Inland Revenue

tax BULLETIN

ISSUE 73

Online Filing For 2004-05 and 2005-06

contents

Online Filing For 2004-05 and 2005-06 1151

Finance Act 2004 - Offshore Funds Legislation 1152

Filing for Employer's Annual Returns 2004-05 1155

Interest Rates 1156

miscellaneous

Impact of online filing on Insolvency: Liquidations, Receiverships, Administrations, Bankruptcies and Voluntary Arrangements 1157

Correction to Paragraph 4 of the Stamp Duty Land Tax – Group Relief article in Tax Bulletin 70 1158

Helplines telephone numbers 1158

Inland Revenue Library & Information Service 1159

Inland Revenue Visually Impaired Media Unit (VIMU) 1159

Do it online at www.businesslink.gov.uk 1160

Employers – Help Us To Save Your Van Drivers Tax 1160

Tax Bulletin is on the move 1161

Statements of Practice and Extra Statutory Concessions 1161

Please look out for your 2005 subscription form in this issue

Tax Bulletin is also available on the Inland Revenue Website at ***www.inlandrevenue.gov.uk/bulletins***

Online filing for 2005-06

Nearly two million letters will be sent by the Inland Revenue in November to tell every employer in the UK about filing their 2005-06 Employer's Annual Return (P14 and P35) online.

What the letters say will depend on how many employees are shown on the Inland Revenue's records on 24 October 2004.

- Large employers (more than 250 employees) will be told that they must pay electronically and send their Return online for 2005-06.
- Medium sized employers (50-249 employees) will have to send their Return online for 2005-06.
- Small employers (fewer than 50) will get a tax-free payment of £250 if they send their Return online for 2005-06.

Employers will be able to appeal if they think the Inland Revenue has put them in the wrong employer size. (For example, if the letter says they are medium-sized, when they are actually small.)

Anyone who has not had a letter by 1 December must contact his or her Inland Revenue office.

Agents who act as the employer's correspondence address will get the letters. They must make sure that their client sees a copy, as the employer is still responsible for making sure that we get a return. We remind employers to give a copy to anyone who helps them with payroll.

Remember online filing for 2004-05

The letters will spell out how employers are affected by online filing for 2005-06. They do not alter what employers were told in November 2003 about qualifying for a tax-free payment or the need to file online for 2004-05. Employers can contact their Inland Revenue office if they are not sure what they have to do.

Need help?

The letters tell employers how they can get help with online filing and electronic payment. Small and medium-sized employers will be able to send back a tear-off slip to get online filing help from local Inland Revenue staff.

Details about online filing and electronic payment are at www.inlandrevenue.gov.uk/payeonline. And *Do it online: Your guide to filing PAYE Returns and paying electronically*, or the more detailed *Do it online: Online filing and electronic payment handbook* are available free by calling 08457 646 646.

Finance Act 2004 - Offshore Funds Legislation

Overview

The Finance Act 2004 contained some of the most significant reforms to the offshore funds rules since they were first introduced in 1984. Offshore funds are the overseas equivalents of UK collective investment schemes, such as unit trusts and open-ended investment companies. The changes affect the rules which determine whether an offshore fund can qualify for "distributor status", which in turn determines the tax treatment of UK investors in the fund. This article provides information on the objectives behind the changes, the technical detail of the changes, and some clarification of how the changes impact on funds and investors.

Background

The offshore fund rules were introduced in Finance Act 1984 and can be found in sections 756A to 764 and schedules 27 and 28 of the Income and Corporation Taxes Act 1988 (ICTA). There are also provisions in other parts of the legislation - the most relevant to the 2004 changes are Schedule 10 Finance Act 1996 (loan relationships), paragraph 35 Schedule 26 Finance Act 2002 (derivative contracts) and sections 99 and 99A of the Taxation of Chargeable Gains Act 1992 (TCGA).

The legislation was introduced to counter what was seen as an unfair competitive advantage for offshore funds over equivalent UK based products, which in turn could have lead to significant loss of tax. A combination of regulatory and tax rules means that UK funds have to distribute all their income annually to their investors. In contrast, offshore funds could accumulate their income within the fund without paying it out annually. The income would then be reflected in value of the investor's interest in the fund which, when realised, would have been taxed under the chargeable gains regime. This would typically lead to a much lower tax charge over the life of the investment than an equivalent investment in a UK fund.

The legislation counters this by charging realisations from an offshore fund to tax as income rather than as chargeable gains, unless the offshore fund is certified by the Revenue as having "distributor status" throughout the time that the investor held the relevant shares or units. In order to obtain "distributor status" an offshore fund must distribute annually at least 85% of its income, and must meet certain other conditions.

