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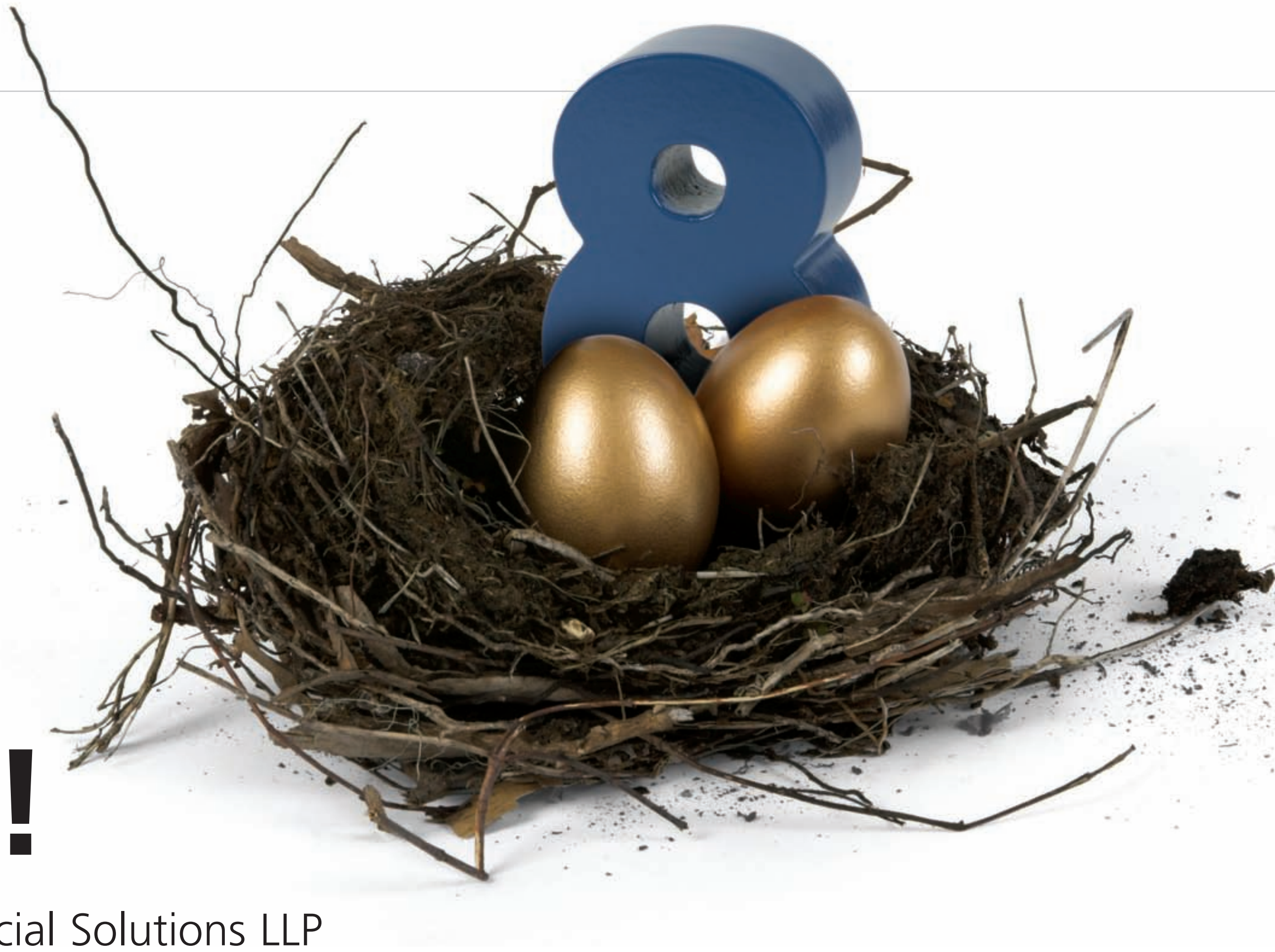
The Newsletter of Lubbock Fine Spring 2011



Pensions – all change!

