

The *Rich Life Letter* presents...

# **A SURVIVAL GUIDE TO GOVERNMENT CUTS**



**How to make sure you hand over as little  
of your hard-earned cash as possible!**

A special report commissioned by Lewis Geary

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# Introduction

You don't need me to tell you what a mess the country is in...

Greedy bankers siphoning off huge amounts in bonuses on dodgy deals, then expecting us to bail them out when it goes wrong...

Ineffectual financial watchdogs happy to clamp down on the little guy, but looking the other way as we get ripped off by billions...

Traitorous governments who say that 'we're all in it together' and keep bleating on about the banks' disgusting behaviour without doing anything about it...

What a joke! But there's an even BIGGER joke in the midst of all this mess, and it's being played on us, because WE'RE the ones being made to suffer. Not only have we been forced to keep the greedy bankers in fine wines and fast cars, we're also facing a whole raft of

cuts and taxes that could steal thousands of pounds from us. It's truly a case of robbing the poor to feed the rich – and I'm sick of it.

That's why I have paid a top firm of accountants to come up with this special guide that shows you exactly what's going on and what YOU can do about it. There may not be much you can claim back, but if there's any loophole or little-known way to ease the burden, it's in this guide.

So take a while to go through it, and see how you can best protect yourself against the government onslaught against our wealth.

They've declared war; it's time to fight back!

Yours sincerely,

**Lewis Geary**

***The Rich Life Letter***

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# **How come you have to pay for other people's mess?**

We are all aware that currently the UK Government is spending £155 billion more than its income each year, and that the total national deficit is a whopping £893 billion.

That's old news. But now, the consequences are about to hit us where it hurts.

It does not matter whether you believe the deficit is caused by profligate overspending by the previous Labour government desperate to retain power or the shortfall in income as a direct consequence of the after effects in the general economy following meltdown in the financial sector caused by the bankers greed – the only thing that now matters is that the new Conservative government are introducing a huge programme of cuts to

government spending that will ripple out to effect the private sector as well.

In fact, the spending cuts (when looked at as a proportion of total government spending, rather than as a proportion of the deficit) are quite small and will only reduce total spending back to the amount spent in 2006/2007. However, what counts is the perception that the cuts are huge and will lead to actual cuts in government expenditure and reductions in spending elsewhere in a fearful response to what might happen. We cannot stop the cuts and we cannot help you get a pay rise or replace the income that will go missing in response to the cuts.

However we can help you hang on to more of your hard earned money by making sure you do not pay any unnecessary tax and claiming what is due to you.

In this Guide we point you to how to reduce your tax bills, claim extra tax relief and protect your assets.

So let's get started...

## **1. INCORPORATING YOUR BUSINESS**

Are you self employed and running your own business? If so you should consider converting your business into a limited company. There are both advantages and disadvantages in carrying on business through a limited company rather than operating as an unincorporated business. However for the majority of unincorporated businesses the advantages outweigh the disadvantages.

### **ADVANTAGES GAINED BY THE FORMATION OF A LIMITED COMPANY**

**Liability:** Protection of owners' assets against personal risk

If, in the course of carrying out its business, a limited company becomes insolvent, all its assets will be sold and used to pay creditors. In normal circumstances the only financial loss which may

be suffered by shareholders is the loss of the price paid for shares. Therefore in many cases, such as where the issued share capital is low, the loss may be very small.

In similar circumstances, if a business carried on by a sole trader or in partnership becomes insolvent, personal assets of the sole trader or partners may have to be realised to pay creditors. This may result in bankruptcy for the sole trader or partners.

### Taxation:

#### **a) Spreading the tax burden**

The use of a limited company may give taxation advantages, particularly where a 'family business' is involved. For example, a company may have profits of £10,000 in one year and none in the next year. It may be possible to pay directors' remuneration of, say £5,000 each year so that personal allowances and lower rates of tax are utilised in each year. In a sole trader or partnership situation, the full £10,000 would be taxed in the first year, possibly at very high rates, and in the second year, although no tax would be payable, the personal allowances may be lost.

In many cases a company may be able to retain profits and thus the shareholders may avoid or delay income tax at the higher rate. On the other hand, the whole of the profits of a sole trader or partnership are liable to income tax as they arise. The tax rules for employees on taxable benefits and allowable expenses ("wholly, exclusively and necessarily in the performance of their duties") are more stringent than the equivalent rules for unincorporated

businesses (“wholly and exclusively”). The total tax and national insurance paid will be less if the business is operated as a company (paying a salary equal to the personal allowance and the remainder in dividends) rather than a sole trader.

## **b) Lower tax rates**

The owner of a limited company has the ability to determine how much he takes out of the company in salary and how much in dividends.

The income of a partnership or sole trader is liable to income tax at 20% on the first £43,875, at 40% up to £150,000 and 50% thereafter and national insurance contributions at 8% are payable on all profits over £5,720. Company profits up to £300,000 are taxed at 21% reducing to 20% from 1 April 2011. Profits above £1,500,000 are taxed at 28%, reducing by 1% per annum from 1 April 2011 down to 24% with marginal relief given on profits between £300,000 and £1,500,000. Profits paid as remuneration to directors and employees are liable to income tax and national insurance contributions. .

