

Counting the days

Part of this year's crackdown on "foreigners not paying their fair share of tax in the UK" is a change to the way non-residents count the number of days they spend here. Tax exiles can generally visit the UK for up to 90 days a year without putting their tax advantages in jeopardy, and up to now the taxman has very generously ignored days of arrival and days of departure. Someone who arrived on Monday and left on Friday would only count 3 days.

From 6 April 2008, a day is counted if the person is in the UK at the end of the day, unless they are a passenger in transit to somewhere else. There are some detailed and complicated rules about that, so if you are one of those who has to keep a record of your days in the UK, we'll be happy to explain to you what's changed.



Po-tay-to, Poh-tah-to



When is a crisp not a crisp? When it's a Pringle. The courts have in the past ruled that a Jaffa Cake is a chocolate cake, not a chocolate biscuit, so it shouldn't have any VAT in it. Now a judge has had to consider whether Pringles are "potato crisps or similar products made from the potato or from potato flour". If so, they would be VATable.

A VAT Tribunal reckoned that they were made of potato flour because it was the largest single ingredient at 42% – and, in spite of the manufacturer's protests that they are completely different from ordinary crisps, they were "similar products". The High Court disagreed. The judge said that "made from the potato" surely meant that there had to be nothing much else apart from spud in the product. 42% wasn't enough, so Pringles are VAT-free.

The downside is that the case reveals the second largest ingredient to be... fat.

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Stamp Duty Holiday

The Government has announced a one-year holiday from Stamp Duty Land Tax for houses bought for up to £175,000. Normally the tax is charged at 1% on the whole value of any house which costs over £125,000, so this relief can save up to £1,750.

Unfortunately, if the house you are buying costs more than that, this doesn't help you at all – you'll still pay 1%, 3% or 4% on the full purchase price. This help is targeted at first-time buyers rather than at the whole of the troubled housing market.

The purchase has to be completed by 2 September 2009 to qualify for the exemption.



Seasonal news

AUTUMN 2008

Don't bank on it?

The late 1860's were a very turbulent time for Britain. The country had just lost the American Civil War and was suffering the economic effects of the abolition of the African slave trade. In May 1866, the so-called "bankers' bank" Overend, Gurney & Co. spectacularly collapsed, owing about £11m (probably about £6 billion in today's money). At the time Overend, Gurney & Co was the second wealthiest bank in the country; only the Bank of England had more money.

Now, more than 140 years later, history seems poised to repeat itself, only on a much wider, and hence more frightening, scale. From the Northern Rock drama which began in autumn 2007, to present-day rumours about big names such as HBOS and Barclays, the UK's leading banks and financial institutions appear doomed to follow the example of their global peers.

So how to retain our sanity – and our assets – during these worrying times?

Well, whilst we can't predict how this is going to end, we can help you plan ahead and to decide where the best place(s) might be for your money. If you are concerned, or if your financial circumstances are changing, come in and speak to us. We'll do what we can to help you come out on the other side.

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The articles contained in this newsletter are of a general nature and should not be acted upon without specific advice relevant to your circumstances.

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Should know better

There's a certain satisfaction in seeing a tax dispute between HM Revenue & Customs and one of their own Inspectors. That seems a no-win situation for the individual – get a little tax relief and lose all prospect of promotion, or fail to win the argument and show that perhaps you don't know enough about tax. She lost.

It's a common argument: she had agreed with her employer that she could work from home for two days a week. So she had an office at home and an office in London, and she claimed that travelling between the two was a tax-deductible expense. If you travel between two different workplaces, that normally qualifies for a deduction.

The Appeal Commissioners didn't agree with her. Travelling from home to work is "ordinary commuting", and there's no deduction from that. Even though she had an office at home, it was still her home – so travelling from there to another "permanent workplace" was still commuting.

There was also nothing special about her job that turned the travel into part of her duties. There is an old case about an anaesthetist who was allowed the cost of journeys to hospitals when he was on call because he gave instructions on the phone before setting out – he was actually on duty from the moment he was summoned. The Inspector was simply going to the office.

It's important to deduct travelling expenses when you can, and not to when you can't. If you want to discuss what's allowable, we aim to understand the rules better than this Inspector.



If you haven't yet checked out our all-new, revamped website www.ParisPartnership.com, don't delay – log on today. It's full of useful information and resources, calculators, factsheets and reports.

You can also register to receive helpful tax-related reminders and other updates by email. And you'll also find new photos of everyone here at The Paris Partnership – so come and put some faces to the names!

It's the business?

