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DELAY IN IMPLEMENTATION OF THE COMPANIES ACT 2006

As many of our readers will be aware, the Companies Act received Royal Assent on 8 November 2006 and is being brought into force by means of Commencement Orders over a number of months, culminating in October 2008.

However, a recent statement by the Minister for Competitiveness, Stephen Timms, has stated that there will be a delay in relation to part of the contents of the final Commencement Order which was due on 1 October 2008. An extract from this statement is set out below:

" …We need to ensure that the registrar of companies has sufficient time to implement important changes to Companies House systems and processes in relation to areas such as company formation, and give appropriate notice to users of the new forms. For this reason, the Government decided that the commencement of provisions most closely relating to these changes, such as those relating to company formation, should be commenced with effect from 1 October 2008.

Companies House has made considerable progress with the necessary changes to its systems and processes. However, there remains a great deal of work to be done and the Registrar of Companies has advised that he can not be absolutely confident that the necessary changes can be completed on time. The Government recognises that business needs certainty about the implementation timetable, and has therefore decided that the commencement date for most of the provisions due to be commenced on 1 October 2008 should be put back to 1 October 2009.

There are some provisions due to be commenced on 1 October 2008 which do not necessitate changes to Companies House systems and processes. These could still be commenced on 1 October 2008, but we recognise the need to balance the timing of the commencement of deregulatory provisions against the complexity of phased implementation."

REVENUE APOLOGISES FOR ERROR

H M Revenue & Customs (HMRC) has posted an apology on its website concerning incorrect penalty notices issued in relation to 2006-07 Employer Annual Returns. We set out below the statement made by HMRC.

"We are pleased to confirm that letters have now been sent to all employers who submitted their 2006-07 Employer Annual Return on time, but who received an incorrect penalty notice, explaining that the incorrect penalty has been cancelled.

If you have not received a letter, and still think that your penalty is incorrect, please let us know by calling the telephone number shown on the penalty notice (0845 7 143 143).

We would like to apologise again for any inconvenience caused."

TAX CREDITS – REMINDER CAMPAIGN LAUNCHED

HMRC has launched a campaign - on radio, in women's magazines and online - to encourage tax credit recipients to report changes in their circumstances to HMRC as soon as possible.

Parents and guardians with children over 16 who have started, or who are about to start, further education at school or college, should ensure that they advise the HMRC Tax Credits Department as soon as possible - failure to so could result in incorrect payments of tax credits being awarded.

Clients should note that notifying HMRC is particularly important if there is a change in circumstances: for example, if childcare costs have increased or decreased, or if working hours or earnings have changed. In addition, those who told HMRC that their child was staying on at school or college after their exams and they have since changed their minds, should ensure that they update their claim accordingly.

NATIONAL MINIMUM WAGE – NEW RATES COMING INTO FORCE

Employers should note that new rates of national minimum wage have applied from 1 October 2007. From that date the rates are as follows:

- £5.52 per hour for workers aged 22 years and older;
- A development rate of £4.60 per hour for workers aged 18-21 inclusive; and
- £3.40 per hour for all workers under the age of 18, who are no longer of compulsory school age.

Most adults qualify for the minimum wage if they are legally working in the UK, are not genuinely self-employed and have a written, oral or implied contract.

The development rate for workers aged 22 and over was abolished for pay reference periods starting on or after 1 October 2006. From that date, all workers aged 22 and over who qualify for the national minimum wage are entitled to the main rate of national minimum wage. This applies even where the worker was previously in receipt of the development rate for those aged 22 and over and had been receiving that rate for less than 6 months.

From pay reference periods starting on or after 1 October 2006 the special rules for apprentices were extended to apprentices aged over 25. This means that:

- apprentices under age 19 do not qualify for the national minimum wage;
- apprentices over age 19 and in the first 12 months of their apprenticeship do not qualify for the national minimum wage.

2008/09 ALLOWANCES ANNOUNCED

The Government has published the 2008-09 rates and allowances for Income Tax, National Insurance Contributions, Working and Child Tax Credits, Child Benefit/Guardian's Allowance and State Pension and Pension Credit. We have set out below the income tax and National Insurance rates, together with details of the State Pension and Pension Credit.

Income tax

£ per year (unless stated)	**2007-08**	**Change**	**2008-09**
Income tax personal and age-related allowances			
Personal allowance (age under 65)	£5,225	+£210	£5,435
Personal allowance (age 65-74)	£7,550	+£1,480	£9,030
Personal allowance (age 75 and over)	£7,690	+£1,490	£9,180
Married couple's allowance* (aged less than 75 and born before 6th April 1935)	£6,285	+£250	£6,535
Married couple's allowance* (age 75 and over)	£6,365	+£260	£6,625
Married couple's allowance* - minimum amount	£2,440	+£100	£2,540
Income limit for age-related allowances	£20,900	+£900	£21,800
Blind person's allowance	£1,730	+£70	£1,800
Pension schemes allowances			
Annual Allowance	£225,000	+£10,000	£235,000
Lifetime Allowance	£1,600,000	+£50,000	£1,650,000

*Married couple's allowance is given at the rate of 10 per cent.

