

Perrys joint seminar on Directors obligations under the Companies Act 2006



David Yates, Steve Hale and Keith Gough

Back in March this year, Perrys participated in a joint seminar giving clients the opportunity to find out more about the obligations of directors under the new Companies Act.

The seminar was hosted by TG Baynes, a firm of solicitors headed up by Keith Gough based in Bexleyheath. The first speaker for the evening was Andrew Kinnier, a barrister specialising in corporate matters. Andrew's presentation outlined the changes to directors' responsibilities in the new Act.

David Yates followed Andrew, David being from professional business insurance brokers Directors and Professionals Limited, and therefore concentrated his presentation on how insurance can help to protect directors with the new Act.

Finally Steve Hale of Perrys gave his presentation on the changes in the new Act from an accounts and auditing perspective.

If anyone unable to attend the seminar in March has any queries regarding the new Act, please contact your consultant or partner who would be pleased to assist or arrange for your details to be passed to TG Baynes or Directors and Professionals Ltd.

Redundancy... a snapshot

Unfortunately, redundancies are becoming all too common under the current economic climate. If you are an employer faced with the possibility of making employees redundant, there are important procedures that need to be followed.

Statutory redundancy payments are payable by employers to employees that have over 2 years service, and the amount payable is dependent on the employee's age, length of service and gross weekly wage. The maximum amount of weekly wage that can be paid is currently £330, this amount being updated every February. If your employee earns less than £330 per week, the payment will be based on their actual salary.

Employers need to ensure that they get the legal aspect of redundancies right before any consideration is given to the payments to be made. In practice employers also need to look out for losses in productivity as employees lose their motivation due to their concerns about their future. Employers need to follow the law rigorously whilst giving the necessary support to their employees.

It is recommended that employers make provision for redundancy procedures in their

employee contracts. However, if this is not done, there are specific procedures that an employer must follow.

An employer should make sure that the following things occur:

- consult the employees about the redundancy
- consider any alternatives to redundancy
- select fairly
- give any redundancy pay which is due and give the correct amount of notice

If there are fewer than 20 employees being made redundant, in order to dismiss employees fairly, employers must have a fair reason for dismissal and they must follow a fair procedure. As a minimum, the statutory 3-step procedure above must be followed. Failure to follow the statutory disciplinary procedures will result in the dismissal being automatically unfair.

If you have any queries regarding this topic then please contact your usual consultant or partner to discuss these issues.

Business Taxation – Online Filing Timetable

It has been widely publicised that HM Revenue & Customs are keen to get businesses filing their returns online as soon as possible. Their current aspirational goal is that all business returns are filed online by 2012, however some of previously announced deadlines have been delayed.

The current timetable is as follows:

Vat returns

- If turnover is over £100,000 returns must be filed online and VAT payments made from 1 April 2010 (with the current 7 day grace period continuing until at least this point).
- If turnover is under £100,000, online filing has been delayed until 2011/12.
- If a business is newly registered for VAT on or after 1 April 2010, regardless of turnover, returns will need to be filed and payments made online from 1 April 2010.

Payroll filing

- For employers with 50 or more employees, end of year returns must already be filed online. In-year payroll filing such as forms P45 and P46, must be filed online from 6 April 2009.
- For employers with under 50 employees, end of year returns do not need to be filed online until 2010. Incentives for filing earlier than required are available for one more year in

2009 only, at a rate of £75. In year forms must be filed online from 6 April 2011.

Corporation tax

- Accounts, computations and corporation tax return forms CT600 must be filed online for accounting periods ending after 30 March 2011, ie for periods ending on or after 31 March 2011.

Self assessment

- You will already be aware that the deadline for filing paper self assessment tax returns for 2007/08 has been reduced to 31 October 2008, however returns can still be filed online until 31 January 2009.

Other online facilities

With the introduction of universal delivery of business returns electronically by 2012, HM Revenue & Customs are looking at a range of flexible payment options including a direct debit system. For self assessment tax payers, a budget payment plan is being developed to enable tax payers to make regular payments towards future tax liabilities.

If you have any queries regarding online filing, then do contact your usual consultant or partner.

The Chorus

From Perrys Chartered Accountants

THE 10% TAX RATE –

Now you see it, now you don't, or do you?

