16-17</b> £3.00	£3.30

Those businesses that are heavily influenced by these rates can now begin to budget and forecast with certainty for the effects.

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