By Neville Pereira, Lubbock Fine Financial Solutions LLP

Neville Pereira

'New broom sweeps clean' and no broom sweeps cleaner than a new government. Following the election of the coalition Government in May 2010, its numerous ventures include far reaching pension legislation changes. Whether you are paying into a workplace pension or not, are considering retiring or even if you have already retired, the chances are that nearly everyone will be affected by some aspect of the looming changes ahead.

Many of these changes take place from 6 April 2011 and this presents clients with an opportunity to maximise contributions and review their current strategy. The changes are designed to save the Treasury some £4 billion per annum in higher rate tax relief. New limits will be imposed on the amount individuals can pay into their pensions and some final salary pension schemes will be subject to increased levies. Substantial changes as to how pension income is eventually taken are also being introduced.

What's changing?

From 6 April 2011 the following changes are taking place.

- The annual allowance for pension contributions is to shrink considerably from £255,000 to £50,000 per annum. Complex anti-forestalling rules, introduced by the Labour Government, which restricted those earning more than £130,000 to an annual contribution (in most cases to £20,000) will come to an end. The reduction will mean that the ability to pay substantial employer or employee contributions will now be severely restricted. Consequently, clients who make significant payments will be keen to seek advice. There is the option to carry forward unused annual allowances of up to £50,000 from the previous three tax years, thereby allowing additional payments to be made. To carry forward these unused reliefs, individuals must have an existing registered pension in place from the tax year in which any carry forward is due to take place. Clients will need to calculate what they have historically paid into pensions to ascertain their carry forward allowance.

- Tax relief at an individual's highest marginal rate of up to 50% will be available, making pensions (possibly for a short time) one of the most tax efficient investments.

- The 'life-time allowance', or total that may be saved into pensions, is due to fall from £1.8 million to £1.5 million in April 2012. Any funds when crystallised, namely benefits taken over this revised limit, will be taxed at 55%. Therefore, clients with considerable pension benefits, especially those who have already accrued more than £1.5 million, will be able to register their pension funds in order to avoid the aforementioned tax over the revised limit of £1.5 million. Anyone in this position will need to act before April 2012, the sooner the better. However, to benefit from this higher allowance of £1.8 million and as a condition of registration, clients will not be able to build up any further benefits after April 2012. Consequently there is the need to consider if contributions should be maximised and also whether benefits should be crystallised before the change is introduced.

- There are also substantial changes to how retirement benefits can be taken. The compulsion to purchase an annuity, namely the sacrificing of one's capital in order to receive an income for life, is being permanently removed. The current rule that a pension fund must be utilised by the age of 75 is being abolished in April 2011.

- There will be the introduction of 'flexible drawdown'. What this means is that individuals who have a guaranteed level of income in excess of £20,000 per annum from clearly defined sources will be able to withdraw vast sums from their pension scheme which will be well in excess of that currently allowed. The purpose of demonstrating that you have the minimum guaranteed income is to ensure that you have suitable provision in place, other than the main pension scheme, to maintain your well being in retirement. However, flexible drawdown will not be available from all pension companies and advice will be required as to how to maximise this option.

- A new scheme called 'capped drawdown' is to be introduced and existing clients in a drawdown scheme now called "Unsecured Income" will automatically be defaulted into this new scheme. Individuals who are not in the privileged position of having a guaranteed income of £20,000 will suffer a reduction in the amount of income they can withdraw from a capped drawdown scheme. For ordinary 'drawdown' investors they can currently withdraw up to 120% of the value of an annuity set by the Government Actuaries Department (GAD). However, from 6th April the maximum income will be 100% of the GAD rates. This amounts to a reduction of 20% in the possible income an individual can take from their pension pot. There will also be changes as to how often the income being taken from an income drawdown scheme is reviewed. This, together with how GAD rates are being calculated by revising its projections, will mean a reduction in income from this source. Clearly clients need to be aware of this change which amounts to the possible reduction of their pension income and they should budget accordingly.

