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Companies Act 2006 – STOP PRESS

Notification was received on 7 November 2007 of the postponement of the implementation of the final phase of the Companies Act 2006 to October 2009.

Much of the Act has already been implemented, including provisions due to be commenced in April 2008 relating to accounts and reports, audit and company secretaries. It is only the final phase which will be put back.

A limited number of provisions may still commence on 1 October 2008. However, the change in the date for final implementation will inevitably mean that commencement of some important provisions, including those relating to company formation and articles of association, will be delayed.

A further statement will be made in December 2007 setting out the final commencement timetable once discussions have taken place with key stakeholders.

Stanley Davis will keep you updated.

Companies Act – An Update

Our last issue described in detail the main changes for private companies affected by the new Companies Act 2006. All of the Act will be in force by October 2009, but some of the statutes are already in force. For example:

- The law is making it easier to use written resolutions signed by shareholders instead of calling meetings of shareholders. From October 2007, written resolutions will no longer need to be signed by all the shareholders. Instead, the required majority will be similar to that for shareholder meetings – a simple majority of the eligible shares for ordinary resolutions, or 75% for special resolutions.
- From January 2007, it has been possible for companies to make quicker decisions. Resolutions can be circulated by email or by other electronic methods such as websites, with shareholder agreement. This means most small businesses will be able to make most shareholders' decisions more quickly without the need for a general meeting.
- From October 2007, private companies no longer need to hold an annual general meeting. Shareholders can demand a meeting if at least 10% (5% in certain circumstances) wish to. Shareholders still have the right to receive accounts. In addition, shareholder meetings for private companies can now all be on a 14 day notice period, unless different arrangements are specified in a company's Articles.
- From January 2007, all electronic communications including email and websites, have needed to include the company's name, number, registered office and other particulars (as business letters were already required to do).



Contact us For further information on this please contact **David Kaye**.

At a glance – the Top 10 things for private companies to know about the Companies Act 2006:

1. Decision making – from Oct 07

Written resolutions have become easier to use, requiring a simple majority (for ordinary resolutions) or 75% (for special resolution) of eligible votes.

2 Shareholder Meetings – from Oct 07

Private companies no longer need an AGM. 10% of shareholders can demand a meeting and if private company meetings take place they require a 14 day notice period.

3. Electronic Communications – from Jan 07

Arrangements can be made so that communications can be sent and received in certain ways, especially electronically. If there is agreement from shareholders, emails and websites can be used much more than at present. Individual members can still ask for hard copies. A company's name, number, registered office and other particulars, currently required to be displayed on business letters and other documents, must now also be provided on electronic documents, as well as any other company website.

4. Accounts – Apr 08

Private companies must file their annual report within nine (previously ten) months of the year end. The medium-sized group exemption from preparing consolidated accounts has now been removed.

5. Articles – Oct 09

Companies formed under the new Act can choose to have new streamlined default model Articles. Existing companies can also choose to take advantage of these new model articles in whole or in part.

6. Capital Reductions – from Oct 09

There is now a simpler solvency-based procedure to enable private companies to reduce capital without court approval.

7. Company Secretaries – Oct 09

There is no need to appoint a company secretary unless you want to. If you do have one, he or she will have the same rights and responsibilities as now.

8. Directors – from Oct 09

All companies must have at least one actual person as a director. All directors must be at least 16. Existing underage directors will cease to be directors from October 2008. Directors can file service addresses on the public record, with residential addresses held as protected information at Companies House.

9. Financial Assistance – Oct 09

The statutory rule that private companies cannot give financial assistance to buy their own shares is to be abolished.

10. General Compliance - now

There is very little companies have to do now, but they can take steps to take advantage of the deregulatory benefits of the Act. Transitional arrangements will make it as easy as possible for companies to take up these benefits.

Companies House – NEWS DESK UPDATES



Postal Delays

Due to the Royal Mail's Pricing in Proportion policy, Companies House has reviewed its postal practices and customers are urged to take extra care when submitting documents, as mail with insufficient postage will no longer be accepted.