These rules have remained largely unchanged since they were introduced. In 2002 the Government issued a consultative document setting out possible ways forward, including complete replacement of the offshore funds regime, or reform of the existing rules. Respondents largely agreed that reform was necessary but there was no consensus on the direction of any major reform. As a result, the Government decided to make changes in the Finance Act 2004 to address what were agreed to be the most significant issues with the existing rules. The consultative document and the summary of responses can be found on the Inland Revenue website at
http://www.inlandrevenue.gov.uk/consult_new/offshore_funds_response.pdf

Summary of the 2004 changes

The changes fall into three main areas. They all affect whether or not an offshore fund can be certified as having "distributor status".

- The measure of a fund's income for the purpose of deciding whether at least 85% has been distributed will be based wholly on corporation tax rules, in place of a mix of corporation tax rules and income tax rules.
- All bar one of the restrictions on a fund's investments are removed.
- Separate sub-funds and classes of interest within a fund can qualify separately for distributor status without affecting, or being affected by, other sub-funds or classes of interest.

Why is "Distributor Status" important?

If an offshore fund has "distributor status", investors will be within the chargeable gains rules in respect of their disposal of units or shares in the fund. This reflects the fact that the bulk of the fund's income will have been distributed and charged to income tax annually, and that the fund will therefore have been operating in more or less the same way as a UK based fund.

If the fund does not have distributor status, disposals of shares/units are charged to tax as income to reflect the fact that the increased value of the holding will derive to a significant extent from accumulated income.

A fund must apply annually for distributor status and it is considered separately for each account period of the fund. In respect of an individual investor, the fund must have had distributor status throughout the period that the investor held the shares/units that are the subject of the relevant disposal. It is quite possible for different investors to be in a different position in relation to the same fund, or indeed for the same investor to be in a different position in relation to different holdings of shares/units in the same fund.

Why was there pressure for change?

Offshore fund managers argued that the structure of the rules as they existed before the Finance Act 2004 constrained their commercial operations. A particular concern was the rule which said that distributor status could be granted for a fund only if all the sub-funds and classes of interest also demonstrated that they met the 85% distribution test. Fund managers argued that this limited their ability to design products for markets where there were different preferences between annual income and accumulation of income - in practice, they had to set up completely different funds for different markets, which they argued was less efficient than being able to offer different products within the same overall pool of investments.

Another frequent comment made during the consultation was that fund managers had to spend a considerable amount of time converting their accounts figures for the purpose of measuring “United Kingdom Equivalent Profits”, or UKEP. Before the changes UKEP was based largely on profits computed for the purposes of corporation tax, but excluding chargeable gains and including UK company dividends. However, interest income and income from derivative contracts were still based on the relevant measure for income tax. Fund managers argued strongly that to reduce their costs of compliance they should be allowed to rely solely on their accounts, but if this was not acceptable, then to at least move to a full corporation tax basis. Again, this change would put them onto the same basis as a UK authorised unit trust or open-ended investment company.

What is an “offshore fund”?

The basic definition of an offshore fund is unchanged by the new legislation, but the definitions have moved from section 759(1)(c) and section 759(1A) ICTA to new sections 756A, 756B and 756C ICTA. An offshore fund must be a collective investment scheme within the meaning of section 235 of the Financial Services and Markets Act 2000 (FSMA). It can take the form of a company, a unit trust, or an arrangement under the law of a territory outside the UK that accords rights in the nature of co-ownership - see new section 756A ICTA. The definition is therefore widely drawn, but hinges critically on the definition of a collective investment scheme.

The new rules then look for what might be described as the “lowest common denominator”. That is, a class of interest, a sub-fund or, if the fund has no separate classes of interest or sub-funds, a single fund.

Sub-funds are dealt with in section 756B ICTA. They require separate pooling plus the ability for investors to switch between different sub-funds under the same umbrella. The definitions are drawn up on the basis that a sub-fund will have its own separately identifiable pool of assets and its own clearly defined income stream.

In contrast, a class of interest, defined in section 756C ICTA, is an integral part of a larger whole and will not have separately identifiable assets and income. Where there is a need to consider an asset-based test (for example, section 760(3) ICTA) the relevant assets are deemed to be those of the “parent” fund. The income of the class of interest is defined as the income attributable to that class by the fund documentation.

Queries have been raised about the status of what are known as “protected cell funds”. These are similar to umbrella funds, having a number of sub-funds, but crucially investors do not have the right to switch between sub-funds. Subject to meeting all the relevant requirements it is possible that each “cell” could be regarded as an offshore fund in its own right within the meaning of section 756A ICTA. However, fund managers are advised to consult the Inland Revenue’s Offshore Funds Unit to establish the correct position.

Where the entity under consideration is a sub-fund or a class of interest, that becomes “the offshore fund” for the purposes of the legislation, and the parent fund (or sub-fund in the case of a class of interest) is disregarded for most purposes, except where specific rules bring it back into play (see particularly under “secondary legislation” below).

Where an offshore fund was established before Royal Assent to the Finance Act 2004, then for the purposes of determining the “history” of a sub-fund or class of interest in relation to distributor status you have to look back to the history of the “parent” fund. Continuity in this respect is provided by sections 756B(3)(d) and 756C(3)(d).

