

CHANCERY MANAGEMENT NEWS UPDATE

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On This Day In Previous Years

1870 The British Post Office issued the world's first postcards.

1943 Allied Forces capture Naples during World War II.

1969 Concorde 001 test flight took place.

1971 Disneyworld opened in Florida.

A New Ruling For Restaurants Regarding Tips Effective October 1 2009

Until 1 October restaurant owners were able to use the service charge to contribute towards the national minimum wage. From 1 October it will no longer be legal to do so.

However the Department for Business, which is responsible for introducing the change, says that owners of restaurants will not be under any obligation to pass the service charge on to staff.

The service charge may be used by the employer towards the profitability of the business.

Therefore it is legal for the employer to pay the basic minimum wage.

The Department for Business is relying on a new Code of Practice that also begins on 1 October.

Restaurants owners are still not obliged to adopt it or even explain the choices you have.

If you add a tip to the amount you pay by card or just pay the bill including the standard service charge that is quite common for restaurants to add on automatically these days, the money will still belong to the owner.

The only sure way of ensuring the staff get a tip is to leave or give it separately in cash. The law states that a cash tip left for or given to the waiter belongs to them. Alternatively you can pay the bill minus the service charge on your card and leave the service charge in cash as a tip as that belongs to the waiter.

HM Revenue & Customs 2009 CWG2 Errors

There are a considerable number of errors in the CWG2 2009 employer guide issued earlier in the tax year. The version on the CD-ROM contains the same errors. A corrected online version is available at www.hmrc.gov.uk/guidance/cwg2pdf.

HMRC Changes The Method For The Calculation Of Interest

From September it is probable that HM Revenue & Customs (HMRC) will change the way in which interest is calculated for people making late payment of tax and National Insurance and for interest applied for overpayments due to the taxpayer.

The current rate for late payment by the taxpayer is 2.5%. The current rate for refunds due in respect of overpayments due to the taxpayer is 0%. HMRC used to adjust rates from time to time according to the trend in interest rate changes.

HMRC have been planning to harmonise the interest rates it charges and repays for all taxes. In January this year HMRC introduced a new policy that allows interest rates to be changed thirteen working days after a meeting of the Bank of England Monetary Policy Committee (MPC).

Legislation introduced in the Finance Act 2009 and through the implementation of the Taxes and Duties (Interest Rate) (Amended) regulations 2009, states that the rates that interest is charged and repaid are set to change and will apply to all taxes.

With effect from the September meeting of the MPC interest rates will be set at the relevant rate being the current Bank of England base rate plus 2.5% against late payments and minus 1% for repayments, with a minimum of 0.5% regardless of the base rate. The current base interest rate is 0.5% and was set on 5 March 2009.

No changes have been made to date. Therefore thirteen days after the September MPC meeting the rate of interest will be 3% against late payments and the repayment rate will be 0.5%. Changes in interest rates will not be applied retrospectively.

Proposed New Tax For Parking Facilities At Retail Outlets

Supermarkets and other stores at shopping centres across the country may be charged by local councils £600.00 per year per parking space by local authorities.

According to the recent articles in the media at least one supermarket is planning to pass on the parking facility fees directly to customers by listing it as a separate tax on till receipts or by including the tax on their margins resulting in higher prices.

Parking At Work

Nottingham City Council workplace parking levy (WPL) was due to be confirmed at a meeting of the Council in September.

The WPL was given conditional approval by the Department for Transport at the end of July subject to some modifications that were on the original proposal. The Council had originally proposed the introduction of the WPL from April 2010 but the Government has delayed the introduction until 2012.

Under the proposal only businesses that provide more than ten spaces will be liable to pay the WPL expected to be at least £185 per annum for each parking space provided.

Nottingham City Council estimate that between 70 to 80% of City of Nottingham employers will be unaffected by the charge.

From April 2011 every employer providing a car parking space to employees will need to obtain a licence. It is up to each employer to decide whether to pass on the WPL.

Under current rules the Income Tax (Earnings and Pensions) Act 2003, S237, exempts parking at the place of work from income tax whether it is paid for by the employer to a third party or the employer has spaces included in the leasehold or freehold of the offices. For the avoidance of doubt, workplace parking means any car parking place at or near the place of work.

