

# the bottom line

Welcome to the Summer edition of "the bottom line" our taxation and accountancy information newsletter. This edition focuses on The Companies Act 2006, Illegal Working and Health and Safety.

## The Companies Act 2006

The Companies Bill received Royal Assent on 8 November 2006 and is now the Companies Act 2006 (the Act).

The Act represents the most significant piece of corporate legislation for more than fifty years. It is the longest ever Act to be passed by Parliament and runs to 1,300 sections and 16 schedules.

The Act will affect companies of all sizes and type, although many of the provisions within the Act have been drafted to assist private companies.

The Act is being introduced over a number of months and the Government's target date for full implementation of the Act is October 2008.

It should be stressed that one of the core principles of the Act is to "think small first". The Government recognises that the vast majority of companies registered in the United Kingdom are private companies and many of these are small companies, often owned and managed by the same individuals. With this in mind a number of measures are included in the Act which are

aimed at assisting such companies and are intended to relieve them of unnecessary administrative procedures. Set out below is a summary of those parts of the Act that are likely to affect smaller companies.

- There will be a simpler method of forming new companies with a new style Memorandum of Association and separate and simpler model Articles of Association.
- Regulations will set out a separate, comprehensive code of accounting and reporting requirements for small companies.
- A private company will not be required to appoint a company secretary.
- A private company will not need to hold an annual general meeting unless it wishes to.
- With two exceptions, a private company will be able to pass all its resolutions by written resolution, thus obviating the need to hold general meetings. In addition, it will no longer be necessary for all shareholders to agree to a

written resolution before it is passed.

- Private companies will be able to provide financial assistance for the purchase of their own shares, thus facilitating certain business transactions, e.g. takeovers.
- The rules will be relaxed for private companies in relation to the reduction of their share capital. Under new rules it will no longer be necessary for such companies to apply to the court before returning share capital to shareholders. This could be advantageous to those companies that have share capital in excess of their requirements.
- Companies of all sizes will be able to make use of electronic communication, e.g. emails and websites, to communicate with their shareholders.
- For those directors that do not wish the general public to know their residential address, the Act will allow directors to file a "service address" at



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Companies House rather than their home address.

- The Act will allow shareholders to agree limitations on the liability of auditors.
- No company will be allowed to have a sole director who is not a natural person and a person under the age of 16 will not be allowed to be a director of a company.

As stated above, the Act is being introduced piecemeal over the coming months. A number of sections of the Act are already in force including the parts of the Act that allow communication by companies with their shareholders by electronic communication.

We will keep you informed of

the changes that affect you as necessary over the period of implementation but if you require further information please do not hesitate to contact us.

## Illegal Working

A consultation has been launched in respect of draft regulations issued by the Border and Immigration Agency designed to prevent illegal working. Under the proposals which are due to come into force in 2008 an employer who employs illegal migrant workers as a result of negligent employment or recruitment practices will face civil penalties. If however an employer knowingly employs

illegal migrant workers this will be a criminal offence punishable by up to 2 years in prison.

## Health and Safety

Where a company is found guilty of a health and safety offence and the offence is committed with the consent, or connivance of, or was attributable to any neglect of the part of a director, company secretary or manager, that individual can be held criminally responsible. Draft guidance on directors responsibilities on health and safety at work has recently been issued by the Institute of Directors.

## NEWS IN BRIEF

### EU cash declaration scheme

From 15 June 2007 individuals either entering or leaving the UK from/to a non EU country that are carrying 10,000 Euros or more (or the equivalent in other currencies) will be required to declare the cash to HMRC at the point of departure/entry from/to the UK. Failure to declare or incorrect declarations could result in penalties of up to £5,000.

### Statutory Holiday Entitlement – part time workers

The minimum statutory holiday entitlement increases to 24 days from 1 October 2007 with an increase to 28 days from 1 April 2009. This entitlement includes public holidays. All part time workers will be entitled to the extra holidays pro-rata.

### Beneficial Loans

For 2007/08 the official rate of interest for calculating the cash equivalent of beneficial loans rose from 5% to 6.25%.

### Smoking Ban

From 1 July 2007 a smoking ban came into place in all workplaces. From this date it is a criminal offence to

- smoke in a smoke-free place;
- fail to display "no smoking" signs;
- fail to prevent smoking in a smoke-free place.

A workplace must be smoke-free if more than one person works there or if it is used by members of the public. Vehicles used to transport the public or used for work purposes by more than one person must be smoke free.

### Contacts:

For further information about the issues raised in this newsletter or if you would like to find out about the range of services that we can offer, please contact Stephen Dabby, Morisha Christy, Tony Sian, Nick Nicolaou or Alex Green.