- There is also a substantial change to the death benefits payable in a drawdown scheme. The tax charge is being increased from 35% to 55%. Clients will need to consider if a lump sum survivor benefit in the form of a lump sum is appropriate to their requirements.

- Final salary pensions, sometimes called defined benefit schemes, will be treated as being more valuable than previously. Under current rules, each £1 of final salary pension income is multiplied by a factor of 10 to calculate its value but from April 2006, a factor of 16 will be used to calculate the value of an individual's final salary income. Members of these schemes are particularly exposed and vulnerable due to the way accruals are valued though ultimately the accrual rate will depend on the type of scheme they are a member of. For example, assuming a 1/60 accrual rate, an employee who has worked for, say, 30 years on a salary of £100,000 will have accrued a pension worth 30/60ths of his final salary as 1/60 is accrued for each year of service. This equates to a pension of £50,000

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per annum. If the employee receives a pay rise of £20,000 to £120,000 a year, his accrued pension will now be worth 31/60ths of his new salary or a pension of £62,000 per year. This is an additional £12,000 per annum of pension benefits. To ascertain a contribution value, this increment is multiplied by the new factor of 16, giving £192,000 as a contribution value which is clearly in excess of the new annual contribution limit of £50,000. The excess could result in an inadvertent tax charge on this employee by simply getting a pay rise and being a member of his employer's final salary pension scheme, although some carry forward of unused relief may mitigate this. The employee may need to renegotiate their financial benefits or opt out of these schemes. As this area is a compliance minefield, advice will be required as to what employees in these types of schemes should be doing.

Quite clearly with the highly complex existing rules and the potential changes to pension legislation post April 2011, advice will be required as to how to maximise contributions and minimise tax. Clients in retirement or approaching retirement will have a raft of complex legislation to consider.

If you would like to know more about the issues covered in this article please speak to your contact partner or to Neville Pereira on 020 7490 7766 or email nevillepereira@lffs.co.uk. ●

This article is for information only and professional advice should be taken in advance of any changes to your financial affairs. HM Revenue & Customs' practice and the law relating to taxation are complex and subject to individual circumstances and changes which cannot be foreseen.

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Lubbock Fine apologises to you

A number of clients and contacts received the last issue of FineLines without the adequate postage and had to pay to have it delivered.

We apologise for this error which was entirely due to our supplier and a problem with their franking machine. Unusually, they had to stamp the envelopes by hand and they failed to use adequate postage. Due to this error, we have now changed suppliers and this will not happen again. However, if you would prefer to receive FineLines only electronically in future, please email marketing@lubbockfine.co.uk. ●

Client Profile

Pix Bar

Pix Bar owner John Thornhill

Walking into Pix Bar in Neal Street Covent Garden is a feast for the senses. A scrumptious display of tempting and delicious looking small dishes awaits on a long bar. Hot, cold, spicy and not so spicy, it's hard to imagine that even the fussiest of palates couldn't find something appetising here.

"Having spent a lot of time in Barcelona at one stage," explained Pix Bar owner John Thornhill, "I loved the Pintxo bars (pronounced *peen-chos* and literally meaning 'thorn' or 'spike') over there and felt sure that the concept could catch on in the UK. What we are is a bar with great nibbles. We're not aspiring for Michelin starred status; we're just looking to give our customers a fun and inclusive experience."

Mouthwatering selection of dishes

Pintxos are a form of gastronomic finger food originating from northern Spain, often served on a slice of bread and held together by a wooden skewer – think large tapas on a stick. There's no menu or ordering involved, diners simply grab a plate and help themselves to the ever-changing selection of mouthwatering dishes displayed across the bar. At the end of the meal, the bartender counts the skewers and charges accordingly. Prices range from £1.95 for simpler dishes to £2.65 for the slightly more complex. Accompanying the ever-changing menu is a first class choice of drinks, including a selection of beers, cocktails and Spanish wines and cava which are well matched to the pintxos on offer. It's an ideal pre or post theatre stop and great news for people who like lunch but don't want to eat a huge three-course meal.