Dividends may be paid to the company’s shareholders, who need not work for the company. Since dividends do not attract national insurance contributions, they can be the most tax effective way of making payments. Particular care needs to be taken when paying dividends to non-working shareholders.

The tax savings that can be made by operating through a company for different levels of income can be summarised as follows:

Income	2010/11 savings	2011/12 savings
£15,000	622	622
£20,000	972	972
£25,000	1,322	1,322
£30,000	1,672	1,672
£40,000	2,372	2,705
£50,000	3,698	3,782
£75,000	3,761	3,845
£100,000	3,823	3,907

At profit levels above £100,000 the savings increase significantly as the effective combined rate of tax and NIC on self employed income is 61% whereas the higher rate of tax on dividends is 42.5% (translating to 36.11% of the net dividend)

### c) Chargeable Gains

The chargeable gains of a company are liable to corporation tax at the same rates as the company's income. The chargeable gains of an individual are liable to capital gains taxable at 28% for a higher rate tax payer and 18% for a basic rate taxpayer with the first £10,100 each year free of tax.

### Pensions:

The relief available for contributions to company pension schemes and the benefits payable under such schemes are generally advantageous compared to personal pension schemes.

**Customer perception:**

A company is often considered to be a more substantial business. Incorporation may add to the credibility and commercial respectability of the business.

**Other advantages:**

There can be some other advantages in the formation of a limited company in that set rules are laid down for certain aspects of the running of the company and these rules are not so easily variable as are the terms of a partnership agreement.

Where a business is being carried on through a limited company, employees and/or children can be made directors and acquire shareholdings, without in either case being given control or substantial liability. In the case of a partnership, if employees and/or children were made partners, they would have some degree of control over the business and would also in most situations take on unlimited liability for any debts incurred by the partnership.

A bank may take security of a “floating charge” over the assets of a company. Unincorporated businesses cannot grant floating charges. This makes it easier for a company to obtain bank finance.

**POSSIBLE DISADVANTAGES OF FORMATION OF A LIMITED COMPANY****Costs:**

A company will incur costs in formation and annual costs of preparation of accounts and submission of annual returns to comply with company legislation but only large companies now require audits.

**Privacy:**

A limited company is obliged to file a copy of its annual accounts with the Registrar of Companies and these accounts are open for public inspection by creditors and any other interested party, although the amount of information shown in the accounts may be restricted. In certain cases, however, the information might be of benefit to competitors, employees etc.

**Guarantees:**

Banks, landlords and other organisations may require personal guarantees from the directors and/or shareholders for loans or leases. This removes the advantages of limited liability. Limited liability would still remain in respect of most forms of credit obtained by a company.

**Formalities:**

Certain formalities applying to a company are more onerous than those to a sole trader or partnership. Such matters concern the type of bookkeeping and accounting systems which need to be operated, provisions relating to wording on stationery, certain aspects of running bank accounts and other matters.

**Taxation:**

National insurance contributions charged on directors' remuneration are generally higher than on a sole trader's profits.

PAYE will be applied to any salary. However, this can be mitigated by paying dividends. Personal tax charges on benefits such as company cars can be steep and national insurance contributions are also due on these benefits.

Where a business may initially be expected to operate at a loss, and trading is carried on by a sole trader or through a partnership, such losses may be available to set against other income. A company's initial losses can only be carried forward against future company trading profits.

There is a potential double tax charge on the sale of the business, unless the purchaser acquires the shares.

### **Loans to Directors:**

Loans over £5,000 are not permitted and have tax consequences. An unincorporated business can generally introduce and withdraw cash without tax implications.

### **Insolvency:**

If the company ceases trading due to insolvency the directors may be personally liable for the debts if there has been wrongful trading, as defined by the Insolvency Act.

### **Personal Service Companies:**

Knowledge-based businesses may be caught by the IR35 legislation which may render the tax advantages of paying a nominal salary and substantial dividends unobtainable.

### **s660A "Husband/Wife" legislation:**

The tax authorities have been attempting to enforce legislation which prevents the avoidance of tax by diverting income and profits to spouses or other members of the family. This may be of concern to businesses where those family members have little or no active interest in the business.

Each case has to be considered on its merits and will depend on the business, its expected growth and the degree of commercial risk. Often it is likely to be advantageous to form a limited company.

Wherever possible, the company should be formed with a small issued share capital, the balance of any money required being provided in the form of loans to directors and/or shareholders.

## **2. THE FUTURE FOR CHILD TAX CREDITS**

Tax Credit payments were a top target when the Government started its programme of cuts in the June Budget. If you're claiming Child Tax Credits (CTCs) how and when will the changes affect you?

CTCs are not solely for those on low incomes. They were introduced to replace the loss of a different tax allowance for children that were only partially means tested. This in turn had been brought in to hand back tax relief that had been taken away when the completely non-means tested married couple allowance was withdrawn. But for most families this latest change means a substantial reduction in CTCs.

