

Welcome...

To November's Tax Tips & News, our newsletter designed to bring you tax tips and news to keep you one step ahead of the taxman.

If you need further assistance just let us know or you can send us a question for our [Question and Answer Section](#).

We are committed to ensuring all our clients don't pay a penny more in tax than is necessary.

Please contact us for advice in your own specific circumstances. **We're here to help!**

November 2011

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Reality of Self-Employed Contracts

A recent case heard in the Supreme Court may affect whether workers are defined as employees and ultimately entitled to employee rights and payment under PAYE by the employer. The case was called *Autoclenz Ltd v Belcher*.

Autoclenz Ltd required its workers to be self-employed contractors and issued contracts to those workers, which they were then required to sign in order to be offered any further work by the company. The company provided the workers with all the tools and materials they needed, but deducted a 5% charge for use of tools and materials from the invoices it prepared on behalf of its 'self-employed' workers.

The workers were paid so badly that they made claims to the employment tribunal to be paid the national minimum wage and holiday pay. The tribunal agreed the workers were employees in spite of the contracts they were required to sign. When the case reached the Supreme Court it found that the written contracts were a sham and did not reflect the reality of the relationship between the workers and the company.

This case shows that the definition of a sham contract is very wide. If the contract you have with your self-employed workers doesn't reflect the true agreement between you and those workers, the written contract could be ignored by the Taxman and any court.

To ensure your self-employed contractors are not treated as your employees, check that all of the following documents **represent the true working practices of everyone involved**:

- written contract with the worker, and with any agency that provided the worker;
- security clearance and passes (different for contractors?); and
- Health and Safety instructions (who is responsible for what?).

Teachers to Tell All

The Taxman has launched another campaign to encourage people to pay tax on income they have previously omitted from their tax returns. This time private teachers are targeted under a scheme called **TCup**: Tax Catch Up Plan for tutors and coaches.

If you want to use the TCup scheme you need to tell the Taxman you intend to make a disclosure by **6 January 2012**, either using the notification form on the HMRC website, or by telephoning: 0845 601 8817.

On notification the Taxman will issue you with a disclosure reference number (DRN) and payment reference number. You will need to quote the DRN when you make the full disclosure of all your outstanding tax matters by 31 March 2012.

That is also the deadline for paying all the tax due on your previously undeclared income, interest on that tax, and the relevant penalty. To ensure your payment is matched to your disclosure form you need to quote your payment reference number.

It is up to you to calculate the penalty you should pay due to your late declaration of income. Under the TCup scheme the penalty can be 0%, 10% or 20%, depending on whether your under-declaration of income was an innocent mistake, careless error, or deliberate error. This is a considerable discount on the 100% penalty enforceable for deliberate and concealed errors discovered by the Taxman in normal circumstances, (which incidentally can be up to 200% where certain off-shore income is involved).

We can help you make a full disclosure and calculate the tax, interest and penalties due.

PAYE Refunds and Underpayments

The Taxman is recalculating PAYE paid by many millions of people for the tax year 2010/11 and for the tax years 2003/04 to 2007/08.

The PAYE system does not cope well when an individual has employment or pension income from a number of different sources at the same time. Sometimes the tax free personal allowance gets doubled or not counted at all. Taxable benefits may get missed or not updated when the value of the benefit changes part way through the year.

From the computer checking those tax calculations it found there were about 2.3 million people who paid too much tax for 2010/11. Those taxpayers have been receiving letters about tax refunds since July.

The Taxman also plans to send out another 6 million letters regarding tax refunds due for the earlier tax year: 2003/04 to 2007/08. If you receive a telephone call or email purporting to be from the tax office about a tax refund, DO NOT respond as this will be a criminal scam. Genuine tax refunds will be sent by letter only.

Around 1.2 million people will receive a tax computation (form P800) telling them they have underpaid tax for the tax year 2010/11. The average amount owing is £600. Where the tax due is less than £3,000 it will be collected through the taxpayer's PAYE for 2012/13. If you have underpaid tax of less than £3,000, the amount due will be deducted in instalments from your monthly salary or pension in the year starting 6 April 2012. Only where the amount due is £3,000 or more will you be sent a tax demand, but you will still be given a reasonable time to pay.