In discussions, Royal Mail and other carriers have advised that they will attempt to return items to the sender if a return address is clearly printed on the envelope. Those items without a return address will be sent to the Royal Mail's Belfast office, where they will be opened to look for a sender's address. If this is not found then the items will be destroyed. We have been advised that there could be significant delays.

And remember – companies could be penalised up to £5,000 if they fail to send Annual Accounts by the due date.

And if the company is late filing the Annual Return as well, the company may be struck off and criminal charges could be incurred.

URGENT FRAUD WARNING - Authentication Codes for WebFiling

There have been instances recently where Companies House customers have been contacted by someone claiming to be from Companies House, asking for verification of their WebFiling Authentication Codes.

Please be aware that Companies House personnel will never make contact directly by telephone to try to ascertain WebFiling Authentication Codes.

Should anyone contact you claiming to be from Companies House please try to obtain a return telephone number and alert Stanley Davis Group or Companies House immediately.

449,000 New Companies Incorporated

The latest Annual Report from Companies House shows that 449,000 new companies were incorporated during 2006/07, and that information companies had placed on the public record was accessed more than three and a half million times.

Inside View of the Companies Act

We plan to host some workshops that focus purely on the key aspects of the Companies Act 2006 from the perspective of incorporation and ongoing compliance.

However due to the recent news of the postponement, dates initially planned for seminars early in 2008 will now be held later in the year.

If you are interested in attending please register your details with michelle.render@stanleydavis.co.uk who will ensure that you receive formal notification in due course.

'Ordinary Share Capital' explained

If you thought that you understood the term 'Ordinary Share Capital' think again. To help your understanding Revenue & Customs have issued their definition.

It states that a key factor is whether the body concerned has a legal personality separate and distinct from that of its members and is able to carry on business and own assets on its own right. If that is the case, then a list is available of other factors that determine whether a member's interest in the company is analogous to an interest in 'issued share capital'.

This obviously has an impact on whether the company can be a member of a group for group relief purposes, be part of a capital gains tax group or take part in tax relieved share schemes, for example.

Contact us by telephoning **020 7554 2222** or visiting www.stanleydavis.co.uk

STOP PRESS – HIPs at last! . . .

The news came at last on Thursday 22 November 2007 that all property vendors in England and Wales must produce a Home Information Pack from 14 December 2007.

Andrew Davis' HIPs on 'The World Tonight'

In the summer, Andrew Davis, CEO of the Stanley Davis Group was invited to represent HIP division, Stratify, and be a key speaker on Radio 4's 'The World Tonight' to give comment on the introduction of HIPs.

The live interview was aired on 31 July 2007, the eve of the introduction of Phase 1 of Home Information Packs.

It was a tense time – "Are HIPs here? Will they be further postponed? What were the actual benefits of the new legislation? And were we really ready for HIPs?"

It all seems like a distant memory now, and at last the market is quickly getting up to speed as the momentum of HIPs gathers pace. In a whirlwind few months, it was Wednesday 1 August 2007 that officially pronounced the introduction of

Home Information Packs (HIPs) to the property market place in England and Wales.

This was closely followed by the Government's announcement of the arrival of HIPs on 3+ bedrooms from 10 September 2007. The date for all residential properties being sold to have a HIP is 14 December 2007 – see stop press above.

The answer to the question – 'are we really ready for HIPs' is YES.

York Place and Stratify, both divisions of Stanley Davis Group (search agency and HIP pack

providers respectively), have had a very successful start to HIPs with many new solicitor and estate agents all benefiting from the new service. From the very beginning, the offering to the marketplace has focused on professionalism, competitive prices and ease.

With this in mind, our HIPs are the way forward.

Contact us For more information on how you can benefit from our HIP solution, contact Keith Gould of Stratify, on keith.gould@stratify.co.uk

New VAT invoicing rules

HMRC have issued some new rules related to invoicing to be implemented from 1 October 2007.



VAT invoice numbering

Currently there is a requirement for a VAT invoice to have an identifying number. The change will require this number to be from a series that is unique and sequential.