Having set up and structured his business himself, John reached the stage where he realised he needed professional advice. He found Lubbock Fine through the internet and appointed the firm after the first meeting. "I didn't even bother to look at other accountants," said John. "I've worked with lots of different professional advisors during my time and I knew the sort of firm I was looking for. Jeff Gitter struck me as a man with flair and joie de vivre making him ideally suited and relevant to our business. Like me, he's a person who clearly enjoys food and wine and lives life to the full. And speaking as someone who shares Bob Dylan's birthday, it was his passion for Bob that really sealed the deal – we will always gravitate towards partners who have imagination and soul."

"John had already set up his business and had an idea of the sort of organisation he wanted," said Jeff Gitter. "We advised him and were able to implement a suitable structure which has the flexibility to grow with this business."

"Jeff has been instrumental in changing the way we operate," John continued. "One hugely valuable aspect of working with the firm is that Jeff has introduced us to lots of other excellent professional advisors. We're particularly delighted with the relationship we've established with our new bank, which is in a different league to our previous bankers. It's also good to have the security of knowing that Jeff is very tolerant and will badger me about paperwork until I get the right things done. It's not my strongest point!"

John's first Pix Bar opened in Notting Hill in September 2009 followed by the Neal Street, Covent Garden premises the following year. Word of mouth, together with a great location, means that Neal Street is the blueprint John's using to take the company forward. One of his biggest

Pix Bar Neal Street, Covent Garden

challenges has been the commercial property market. Blue-chip sites tend to attract expensive premiums and Pix has had to wait for premium-free (or smaller premium) opportunities to arise. These are few and far between and the competition for them is immense. However, having kept an eye on the ball, the next Pix Bar is to open in Bateman Street in May.

Pix attracts a wide range of customers, not least of which is a high proportion of women who find the environment fun and non-threatening, whilst the small portions allow them to pretend they're not eating too much! The bar is largely staffed with 'resting' actors who all enjoy the 'performance'

Johnny Depp lookalike bartender

of working at Pix while helping to create the right atmosphere and providing some welcome 'eye-candy' for customers. John is more than happy to foster flexible hours to accommodate the acting profession. And it's a bit of a family affair. Mr Thornhill Snr supplied the seed funding and John's art-student daughter works there too as one of the duty managers. Her long term aim is to take the concept to New York.

"But that's a way off yet," explains John. "My plan is to privately finance the first few bars before seeking external funding to expand the business. The hard part was the learning curve associated with our first opening and now that we have the concept bedded-in, I anticipate Bateman Street will be much easier."

"John is a charming and charismatic guy," said Jeff Gitter. "I act and have acted for a number of bars and restaurants over the years and the one thing they tend to have in common is owners who love the business, are prepared to get their hands dirty and have ambitious future plans. I have no doubt that Pix is going to be one of the great success stories of the next decade."

Pix Pintxos is currently at: 63 Neal Street, Covent Garden, London WC2 9PJ - 020 7836 9779 and 175 Westbourne Grove, Notting Hill, London, W11 2SB - 020 727 6500. The new Pix Bar will open in May at 16 Bateman Street, London W1D 3AH. Email enquiries to: hello@pix-bar.com ●

Owning a home abroad
pleasure or pain?

By Jeff Gitter

Jeff Gitter

Owning a home abroad can be fabulous. The convenience of getting away to somewhere you love at the drop of a hat cannot be underestimated. There's no time wasted, the holiday starts at the moment of arrival in your 'home from home', with all of your things just where you left them.

Buying a property abroad is not something to enter into lightly. Local customs, taxes, rules and regulations vary and the unwary might find themselves in a little local difficulty without the right research.

Taking the example of buying a home in France, here are some matters to consider before plunging in (to your new swimming pool).

