

newsletter

january 2012



Editorial

Happy New Year and welcome to our first Newsletter of 2012.

Of course, we are mainly dealing with client tax returns this month but the team have done a sterling job in putting together some great articles.

Paulette leads with our cover story on the efforts of the IRS to track down US citizens who are not filing returns. She also updates us on the Gaines-Cooper decision.

"Gaines-Cooper decision will have significant impact for many of our clients"

We also cover updates on PPR relief and on the enactment of Extra Statutory Concession C16.

Finally, we are delighted to have a featured client article on page 3, where Professor Colin Sumner talks about running his criminology e-zine, CrimeTalk. ■ **Trina Hill**

Inside this issue

Editorial	1
Worldwide and Forever—motto of IRS	1
Key dates	1
Gaines-Cooper decision—HMRC wins!	2
Probate work	2
Changes to ECS C16	2
E-trading	2
Principle Private Residence Relief	2
Working with clients—CrimeTalk	3
We went pink!	4
MoBros at Webster/ Wedding Bells	4
Radio Star	4
Seminar date	4

Worldwide and Forever

The motto of the IRS

At the last count, the US Government estimated there were 7 million US persons (US citizens or green card holders) living outside the US, yet less than half a million of these filed a US tax return. So it's easy to see why the IRS is on the offensive, looking for tax revenues to help with the Budget deficit as these individuals should file US tax returns, regardless of their place of residence.

Ties to the US and citizenship

To their cost, not all US citizens realise that they are US citizens! If born in the US, you are a US citizen; if born outside the US with one parent being a US citizen, then you are a US citizen; the lack of a US passport is not relevant to these tests. Many individuals have no realisation of their exposure to the US tax regime.

Whistleblowing

So just how are the IRS finding these non-compliant Americans? Well, these days the world is truly a small place! There are now a number of Treaty Information Exchanges, there's whistleblower - yes, there is an active whistleblower initiative, and, most importantly, there's US passport renewals. Information from a passport renewal application is now passed to the IRS so it's only a matter of time.....

No hiding place

The IRS & US Treasury are cranking up their efforts and the penalty regime. From 2014, the FATCA (Foreign Account Tax Compliance Act) imposes additional US reporting requirements on financial institutions for US persons with non-US assets. There really will be no hiding place.

Reliefs and last resort

For many, the filing of a US tax return will not necessarily result in US tax becoming due for payment. There are a number of mechanisms – treaty reliefs, exemption of foreign earned income and credits for foreign tax paid, which can completely extinguish the US tax liability. As a last resort, many US persons are considering renouncing citizenship or cancelling their green card but that is a very big step.

For now...

The message right now is that you should become US compliant. We can offer a US tax return preparation service or you can just simply have a chat with us about your US issues to decide on an approach.

■ **Paulette Peterson**

Key dates

Tax returns

Final deadline for electronic submission of 2011 Tax Returns without incurring penalties.

Tax dates

31 January 2012

■ Due date for Capital Gains Tax payment for 2010/11.

1 February 2012

■ Last day for notifying company car changes in quarter to 5 January 2012 on P46 (Car).



Gaines-Cooper decision

HMRC wins!

The long-running saga of Mr Robert Gaines-Cooper v. HMRC finally came to an end, at least as far as the UK Courts are concerned, with the Judges of the Supreme Court deciding in favour of HMRC. Whilst this decision will cost Mr Gaines-Cooper, personally, a lot of money in back taxes, the decision is also very significant because of the impact on many individuals seeking to define their UK residence status.

Now HMRC have the legal authority for their view that the published guides IR20 and HMRC 6 did imply the concept of a "distinct break," they will be using this case as a precedent and investigating whether individuals can demonstrate that they have made a "distinct break" which would necessarily encompass a loosening of social and family ties to the UK. Those expatriates who have been working abroad on a full time contract of employment and their absence from the UK and the employment both last for at least a whole tax year and they do not come back to the UK for more than 90 days per year, will still be treated as non-resident. Care still has to be taken if duties are per-

formed back in the UK, although HMRC have stated that if such duties amount to less than 10 days per year, then these duties will be regarded as incidental to the main employment abroad.

The greatest impact of the Gaines-Cooper decision will be felt amongst those expatriates who have left the UK, possibly for early retirement and a (non-working) life in the sun. Similarly, individuals with business interests but no full time employment or self-employment abroad, will be caught by this ruling.