Reference required when the invoice involves a supply subject to a second-hand scheme

Companies will be required to include one of three references - a reference to the relevant article in the EC Directive, a reference to the relevant UK legislation, or any other reference indicating that a second hand margin scheme has been applied.

Examples of alternative legends will include:

- 'This is a second-hand margin scheme supply'
- 'This invoice is for a second-hand margin scheme supply'

Reference required when the invoice involves a supply subject to the Tour Operators Margin Scheme (TOMS)

Companies will be required to include one of three references - a reference to the relevant article in the EC Directive, a reference to the relevant UK legislation, or any other reference indicating that TOMS has been applied. Although the regulation of TOMS referencing is new, it will only affect business to business transactions, and businesses will have a wide range of choice in deciding the best way of referencing TOMS treatment. HMRC will allow affected businesses the widest possible discretion in adapting commercial or industry norms to meet the 'any other reference' requirement.

Examples of acceptable indications will include the following:

- 'This is a Tour Operators Margin Scheme supply'
- 'This supply falls under the Value Added Tax (Tour Operators) Order 1987'.

Reference required when the invoice involves Intra-EC Exempt or Reverse Charge Supplies

For the purposes of the new regulations, an exempt supply is a supply that, if made in the UK, would be exempt under Schedule 9 of the Value Added Tax Act 1994.

Where an invoice is required you will need to include one of three references – a reference to the relevant article in the EC Directive, a reference to the relevant UK legislation, or any other reference indicating that the supply is exempt, or subject to the 'reverse charge'.

The regulations make it clear that a requirement to issue invoices for exempt supplies only arises when the supply is business to business, across an EU border and an invoice is required by the Member State of receipt.

HMRC will allow affected businesses the widest possible discretion. Suggested statements that indicate the invoiced supply to be exempt or subject to the reverse charge are included below:

Exempt supplies:

- 'Exempt supply'
- 'Exempt supply for VAT purposes'
- 'This supply is exempt from VAT'

Reverse charge supplies:

- 'Reverse charge supply'
- 'This supply is subject to the reverse charge'
- 'Subject to reverse charge in the country of receipt'
- 'Subject to reverse charge in another member state'
- 'This is a UK exempt supply which may be chargeable in the country of receipt'
- 'This is a UK exempt supply which may be chargeable in another member state'

Reference required when the invoice involves an Intra-EC Zero Rated Supply

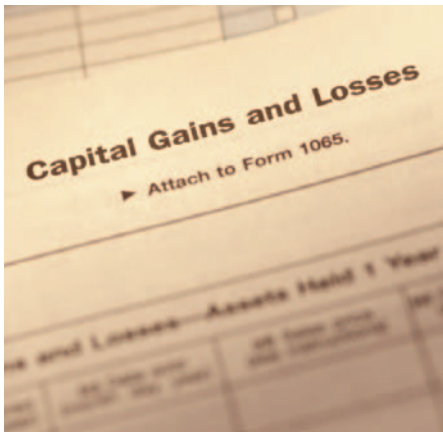
For intra EC zero-rated supplies of goods (dispatches) companies will need to include one of three references - a reference to the relevant article in the EC Directive, a reference to the relevant UK legislation, or any other indication that the supply is a zero rate intra EC supply. HMRC allows affected businesses the widest possible discretion. It is possible that, in some cases, the format and information already used on invoices is sufficient to satisfy the new rules.

Examples of references under the third option include:

- 'Zero rated intra-EC supply'
- 'This is an intra-Community supply'
- 'Intra-Community supply subject to VAT in ?? the country of acquisition'

Contact us by telephoning 020 7554 2222 or visiting www.stanleydavis.co.uk





No U-turn on capital gains tax

The Chancellor of the Exchequer has indicated that the controversial reform of the capital gains tax regime will go ahead despite protests from business groups.