United Kingdom Equivalent Profits (UKEP)

UKEP is important for the purposes of distributor status as a fund has to distribute annually at least 85% of its income as measured by UKEP (as well as 85% of its income as measured by the fund’s accounts) - paragraph 1(1) Schedule 27 ICTA.

The new rules make two key changes for UKEP:

- Interest income will be computed using the “loan relationships” rules for companies found in Part 2 Chapter 4 Finance Act 1996.

- Income from derivative contracts will be computed using the corporation tax rules found in Schedule 26 Finance Act 2002.

For the purposes of computing its income for UK tax, a UK Authorised Unit Trust (AUT) is treated as if it was a UK resident company, chargeable to corporation tax on its income. UK open-ended investment companies (OEICs) use the same rules to determine their income. Therefore, although an offshore fund is not within the charge to UK

corporation tax, it can now compute its distributable income in exactly the same way as a UK AUT or OEIC.

When the proposed changes were first announced, fund managers indicated that they needed time to change to the new basis, so the legislation allows funds that existed before Royal Assent to continue to use the old basis, although for a number of reasons that basis may soon become obsolete anyway. New sub-funds or classes of interest created after Royal Assent in funds established before Royal Assent can adopt the same basis as the "parent fund" to avoid the need to prepare separate sets of accounts for different parts of the same overall entity (see "secondary legislation" below).

Both the loan relationship and derivative contract rules treat all profits alike within an income regime for the purposes of corporation tax. However, there are specific rules for UK AUTs and OEICs that identify and exclude essentially capital profits in computing what can be distributed[1]. The same rules will apply to offshore funds. Those rules are currently based on the UK Statements of Recognised Practice (UK SORP), administered by the Investment Management Association. Fund managers have expressed concern that this will effectively force them to adopt the UK SORP for offshore funds. This is not the intention of the legislation. If an offshore fund approaches the issue of capital profits to give a result broadly compatible with the UK SORP this will be acceptable for the purposes of UKEP. The Inland Revenue will not insist on the full "three column" approach required by the UK SORP provided the result is reasonable, but equally the UK SORP is there as an absolute standard should the methodology adopted by the fund not give a reasonable result.

The Accrued Income Scheme

Before these changes, interest income for UKEP purposes was computed using income tax rules, including the rules of the accrued income scheme (AIS)[2]. A consultation on the future of the AIS closed on 17 July 2004. If there are changes to the AIS as a result of the consultation there may need to be consequential changes to the treatment of interest within UKEP for offshore funds.

Investment Restrictions

The changes in the 2004 Act remove two of the investment restrictions found in section 760(3) ICTA 1988:

- Section 760(3)(b) which prevented an offshore fund holding more than 10% by value of its assets in a single company.
- Section 760(3)(c) which prevented an offshore fund owning more than 10% of the issued share capital of any one company.

The limit in section 760(3)(a) ICTA remains - an offshore fund may not hold more than 5% of its assets in other offshore funds. This is subject to paragraph 6 Schedule 27 ICTA, which allows the fund to disregard for this purpose any holdings in an offshore fund which itself could qualify for distributor status.

However, in establishing its status that second fund may not have regard to paragraph 6 Schedule 27 in relation to any offshore funds in which it has investments. Therefore, if offshore fund A invests more than 5% of its assets in offshore fund B, and B does likewise in offshore fund C, then B cannot qualify for "distributor status" and hence neither can fund A. The 2004 legislation makes no changes to this aspect.

There is a transitional provision in paragraph 17 Schedule 26 Finance Act 2004. It was recognised that a sub-fund may previously have been within a larger fund, which was able to satisfy the investment restrictions. However, that sub-fund on its own, might exceed the 5% limit. Paragraph 17 gives a sub-fund in that position until 31 December 2005 to make any necessary adjustments to its investments in order to satisfy the new legislation.

Secondary legislation

It was recognised that some, mainly procedural, aspects of the offshore funds legislation might not fit easily with considering each sub-fund or class of interest separately. For example, there are references to "the accounts of the fund" in the legislation, whereas the likelihood is that the accounts will be drawn up by the overall fund and will contain information about sub-funds and/or classes of interest. The Offshore Funds Regulations 2004 deal with a range of issues such as this.

There is, in addition, one more substantive matter covered by the regulations. Industry representatives pointed out that any new sub-fund or class of interest created within a fund that was established before Royal Assent would have to adopt the new UKEP basis, whilst the remainder of the fund would have the option to retain the old basis. This could have led to considerable complexity in the fund's accounting and in producing the necessary computations for UKEP purposes. The regulations ensure that sub-funds or classes of interest always take the same basis as the "parent" fund.