### **Changing Limits**

In the emergency Budget in June the Government announced changes that will scale down or even eliminate Tax Credit (TC)

payments. Currently, if you have children and your household earnings before tax are £50,000 or less, you can claim the full family element of CTC of £545. You can also claim an extra £545 per year if you have a child less than a year old. But where your earnings exceed the limit, you lose £1 CTC per £15 of excess income. Under the proposed changes these limits will be severely tightened.

### **First Cut**

From April 2011 the CTC income limit will be reduced to £40,000. And for every pound over this limit, 41p will be knocked off your claim, meaning that, unless you have a child under one, you won't get any CTCs by the time your household income reaches £45,000. Worse still the income limit will be reduced again from April 2012, but the qualifying levels have yet to be announced.

### **Another Change**

Another change is the reduction in the "income disregard" which protects you from having to pay back TCs where your income increases significantly compared to the level on which your claim is based. The income disregard for 2010/11 is £25,000, this will reduce in April 2011 to £10,000 and in April 2013 to just £5,000. Where your profits or earnings increase from one year to the next by more than these amounts, you will have to repay some of the TCs you've claimed.

### **Time Barred**

Another change will see the existing three-month period you have to make a claim for TCs reduced to one. Currently, if a change in your circumstances, e.g. the birth of a child, warrants claiming increased CTCs, or if you're claiming for the first time, payments can be

backdated for up to three months. From April 2011 this will be cut to one month.

Unfortunately there's not a great deal of tax planning you can do to rescue or improve your CTC entitlement.

One option to consider is where your household earnings are enough to trigger the withdrawal of CTC, paying a pension contribution will count as a reduction in your income and so increase the CTCs you receive. From April 2011 you'll get an extra 41p for every 80p you pay into your pension.

### **3.FLIP YOUR PROPERTY LIKE AN MP**

We have all heard the stories of the MPs flipping their houses to avoid paying capital gains tax. The Press pilloried them for doing so but the capital gains tax savings they made were perfectly legal (even if some of their other practices were questionable) – and if you have two properties you could do the same!

Under the tax rules each person, or if you are married or in a civil partnership, each couple can have only one ‘principal private residence’ at a time. The time any property is a principal residence is exempt from capital gains tax. However if you have two properties, perhaps a flat in town you use during the working week and a cottage in the country as a weekend bolthole, then you can choose which one is your principal private residence, provided you tell the Revenue within two years of having two properties available.

For a property that has been at any time your principal private residence it is exempt from capital gains tax for the period it is your principal private residence and also the last three years of ownership. Furthermore if the property was ever let out part of the gain will also be exempt. This additional amount will be the lower of £40,000 and the capital gains tax exemption on the part of the property occupied by the owner.

You must at some time have used both properties as your home, even if for only a few weeks. However if you do use one property as your principal private residence for only a few weeks make sure you can prove you really lived there – keep paperwork to prove you paid the council tax, were registered on the electoral roll, had your name on the electricity and gas bills.

So with some thoughtful consideration of your plans for your properties or if one is likely to have a much lower increase in value than the other you can make significant reductions to your capital gains tax bill.

#### **4. ASSISTANCE FROM YOUR EMPLOYER WITH CHILDCARE**

The tax and national insurance contributions (nics) rules for employer-supported childcare offer a great incentive for employers to help their employees with their childcare responsibilities.

Your employers can provide you with childcare payments that equate to income free of tax and national insurance. The employer does this by contracting direct with an “approved” childminder or nursery with the first £55 a week per employee exempt from tax and class 1 nics. Various conditions must be satisfied to pass the “approved” test. To be approved a childcare provider must be Ofsted registered. If the employer provides cash payments to the employee or the contract is between the employee and the child carer the exemption will not apply and the payment will be taxable in full. Therefore care will be needed to ensure the arrangements are correctly structured. If the employee is to have a salary sacrifice in

exchange for the benefit it is necessary to structure this properly so it is effected, as the payment would be taxable if not effective.

Alternatively the employer can provide you with childcare vouchers to pay an approved child carer. The first £55 a week per employee value of these vouchers will be exempt from tax and class 1 nics.

There are two options when using childcare vouchers:

These are

a) **Voucher provider companies can operate childcare voucher schemes on behalf of employers.** They will charge an administration fee for the service. However your employer will remain responsible for the correct deduction of tax and payment of nic even if you use these companies, i.e. for example, you provide vouchers in excess of £55 per week.

b) **Your employer can produce and administer childcare vouchers to you** as long as you make sure the conditions for tax and nics exemption are met and you keep records to support your scheme.

Furthermore the employer would need to maintain records to show the qualifying conditions have been met, unless a voucher company maintains the records. These records would include:-

**Evidence the scheme is available to all employees**

Details of the child carers used, including their Ofsted registration or approval numbers and when their registration or approval expires  
Evidence that any employees participating in childcare voucher schemes are required to inform the employer of any changes in the registration or approval status of the child carer.

