

17 October, 2008

Dear Client,

I am pleased to write to you again with topical news about some issues that may concern you and your business.

### **The credit crunch**

Most of my clients will be affected in one way or another with the credit crunch – whether it is a reduction in turnover or an increase in the time taken to settle accounts. On the basis that prevention is better than cure I recommend if your cash flow is suffering that you call me without delay. I have recently been introduced, through my membership of the Federation of Tax Advisers, to firm that specialises in assisting with firms in financial difficulties. The firm is actually one of the country's leading insolvency practitioners but I hope it will not be necessary to proceed that far!

### **Service Company - warning**

A recent High Court Judgment has removed some uncertainty regarding 'service companies'. This will not be relevant for most of my clients but it is an important ruling so I thought it best to provide a brief note of the circumstances.

Historically it has been possible to set up a business, most usually a limited company, and for a 'worker' to provide their service through the company almost or entirely exclusively for one 'employer'. The benefit is that the employer does not pay tax or NI and the worker can distribute the profit (or contract price) in the form of dividend in the company thus reducing further the tax and NI liability.

Needless to say HMRC are not keen on this arrangement and have recently won a case that was referred to the High Court. In the case in question the employer had arranged a contract, through a third party, with the worker and although there was a contract put in place the evidence submitted was not sufficient to prove that it was not effectively an employment contract and the Judge found in favour of HMRC. The particularly costly

effect on the worker is that he is now faced with paying the employer's tax and NI on the contract price.

Space does not permit more than this brief mention of this case but due to its importance in the tax world reference is included and if you are, or are thinking of, contracting through a company then please call me for further details. I can also provide a full summary of the case if that would be of interest.

### **URGENT - 2007-8 Tax Returns**

The date for filing paper tax returns has been brought forward this year to 31<sup>st</sup> October. Although the majority of my client's tax returns are submitted electronically, I am trying to complete as many returns as possible now. This will avoid the annual rush in January and I would ask for your co-operation in providing any outstanding documentation accounts etc within the next few days.

The fact that the return is filed three months earlier this year does not affect the due date for payment of the tax/NI which remains at 31<sup>st</sup> January. What it does do is provide clients with notice of the amount payable and therefore more time to arrange the payment. Also if you overpaid last year any refund can be claimed immediately – and your money is better positioned in your bank account than with HMRC!

### **Construction Industry**

HMRC are no longer prepared to provide copies of CIS vouchers issued by contractors which have been used in the past to cross-check the payments declared. Instead we need to be vigilant and ensure that all payments are recorded meticulously. Again if your business is involved please call to discuss.

### **Capital allowances**

Clients may not be aware but at the same time as increasing the small companies corporation tax rate to 21% from April (and to 22% in April 2009), a revised capital allowance is available of 100% of the cost price being allowable against the current year's tax bill.

As the Conservative party has declared its intention to reverse this increase in rate and to abolish the annual investment allowance, if any expenditure is contemplated on machinery equipment or vehicles (ex cars) then it might be better to buy sooner rather than later.

### **Business cash or credit charge purchases**

HMRC are always looking for ways to increase the 'tax-take' and some attention is being given currently to goods and services purchased through the company for private use. The problem, as most people realise, is that once the local Inspector of Taxes starts an enquiry – or worse an investigation – no stone is left unturned.

The type of expenditure that can be questioned includes using cash or a company credit card to purchase items for your own use. This may be a series of transactions that raise suspicions or the use of the company bank account to purchase a higher cost single item such as a car. All such payments must be declared as income to the business owner unless of course the cost is reimbursed. Failure to prove that the goods or service were used in the business and if there were any personal purchases not reimbursed will start 'hares running' and result in an increase in tax in respect of all the transactions which are not proven to be a part of business expenditure.

Secondly HMRC are watching for goods taken from stock for personal use when the price that the item is expected to achieve through a normal sale is the benefit to the business owner. I know that it often happens that damaged stock is taken home – it may be the packaging or out of date stock – and again the retail price should be declared and included in the accounts.

My advice is therefore to carefully document all cash and credit card payments with appropriate invoices and where necessary to provide a full audit trail of where the goods came from and to whom they were supplied.

## Professional advice

Thank you for allowing me to act as your adviser and you may be interested to know that HMRC have recently issued a document in which it is suggested that taxpayers who deal directly with HMRC are to be advised that if they need to appoint an adviser, then they have the responsibility to select a 'competent' adviser. Whilst there is no definition of competent provided it is generally assumed that the adviser should be regulated – as I am through the FTA.

Please call if you wish to discuss any of the issues mentioned in this letter and I will write again as usual after the Pre-Budget Report towards the end of the year.

Yours sincerely,



---

Andrew Doherty AFA AFTA