The new Statutory Residence Test, which applies from April 2013, has given us clearer parameters but the different tests for "arrivers" and "leavers" will mean that the influence of the Gaines-Cooper ruling will come into play. In fact, this case will be of relevance right up until 6 April 2016.

If you are in any doubt as to the impact of this ruling, please contact paulette@tax.uk.com

■ Paulette Peterson

Changes to ECS C16

The Enactment of Extra Statutory Concessions Order 2012

Extra Statutory Concession C16 (ESC C16) enabled companies to be informally wound up and for surplus cash to be distributed to shareholders as capital rather than income thereby taxed under the capital gains tax regime rather than the income tax regime. Certain conditions had to be met in order that a company would be granted ESC C16 clearance but essentially (subject to shares issued at a premium) there was no limit on the amount of cash which could benefit from the concession.

HMRC has now issued plans for the enactment of ESC C16 to bring about changes made by way of regulation rather than formal enactment, which will be effective for distributions made from 1 March 2012 onwards, with the effect that the operation of the concession shall be limited to distributions of up to £25,000 only.

If you require any further information regarding this matter please contact liz@tax.uk.com ■ Liz Hooley

Probate work

Time spent basis of charges

Just to remind you that our in-house solicitor provides a full probate service, including applying for a grant on behalf of the executors of an estate.

Unlike most solicitors' firms we do not charge fees as a percentage of the value of the estate, but on a time spent basis. We have completed probate work for clients at fees less than that quoted by firms who charge on a percentage to value of estate basis. We have particular expertise where the probate involves the estate of a person who died domiciled outside the UK and/or has assets situated abroad.

If you would like further information or wish to discuss our probate services in more detail, please email liz@tax.uk.com

■ Liz Hooley

E-trading

Tax issues for eBay traders

If you are buying goods with the intention of selling at a profit then you are probably deemed by HMRC to be a trader. You could be liable to tax and, depending on the volume of trade, may need to register for VAT. You are a trader if:

- you sell goods you bought for resale;
- you make items yourself and sell them, intending to make a profit; or
- you sell or buy goods for other people and receive money (e.g., commission) for this.

E-trading is monitored by HMRC by their "web robot" software.

If you are in any doubt, or would like any further information, email us at info@tax.uk.com ■ Gary Eves

PPR Relief

HMRC crackdown on abuse

HMRC have commenced a campaign to crackdown on abuse of principle private residence relief (PPR).

Local HMRC Compliance Investigation Teams are using a new computer system at the Valuation Office Agency in Worthing, West Sussex, to compare Capital Gains Tax Self Assessment information.

They can identify short timescales of purchase and sale of properties and compare these with voting addresses, utility bills and/or bank statements to cross-check against the address a taxpayer has used as their main residence in a PPR period.

Those who buy, renovate and sell properties without letting them could be considered to be property developers by

HMRC. Any gains would therefore be taxable as income.

For Taxpayers with more than one property, it is important to have proper PPR planning in place.

If you would like to discuss this further, please email us at

info@tax.uk.com ■ Christine Bradley

Working with clients

Crime Talk: thinking outside most boxes including the income-producing ones?



Professor Colin Sumner
Editor, CrimeTalk

I first started to use Andrew's services when he was just plain Andrew and not a **websters** entity, many years ago when he frequented the Cambridge Folk Club and I was a university lecturer in criminology there at the centre of perspiring dreams. He knew then that I'd be of little use to him financially and would cost far more time than he could charge me for. His sense of humour and my delusions of grandeur over what I could earn from conventional academic writing and publishing kept us amused for several years before I returned to the real world as Dean of a law school in the East End of London.

The real world however enabled a public sector pension which I took once it was clear that the lunatics really had taken over the asylum. Andrew and his colleagues never blanched once, as I recall, as I then turned that teachers' pension into a SIPP and doubled my 'pot' within 3 years before beginning to spend it far too quickly. During that time, I had come to the conclusion that

"...everyone in the land is an expert on the causes of crime ..."

real intellectual work, and more profitable publishing, would be better done outside the universities: a conclusion many academics have reached since.

In this edition of Working with clients we are delighted to have the contribution of Professor Colin Sumner—one of our many long standing academic clients.

Colin has been a client of the firm since the 1990s when he taught at the University of Cambridge. Like many of our academic clients he has often challenged us with interesting tax problems. We wish him well with his latest venture.