National insurance contributions

£ per week (unless stated)	**2007-08**	**Change**	**2008-09**
Lower earnings limit, primary Class 1 (LEL)	£87	+£3	£90
Upper earnings limit, primary Class 1 (UEL)	£670	+£100	£770
Primary threshold (PT)	£100	+£5	£105
Secondary threshold (ST)	£100	+£5	£105
Employees' primary Class 1 rate between PT and UEL	11%	-	11%
Employees' primary Class 1 rate above upper earnings limit	1%	-	1%
Employees' contracted-out rebate - salary-related schemes	1.6%	-	1.6%
Employees' contracted-out rebate - money-purchase schemes	1.6%	-	1.6%
Married women's reduced rate between (PT) and (UEL)	4.85%	-	4.85%
Married women's rate above upper earnings limit	1%	-	1%
Employers' secondary Class 1 rate above secondary threshold	12.8%	-	12.8%
Employers' contracted-out rebate, salary-related schemes	3.7%	-	3.7%
Employers' contracted-out rebate, money-purchase schemes	1.4%	-	1.4%
Class 2 rate (per week)	£2.20	+£0.10	£2.30
Class 2 small earnings exception	£4,635 pa	+£190	£4,825 pa
Special Class 2 rate for share fishermen (per week)	£2.85	+0.10	£2.95
Special Class 2 rate for volunteer development workers	£4.35	+£0.15	£4.50
Class 3 rate (per week)	£7.80	£0.30	£8.10
Class 4 lower profits limit	£5,225 pa	+£210	£5,435 pa
Class 4 upper profits limit	£34,840 pa	+£5,200	£40,040 pa
Class 4 rate between lower profits limit and upper profits limit	8%	-	8%
Class 4 rate above upper profits limit	1%	-	1%

State Pension/Pension Credit

£ per week (unless stated)	2007-08	Change	2008-09
State Pension			
Category A or B basic pension	£87.30	+£3.40	£90.70
Category B basic pension (lower) – husband's insurance	£52.30	+£2.05	£54.35
Category C or D – non-contributory	£52.30	+£2.05	£54.35
Pension Credit			
Standard minimum guarantee – single	£119.05	+£5.00	£124.05
Standard minimum guarantee – couple	£181.70	+£7.65	£189.35

Child Benefit/Guardian's Allowance Rates

£ per week (unless stated)	2007-08	Change	2008-09
Eldest/Only Child	£18.10	+£0.70	£18.80
Other Children	£12.10	+£0.45	£12.55
Guardian's Allowance	£12.95	+£0.50	£13.45

PRE BUDGET REPORT – INHERITANCE TAX AND CAPITAL GAINS TAX ISSUES

As many of our readers will be aware, on Tuesday 9 October the Chancellor of the Exchequer, Alistair Darling, delivered his first Pre-Budget Report. Two matters contained in this Report will be of particular interest to individuals in relation to their taxation position.

Inheritance tax

In what some would regard as a reaction to announcements made recently by the Conservative Party, the Chancellor announced that changes are to be made in relation to the use of the nil rate tax band for inheritance tax when assets are left to a surviving spouse or civil partner when a person dies after 9 October 2007. Prior to this change, when one spouse died there was no inheritance tax payable on any assets that were left to a surviving spouse or a civil partner. However, when the surviving spouse or partner died only one nil rate tax band was available and the other was lost, unless there had been sufficient assets to leave to others on the death of the first spouse.

The new rules will allow any unused allowance on the death of the first spouse or civil partner to be used on the death of the second. The combined tax-free allowance for a couple's estate will be up to £600,000 based on present rates, rising to £700,000 by 2010.

To ensure that people who have already lost their spouse or civil partner will also benefit, the new measures will be backdated indefinitely for every widow or widower.

This measure will be welcomed by many, especially when it is remembered that the value of a person's house is included in his or her estate. It should be noted that this change to the inheritance tax regulations does not represent an increase in the threshold at which inheritance tax is payable, but the ability to utilise the nil rate tax band of the first spouse to die on assets bequeathed to the surviving spouse.

This measure may mean that individuals need no longer consider incorporating discretionary trusts in their wills, although advice should be taken in relation to such devices as they may still be advantageous in certain situations.

This announcement may also act as a timely reminder to individuals who have not made a will to consider making one sooner rather than later. Existing wills may also need to be re-visited in the light of these new measures.

Capital gains tax

The Chancellor announced a surprise change in relation to capital gains tax which will affect disposals made on or after 6 April 2008. A new flat rate of 18% for capital gains tax will apply from that date and will affect both business and non-business assets. It will also affect assets already held on that date.

From 6 April 2008 both taper relief and the indexation allowance will be withdrawn. The losers in relation to this change in the system will include those individuals who have built up their own businesses over a number of years in the expectation that they would pay tax at 10 per cent when they eventually sold the business. They will now have to pay tax at 18 per cent.

However, following much lobbying from various quarters, it would appear that the government has had a change of heart in relation to the above changes and an announcement will be made shortly setting out amended measures concerning the new flat rate of tax.

It was not surprising that there was an adverse reaction to the Chancellor's statement in relation to the introduction of a flat rate for capital gains tax and the withdrawal of both taper relief and the indexation allowance. There were many individuals who had built up their own businesses over many years with the expectation that they would pay a reduced amount of capital gains tax through the use of taper relief. They now find themselves in the position that more tax will be due than estimated when they come to sell their business.

We await the details of the Government's new proposals and would ask that you contact us if you require any further information.

It should be noted that, although at present there will be some losers under the new measures, there are also some winners. For those individuals who are higher rate taxpayers and who own a second home the proposed 18% rate will come as good news as at present, dependent on how long the second home has been owned, your capital gains tax bill could be as much as 40% on any chargeable gain. However, basic rate taxpayers may lose out if they held the home as a buy-to-let property for 9 years. They will pay tax at 18% rather than the present 13%. The rules are complex and expert guidance should always be sought.

Clients should be aware that the capital gains tax exemption limit has not changed and remains at £9,200 for this tax year, although it is probable that it will be raised next year.

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