We can help you check the P800 tax calculation, but please send us a copy of all the forms you receive from the Tax Office, as we may not get a copy directly.

Reclaiming VAT

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Before you can reclaim VAT on goods and services you have bought you need to check the following:

- the purchase was for business purposes - not for your personal needs;
- the purchase is not a type that is 'blocked' for VAT reclaims, such as entertaining expenses;
- you have a valid VAT invoice.

A valid VAT invoice should include all of the following details:

- the supplier's name, address and **VAT registration number**;

- unique invoice number for that supplier;
- the name and address of the person to whom the goods are supplied (this will be your business);
- date of issue of the invoice and time of supply of the goods or services (this may be the same as the date of issue);
- a description of the goods or services supplied including:
 - the unit price;
 - the rate of VAT charged;
 - the amount payable excluding VAT;
- the total amount payable for the whole invoice excluding VAT;
- rate of any discount available;
- total amount of VAT charged.

Retailers can issue less detailed invoices for purchases of up to £250, but that invoice must still show key details such as the name, address and VAT number of the supplier, nature of the goods and the rate of VAT applicable.

Be careful not to mistake any of the following documents for a valid VAT invoice:

- supplier statement;
- delivery note;
- request for payment; or
- pro-forma invoice.

Ask us if you have any doubts about the documentation provided by your supplier.

Question and Answer Corner

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Q. I left London on 5 May 2010 to work full time for a Danish company in Copenhagen. My own UK-based company ceased at that time and I received a capital payment on 30 November 2010. As I received that money after I left the UK permanently, do I have to pay UK tax on the pay-out?

A. Unfortunately yes. Although you may be regarded as not resident in the UK for income tax purposes from 5 May 2010, you do have to pay UK capital gains tax on the gain made in November 2010. The tax year is not split for capital gains tax, as it can be for income tax. If you are resident in the UK in any part of the tax year, you are taxed in the UK on gains made in that tax year, even if the gain is made after you have left the UK permanently.

Q. I've received an alarming letter from the Taxman about a private bank account I held in Switzerland from 2000 to 2005. I didn't include the interest from that account on my tax return as I thought it wasn't taxable in the UK. What should I do now?

A. The Taxman is writing to around 6,000 individuals and organisations that held accounts with a private bank in Geneva, based on a list of accounts stolen from that bank in 2006. Unless you had non-domicile status when you held your Swiss bank account, which may have permitted you to be taxed only on funds brought into the UK, you should have declared the Swiss account on your UK tax return. You need to come clean now, and pay the tax due on your Swiss bank account interest to the UK tax office. If you delay the Taxman will open a serious fraud enquiry into your tax affairs. Talk to us about how to confess all to the UK tax authorities.

Q. The Taxman has hit me with a huge penalty for paying my company's PAYE late in 2010/11. But I've always paid my PAYE on time. What's going on?

A. PAYE deductions paid late to the Tax Office (HMRC) from 19 May 2010 attract automatic penalties. 'Late' means the cheque reached HMRC after the due date of 19th of the month or the electronic payment cleared the HMRC bank account after 22nd of the month or the last banking day before that. The HMRC bank accounts do not accept 'faster payments' which clear through most bank accounts in 4 hours. HMRC needs 3 working days to accept an electronic payment. You should have received a warning letter about your first late payment in 2010/11. If you believe you had a reasonable excuse for paying late you should appeal against the late

payment penalty. We can help you with that.

Key Tax Dates for November 2011

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2 - Last day for car change notifications in the quarter to 5 October - Use P46 Car

19/22 - PAYE/NIC and CIS deductions due for month to 5 November 2011



Need Help?

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Please contact us if we can help you with these or any other tax, accounts or business matters.

In addition, if there is anyone else who you think would benefit from the newsletter, please forward the email to them or ask them to contact us to be added to the newsletter list.

New Clients Welcome

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If you are not already a client and are interested in becoming one, we would like to meet you to discuss how we can help and provide you with a competitive quote for our services.

All new client consultations are provided free of charge and without obligation.

About Us

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Wright Vigar Chartered Accountants are based in Lincoln, Gainsborough, Newark, Retford, Sleaford and London offering local business owners and individuals a wide range of services.

Visit our website <http://www.wrightvigar.co.uk> for more information.