Legislation Brief

NEW DISCIPLINARY AND GRIEVANCE PROCEDURES

The new procedure aims to encourage the employer and employee to resolve disputes internally to save time and money.

When a dispute goes to a tribunal, an award may be increased by up to 25% if it is found that the employer failed to follow the new rules. Conversely, if it is found the employee failed to follow the new rules a successful claim at a tribunal will be reduced by up to 25%.

The revised ACAS code of practice finally approved by Parliament has been published and it provides details of non statutory guidance on handling discipline and grievances in the workplace.

FLEXIBLE WORKING (ELIGIBILITY, COMPLAINTS AND REMEDIES) (AMENDMENT) REGULATIONS 2009

This extends the right to request flexible working to parents of children up to the age of 16.

Prior to this change the right existed for carers of adults and parents with a child under the age of 6 or a disabled child under 18 to ask for flexible working.

An employer has a duty to accept requests seriously and only reject them for good business reasons.

ENFORCEMENT OF THE NATIONAL MINIMUM WAGE (NMW)

A new method of calculating arrears has been introduced. Enforcement and penalty notices are replaced with a single notice of underpayment that includes a penalty for failing to pay the NMW to an employee.

The criminal investigative powers available to officers enforcing the NMW have increased considerably.

INCREASED BENEFIT RATES

Statutory Maternity Pay, Statutory Adoption Pay and Statutory Paternity Pay have risen from £117.18 to £123.06 per week and Statutory Sick Pay has risen from £75.40 to £79.15 per week. All these benefit rates were effective from April 2009.

HEALTH AND SAFETY INFORMATION FOR EMPLOYEES (AMENDMENT) REGULATIONS 2009

These regulations now allow an employer to provide the name and address of the enforcing authority and the address of the employment medical advisory service by some other means than an approved health and safety poster or leaflet.

The period that an employer can continue to display an unrevised poster or distribute an unrevised leaflet is increased from 9 months to 5 years.

Some Changes Due From 1 October

THE COMPANIES ACT 2006

This introduces a range of deregulatory measures that purport to simplify and improve company law, make the law more flexible in general and in particular for small businesses. These changes affect every company operating in the United Kingdom. The Act was passed in 2006 and the final stage of implementation comes into effect on 1 October 2009.

DIRECTORS' ADDRESSES

All Companies are required to provide a service address for every director on their register of directors.

COMPANY PARTICULARS IN ALL CORRESPONDENCE

A company will have to include its name in all forms of business documentation including all

electronic documents.

PLACE FOR KEEPING KEY COMPANY RECORDS

Every company will be able to have a single alternative inspection location (SAIL) as an alternative to its registered office including key records available for public inspection. This site will have to be situated in the same part of the UK as its registered office.

INSPECTION OF COMPANY RECORDS

A person wishing to inspect a private company's records will have to give advance notice of when they wish to carry out the inspection.

COPYING COMPANY RECORDS

A company will have to provide copies of records in a format that a person requests.

Statistics of the Month

Every August 50,000 junior doctors start work or swap to new jobs as part of their training rotation. Hospital deaths in the NHS rise by 6% in the week that follows. Source: The Daily Telegraph.

The number of people receiving a conviction or police caution for public drunkenness has fallen by 75% in 30 years. Source: Daily Mail.

Only 14% of voters believe that Labour is telling the truth about the state of the public finances. 36% believe the Tories, 32% believe the Lib Dems and 33% believe none of the major parties. Source: ICM/The Guardian.

In the UK, four out of ten trainee teachers drop out before they even make it into the classroom. Source: Times Higher Education Supplement.

Source: The CML collection

Quotations of the Month

Forty is the old age of youth; fifty is the youth of old age.

Personality can open doors but only character can keep them open.

Hard work pays off in the future, laziness pays off now.

A positive attitude may not solve all your problems, but it will annoy enough people to make it worth the effort.

Mistakes are part of the dues that one pays for a full life.

Opera is when a guy gets stabbed in the back and instead of bleeding he sings.

Invoices travel through the post at twice the speed of cheques.

Source: The CML Collection.

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