■ Andrew Webster

Today, much happier in poverty and discovering that retirement does not exist for the likes of me, although still with illusions about writing profitably, I have launched *CrimeTalk* www.crimetalk.org.uk, a criminology e-zine aimed at an intelligent wider public. We try to provide the kind of interesting discussions, comments, research digests, news, video information and analysis that anyone can understand and which fired me up to study crime and criminal justice in the first place.

As in the post-Napster music industry of course, no one wants to pay for this service to humanity - and not even major newspapers charge for their online output. For some reason, probably because 'it's the system', parents and their kids still think that university is the best place to be educated or to discover knowledge about stuff, even when it is clear that they are paying far more for much less, and that many intellectuals and scientists now work in the private sector or abroad. And of course, as anyone who has been to a pub knows, everyone in the land is an expert on the causes of crime and what would be the best way of dealing with it. Or they were until the bankers, politicians and journalists recently demonstrated the depth and wisdom of criminology's more unpopular findings that crime, negligence and social inadequacy were not the privilege of the poor...

"For my part, it is hard to imagine working with an accountant who would not understand my eccentricity or creativity."

So, Andrew still has to nag year on year to get his well-earned fees, and his staff become the ever-patient experts on accumulated losses, but as 2012 awakens *CrimeTalk Books* will be launched using the website as a platform to sell both e-books and print books. I guess even good accountants have clients like me, who are often at the cutting-edge of their trade and often go through deep lows as well as big highs, but certainly working within the turmoil of industries in the course of massive transformation, like education, publishing and mass communications is not a recipe for financial stability. For my part, it is hard to imagine working with an accountant who would not understand my eccentricity or creativity.



Still, it is just the facts of life here in the UK, and especially in the arts and social sciences, that we live in times when even conventional business models do not work well or at all. *CrimeTalk* has been widely hailed as a great site with high quality content but, as with so many start-ups, it will take a while to monetize effectively. Even *Facebook* is struggling with that issue!

■ Professor Colin Sumner, Editor, CrimeTalk

We went Pink!
Open Day on 20th October



We had a fabulous day in support of the Breast Cancer Campaign in October and raised £355 from donations and 5% of all fees from new clients taken on in the month. Many thanks to those clients who visited and donated to this great cause. ■ **Catriona Freebairn**

Radio Star

Andrew Webster on the Business Hub Show

On 27 November 2011 Andrew Webster was interviewed on **The Business Hub Show**, sharing some of his insights into some of the problems businesses can run into with their tax and how these problems can be avoided.



Download the podcast from our website at www.tax.uk.com — see our News section. ■ **Trina Hill**

Seminar date

7 March 2012



Our **Starting in Business** seminar programme commences this year on Wednesday **7 March 2012**.

These seminars are aimed at people in their first year of business.

If you would like further information or to book a place please email us at info@tax.uk.com

■ **Catriona Freebairn**

Contact us

Please contact us with any questions that you may have. Feedback on our newsletter is also always welcome! info@tax.uk.com



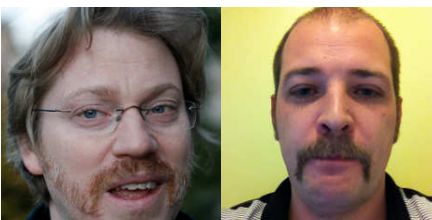
INVESTOR IN PEOPLE



MoBros at websters

Movember volunteers raise money for men's health

November 2011 was a hairy month at **websters!** A number of our staff got involved with the Movember campaign www.movember.com to raise awareness of and funds for men's health.



Senior account manager, Gary Eves went for a fetching horse shoe style moustache and raised £250.

Head of Software Design, Keiron Trott opted for the Imperial look, taking in his cheeks as well. He raised £93.

Many ideas have already been put forward for new styles this year!

Well done and congratulations to both Gary and Keiron on their efforts and for entertaining us all with their moustache experiences.

Many congratulations also to any of our readers who took part in the campaign and thanks to those who donated to a MoBro.

■ **Trina Hill (MoSista)**

Wedding Bells

Two brides at websters in October 2011

Weddings took place in October for two of our Private Client Department staff members.

Personal Tax Manager, Bryony Baines married Tim Baker on 29 October. They enjoyed a honeymoon in Italy.

Personal Tax Assistant, Donna Purser

married Neil on 15 October and became Mrs Whitaker. They spent their honeymoon in Scotland.

Congratulations to both couples and very best wishes for the future.

■ **Liz Hooley**