Exchanges of classes of interest

The rules governing when investors in an offshore fund that does not have "distributor status" realise gains that are charged to income tax are generally the same as those that

1 *Paragraphs 2A and 2B Schedule 10 FA 1996; Paragraphs 32 and 33 Schedule 26 Finance Act 2002*

2 *Paragraph 3 Schedule 10 FA 1996*

would apply to determine when a gain within the chargeable gains regime would arise if the fund did have "distributor status"[3]. Because some classes of interest in an offshore fund may now be certified as having "distributor status" while other classes of interest in that fund do not, the rules for certain exchanges of classes of interest within an offshore fund have been amended.

Within the chargeable gains regime an exchange of one class of interest for another in the same offshore fund will not, if certain conditions are met, be treated as involving any disposal of the original class[4]. Instead, the class of interest obtained on the exchange stands in the place of the original class of interest. Any gain that had accrued on the original class of interest before the exchange, is effectively aggregated with any gain accruing on the second class of interest after the exchange. The total gains on the investment as a whole crystallise on the eventual disposal of the second class of interest. Under the offshore fund rules as they stood, if a class of interest on which a charge to income tax would have accrued, is exchanged for one certified as having "distributor status", the gain arising on the eventual disposal of the second class of interest could all be taxable under the chargeable gains regime. The gain that had accumulated before the exchange would not be charged to tax as income as it should have been.

Section 762A ICTA was introduced to correct the position. It provides that:

- if an investor exchanges a class of interest in an offshore fund on which a charge to income tax would accrue for another class of interest in the same offshore fund that has "distributor status";
- in circumstances such that there would be no disposal of the original class of interest for the purposes of the chargeable gains regime;
- there will nonetheless be a disposal for the purposes of the offshore funds regime;
- so that a gain chargeable to income tax arises by reference to the market value of the original class of interest at the time of the exchange.

In order that the amount charged to tax as income is not also charged under the chargeable gains regime on the eventual disposal of the class of interest obtained on the exchange, subsection (6A) was introduced into section 763 ICTA. It provides that the amount charged to tax as income on the exchange is treated as additional consideration given for the class of interest. In addition, sections 757(5) and (6) ICTA, which ensure that a gain chargeable to income tax accrues to an investor who exchanges an interest in a non-qualifying fund, for an interest in a distributing fund, even if provisions in the TCGA would mean that there was no disposal of the original investment for the purposes of that Act, have been amended to reflect the changed definition of an offshore fund.

Example

An offshore fund has different classes of interest that are treated as separate offshore funds. An investor acquires a class of interest (A) in the offshore fund for £100. (A) does not have "distributor status" so any gain on disposal is chargeable to tax as income. Subsequently the investor exchanges (A) for another class of interest (B) that does have "distributor status". The exchange is such that, for chargeable gains purposes, it would be treated as involving no disposal of (A). At that time the market value of (A) was £120. Finally the investor disposes of (B) for £150 making an overall profit from the investment of £50.

Although the exchange of (A) for (B) does not involve any disposal of (A) under the chargeable gains rules, section 762A ICTA operates so that a gain of £20 (£120 market value less £100 cost) chargeable to income tax under the offshore fund rules arises at the time of the exchange.

For chargeable gains purposes (B) is treated as if the consideration the investor gave to acquire it was the £100 given to acquire (A). Section 763(6A) ICTA results in the £20 charged to income tax being treated as additional consideration given for the investment. So the chargeable gain (before any reliefs or allowances due) on the disposal of (B) is £30 (disposal proceeds £150, less deemed original cost £100, less amount charged as income £20).

Filing for Employer's Annual Returns 2004-05

Important changes about National Insurance numbers

Employer's Annual Returns for 2004-05 which are due by 19 May 2005 must show the right National Insurance number (NINO). Employers must make every effort to find out the NINO and date of birth so that employee's National Insurance contributions can be set against the right person's record. Leaving it off can cause problems. We have to find out what the NINO is by contacting the employer. And this can delay working out someone's benefits (including state pension).

3 *See in particular section 757(2) ICTA 1988*

4 *Section 127 TCGA 1992*

From 2004-05 the temporary number TN+date of birth+gender (for example, TN020363F) will no longer be an acceptable entry and Returns showing TN will be rejected.

There are occasions when we send employer's a temporary reference in the format: two numbers, one letter and five numbers (for example, 63T12345). These references should not be used by employers as they are temporary and will become redundant when the NINO is identified. We realise this may be inconvient but Returns using these temporary references **will** be rejected from April 2005.

Missing NINO

If an employer has not been able to find out the NINO, the NINO field of the P14 should be left **empty**, the date of birth and the gender must be entered in the date of birth and gender box.This will help us to trace the individual's NINO and to match the data to our records.