The child must be a qualifying child (child of the employee or lives with) and the child qualifies up to 1 September following their 15<sup>th</sup> birthday.

### **New conditions from 5 April 2011**

For individuals starting to receive child care vouchers after 5 April 2011 the value is reduced from £55 per week to £28 per week for higher rate (40%) taxpayers and £22 per week for additional rate (50%) tax payers.

### **Impact on Tax Credits**

However, it is important to remember recurring childcare support instead of pay could affect your tax credit entitlement in two ways:-

Their income for tax credits purposes will reduce by the amount of pay they have given up in return of the benefit.

Their childcare costs for tax credit purposes will reduce as it must only include costs the parent(s) pay themselves – the amount you pay directly or through childcare vouchers is not included.

Currently the tax savings for each parent is worth £915 for a standard rate tax payer and £1,172 for a higher rate tax payer. So if

you are not receiving childcare vouchers but are eligible get your employer to put a scheme into place as soon as possible, and before 5 April 2011 if you are a higher rate or additional rate tax payer.

## **5. USING YOUR OWN CAR FOR BUSINESS**

Many employees who do not have company cars will often use their own car for business purposes such as visiting customers or suppliers or driving to trade shows or training conferences. The employer will reimburse you – but at what rate?

The Revenue accept that if you use your own car for business purposes (and remember travel from home to your normal place of work does not count as business purposes) then for each tax year running from 6 April to the following 5 April you can be paid.

40p per mile for the first 10,000 business miles; and  
25p per mile for business miles over 10,000

How much does your employer pay you for each business mile? We have heard that many employees only pay around 20p per mile.

If your employer pays you less than the amount laid down by the Revenue then you can claim the difference from the Revenue who will give you a tax refund on the difference.

For example if you are a higher rate tax payer who drove 6,000 business miles in the 2009/2010 tax year and was reimbursed 20p per mile by your employer you could obtain a tax refund of £480 ( $6,000 \times (0.40 - 0.20) \times 40\%$ ) from the Revenue. All you have to do is ask and to keep the Revenue happy have a log of all those business trips (date, miles, where to, reason).

## **6. ARE YOU CLAIMING ALLOWABLE COSTS FOR WORKING AWAY FROM YOUR OFFICE?**

With effect from 2009/10 onwards, HMRC have published benchmark scale rates which employers can use to make subsistence payments to employees. These do not cover overnight trips (which are covered by the Personal Incidental Expenses Regulations, below) and are thus described as day subsistence rates. As long as the employee has incurred subsistence expenses whilst on a business journey, employers will be able to make subsistence payments up to the benchmark rates without agreeing them with HMRC, and these will be tax-free in the hands of the employee.

Employers wishing to use the benchmark rates need to notify HMRC of their intention when applying for a dispensation. Benchmark scale rates must only be used where all the qualifying conditions are met.

The qualifying conditions are that:

- The travel must be in the performance of the employee's duties or to a temporary place of work;
- The employee must be absent from his normal place of work or home for a continuous period in excess of five hours (for the five-hour rate) or ten hours (for the ten-hour rate); and
- The employee must have incurred a cost on a meal (food and drink) after starting his journey.

Here are some more details on this final bullet point...

The five-hour rate is £5 and the ten-hour rate is £10. In addition a "breakfast" rate of £5.00 may be paid where an employee leaves home earlier than usual and before 6.00am and incurs a cost on breakfast taken away from his home.

A 'late evening meal' rate of £15 may be paid where the employee has to work later than usual, finishes work after 8.00pm having worked his normal day and has to buy a meal which he would usually have at home. HMRC stress that these last two rates are for use in exceptional circumstances only and not intended for employees with regular early or late work patterns.

An employer may pay less than the benchmark rate if he wishes. If he pays more than the benchmark rate without agreeing a tailored scale rate with HMRC, the excess will be chargeable to tax. A tax-free payment can only be made if you actually incur an expense on meals after leaving home or your normal place of work.

## **7. CAN YOU GET TAX RELIEF FOR PIES?**

Employers can make tax free payments for employees' miscellaneous personal incidental expenses (PIEs) when they stay away from home overnight on business.

### **What are PIEs?**

Employees staying away from home overnight on business often incur additional expenses of a personal nature. Examples include newspapers, laundry and telephone calls home.

Although expenditure may arise as a consequence of working away from home, it is not incurred necessarily nor in the performance of the employee's duties. Under the Schedule E expenses rule this type of expenditure would not be allowable as a deduction as it fails the infamous “wholly exclusively and necessary for the performance of

his duties” test. If this expenditure was met either wholly or in part by the employer, tax would be due under the general rule for taxing income.

### **What is the special exemption for PIEs?**

A special exemption provides that employers can pay for PIEs relating to a qualifying absence up to a de minimus limit, without any tax consequences for the employee.

### **What is a qualifying absence?**

A qualifying absence from home is a continual period throughout which an employee has to stay away from home, including at least one overnight stay away from home, and where the expense of travelling qualifies for tax relief under the normal rules.