Before you buy

Before you buy, find the area you're going to be happy with. The French tax system is geared toward keeping a lid on property prices. And it works: the French have not had the wild property price fluctuations prevalent in the UK due mainly to their capital gains regime, huge notary fees (equivalent to our stamp duty but more costly), mortgage expenses and very expensive selling costs.

Options for buying

French homes may be purchased on an individual or collective basis. If you want to buy and mortgage a home collectively, all buyers will be asked to apply jointly for the mortgage. For purchases made by two or more people, it may be advantageous to buy through a civil real estate company, a société civile immobilière (SCI). The main advantages of an SCI are (a) that it could be easier to transfer a share of the home to someone else when you wish to sell your interest in the property and (b) it may be easier to leave the home to your heirs. The disadvantages are that this type of company creates additional admininistration and set up costs, which are currently around €1,500, and annual expenses of between €1,000 and €2,000.

French inheritance tax

French inheritance tax law differs from that existing in the UK and other Anglo-Saxon countries and can have an impact on the use of the property in the event of a spouse-owner's death. Unless specified beforehand, a surviving spouse/partner will not automatically inherit the property ahead of any children. To counter these effects, you will need to take advice on setting up an SCI or potentially changing your marital status!

To circumvent some of the French inheritance 'forced succession' issues, you can draw up a French Will ('tontine') at the point of purchase. This is an important and complex matter and you will need to take specialist advice in France.

Notary-v-solicitor

All French property transactions require a notary and if you find one who speaks English, it's a bonus. Notaries are public officials responsible for ensuring that all deeds are authentic and that you own good title to the property. We might regard notaries as something between a lawyer and a tax collector but be aware, they are viewed as 'one up' from a solicitor and treated with huge deference. They are required to be objective in the advice they give and to act impartially towards the parties they serve. As a result, most people in France don't seem to bother with a solicitor, relying on the notary and the estate agent instead.

Stamp duty

Depending upon the age of the property, there is effective 'stamp duty' to pay on the purchase cost of between 6% and 8% of the purchase price. (For new build properties, the rate is much reduced.) When selling a property that is less than five years old, where a reduced stamp duty was paid upon purchase, you will have to pay the difference (around 6%) on its sale – your purchaser reaps the benefit of the lower rate.

Buying a new-build

Buying 'off plan' is often a possibility in France and you will find that you are asked to make stage payments during the development. The last 10% is usually paid upon completion, at which point a representative from the development company will accompany you to your new home for an inspection. It is vital to be aware that you only have 30 days to make any formal complaints. These must be submitted in writing and by registered post. (Registered post is used for all important and official documents in France, the French set great store by it.) If you fail to do this, you lose your right to complain.

Borrowing money

If you are taking out a mortgage, think carefully about a UK Sterling mortgage versus a French Euro mortgage. This requires due consideration as with a Sterling mortgage on a French property you run the risk of decreasing property values, along with a currency risk if the exchange rate goes in the wrong direction. Having a Euro loan at least means that whatever the exchange rate, you are matching a Euro asset with a Euro liability. Be wary though and thoroughly check any set-up and redemption costs, as these may be higher on a French loan than on one taken out in the UK.

Estate agents

When selling a property, estate agents charge around 6% commission which is very high by comparison to the UK.

Tax implications

Professional advice is vital on any tax implications related to home ownership. It's also important to note that owners of property in France are liable to pay a number of taxes. The most significant of these are French income tax, regional taxes and, for some, French wealth tax.

- **Regional taxes**
  There are two primary regional taxes in France: taxe foncière, based on the rateable value of the property, and taxe d'habitation, an occupancy tax based on the rental value of the property defined by the land registry and local authorities. Both of these taxes are used to provide key local services.

- **Renting out your property – the tax position**
  If you decide to mitigate your costs by renting out your property, you will need to know your tax position before you do so. This will depend upon whether or not you are resident in France (broadly, this means spending more than 183 days a year there) and the level of your income and expenditure and how the taxable profit is calculated. It is important to seek professional advice should this situation arise.