We have a National Insurance Number Tracing service. The Employer must fill in an Employees National Insurance Number Trace form (CA 6855) which they can get from:

- www.inlandrevenue.gov.uk/employers and click on 'I want to trace a National Insurance Number'
- the Employer's CD-ROM
- the Employer's Orderline on 0845 7 646 646
- an Inland Revenue office, or
- writing to us with the details we need in the following order:
  - employee's title
  - surname
  - first name
  - address
  - date of birth
  - gender
  - works/payroll number
  - date employment started
  - date employment ended (if that applies) and
  - the employers' PAYE reference.

Then send it to:

Inland Revenue, National Insurance Contributions Office
Additional Business Workstream
Room H3002
Benton Park View,
Newcastle Upon Tyne
NE98 1ZZ.

Missing NINO and Date Of Birth

In exceptional circumstances, where an employer has not been able to identify the employee's NINO or date of birth, the NINO field must be left empty and the default date of birth of 01/01/1901 entered in the 'Date of birth' field.

Interest Rates

The Inland Revenue recently announced new rates of interest for underpaid and overpaid instalment payments of corporation tax, and early payments of corporation tax not due by instalments, in respect of accounting periods ending on or after 1 July 1999. These rates took effect from Monday 16 August 2004. The changes are the result of recent changes in market rates.

The rate of interest charged on underpaid instalment payments of corporation tax has changed from 5.50 per cent to 5.75 per cent.

The rate of interest on overpaid instalment payments of corporation tax, and on corporation tax paid early (but not due by instalments), has changed from 4.25 per cent to 4.50 per cent.

The revised interest rates are based on the average base lending rate of 4.75 per cent calculated in accordance with the Statutory Instruments.

An order of the Board of Inland Revenue was issued recently specifying changes to the rates of interest on tax and national insurance contributions paid late and overpaid in accordance with the relevant regulations. The changes are as a result of recent changes in market rates.

The new rates of interest, detailed below, took effect from 6 September whether or not interest had already started to run before that date.

Income Tax, National Insurance Contributions, Capital Gains Tax, Stamp Duties etc.

The rate of interest charged on income tax, national insurance contributions, capital gains tax, stamp duty, stamp duty land tax and stamp duty reserve tax paid late, and on tax charged by an assessment for the purpose of making good to the Crown a loss of tax wholly or partly attributable to failure or error by the taxpayer, has changed from 6.5 per cent to 7.5 per cent.

The rate of interest on overpaid income tax, national insurance contributions, capital gains tax, stamp duty and stamp duty reserve tax (repayment supplement) has changed from 2.5 per cent to 3.5 per cent.

Petroleum Revenue Tax, Development Land Tax, Advanced Corporation Tax etc.

The rate of interest for Development Land Tax, Petroleum Revenue Tax (including Supplementary Petroleum Duty and Advanced Petroleum Revenue Tax), and on Advance Corporation Tax and Income Tax on Company Payments which became due on or before 13 October 1999, paid late or overpaid, has changed from 5 per cent to 5.75 per cent.

Income Tax on Company Payments which became due on or after 14 October 1999

The rate of interest on late payment of Income Tax on Company Payments, which became due on or after 14 October 1999 has changed from 6.5 per cent to 7.5 per cent.

Inheritance Tax

The rate of interest for late payments or repayments of Inheritance Tax, Capital Transfer Tax and Estate Duty has changed from 3 per cent to 4 per cent.

Corporation Tax

The rate of interest charged on unpaid Corporation Tax for accounting periods on or after 1 October 1993 (under CT (Pay and File)) has changed from 5 per cent to 6 per cent.

The rate of interest paid on overpaid Corporation Tax for accounting periods ending on or after 1 October 1993 (under CT (Pay and File)) has changed from 2 per cent to 2.75 per cent.

The rate of interest for either late payments or repayment of Corporation Tax for accounting periods ended on or before 30 September 1993 (pre CT (Pay and File)), has changed from 5 per cent to 6 per cent.

The rate of interest on unpaid Corporation Tax for accounting periods ending on or after 1 July 1999 (other than underpaid CT instalments), has changed from 6.5 per cent to 7.5 per cent.

The rate of interest on overpaid Corporation Tax for accounting periods ending after 1 July 1999, in respect of periods after the normal due date, has changed form 3 per cent to 4 per cent.

miscellaneous

Impact of online filing on Insolvency: Liquidations, Receiverships, Administrations, Bankruptcies and Voluntary Arrangements

---

Online filing: the timetable

By May 2005, large employers (250 or more employees) will be legally required to file their end of year returns (P14 and P35 data) online. Medium-sized employers (between 50 and 249 employees) are required to start online filing in 2006. Small employers (fewer than 50 employees) do not have to start online filing until later. But the small employer will get up to £825 tax-free over 5 years from the Inland Revenue for taking up online filing early. It is essential that all online returns meet the requirements of the Inland Revenue's published Quality Standard.

To find out about Quality Standard, go to: www.inlandrevenue.gov.uk/ebu/qual_stand.htm#1

You should read this article in conjunction with Dear Insolvency Practitioner Issue No. 14 September 2003 (Chapter 8: Improving the time taken to lodge the Inland Revenue's claim).