Changes to the personal allowance for 2008/09 were announced by the Chancellor of the Exchequer in May following the abolition of the 10% tax rate which was originally announced in the 2007 Budget. Concerns were raised regarding low earners who would be worse off by the removal of the 10% rate, and this forced the Government into introducing measures to redress this imbalance.

The personal allowance has therefore been increased from £5,435 to £6,035, but the starting rate of income tax at 20% remains. This increase will mean that lower earners are no worse off than they would have been with the 10% rate in the previous tax year, and will provide a £120 windfall for the year.

If you receive a PAYE salary, you will not notice this until September 2008 when you will receive an additional £60 in your take home pay, and then an additional £10 per month thereafter until the end of the tax year.

The bad news is that higher rate tax paying earners will not benefit from this change, as the threshold at which higher rate tax is paid has been reduced by £1,200. Therefore if you have earned or pension income of £41,435 or above for 2008/09 you will notice no difference to the amount of tax you pay.



Now you see it...

It remains to be seen whether or not the enhanced personal allowance will remain for 2009/10, and we will of course keep you updated with any changes as soon as we are aware of them. If you have any queries over how the changes will affect you this year, then please contact your usual consultant or partner to discuss this.



...now you don't, or do you?

EDITORIAL

Welcome to the Autumn 2008 edition of the Chorus, keeping you up-to-date with the latest tax and accountancy developments.

In this edition we explain the recent changes to the personal tax allowance for 2008/09 and how this will affect you depending on your level of earnings in the year.

We also outline forthcoming changes at Companies House regarding filing deadlines for accounts, and increased penalties where accounts are filed late, as well as looking at the new penalty regime to be introduced by HM Revenue & Customs.

With the current economic conditions being as they are, we take a quick look at redundancy procedures.

Finally, we explain in more detail the new Integral Features category of Capital Allowances, and update you with the current timetable for filing all business returns online with HM Revenue & Customs, which will ultimately affect all businesses.

If you've got any queries regarding any of the articles contained in this edition of The Chorus, then please don't hesitate to contact your usual consultant or partner who will be happy to discuss these with you.

PERRYS CYSTIC FIBROSIS MOBILE PHONE APPEAL - UPDATE

Following our appeal in the last edition of The Chorus, we are pleased to announce that a total of £359 was raised by the collection of old mobile phones throughout the offices. A big thank you to all of you who kindly donated phones to this worthy cause. If any of you still have old mobiles you would like to donate, please pop them in to your local office and they will be passed on for you.

National Minimum Wage Update

A reminder to our readers that the rates for the National Minimum wage will be increased from 1 October 2008. There will be three levels of National Minimum wage which must be paid as follows:

- £5.73 per hour for workers aged 22 years and above;
- a development rate of £4.77 per hour for workers aged 18 – 21 inclusive, and workers aged 22 years and above, starting a new job with a new employer and doing accredited training;
- £3.53 per hour for all workers under the age of 18 who are no longer of compulsory school age, in England this is after the last Friday of June of the school year in which their 16th birthday occurs.

Client Spotlight - Enness Capital

Originally a client of Baulf & Co, the firm we merged with last year, Hugh Wade-Jones of Enness Capital talks to Perrys.

"Enness Capital is a highly experienced Independent Mortgage Brokers based in South London dealing with residential and buy to let mortgage enquiries. We are able to choose from the whole of the mortgage market and are non fee charging. Due to our experience we have some extremely senior contacts at various lender underwriting departments and regularly get cases agreed that would normally fall outside 'standard criteria' in terms of income multiples, unusual property types, short leases, non regular-income streams etc. We also assist clients who live abroad buying property in the UK or clients both UK based and abroad who are buying property in trusts, special purpose vehicles or via offshore banks."

"Increasingly a number of banks are putting together special packages for buy to let portfolio investors. As a result we are reviewing investors with portfolios from 3 to 500 properties and making quite considerable savings as the market has not previously offered deals exclusively for these investors."

"An increasing element of our business is now commercial lending and development finance. We have arranged finance for numerous developments from basic property refurbishments and splitting houses into flats, through to developments of large office blocks and landmark

residential developments of hundreds of flats and adjoining retail units. We also have access to a number of short term finance lenders who offer services from simple bridging finance on residential deals through to lending on land or property, without full planning permission, which are to be developed in the near future when planning permission is granted."