There are very attractive inheritance tax reliefs for business property – in general, 100% exemption for business or agricultural assets after only owning them for 2 years. Instead of giving your money away and surviving for 7 years, you could invest your money in a company that would qualify for this relief and wait the much shorter period. Then you could leave the asset to someone in your will without fear of IHT. Shares in trading companies listed on the Alternative Investment Market qualify, as do Enterprise Investment Scheme companies. Fully quoted companies won't qualify.

Sometimes there can be a dispute about whether a company qualifies or not. Shares don't get any relief at all if the business is wholly or mainly dealing in stocks or land, or wholly or mainly making and holding investments. This means that buy-to-let residential property won't get the relief – but there is a special rule which allows it for furnished holiday lettings in certain circumstances.

In a recent case a property development company – a trader – couldn't sell some of its land, so it rented it out. When a shareholder died, the taxman looked at the company's accounts and saw more rental income than development activity. He argued that the company was an investor, not a trader. The Appeal Commissioners looked a little deeper and said that the situation was temporary: the nature of the company had not changed.

If you own significant assets that might qualify for business property relief, it's worth being sure that they do. We will be happy to advise you.



The dust has almost settled on the changes Mr Darling announced last year to the tax charges on foreign domiciled people who live in the UK. They have in the past been allowed not to pay UK tax on foreign income and capital gains as long as they leave the money overseas. In 2008/09, if they have been tax resident here for 7 of the last 10 years, they will have a choice: pay tax on the income and gains as it arises, or else pay a flat rate charge of £30,000. It's fairly easy to work out that the normal tax rule will be cheaper if the foreign income is less than £75,000 – at 40%, the result will be less than £30,000.

There is an important exception: if your foreign income and gains amount to less than £2,000 in a year, you can still leave the money out of the country and out of your UK tax return. Between £2,000 and £75,000, you will need to declare it. Above £75,000, you will want to think about it – or think about leaving the UK, which many people have threatened to do.

The Government has also closed down a number of other loopholes that have been exploited in the past by foreigners living here in order not to pay the normal rates of tax. It remains to be seen whether this will bring in any more cash, or whether it will lead to that money leaving the country altogether.

These rules are new and complicated and the details have many catches in them. The one thing that is certain is that anyone who has in the past relied on the remittance basis of taxation – paying tax in the UK only on bringing the money here – needs to look very carefully at what they do from this year onwards. We will be happy to discuss the issues if you are affected.

Divvy Up

It's standard tax planning for someone running a small company to make sure that they take out part of the earnings as a dividend. Dividends are generally taxed more favourably than salary in the hands of the shareholder-director. If you take a regular amount out of the company as salary, you have to account for PAYE tax and National Insurance through the year – if it's paid out as dividends, you settle up the tax through self-assessment and there's no NIC.

There is a catch, though: dividends can only legally be paid out of the company's profits. If the company hasn't got any profits – current year and brought forward in reserves – it isn't allowed to pay

dividends. If you draw money out when there aren't profits, it can't be a legal dividend – you either have to call it salary and deduct PAYE, or you are liable to pay it back to the company.

The starting point for measuring available profits is last year's annual accounts. If they haven't got enough in to pay the current dividend, you need some interim accounts that will give a reasonably accurate picture – they don't have to have all the adjustments you'd make for final accounts, but they should show that there's enough profit to justify the dividend. In a recent case, a director was held to be liable to repay some dividends because he had received professional advice that the company didn't have any reserves – after that, distributions became unlawful, and he should have known.

If you use dividends to extract earnings from your company, it's important to be able to justify the amount you pay. We can advise you on what's needed.

Dates for your Diary



- 31.01.09** 2008 tax Return to be filed, or £100 fine.
Balance payment of income tax and capital gains tax 2007/08.
First payment on account 2008/09.
- 28.02.09** For 5% surcharge on 2007/08 tax remaining unpaid

Last Call?

Remember that the deadline for filing "paper" tax returns for 2007/08 has been moved forward to 31 October 2008. If your return was filed by that date, HM Revenue & Customs are committed to telling you how much to pay by 31 January 2009.

If you missed that deadline, you can still file a return online up to 31 January 2009. The Revenue's website crashed on the last deadline date because too many people were trying to use it at once, so it's better not to leave it until the last minute (even if they did extend the deadline because they admitted it was their fault).

If you send in a paper return after 31 October, you will be charged a £100 penalty – but that will be cancelled if all the tax due is paid by 31 January. You – or we – will have to calculate the liability to make sure that it is paid, because the taxman won't promise to do so in time.

If you have underpaid up to £2,000 and you want the underpayment to be dealt with in next year's PAYE code rather than "on the nail" on 31 January, you have to file your online return by 30 December.



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