2023 eNews Issue 4

The Small Benefit Exemption Gift Cards

From 1 January 2022, you can give employees up to two small benefits, tax free, each year. These benefits must not be in cash and the combined value of the two benefits cannot exceed €1,000.

If more than 2 gifts are given over the course of a year, only the first two gifts will qualify for tax-free status.

This gift is required to be in the form of a gift card and is not permitted to be converted into cash, and any unused allowance cannot be carried over into the following year.

Revenue's Enhanced Reporting Requirements

Revenue's Enhanced Reporting Requirements from 1st January 2024: What you need to know

From the 1st of January 2024, the introduction of Section 897C into The Finance Act 2022 will require employers and payroll processors to report details of certain payments made to employees and directors. Where you make one or more of the payments listed below, you must submit the details electronically to Revenue. This submission must be made on or before the payment date.

Phase one will apply to the following payments:

Small benefit exemption
You will be required to report the date paid and value of this benefit.

Remote Working daily allowance
Where a Remote Working daily allowance is paid, you will be required to report the following:

- total number of days
- amount paid, and
- date paid.

Travel and subsistence
The following Travel and subsistence items must be reported, including the date paid and amount of each payment:

- travel vouched
- travel unvouched
- subsistence vouched
- subsistence unvouched
- site based employees (including "Country Money")
- emergency travel, and
- eating on site.

How will you report this information to Revenue?
A facility will be available in Revenue Online Service (ROS) to allow you report these payments to Revenue. This facility will be similar to that used currently for payroll reporting.

Form more information see [Enhanced reporting requirements from 01 January 2024 (revenue.ie)]

WATCH THE YEAR END!

Readers will be aware of the strict 4-year time limit available to claim back tax from Revenue whether it relates to an old Income Tax refund based on amended accounts or a claim for tax relief on medical expenses. In simple terms, any claim for 2019 must be made by 31 December 2023.

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What is Annual Company Secretarial Compliance?

Filing the annual return with financial statements is just one element of the Annual Company Secretarial Compliance requirements for a company.

We have set out the main requirements that a company should consider keeping the company compliant with company law below and some points to consider for each step.

Annual Return Date
As mentioned above, every company has an ARD and must file an annual return with financial statements (unless it's the first B1 or extending the ARD) **<u>within 56 days of the ARD</u>**.

If the company files late then it will have to pay late filing penalties and potentially lose audit exemption.

A company may file its annual return earlier than its ARD and it will have to tick "retain" (to keep the existing ARD), to keep the original ARD or tick "change" which will change the ARD going forward to the date of the return being filed.

A company may extend its ARD, once every 5 years, to give it more time to file. However, it cannot extend the ARD more than 6 months from the original ARD and no more than 9 months from the financial year end.

The company will file a B1B73 form made up to the existing ARD and nominate a new ARD. When the new ARD comes around, the company will have to file another B1 made up to the new date with financial statements.

Missed deadlines
If a company misses its filing deadline the Company will have to pay late filing penalties of €100 plus €3 per day for every day the return is late up to a maximum of €1,200.

If the annual return is rejected due to some error, the Company will have 14 days to refile the B1 and the financial statements otherwise it will be deemed to be late. A company may apply to the District Court for an extension of time to file the late annual return, once that late return has not yet been filed.

B1 Annual Return
The B1 Annual Return provide an annual statement to the CRO of information on the directors, secretary and members (shareholders) of the Company as at the ARD.

Directors are required to disclose their PPSN when filing the B1 form and if they do not have a PPSN, a IPN number must be used.

The financial statements must be uploaded before the signature page is generated so it is important that it is not left to the last minute to give the director and secretary time to sign the signature page.

Once filed, the B1 signature page must be signed by a director & secretary or e-signed by an Electronic Filing Agent on behalf of the Company.

Financial statements
Every company is required to file financial statements with its B1 Annual Return unless it is a non-designated Unlimited Company or the Company is filing its first B1 (after 6 months) or a B1B73 form (extending ARD).

The format of the financial statements will depend on the size requirements of the Company and whether the Company is availing of any exemptions such as abridgement or Section 357 Guarantee for Group Companies. The financial statements may be typed signed and uploaded in PDF.

Board Meeting to Approve Financial Statements
It is the responsibility of the Board to approve the financial statements for a company. The meeting should be held before the financial statements are filed in the CRO. The board should also resolve to convene the AGM and if availing of audit exemption for the next financial year.

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AGM
Every company is required to hold an Annual General Meeting in each calendar year or pass a written resolution to dispense with holding the AGM (only LTD's and single member companies may use a written resolution).

The AGM must be held within 15 months of the last AGM and the financial statements laid before the members within 9 months of the financial year end. The temporary measures allowing companies hold AGM's electronically (introduced in the Companies Covid-19 Act) have been extended to 31 December 2023.

Update Statutory Register
Every company is required to maintain a statutory register and keep the register fully up to date. If there is a change in directors or members, the Register should be updated to reflect the change. The registers include:

- Register of Members;
- Register of Directors' & Secretaries;
- Register of Directors' & Secretary's Interests in Shares or Debentures;
- Register of Service Contracts;
- Register of Interests in Contracts;
- Register of Instruments which create charges;
- Register of Allotment & Transfer (not statutory registers)

RBO Filing
Every company is required to make an initial filing with the Central Register of Beneficial Ownership. New companies must make a filing within 5 months from the date of incorporation. If there is any change in the beneficial ownership details the internal and Central Register should be updated within 14 days of the change. There is no annual requirement to make a filing with the RBO.