Hugh Wade-Jones and Islay Robinson

"Another popular area of our business is that of Equity release or home reversion schemes for people aged 55 and over; looking to release equity from their properties, where the more standard route of mortgages is no longer available. Whether people are looking to release money to provide a deposit for a relative, buy a second home in the UK or abroad or even just to provide a monthly income we are able to advise across this increasingly sophisticated market."

"We were recommended to Baulf & Co by my father, who has been a client for over 15 years. Trading has been good despite the current economic conditions, and we very much appreciated the help of Perrys on our start up. They have also been providing excellent advice on our expansion plans, in addition to dealing with our payroll and advising on bookkeeping requirements."

For more information on Enness Capital please call Hugh Wade-Jones or Islay Robinson on 0207 978 0101, or go to www.ennescapital.co.uk

Important Changes at Company House

Filing dates

The new Companies Act 2006 has brought in a reduction to the period allowed for filing limited company accounts by one month to 9 months after the year end, and for public companies to 6 months after the year end.

The new rules apply for accounting periods beginning on or after 6 April 2008, so for companies with standard 12 month periods, this will affect year ends from 5 April 2009 onwards.

For example looking at private limited companies:

- if your company has a year end of 31 March, this will mean the accounts need to be filed by 31 December as opposed to 31 January. The first year end affected will be 31 March 2010, to be filed by 31 December 2010.
- for 31 December year ends from 31 December 2009, the accounts will need to be filed by 30 September 2010 instead of 31 October.

If the accounting period is less than 12 months, but commences after 6 April 2008 the new rules will apply, so realistically could affect short periods ending on 31 October 2008.

If you have any queries regarding when your accounts will need to be filed then do please contact us. We do encourage all clients to have their accounts prepared as soon after the year end as possible, so accounts can be filed in advance of the filing deadlines.

New filing penalties

In conjunction with the reduced filing deadlines, new penalties are being introduced where accounts are filed late. The new penalties apply to late filing after **1 February 2009** and are as follows:

- **not more than one month late**
private companies: £150
public companies : £750

- **more than one month but not more than three months**
private companies: £375
public companies: £1,500
- **more than three months but not more than six months**
private companies: £750
public companies: £3,000
- **more than six months late**
private companies: £1,500
public companies: £7,500

It should be noted that if accounts were filed late for the previous period, and that previous period had begun on or after 6 April 2008, the penalties above will be doubled.

Currently, the penalty for a private company is only £100 for filing up to three months late, £250 for up to six months late and £500 over six months late, so it can be clearly seen there are big increases being introduced. It will therefore be more imperative than ever that accounts are filed in good time before the filing deadline.

INCREASED LIMIT FOR CORRECTION OF VAT ERRORS

For VAT periods that commence on or after 1 July 2008, the limit for correction of VAT errors has been increased.

The old limit of £2,000 has been replaced by a much higher limit of £10,000 for correction of errors on the VAT return. However if your turnover is in excess of £1 million, the limit is increased to 1% of annual turnover up to a maximum of £50,000.

Errors in excess of the new limits must be separately disclosed to HM Revenue & Customs as before.

Capital Allowances – Integral Features

Following our article on the changes to Capital Allowances from April this year in the winter 2007 edition of the Chorus, a new definition of "integral features" has been released which was previously undefined.

To recap, a new 10% rate of writing down allowance has been introduced for features that are integral to, but not part of, a building itself. It will apply to any new expenditure on the relevant items from 1 April 2008 for corporation tax or 6 April 2008 for income tax.

The Government has released a list of the relevant features, detailed below, and has attempted in this list to identify the standard fittings in a 'normal' modern building, which are part of the premises or setting in which a business is carried out. This is therefore



distinguished from productive equipment purchased for the purpose of being able to carry on the business itself.

The relevant assets are:

- Electrical systems, including lighting systems
- Cold water systems
- Space or water heating systems, powered systems of ventilation, air cooling or air purification, and any floor or ceiling comprised in such systems
- Lifts, escalators, and moving walkways
- External solar shading
- Active facades

Previously, some of the items above were deemed to be part of the building and therefore did not attract capital allowances, these being electrical lighting and power systems, and cold water systems.

It should be remembered however; that although 10% writing down allowances can be claimed on any new expenditure in these areas, if the expenditure includes items on the "Green Technology" enhanced capital allowance list, 100% capital allowances will be available. New technologies to be added to this list this year include white LED lighting. Go to www.eca.gov.uk for more details on these items.