In-year filing and tax free incentive payments

From April 2005 the Inland Revenue will also be able to accept in-year cessation returns online. This applies up to date of bankruptcy, or winding up or when an administrator, administrative receiver, or supervisor of a voluntary arrangement is appointed. For example, if one of these events occurs in June 2005, an employer return (P35 and P14) to that month can immediately be filed online. If the employer is a small employer the 2005-06 tax-free incentive of £250 will be paid. It should be noted that the Insolvency Practitioner is not legally obliged to submit pre-appointment returns, albeit that they usually do if books and records are available.

This incentive payment, if due, will be credited to the employer's payment record in a very similar way to a payment on account. Assuming there are debts due to the Revenue, any incentive payment will be set against its claim.

Practitioners who wish to use the service will need to obtain an agent's password (see page 46 in 'Do it online: Online Filing and Payment Handbook').

How and when the size of the employer is determined

Each year the Inland Revenue will conduct a count to determine the size of each employer. The October 2004 count will take place during the weekend of

24/25 October and shortly thereafter employers will be told whether they are small, medium or large employers. This notice will also set out the implications for the employer's responsibilities to file online or pay electronically for the tax year 2005-06. It is recommended that on appointment the Insolvency Practitioner contact their local Inland Revenue office to establish the employer size if it is not known.

Alternatives to online filing, and penalties

The ability to lodge returns online should simplify dealings with the Revenue when a business with employees becomes insolvent because it is secure, convenient and quick. For the time being, however, the Inland Revenue is not going to insist that a return up to the relevant event (insolvency, administration and so on) is made electronically. The current paper and, for the time being, the magnetic media services will continue to be available. For now, the penalty incurred by large and medium sized insolvent employers, whose cessation return is not made online, will not be charged in those circumstances where the Inland Revenue do not charge a penalty for late filing of the Employer Annual return.

Continued trade

If an Insolvency Practitioner continues to engage employees, the Revenue will set up a new employer record (a 'scheme') with a new reference for the post-appointment period. This will also apply where a voluntary arrangement is approved. For the purposes of filing online, any new PAYE scheme will be treated as if it was a new employer and it must meet the full online submission requirements (see page 13 of 'Do it online: Online filing and electronic Payment handbook'). It is important to note that failure to meet these requirements will lead to a penalty being incurred, Statutory Instrument 2003 No. 2682 Regulation 210.

Where to find out more

You can find out more about online filing at: www.inlandrevenue.gov.uk/payeonline

Correction to Paragraph 4 of the Stamp Duty Land Tax – Group Relief article in Tax Bulletin 70

This should read:

> "The relief is self-assessed and will be dealt with on a 'process now / check later' basis along with all other Stamp Duty Land Tax matters. Under Stamp Duty Land Tax the Inland Revenue does not require the preparation and submission of the letter of claim required by paragraph 6.163 of the Inland Revenue Stamp Taxes manual."

Helplines

We hope that you may find these numbers useful.

Centre for Non - Residents

A first point of contact for all persons not resident in the United Kingdom, but have income from a source in the United Kingdom or pay UK National Insurance Contributions, or both.

For **Income Tax / Capital Gains Tax** enquiries for customers who are **living / going to live abroad only** the phone lines are open (UK local time), Monday to Friday, 7.30 am to 5.00 pm.

From the UK
Telephone: **0845 070 0040**
Fax: **0151 472 6067**

From outside the UK - Dial international code then:
Telephone: **44 151 210 2222**
Fax: **44 0151 472 6067**

For **National Insurance Contributions** related enquiries phone lines are open (UK local time) Monday to Friday, 8:00 am to 5:00 pm.

From the UK
Telephone: **0845 9 154811**
Fax: **0845 9 157800**

From outside the UK- Dial international code then:
Telephone: **44 191 225 4811**
Fax: **44 191 225 7800**

Employers helplines

Obtain expert guidance on all aspects of National Insurance including Statutory Sick pay, Statutory Maternity Pay and general PAYE inclusive of P11d and basic VAT registration.

New Employers (NESI): 0845 60 70 143 (Mon - Fri 8am - 8pm) (Sat-Sun 8am - 5pm)

Established Employers: 08457 143 143 (Mon - Fri 8:30am - 8pm) (Sat-Sun 8am - 5pm)

(Mon - Fri 8:30 - 5pm (Nics and basic VAT) 08450 703 703)

Inheritance Tax

IHT is administered by IR Capital Taxes. A charge to IHT arises when someone dies or when assets are transferred to a discretionary trust or to a company. Tax will only be payable if the estate on death or the value of the assets transferred is more than the tax threshold.

