WHAT'S NEW FOR SPRING?

Francesca Lagerberg looks at what a new tax year has brought us

One of the many reasons I like working in the tax profession is that our chosen subject matter is constantly evolving and bringing new challenges. I can also quite understand why that is exactly why many people don't like it at all and wish it would just stay still and quiet rather than rush around like an unruly child. The new tax year has brought with it the usual plethora of changes – some announced so far in advance you have probably forgotten that they were coming and others that have loomed into view with much controversy and discussion. Some of the major changes can be found in the Table at the end of this article. First, two key areas to highlight:

Powering on

The new penalties regime for incorrect tax returns for the main taxes (income tax, corporation tax, VAT, NIC, PAYE and CIS) became effective for returns due to be filed after 31 March 2009. We are now in a completely different world, with penalties governed by taxpayer behaviour and whether they have taken 'reasonable care'. Much has been written by the Faculty (in *TAXline* and on the website) about this issue and more is to come in the next few months, but suffice to say that if you don't know what 'reasonable care' is yet you need to find out quickly as it could determine whether your client faces a penalty of zero or 30% (or more) if they file an incorrect return.

We also are now in a new era of 'compliance checking' which simply means the way HM Revenue & Customs (HMRC) checks that information is correct, be it by formal enquiry, the highly controversial general business premises visit or a simple telephone call. HMRC has provided a range of material on its website in the last few weeks to help the learning process as to what this will mean (see for example, www.hmrc.gov.uk/compliance/factsheets.htm). There are factsheets, frequently asked questions and rather mind-numbing, but certainly detailed, e-learning tools. You can access pretty much all of the training material being made available to HMRC staff, which means that you can get a good overall view on what will be the drivers of the new regime from an HMRC perspective.

Residence

From the start of the new tax year HMRC removed its leaflet IR20 – the non-statutory guidance note on residence upon which we have all relied for years. Instead we have a raft of new material and guidance which includes booklet *Residence, Domicile and the Remittance Basis* (HMRC6) which broadly replaces IR20. It is 86 pages long and very detailed and it is at least up to speed on the Finance Act (FA) 2008 changes including the new £30,000 remittance basis charge. It still only represents HMRC's view of the law and does not have any legal force.

In the HMRC published material there is also a good deal more information on domicile along with flowcharts detailing how to assess your own domicile. HMRC will no longer accept initial non-domicile claims on form DOM 1 or form P86. HMRC considers that the new domicile guidance will allow the majority of people to self assess their own domicile status. Being charitable, this is debatable. The highly complex rules around domicile are not easily distilled into a flowchart nor explained in the guidance in a fashion that will enable those without tax advisers to make clear decisions.

So what does it all mean?

As can be seen from the Table, 2009/10 will bring many changes which will affect our clients. But we also know that much more is still to come. On the assumption that any Government in power after the next election will be in need of cash, taxpayers have been set up for a tapering of personal allowances for higher-earning individuals from April 2010 and a 'super tax' for those with income over £150,000. There will also be significant increases in NIC which will affect far more people. As Adlai Stevenson said: 'Change is inevitable. Change for the better is a full-time job.'

Francesca Lagerberg is Head of Tax at Grant Thornton UK LLP and Chairman of the Technical Committee of the Tax Faculty

Table – Tax changes for 2009/10

1 April 2009

The new **HMRC powers** under Sch 36, FA 2008 came into effect from this date – an issue upon which the Tax Faculty will shortly be publishing some guidance material. It also is the effective date for the operation of the new penalties regime for the mainstream taxes, eg income tax, NIC, VAT and corporation tax.

This is also the date from when the new **Tribunals** service applies, replacing the General and Special Commissioners and VAT and Duties Tribunal.

The small companies rate was not increased though (being deferred by the PBR last autumn) and remains at 21% until April 2010.

Changes to the late paid interest rules were introduced for accounting periods beginning on or after this date.

Changes to the rules concerning the release of trade debts between connected companies were introduced for accounting periods beginning on or after today.

Changes to the **land remediation rules** (Japanese Knotweed) were introduced from 1 April 2009.

5 April 2009

For unincorporated businesses, only losses assessable in the 2008/09 tax year (ending on 5 April 2009) will be eligible for the **enhanced £50,000 carry-back provisions** announced in the 2008 PBR.

UK resident but non-UK domiciled or individuals not ordinarily resident in the UK needed to ensure their affairs were organised for the first year affected by the **new remittance regime**.

In particular, they needed to consider whether it was prudent to claim the remittance basis and suffer the loss of personal allowances (unless certain exceptions apply). Long-term residents (those resident in the UK for more than six out of the past nine tax years) will be required pay a £30,000 annual tax charge when claiming the remittance basis.

Furthermore, a change in the definition of 'remitted to the UK' to include non-cash remittances; a wide definition of 'relevant persons' receiving UK remittances and onerous record keeping requirements required in order to determine 'nominated income/gains' further complicate the issue.

Where unremitted foreign income and gains at the end of the tax year amount to less than £2,000, the remittance basis can be used without making a claim and personal allowances will be retained.

Transitional pension rules – applications for protection were required by this date in respect of the pre-6 April 2006 pension funds of individuals who had accumulated pension benefits in excess of £1.5million at that date or those who anticipated their pension benefits would exceed the prevailing lifetime allowance when benefits are drawn.

6 April 2009

Industrial Building Allowances (IBAs) and Agricultural Building Allowances (ABAs) continue to be phased out with the writing down allowance (WDA) reduced to 2%.

Capital allowances for cars – from 6 April 2009, capital allowances that can be claimed on cars will change to an emissions basis. Prior to 6 April, all cars (except the least polluting) received a standard rate of WDA, with a restriction for 'expensive cars' (those costing over £12,000). From 1 April, draft legislation provides for WDA rates of 10% and 20% for expenditure incurred on cars with carbon dioxide (CO_2) emission levels >160g/km and >110g/km respectively. Note that cars generating a CO_2 output of less than 110g/km will be entitled to a 100% allowance.

ISA subscription limit – remains at £7,200, of which £3,600 may be invested in a cash ISA.

Pensions allowances – the annual allowance rises to £245,000 and the lifetime allowance rises to £1,750,000.
Employee subsistence payments – **benchmark scale rates** were introduced.

Car benefits – for those in the car trade HMRC's standard method of calculation of taxation for employees' car benefits come into force with effect from 6 April 2009.