If you are replacing an item that is designated as an integral feature, rather than claiming this as a

replacement expense, the 10% rate will apply to the new asset. Replacement expenditure is defined as 50% or more of the asset being replaced in a 12 month period, and the "50% or more" test will be determined by reference to the replacement cost of the whole asset when the expenditure is first incurred within the 12 month period in question.

If you are buying or selling a building which includes fixtures purchased before the new regime came in, the fixtures will have to be segregated out for this purpose. This means that certain assets that would previously have been entitled to 25% writing down allowance such as air conditioning systems, will move across to be given the new 10% rate on the first disposal of the building on or after 1 or 6 April 2008.

Of course, with the introduction of the new Annual Investment Allowance for purchases of assets, excluding cars, if your total expenditure on plant and equipment is less than £50,000 on an annual basis, the whole cost of the expenditure will be written off in the year of purchase and will therefore not be subject to the new 10% rate for integral features, or 20% for other plant and equipment.

If you are unsure of how this new regime could affect you, then please contact your consultant or partner for guidance or to discuss this in more detail.

HM Revenue & Customs – New Penalty Regime

A new penalty regime for errors in tax returns was introduced in the Finance Act 2007. The new regime will charge an increasing penalty based on the tax lost, determined by the seriousness of the behaviour of the taxpayer; and will align penalties across different taxes. There will be no penalties where mistakes are made in good faith, and where adequate care has been taken.

How the new regime will work is set out below.

What taxes are affected?

The new regime will initially apply to returns and documents in relation to VAT, PAYE, National Insurance, Capital Gains Tax, Income Tax, Corporation Tax and the Construction Industry Scheme.

When will the new penalties apply?

The new penalties will apply for return periods starting on or after 1 April 2008, where returns are due to be filed on or after 1 April 2009.

For a penalty to be charged, the return must contain an inaccuracy that leads to an understatement of a tax liability; a false or inflated statement of loss; or a false or inflated claim to repayment.

How is the penalty calculated?

The penalties charged are based on a percentage of the additional tax due (known as potential lost revenue) as a result of correcting the error.

- No penalty will be due if the taxpayer can demonstrate they have taken reasonable care to get the tax right, but submits an incorrect return. If the taxpayer later discovers the error but does not take steps to inform HM Revenue & Customs (HMRC), the inaccuracy will be treated as careless.
- A penalty up to 30% of potential lost revenue if the error is careless.
- A penalty up to 70% of potential lost revenue if the error is deliberate but not concealed.
- A penalty up to 100% of potential lost revenue if the error is deliberate and the taxpayer conceals it.

Can the penalty be reduced?

The penalties will be substantially reduced if the taxpayer makes an unprompted disclosure of the errors, this means if it is made when the taxpayer has no reason to believe that HMRC have discovered, or are about to discover the error.

Further reductions can also be made depending on the quality of disclosure. For this, HMRC will consider whether the taxpayer has told them about the error; is helping them to work out what extra tax is due and whether the taxpayer gives HMRC access to records to check the figures.

The regime is intended to encourage taxpayers to approach HMRC where they think there may be a problem. If an error is discovered by the taxpayer, they must take reasonable steps to inform HMRC with full details as soon as possible, otherwise the error will be treated as careless.

What is reasonable care?

Every taxpayer has a responsibility to take reasonable care. HMRC will view this on an individual basis depending on the abilities and circumstances of the taxpayer. However, each taxpayer is expected to make and keep sufficient records to provide a complete and accurate return. With straightforward tax affairs this may mean only a simple system of records, but more complex tax affairs will require more sophisticated systems.

HMRC will expect the taxpayer to check the tax treatment of an issue where they are uncertain by seeking relevant advice.

Can a penalty be suspended?

A new concept to be introduced is the suspension of penalties where taxpayers are trying to meet their obligations, by giving more time for systems to be improved to avoid future errors. Only a penalty that arises from a failure to take reasonable care will be considered for suspension, and the suspension period will be anything up to two years.

At the end of the suspension period, if HMRC are satisfied that the conditions of suspension have been complied with ie systems have been improved such that future errors will be avoided, the suspended penalty will be cancelled. If the conditions have not been met, the penalty will be payable.

What next?

HMRC are now making moves to align virtually all penalties for tax offences with the new structure. The advantage of this is seen as making it easier for taxpayers to understand the consequences of their actions, in that all tax offences will carry the same penalty.

If you have any queries about the new regime then do please contact us to discuss it in more detail.