### **What types of payments are covered?**

The exemption covers all possible ways in which employers pay for employee's PIEs. These include:

- payment by non-cash vouchers
- expenses paid by the employee by means of a credit card in the employer's name
- benefits in kind - for example, where the employer arranges directly with a hotel to pay the bill
- cash payments -such as allowances or reimbursed expenses

## **What are the tax free limits?**

The maximum amounts of PIEs an employer may pay for tax free are:

- £5 per night for overnight stays anywhere within the United Kingdom, and
- £10 per night for overnight stays outside the United Kingdom

## **Do these limits include VAT?**

Yes. In calculating the total amount paid, all expenditure, inclusive of VAT, needs to be included.

## **Is there relief for employees' unreimbursed PIEs?**

No. The special exemption for PIEs is essentially a deregulatory measure designed to reduce the burden on employers of identifying and reporting to the Inland Revenue items which would otherwise be taxable expenses.

## **What if payments for PIEs are over the limit?**

Where an employer exceeds these limits, the *whole* of the payment becomes taxable - not just the excess.

## **What if the employee later refunds the excess?**

Where the employer requires repayment of any amounts in excess of the exemption limits, the employee would not be taxed on the

payment provided the excess was paid back within a reasonable time.

### **What if an employee spends several nights away from Home?**

For example, where an employee claims PIEs of £20 for a four night stay away from home in the UK on the basis of £5, £5, £6 and £4 for the four nights involved, the exemption would apply to all repayments because the total does not exceed £20 (4 nights at £5 exemption per night).

This aggregation rule needs to be applied to an unbroken run of consecutive nights in its entirety.

### **What about National Insurance Contributions?**

National Insurance Contributions are not payable on any payments of PIEs qualifying for the Income Tax exemption.

What if the PIEs of several employees are aggregated onto one bill? The payment of PIEs should be made to the individual employees within the limits of the individual exemptions. Sometimes a number of employees' hotel bills are aggregated and paid directly by the employer. Where in such cases, individual expenditure cannot readily be identified, a reasonable apportionment will be accepted.

## **8. TAX RELIEF FOR HOUSEHOLD EXPENSES WHEN WORKING AT HOME**

If you work at or from home you may be able to get tax relief on some of your household expenses.

When you can get tax relief for household expenses

If you have to work at or from home you can get tax relief for the extra household expenses that you have to pay which have been incurred wholly and exclusively for the purposes of your employment.

Typically these extra expenses include the extra cost of gas and electricity to heat and light your work area business telephone calls.

You won't be able to get relief on domestic expenses that you're paying anyway - like your mortgage or council tax. You also won't be

able to get relief for expenses that relate to both business and private use - such as your telephone line rental, or Internet access.

### **How much relief you can get**

You can get either:

- A flat rate deduction of £3 per week for each week that you've got to work at home. This doesn't include the cost of business telephone calls.
- A larger amount if your extra expenses are higher than £3 but you'll have to show how you've calculated the figure.

### **What if you volunteer to work at home?**

You might volunteer to work at home under a 'homeworking arrangement'. A homeworking arrangement is an agreement with your employer that you'll work at home on a regular basis.

You don't have to work at home every day but there must be a regular pattern - for example two days at home and three days in your employer's premises each week. The work you do at home must be work that you're required to do as part of your employment.

If you've got an arrangement like that, your employer can contribute towards your expenses of working at home - £3 per week or more if you can show that you had to spend more than that. You won't have to pay tax and National Insurance contributions on the amount.

However, if your employer doesn't contribute you can't get tax relief for your expenses of working at home.

## **9. PROTECTING YOURSELF FROM HMRC**

We all accept that the Revenue has an important job to do but there is a perception that in addition to collecting any tax due they are seeking to maximising the return by charging higher penalties on a more frequent basis.

The Revenue radically overhauled the penalty regime in 2008 and it is now fully in force and the effects are beginning to bite.

### **What will it apply to?**

Errors on documents relating to VAT, PAYE, National Insurance, Capital Gains Tax, Income Tax, Corporation Tax and the Construction Industry Scheme. Failure to notify HMRC of commencement of a new taxable activity.

### **When could a penalty be charged?**

the document submitted to HMRC contains an inaccuracy leading to:

- An understatement of any tax liability
- false or inflated statement of a loss
- false or inflated claim to repayment of tax
- failure to advise the Revenue if they have under assessed tax
- the inaccuracy must be careless, deliberate or deliberate and concealed.

### **What are the penalties?**

The penalties charged are a percentage of the tax understated or overpaid as a result of the error, and fall into four categories.

reasonable care taken but

document submitted is incorrect

No penalty

careless error

up to 30%

deliberate error

20%-70%

deliberate error which has been concealed

30%-100%

### **The penalties are chargeable for a tax period.**

If reasonable care was taken but an error is discovered by the taxpayer and it is not disclosed to HMRC then this will be treated as a careless error.