- **Wealth tax**
  Whether or not you are a tax resident of France, you may, as the owner of French property, be liable to pay wealth tax in France. For non-residents with French property, only assets owned in France are incorporated in the calculations (exemptions exist concerning certain assets). Net assets, under a threshold fixed every year by tax law (currently €770,000), are exempt from wealth tax. Amounts above that threshold will be taxed on a sliding scale, ranging from 0.55% on assets up to €1,240,000 to 1.8% on assets in France exceeding €16,790,000. If your property value puts you into the wealth tax bracket, it may be worth considering taking out a mortgage to keep yourself under the threshold.

- **Capital gains tax (CGT) upon sale**
  The basic principle is that property in France will always be potentially subject to French CGT, irrespective of your place of residence. Broadly, a gain on the disposal of a property is taxable at a set rate of 16% for European residents who are not permanently resident in France. There is also a significant allowance given for the length of time you have owned a property. There is no allowance for the first five years of ownership, but every year, from then on, allows you a 10% reduction off your capital gain, with the result that a property owned for more than 15 years is free of French CGT. Of course, you may nevertheless be liable for UK CGT if you are resident in the UK, however, if you have paid French CGT, there will be a credit against UK CGT so you will not pay twice.

Cost of running your property

It pays to remember that if you are funding your property through UK funds, the running costs will rise and fall along with the currency exchange rate. Think telephone, broadband, satellite TV, cleaning, garden and pool maintenance etc. It's not a cheap option.

Other considerations

You may wish to consider whether to buy a car or use rentals; there are pros and cons to either but remember that owning a car means insurance, tax and maintenance (although the relatively low insurance and tax are made in one payment in France).

The cost of holidays there will fluctuate according to the prevailing exchange rate (if you are financing yourself though sterling transfer) which can make it feel very expensive at times.

Local customs

It's important to learn about local customs. For example, in the South of France it is imperative to say 'bonjour monsieur' or 'bonjour madame' before starting a conversation with anyone from the local mayor down to the petrol station attendants. It really is considered quite beyond the pale not to do this – not to mention that you may be ignored or put in your place if you fail to deal with this 'nicety'!

Having pointed out all of the above, owning a property abroad can be a truly life enhancing experience and with the right advice at the outset, all problems are surmountable. If you are thinking of buying a home abroad and would like some advice, please speak to your contact partner.

For advice on buying and owning property abroad, please speak to your contact partner. For UK or Eurozone mortgage advice, please contact Richard Major of Professional Mortgage Services (quoting reference Lubbock Fine) at brm@pms-uk.org or call Richard on 0870 900 94 94.

Your 2010/2011
tax return first request

May we first thank all of our clients who submitted their tax return information to us in good time. In theory, clients should be able to gather their tax return information and send it to us by May (for the previous tax year) so that would be May 2011 for the tax year 2010/2011. Some clients do this and even if they don't get their information to us as early as May, we receive a steady trickle of information through the year.

Doing it in a rush and leaving it until the last moment (i.e. January) run the attendant risks of errors and, in the event of queries or problems, the possibility of us not being able to submit it to meet the January 31st deadline. Late submission to HMRC triggers penalties. In addition, our extremely hard working tax department would welcome a less stressful January!

We'd like to ask all clients to make tax return information something of a priority and send it to us as soon as possible. Please don't wait until January 30th or, even worse, January 31st! ●

Lubbock Fine **News**

We're sure that all of our clients would wish to join us in congratulating Lubbock Fine partner Stephen Banks on his marriage to Rachel which took place in Brighton on Saturday 12th March 2011. We wish Rachel and Stephen much happiness for a long and healthy future together. ●

The Budget

To read all about the Chancellor's latest Budget, please go to the 'latest news' section of our website. Alternatively, if there are any points arising from the Budget that are of particular concern to you, please feel free to speak to your contact partner.

HMRC
targeting small business record keeping for an estimated £600m

HMRC believes that investigating the trading records of small and medium businesses could raise £600m in fines.