Other changes
If there are any changes that gives rise to a change in the corporate structure of the Company, the change should be approved by the directors and/or the members (shareholders) of the Company.

The statutory register should be updated and if necessary, the appropriate CRO forms are filed with the Companies Registration Office and/or Revenue and the RBO.

Pension Auto-Enrolment Scheme Postponed to Late 2024

The much-anticipated debut of Ireland's pension auto-enrolment initiative **has been rescheduled to the latter part of 2024**.

This pension auto-enrolment program aims to revolutionize retirement planning by making it simpler for workers to secure their financial future. Under the new system, eligible employees will be automatically enrolled into a workplace pension plan, encouraging a culture of enhanced savings and financial security during retirement. This has never been more vital as now, during a cost-of-living crisis.

The scheme's delay is attributed to the level of groundwork required for a seamless implementation. This additional time will permit fine-tuning of the infrastructure, communication strategies, and regulatory aspects essential to ensuring the initiative's success.

Once launched, the auto-enrolment scheme will have a substantial impact on Irish workers and employers alike. It promises to provide employees with an effortless means to participate in pension saving, while also enabling employers to play an active role in their employees' financial well-being. There will, of course, be the option to opt-out also.

By postponing the launch to late 2024, the authorities intend to ensure that the pension auto-enrolment initiative is rolled out efficiently, avoiding any potential pitfalls. This approach underscores the commitment to delivering a robust and effective program that will ultimately empower citizens to secure their retirement years.

The plans for auto-enrolment would see everyone earning more than €20,000 a year and aged between 23 and 60 enrolled in a private pension scheme. Up to 750,000 workers are likely to be affected initially when the scheme gets up and running.

While the wait for the official launch extends, the delay is indicative of the comprehensive preparations underway to ensure the scheme's long-term viability. The forthcoming pension auto-enrolment initiative holds the potential to significantly reshape the landscape of retirement planning in Ireland, fostering a future where financial security during retirement is more accessible and achievable for all.

The Return of Involuntary Strike-offs

Involuntary strike-offs have begin again in Ireland following a hiatus due to the pandemic. Up to 10,000 companies are at risk of being struck off the register for failure to file their annual returns and financial statements.

In 2020, the Irish Companies Registration Office (CRO) acted to ease the burden on companies struggling under pandemic pressures.

The CRO introduced extended filing deadlines, for example, along with a suspension of involuntary strike-offs for companies that had repeatedly failed to file their annual returns.

This gave companies an opportunity to bring their filing up to date in compliance with the Companies Act 2014. The Registrar has now indicated a return to usual practice.

While your company may have benefitted from the supportive measures put in place by the CRO during the pandemic, it's crucial to understand that normal service is resuming, or your business may be at risk.

If your company is not fully compliant with the Companies Act 2014 in terms of certain obligations, it could be struck off.

My advice is to review the reasons for strike-offs, listed below, and follow our action plan to make sure your business is either safeguarded or wound up properly.

Grounds for involuntary strike-off
If you want your company to stay in business, make sure you are not breaching any of the relevant rules. The CRO can strike a company off the register for any of the following reasons.

- The company has failed to file an annual return – even if only for one year.
- The company has failed to file Form 11F with Revenue.
- The Registrar has reasonable cause to believe a company doesn't have an EEA-resident director, a bond in place or a continuous economic link with the State.
- The company is being wound up and the Registrar has reasonable cause to believe no liquidator has been appointed.
- The Registrar has reasonable cause to believe the company's affairs are fully wound up and the liquidator has not made the required returns for a period of six consecutive months.
- No one is recorded in the CRO as acting as a current director of the company.

Consequences of involuntary strike-off
A company being struck off is not a minor matter and can have prolonged implications for company directors. In fact, when a company is struck off involuntarily, it faces dire consequences. It ceases to exist. Its protection of limited liability is lost. Its assets become the property of the State.

Directors of a company that has been involuntarily struck off can face disqualification. The Corporate Enforcement Authority can make an application to the High Court issuing an order to disqualify one or all the directors from acting as a director or being involved in the management of a company.

The length of disqualification would be a matter for the court to decide. So, what are the steps your company should take now to ensure it is not struck off?

Avoiding involuntary strike-off
If your annual return is late, avoid involuntary strike-off by taking immediate action to bring your annual return and financial statements filings up to date with the CRO. Handle disposals by the book.

If your company has ceased trading, dispose of it through a voluntary strike-off or members' voluntary liquidation. A director has a legal duty to dispose of a company properly – not doing so is a statutory offence.

TAXATION PAY & FILE SUMMARY

VAT	
Bi-Monthly ending in December, return and payment	**19 January 2024**
Relevant Payments Tax	
Monthly return and payment	**23 December 2023**
Corporation Tax	
Filing date for Corporation Tax returns for accounting periods ending in 31 March 2023	**23 December 2023**
Payment of Corporation Tax balance for accounting periods ending in 31 March 2023	**23 December 2023**
Preliminary Tax for accounting periods ending in 31 January 2024	**23 December 2023**
Form 46G for accounting periods ending in 31 March 2023	**23 December 2023**

Note: *Extended date for certain taxes for customers who both file and pay electronically (via ROS)*

Do not hesitate to contact me or a member of our team if you would like to discuss any of the issues raised or on any of our services.

Johnny
John J. McElhinney

This newswire is intended to provide a general guide to the subject matter and is necessarily prepared in a condensed form. In view of its purpose the reader will appreciate that we are unable to accept liability for any errors or omissions which may arise. Advice should be sought before acting on the information contained in it.