### **What is reasonable care?**

“Reasonable care” varies according to the person, the particular circumstances and their abilities. Every person is expected to make and keep sufficient records for them to provide a complete and accurate return and take care to check the correct tax treatment of individual transactions. The Revenue however are tying themselves in linguistic knots to ensure virtually all mistakes are ‘careless errors’ so they can charge a penalty.

### **Can penalties be reduced?**

Penalties can be reduced by unprompted disclosure of errors i.e. before it is discovered by HMRC.

HMRC consider 3 elements of disclosure:

- telling HMRC about error
- helping HMRC calculate extra tax due
- giving HMRC access to records

The penalty will reduce in line with the help given to HMRC.

So top tips to protect yourself against the Revenue and not have to pay out amounts over and above those due include

- Pay your taxes on time
- Submit all your documents on time
- Take care to avoid simple mistakes
- Keep proper records

## **10. RECORD-KEEPING**

If you have to complete and submit tax returns, there is a legal requirement to keep good financial records and retain for them a number of years. Failure to do so may result in penalties.

The type of records which you must keep may vary depending on whether you are employed, self-employed, run a limited company, are registered for VAT or a landlord but the basic principles are the same.

Benefits of keeping good records

Good record keeping enables you to:

- Keep track of your expenses. Ask for bank loans or credit facilities

- Chase people who owe you money promptly and keep track of the money you owe others

- Save time and accountancy costs

- Pay the correct amount of tax
- Receive the correct amount of benefits or credits
- Avoid paying extra tax, interest or penalties
- Demonstrate to HMRC inspectors that any genuine mistake was not caused by negligence.

### How to keep records

HMRC recommend that you keep all original paper documents which show that tax has been deducted (such as P60s – end of year certificate for PAYE) although the law doesn't specify how you keep your records.

You may keep records electronically – computer, CD, memory stick, microfilm – but the method must

- Capture all the information on both front and back of the document

- Be in a readable format for HMRC

It is also imperative that you ensure that if you do keep your records electronically, they are adequately “backed-up” to avoid data loss.

General Rule	6 years Minimum
However:	
Employer – PAYE records	3 years (in addition to current year)
CIS Contractors – CIS records	3 years (in addition to current year)
Records for personal (non-business) tax returns	22 months from end of tax year to which they relate

**11. CAN BOTH YOU AND YOUR PARTNER HAVE YOUR MOBILE PHONE CALLS PAID FOR BY YOUR EMPLOYER?**

With a little bit of planning the answer is YES. Under the tax rules a single mobile phone provided to an employee is exempt from any income tax as a benefit of kind under a specific provision of the tax rules.

If your employer chose to provide that mobile phone to your partner then under the tax rules it would be treated as having been provided to you and so still would be exempt from income tax. If a second mobile phone is provided to you and you use it exclusively for business use where there is insignificant private use then this too will be free from income tax.

Care needs to be taken in deciding exactly when kind of handset you receive. A mobile telephone under the taxes rule is an apparatus

designed for the primary purposes of transmitting and receiving spoken messages. So the above ability to have two mobile phones provided tax free by your employer refers to mobile phones only.

If you have a personal digital assistant (PDA) such as a Blackberry or an I Phone the position is a little different. This is because PDAs include computer functions as well as telephone functions and so under the tax rules are not considered to be mobile phones. This means the specific exemption for a mobile telephone per person never being taxed will not apply so you would need to ensure that the PDA is used solely for or with insignificant private use to you to ensure it is tax free with a mobile telephone being provided to your partner which also should be tax free.

## **12. INCOME SPLITTING FROM YOUR FAMILY COMPANY**

Do you run your business through a limited company? If so it is likely that you are paid a mixture of salary and dividends as the absence of both employees and employers National Insurance Contributions on dividends generally results in a lower tax bill for payments via dividends.

It is also common for your partner to have some shares in the company so some of the profits can be paid to your partner through dividends as well. The Revenue over the last few years has launched a number of attempts at trying to challenge dividends paid to one partner where they consider the income was earned by the other partner – so far without success. Currently this seems low on the priority list of the Revenue to change the legislation, but never say never.

The situation has become more confused by a recent case decided at the tier 1 tribunal (Patmore v HMRC TCo0619). In this case the Revenue argued that the dividends received by one shareholder, Mrs Patmore, should be taxed on her husband as income arising under settlement. Those of you familiar with the Revenue's failed challenge under the Arctic case will recognise the scenario.

In this case Mr & Mrs Patmore agreed to purchase 85% of the shares in CD Limited, an engineering company, in which Mr Patmore was already employed and owned the other 15%. Two percent of the shares were subsequently held by Mrs Patmore and 98% by Mr Patmore. Two thirds of the sale consideration was left on loan by the vendors and the additional tranche funded by mortgaging the matrimonial home, jointly owned by Mr & Mrs Patmore. A B class of shares was created and allocated to Mrs Patmore.