Alistair Darling has discussed the issue with representatives of the Confederation of British Industry, the British Chamber of Commerce, the Institute of Directors and the Federation of Small Business. However, while Mr Darling pledged to work with the four groups on measures to improve the business environment – which included inviting them to submit ideas for the next Budget – he refused to change his mind about the broad direction of tax plans. The reform of capital gains tax, which was unveiled in the Pre-Budget Report,

proposes to abolish the taper relief rate of 10 per cent on assets held over two years. Instead, a flat rate of 18 per cent will be imposed on all assets – a move that many believe is aimed at the controversial use of taper relief in private equity remuneration. The move has attracted widespread criticism from industry groups, who argue that it will also affect entrepreneurs, smaller-scale venture capitalists and employee share schemes. The Chancellor is still considering representations on behalf of small business owners.

What do you want for Christmas?

Where can you get all your new company formations for £30+VAT?

- An online service?
- Great personal service when you need it?
- Expertise?
- Fast?

This isn't a Christmas Wish List, it's the standard service that you can expect from Stanley Davis.

Our eformations process is as quick, easy and cost-effective as possible. To order a company, simply log on to our website www.stanleydavis.co.uk, click on "online incorporations" and then follow the simple instructions. You will either need to have an account with us, or simply order using your credit card. The basic cost of an incorporation is £30 for a basic certificate of incorporation, and you can pick and choose any extra items such as copies of the Memorandum and Articles of Association, company registers, company seals and so on.

Of course our traditional formations service is still going strong for those of you who prefer to leave everything to the experts. Our team have over 100 years of experience between them and have a deserved reputation for being very friendly and helpful. Companies still take only a matter of hours to be incorporated (depending on how the Companies House systems are working), but we handle everything for you and your clients.

Contact us by telephoning 020 7554 2222 or visiting www.stanleydavis.co.uk

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International Corner



Hungary holding company

Under a "participation exemption" introduced on January 1st 2007, capital gains realized on the sale of (Hungarian and foreign) participations acquired after that date are exempt from corporate income tax and solidarity surtax if the following requirements are met:

- The participation is at least 30%
- The taxpayer has held the participation for at least two years
- The taxpayer has reported the acquisition of the participation to the Hungarian tax authorities.

Other capital gains are normally treated as ordinary business income, with no difference in the tax treatment of long- and short-term gains. Thus capital gains are included in the corporate tax base and taxed at the 16% rate.

A proposed change in the law includes a provision that eases the existing requirements to qualify for the participation exemption for corporate gains on the sale of shares by reducing the holding period to one year.

Hungary does not levy withholding tax on dividends. Dividend income received by the Hungarian company is exempt provided that it does not come from a Controlled Foreign Company (CFC). A CFC is defined as a foreign company that has an effective tax rate lower than two-thirds of the general Hungarian corporate income tax rate (that is, 10.66%) and that does not have sufficient substance in its country of residence.

Contact our International Tax Consultant, Emilio Scintu, by telephoning 020 7554 2223 or visiting www.stanleydavis.co.uk

MIRROR IMAGE:- An Update On Trade Mark Legislation

From the 1 October 2007 the UK Intellectual Property Office (UK-IPO) has implemented a new system in relation to how it processes Trade Mark applications where there are similar existing Trade Marks already on the register.

It had been their practice to reject any application where they judged that there would be a likelihood of confusion with an existing mark pending a subsequent appeal by the applicant. This meant that many applications were being stopped before reaching the vital publication phase of the registration process, where marks are published in the current Trade Marks Journal and owners of existing marks were given a 12 week grace period in which to object before the new mark was subsequently registered in full, and applicants were finding

that they were left without a Trade Mark despite having incurred the registration fee.

The new system, which has been the procedure throughout the rest of Europe for some time, means that after a Trade Mark has been examined at the UK-IPO an applicant will be supplied with a list of similar marks and asked whether they wish to proceed or abandon their application on the basis that they believe there would be a likelihood of confusion.

Pending the applicant's approval, the Trade Mark will then be published in the Trade Marks Journal and owners of existing similar marks will simply be notified of the similarity and given the same twelve week period in which to object.

As objections through the European system have been seen to be a rare occurrence it should now be easier to register a Trade Mark.

Contact us if you are considering trade mark protection, please email our team at formations@stanleydavis.co.uk