The Probate and Inheritance Tax Helpline is open 9am -5pm Monday - Friday
Telephone: **0845 30 20 900**
Fax: **0115 974 2432**

To order inheritance tax forms and leaflets:
e-mail **ir.purchasing@gtnet.gov.uk**
Telephone: **0845 234 1000**
Fax: **0845 234 1010**

National Insurance Contributions Office (Switchboard)

If you would like to contact the National Insurance Contributions Office and are unsure of which department you need, then please call the number below and explain the nature of your call.

Mon - Fri 8am - 5:30pm **0191 213 5000**

Online Services Helpdesk

For information about online services for:

- PAYE
- Self Assessment
- Construction Industry Scheme
- Corporation Tax
- New Tax Credits

You can also contact the Helpdesk if you have a query about business arising from the Employers CD-ROM

The Helpdesk is open between **08:00 - 22:00** Mon- Fri and 10:00 - 18:00 Saturday and Sunday.

Telephone: **0845 60 55 999**
0845 300 3938 (New Tax Credits only)
Minicom: **01274 841278**
Fax: **01274 841288**
E-mail: **helpdesk@ir-efile.gov.uk**

Stamp Office Helpline

If you have questions about stamp duty you can ring our Helpline Mon - Fri 8:30am - 5pm.

Telephone: **0845 60 30 135**

Inland Revenue Library & Information Service

The Revenue Library and Information Service include an archive collection of unique and valuable historic documents and artefacts showing how the Department has evolved from the early 19th Century. It has been created to assist us today in our work and to provide a lasting record for our future colleagues. Whilst some of it is for internal use only, the following are available for the public to view in the Library by **prior** appointment:

The Board's annual reports: 1857 to date;
Circulars issued to staff: 1842 – 1972;
Establishment staff lists: 1881 – 1953;
Estimates: 1961 and 1969;
Forms – sample blank ones: 1922 – 1963;
Instruction manuals: 1838 – 1977;
Memos: 1949 – 1997;
Parish boundary lists for various areas: 1875 – 1977;
Publications by staff e.g. About the Revenue and Somerset House;
Staff guides and handbooks: 1949 – 1972;
Statistics: 1970 to date.

Additionally, there are artefacts such as bandarettes, a concard hodholder, embossers and stamps. To make an appointment you may phone the Library on 020 7438 6648.

Inland Revenue Visually Impaired Media Unit (VIMU)

There are approximately two million blind and partially sighted people in the UK and the aim of this unit is to provide independence for these customers and colleagues.

VIMU was created in response to the legislation contained in the Disability Discriminations Act (DDA) 1995. A Project team was formed to undertake research in close liaison with the Royal National Institute for the Blind (RNIB). Since 1996, a small team has provided a Braille service and in October 1999 this was expanded to include a large print and audio service.

The Unit is a dedicated and highly motivated team and take great pride in their work, always looking for ways to improve the service they provide. One of these was to start producing CDs, which increased the range of services and gives customers more choice.

The Unit aims to give individuals the opportunity to receive information in a way that they can access, as different people have different needs and one format will not suit everyone.

This is a small example of some of the things produced:

- All Inland Revenue guidance leaflets and notes;
- Tax Returns and notes;
- Employers Packs;
- Land Registry booklets;
- HM Customs & Excise (HMCE) booklets;
- New Tax Credit (NTC) booklets;
- Letters;
- And much more.

All requests for alternative format should be made through your **local tax office** or **Inland Revenue Enquiry Office**.

They will need:

- Your reference number;
- Your name, address and telephone number; and
- The format you require (Braille, large print, audio or CD);
- A copy of the document you wish to be converted, along with any enclosures (VIMU do not have access to customer records).

Some customers may wish for all automatic output material to be issued in alternative format. This can be done.

Tax Bulletin can also be reproduced in any of these alternative formats, just let the Tax Bulletin team know your requirements. Contact details are on the last page.

Do it online at www.businesslink.gov.uk

In May 2004 the new Business Link website was launched. Since then, continuous improvements have been made to the site, including the release of new interactive tools. Business Link is an easy to use business support, advice and information service backed and funded by government and managed by the DTI.

It is dedicated to helping small businesses achieve their ambitions by providing them with easy access to all of the support they need from the public and private sectors. Information is available on everything from finding additional funding, to reducing the time spent on rules and regulations or taking a new product and service to market.

Sign-up once without needing to sign up again

Business Link has been working in conjunction with the Inland Revenue, Companies House, HM Customs and Excise and other government partners to make it easier and quicker for businesses to interact with Government online. www.businesslink.gov.uk now provides you with the capability to sign up to several online services using one single username and password, saving you time and money in the process; as well as giving you the peace of mind that it's done.

- **PAYE Online for employers** – As a small business employer you can get up to £825 tax-free from the Inland Revenue over 5 years for filing end of year returns online.
- **Self-Assessment Online** – automatic calculation of your tax and faster processing.
- **Corporation Tax Online** – file up to the last day it's due and get an immediate calculation of your tax.
- **eVAT**- up to seven extra days for electronic payments.
- **Companies House WebFiling** – a secure way to submit company information.