Dividends paid on the B Shares were transferred by Mrs Patmore to her husband to be used to clear the debt to the vendors. It was claimed by Mr & Mrs Patmore that the structures it established allowed Mrs Patmore to avoid personal liability for the vendor loans; she was seen as akin to an outside investor, with a separate class of shares and priority dividends. Her return on the amount she had invested (half the purchase price) was in line, it was claimed, with the return an outside investor would have expected. The entire strategy was preordained, except that Mrs Patmore decided independently to pay the dividends to her husband rather than paying off the mortgage. The vendor loans had due dates and would therefore to be prioritised.

The Revenue pointed to the tax saving in the arrangements and observed that there was no need for a separate class of shares. The B shares did not have any special right to dividends. The Revenue argued that either B Shares themselves were settled property or that each dividend on those shares which was not matched by a dividend on the A Shares was effectively settled by Mr Patmore.

The Court held that the company would not have paid the dividends on the B shares had not Mrs Patmore agreed to pay them onto her husband. There was an arrangement within S660GTA1998; the special commissioners in the case Bird [2008] SPC720 emphasised that “a relatively simple plan” could be included in the definition of a settlement. To count as a settlement there must be an element of bounty and this was missing in the present scheme. Although Mrs Patmore was not in a position of an outside investor, the fact that she bought equal responsibility for the loans whilst holding far less than 50% of the capital meant that a constructive trust in her favour had been created. There was therefore no bounty extended to her. The Court furthermore decided that the Revenue had not taken “a broad and realistic view” of the arrangements (as Lord Hoffman in Jones v Garnett [2007 UKHR35] the Arctic case had required. The outright gift exemption cannot apply (since the dividend income was going to be applied to Patmore’s benefit in all foreseeable circumstances) but this was immaterial since the B shares were not settled.

Could the dividends qualify a settled property instead of the shares? The decision to pay dividends on one class of shares could count as an arrangement (as with the waivers in Buck [2009 STC6]).

Mr Patmore effectively held 42.5% of the A shares in trust for Mrs Patmore. Hence an element of settlement was only to the extent that the dividends she was paid exceeded her entitlement to the beneficial ownership already of 42.5% of the A Shares.

So in this case rather than the Revenue managing to tax Mrs Patmore's dividends on Mr Patmore the court held that in fact all of the dividends should be divided equally between Mr Patmore and Mrs Patmore thereby reducing the overall tax. This ruling has the potential to fundamentally alter the manner in which dividends in husband and wife companies are treated. The Revenue has yet to announce how they are going to respond to the case. However as the case was only heard at a tier 1 tribunal under English law does not set a binding precedent on all other cases.

Are you confused? If so, you are not alone as all the tax gurus and the Revenue are equally confused. It may well be a case of Watch this Space for further developments.

### **13. THE TAXMAN'S TOOLKITS**

No the Revenue has not started copying Bob the Builder. In fact these toolkits are interactive documents available on the Revenue's website ([www.hmrc.gov.uk](http://www.hmrc.gov.uk)) which are aimed at helping accountants reduce errors when completing tax returns. However these toolkits are publicly available and anyone is free to use them.

They highlight what HMRC perceive as the most common problem areas in the taxation topics covered by the toolkits and therefore what will often spark Revenue interest.

Use of the toolkits is voluntary but due to the anticipated use in future HMRC compliance checks, if you have completed a particular

area of your own or your business's tax returns and not considered the toolkits and a problem arises then it may make your position with the Revenue harder to defend.

There are a number of toolkits currently available with more expected over the next few months. Those available which may be of interest include:

- Capital Gains tax for land and buildings
- Marginals for small companies relief
- Private and personal expenditure
- Year end benefits and expense returns (Forms P11D)

## **14. TAX MEANS TESTED CHILD BENEFIT**

The Government has announced that from 2013, child benefit will be scrapped for parents where either pays tax at a higher rate i.e. as a total taxable income in excess of £43,875 for 2010/2011 and £42,375 for 2011/2012. The child benefit for a family with two children is currently worth £1,752.40 per annum.

The manner in which the benefit is being reduced is considered to be unfair; for example a single income family where the worker earns say £45,000 would get no child benefits while another family where both parents work earning £86,000 in total (£43,000 each) would still qualify.

The reason for this apparently unfair approach is simplicity – the Government don't want to create a monster bureaucratic nightmare to administer the system.

At the moment however the government are insisting that this is the system that will apply although we have a suspicion that the final rules will be blurred somewhat once the face saving exercise has been achieved!

But just in case there are no changes, if you are going to be caught by this rule, you should start thinking ahead to see whether it would be possible to have some of your income allocated to your partner to ensure you are both below the threshold. Take care to make sure this is supportable by genuine reasons just in case the Revenue was to enquire at a later date.

## **15. PAYE ERRORS**

Are you one of the 4 million people to have been notified by the Inland Revenue that you have paid too much or too little tax due to an error on your PAYE code?

This bizarre situation has arisen because the Revenue has recently introduced a single new computer system, the National Insurance and PAYE Service, to replace numerous old computer systems which did not communicate with each other. This is allowing the Revenue to actually check whether the right PAYE code has been allocated to individuals and – surprise, surprise – millions of errors have been identified. Incidentally at the moment the Revenue charge you a penalty if you make a careless error but we haven't had them volunteering to make compensatory payments to those for whom it has made errors!

