

taxing issues

Chris Chadburn assesses the more significant tax points arising in the last quarter.

February

- Issue 20 of the Inland Revenue's *Working Together* has been published. It includes details of 'enabling letters' that will be issued between May and August to some businesses with a turnover up to £150,000. The selections are made electronically on risk based criteria 'that commonly suggest inaccuracies in returns'
- in April 2006 registered pension schemes will be unified under a single scheme and on 16 February the Revenue issued a Technical Note on new measures following consultation with the pensions industry. This does not include any comment on the possibility of intergenerational transfers of pension funds through the set up of alternative secured pensions by individuals over 75
- after several years targeting hotels and restaurants the Inland Revenue has backed down on some key issues which could result in repayments for clients who have settled on the basis of the previous guidance. Tips and service charges paid through tronc are exempt from NIC, provided there is no allocation of the monies by management. The Revenue has taken an increasingly narrow view on this, seeking NIC where there is interference from management such as:
 - the appointment of a troncmaster
 - the retention of tronc monies
 - using tronc monies to meet national minimum wage requirements.
 A revised leaflet – E24 – confirming that NIC will not arise in such situations was published on 10 February

- the Revenue's 14 day period of grace for submitting returns following the well publicised problems with online filing over the weekend prior to 31 January is welcomed. Nothing so far has been said about compensation for extra time and costs or whether the enquiry window for the relevant returns will now remain open until 30 April 2006. Online filing is reported to be up by 48%
- the European Court of Justice has found against Customs' argument in a 'carousel fraud'. They argued that all transactions in the chain were outside the scope of VAT because of an overall fraudulent intention so preventing innocent traders from reclaiming duty (*Optigen Ltd, Fulcrum Electronics Ltd and Bond House Systems Ltd v C & E*).

January

- A revised leaflet – IR2008 – was published on 17 January giving details of ISAs and PEPs. The main change is that clients who regularly contribute to a mini insurance ISA will no longer be able to do so from 6 April 2005
- revised guidance on the application and disclosure of S660A was issued by the tax professional bodies on 7 January following the earlier Revenue guidance on disclosure and discovery following the *Langham v Veltema* judgement (see December news, below)
- VAT registrations can now be made online by clicking the 'online services' button at www.hmce.gov.uk.

December

- Following the judgement in *Veltema*, notes were issued by the Revenue on 23 December to help taxpayers ensure finality in their tax affairs. In short:
 - full details should be provided of any valuations used in the return or exceptional items in accounts
 - where taxpayers adopt a different view of the law from the Revenue's published view the return should state that they are not following Revenue guidance in relation to a specific matter
- *Tax Bulletin 74* (20 December) includes detailed guidance on the highly contentious area of the recovery of overpayments of tax credits
- the *IHT Newsletter* (13 December) highlights the fact that the IR capital taxes will now be paying particular attention to values included for personal and household goods. Enquiries may be opened to establish whether all items have been included and that proper valuations have been made
- with the establishment of HM Revenue & Customs it was announced on 8 December that for the time being the powers of the Revenue and Customs would remain unchanged. The VAT man has considerably greater powers in relation to searches of premises and people, seizure of documents and goods and power of arrest. Consultation on integrating the powers of HMRC is now underway.

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