The new Business Link website is packed full of free tools, from grant finders to simple and reliable guides on rules and regulations. Why not consider filing your tax returns online? It's more efficient and saves on paper, simply go to www.businesslink.gov.uk/onlinefiling.

Should businesses need to talk to someone, Business Link also has a free phone advice line (0845 600 9 006) and a network of business advisers who can help them identify the right solutions for their business.

Employers – Help Us To Save Your Van Drivers Tax

From 6 April 2005, employees who have private use of a company van and are currently charged with a benefit in kind of £500 (or £350, depending on the age of the van) will have that charge reduced to nil if:

- they have the van mainly for business travel, and
- any private use other than for journeys to and from work is insignificant.

Home to work journeys are still considered to be private use, but the new rules allow employees to use their van for those journeys without paying tax.

And where there is no tax charge on the van there will be no Class 1A charge either.

The word 'insignificant' is not defined, so it takes its normal English meaning. For example, the New Oxford English Dictionary defines it as, "too small or unimportant to be worth consideration". These examples illustrate what it means in practice:

Examples of insignificant use: an employee who

- takes an old mattress or other rubbish to the tip once or twice a year
- regularly makes a slight detour to stop at a newsagent on the way to work
- calls at the dentist on his way home.

Examples of use which is NOT insignificant: an employee who

- uses the van to do the supermarket shopping each week
- takes the van away on a week's holiday
- uses the van outside of work for social activities.

If any of your employees meet the conditions for a nil charge from 6 April 2005, please let us know:

- your employers reference number,
- the names of all van users, and
- their National Insurance Number.

We can then change their tax code so they pay the right amount under PAYE. Our annual re-coding exercise starts in January, so if we could have this information as soon as possible, we can then save you time and effort in changing their tax code in year.

Tax Bulletin is on the move

The Tax Bulletin team will be moving from Somerset House later in the year to take up residence in offices just off Whitehall. Some of our technical and policy specialists will also be moving.

As yet, the exact date and location of the move is not known, but you may find that there are fewer articles, and publication dates may be a little later than normal whilst the move is taking place.

We hope that you will bear with us over the next few months and we will advise you of the new contact details in due course.

Inland Revenue Statements of Practice and Extra-Statutory Concessions issued between 1 August 2004 to 30 September 2004

Extra Statutory Concessions

There have been no Extra-Statutory Concessions for this period

Statements of Practice

Number	Title
03/04	Double Taxation relief: Status of the UK's double taxation conventions with the former Socialist Federal Republic of Yugoslavia.

You can get copies of SPs and ESCs by telephoning Chandra Chandramohan, on 020 7438 4266.

CONTENT

The content of Tax Bulletin gives the views of our technical specialists on particular issues. The information published is reported because it may be of interest to tax practitioners. Publication will be six times a year, and include a cumulative index issued on an annual basis.

- You can expect that interpretations of the law contained in the Bulletin will normally be applied in relevant cases, but this is subject to a number of qualifications.
- Particular cases may turn on their own facts, or context, and because every possible situation cannot be covered, there may be circumstances in which the interpretation given here will not apply.
- There may also be circumstances in which the Board would find it necessary to argue for a different interpretation in appeal proceedings.
- The Bulletin does not replace formal Statements of Practice.
- The Board's view of the law may change in the future. Readers will be notified of any changes in future editions.
- All the names referred to in this Bulletin are imaginary and have no relation to real persons, living or dead, except by coincidence

Nothing in this Bulletin affects a taxpayer's right of appeal on any point.

Letters on any article appearing in Tax Bulletin should be sent to the Editor, Mr Shell Makwana, Room G7, New Wing, Somerset House, Strand, London, WC2R 1LB or e-mail Shell.Makwana@ir.gsi.gov.uk. We are sorry though that neither he nor our contributors will normally be able to enter into correspondence about Tax Bulletin or its contents.

SUBSCRIPTION

The subscription for 2004 is £22. If you would like to subscribe to Tax Bulletin please send your name and address together with your cheque to Inland Revenue, Finance Division, Barrington Road, Worthing, West Sussex BN12 4XH. Cheques should be crossed and made payable to "Inland Revenue".

If you would like information regarding Tax Bulletin subscription or distribution please contact Mrs Sylvia Brown, Room G7, New Wing, Somerset House, Strand, London, WC2R 1LB. Telephone: 020 7438 6373. For more general information regarding Tax Bulletin, please contact Mrs Jayne Harler, Assistant Editor, on 020 7438 7842 or at the address provided above.

COPYRIGHT

Tax Bulletin is covered by Crown Copyright. There is no objection to firms copying the Bulletin for their own use. Anyone wishing to republish Tax Bulletin or extracts more widely should write for permission to Miss Glenda Bishop, Room G12, New Wing, Somerset House, Strand, London, WC2R 1LB.

© Crown Copyright 2004