However back to the serious business. If you do receive one of these letters from the Revenue make sure that you check it thoroughly to ensure that it is really correct. It is possible that they may have calculated that you owe more tax than you do and then you can contact them and have it corrected. Beware if you think that they have repaid you more tax than you think you are entitled to. Whilst under the taxes rules there is no requirement to notify the Revenue of such an overpayment, the Revenue has started a nasty habit of charging people with theft who have knowingly retained a tax overpayment.

If you are one of the estimated 1.5 million people who has received a tax notice P800 saying that you owe money you should examine your circumstances very carefully to see if you can take advantage of an official concession in extra statutory concession A19 that may prevent you from having to pay the tax. This concession applies where the Revenue has failed to make proper and timely use of information supplied by the taxpayer regarding his own income, gains or personal circumstances or the employer if the information affects a taxpayer's coding. The concession provides that the tax will normally be given up only if the taxpayer

Could reasonably have believed that his affairs were in order;

and was notified of the arrears more than 12 months after the end of the tax year in which HMRC received the information indicating that more tax was due or

was notified of an over-repayment after the end of the tax year following the year in which the repayment was made.

If you meet these circumstances you should write to the Revenue explaining the situation and invoking extra statutory concession A19 and request that the tax is “given up”.

## **16. PENSIONS TAX RELIEF**

Are you a high flyer with taxable income exceeding £130,000 per annum?

If so, in 2009/2010 and 2010/2011 any pension contributions you made would have needed to be assessed to see if they were caught by the previous government's anti forestalling rules.

These horrendously complicated rules were introduced to prevent people such as you paying extra amounts into your pensions prior to 5 April 2011 when it was intended to reduce the tax relief available from your highest marginal rate down to 20% once your earnings exceeded £150,000.

The current government has scrapped that particular proposal and replaced it with a much lower tax deductible pensions cap of £50,000 (placing the previous threshold of £255,000 or your salary

if lower). However the anti forestalling rules remain in place for 2010/2011 – giving the bizarre position of having anti avoidance rules in place to prevent you taking advantage of something that isn't happening.

However you should ensure that you review your pension contributions made during 2010-2011. If you have in mind making pension contributions in excess of £20,000, or £30,000 (if paid less frequently than monthly), and you were not making pension contributions of at least the same amount in the three years to 5 April 2009 then you would be well advised to restrict your contributions to the £20,000 threshold (or £30,000 if paid less frequently than monthly).

If you do so then you will not get hit by the 20% tax charge on the contributions in excess of these amounts and instead you could defer the contributions and pay bigger amounts after 5 April 2011 when the £50,000 cap is in place.

## **17. PROTECT YOUR PERSONAL ALLOWANCE**

Most people are aware of the new tax rate of 50% applying to incomes in excess of £150,000 from 5 April 2010. Much less well known however is the removal of the personal allowance if your taxable income exceeds £100,000. For every two pounds of income above that figure, you lose £1 of your personal allowance which for 2010/2011 is £6,475.

So for taxable income between £100,000 and £112,950 the effective tax rate is a whopping 60%. So if you are a high earner you should review your income now to establish if you will be caught in this tax trap so you have time to take steps to mitigate it.

Actions you could take would include:

- Moving income producing assets such as bank accounts and shareholdings to a lower tax paying partner
- Making tax efficient one off personal pension contributions to get below the threshold (but see the anti forestalling rules mentioned elsewhere)
- Making a gift aid donation to bring your income below the threshold – you still won't have the money but at least it will go to a good cause
- Defer income or bonuses until the next tax year – this will either avoid the tax or mean that you only get caught by the 60% rate once rather than **twice**.

## ***Conclusion***

Yes.... I KNOW there's a lot of dense, complicated stuff in this report... and perhaps not a lot of it applies to you...

But if even ONE little point can help protect your income or help you claw back a few hundred pounds that's been taken from you, then it's all been worthwhile.

We have to face the fact that there's no a huge amount we can do when faced with a government determined to make US pay for other people's greed (especially if you hold down a regular job that has PAYE applied). But there could be one of two little nuggets that you – or even your accounts department – don't know about that might help just a little.

And in my book that's much better than simply lying down and taking a kicking from the taxman.

So, pick through this report again (there's a lot in it so you might have skimmed over an important point), and keep it in a handy place – in case your circumstances change and something that wasn't relevant now becomes relevant at a later date!

And...

***KEEP READING THE RICH LIFE LETTER!***

Because I'll keep doing my best to help you protect your money and earn a little extra.

Cheers for now,

Lewis

The Rich life Letetr

Email: [lewisgeary@hotmail.co.uk](mailto:lewisgeary@hotmail.co.uk)

PS If you think this report could be helpful to anyone you know, feel free to pass it on. And get them signed up to The Rich Life Letter so they can join the fight back! All the details are here:

[www.richlifeletter.co.uk](http://www.richlifeletter.co.uk)