The 50,000 SMEs that HMRC is set to target for inspection should expect to have their records (going back six years) scruitinised to establish whether they are 'adequate and accurate'. Each visit could take up to half a day and inspectors will be asking to see a number of records in addition to a full set of accounts. These might include such things as till rolls, cheque stubs, paying in slips, sales and takings records and bank and credit card statements.

Should any of our clients have any concerns about the prospect of such an inspection, please speak to your contact partner. ●

Latest HMRC **bullying tactics**

It seems that HMRC is taking an aggressive stance on overdue tax payments – or payments that it thinks are overdue. We've heard about a letter sent from HMRC to an individual, the second paragraph of which said:

"I don't seem to have received your payment of tax due by 31 January. I am particularly concerned about your debt because our records show that you already have an unpaid tax debt. That is why I am treating your case as a priority, and will be asking one of our field agents to call at your house to remove your possessions and sell them at public auction in order to clear the debt."

It is concerning that this particular threatening letter was chasing a liability that was hypothetically only three weeks late. In fact, although the Revenue believed it to be a late payment of a first payment on account for 2010/2011, the payments on account for this individual had been reduced but the Revenue had failed to process that. In other words, there had been some confusion between HMRC's left and right hand.

Should you receive letters from HMRC written in this threatening manner, please don't panic but do contact us immediately. ●

The UK Bribery Act 2010

The UK Bribery Act 2010 is due to come into effect from 1 July 2011. It supersedes all previous regulations in connection with bribery offences, (regarded as inadequate), and brings in a whole new comprehensive bribery code. The Act is designed to make prosecutions much easier and effective in relation to acts of bribery at home or abroad.

The statutory offences introduced by the Act are giving or receiving bribes, bribery of foreign public officials and failure of commercial organisations to prevent bribery. The most significant departure from the old law is the one applicable to corporate organisations, which has serious implications for all those who do business in the UK, irrespective of where they are located.

The Ministry of Justice has now published guidance outlining "adequate procedures" for corporations to put in place to prevent bribery. This guidance is designed to give businesses a more pragmatic and common sense set of corporate pointers. It includes views on corporate hospitality, facilitation payments and definitions of whether a foreign corporate will be caught by the Act. At present, it is unclear what weight the courts will give to this as the Act only requires the Government to publish guidance on procedures. There also appears to be some tension between the Government and the Serious Fraud Office with regard to the interpretation of the Act and how it should be enforced.

Business organisations in the UK will need to ensure that they have appropriate anti-corruption procedures in place. Whilst the guidance suggests certain procedures, these will not be applicable in all cases and many smaller organisations may already have adequate alternatives in place.

The six main principals of guidance for UK businesses are covered under the following headings:

1. **Proportionate procedure**
   Guidance for organisational procedures to prevent bribery proportionate to the bribery risks that such an organisation faces.
2. **Top level commitment**
   Demonstrate top level management commitment to prevent bribery by all associated persons and fostering a corporate culture in which bribery is never acceptable.
3. **Risk assessment**
   Assessment of the nature and extent of organisational exposure to external and internal risks of bribery. This should be periodic, informed and documented.
4. **Due diligence**
   The application of due diligence procedures in respect of anyone performing services for and on behalf of the organisation in order to mitigate identified bribery risks.
5. **Communication (including training)**
   Embed and ensure understanding of bribery prevention policies and procedures through internal and external communication, including training, proportionate to the risks faced.
6. **Monitoring and review**
   Monitor and review procedures designed to prevent bribery by persons associated with the organisation, making improvements where necessary.

Accordingly, the Act puts considerable pressure on UK and foreign organisations doing business in the UK with severe penalties for failure to comply. More detailed guidance is available at www.justice.gov.uk/guidance/docs/ bribery-act-2010-guidance.pdf

If you have any concerns or need clarification please speak to your contact partner. ●

We're always delighted to feature good news about our clients. If you have something special that you'd like to shout about, please email marketing@lubbockfine.co.uk and we'll try to get your story into our next issue.

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