

## Taxing times

It's not been an easy few months for the new Chancellor. From stability and prudence for almost ten years, Mr Darling has been confronted by Northern Rock, the 'credit crunch', stock market volatility and, in the tax world, an outcry from business regarding the abolition of taper relief.

### A busy January

Whilst many of you were busy burning the midnight oil throughout December and January, a number of important changes were announced, many of them adding detail to the Pre-Budget Report announcements and many of them fundamental to your clients. If you were a real cynic, you might suggest that HMRC deliberately released these documents at the busiest time of the year in the hope that many accountants would not have time to read them!

What we have tried to do in the rest of this article is give you a brief summary of the important announcements and matters that need to be considered before April 2008, together with references for where you can find more information.

### Income shifting

Following HMRC's defeat in the Arctic System's case, the government has published a consultative document ([www.hm-treasury.gov.uk/media/1/D/consult\\_income\\_shifting.pdf](http://www.hm-treasury.gov.uk/media/1/D/consult_income_shifting.pdf)) which includes draft legislation to prevent a tax advantage being gained through what has become known as 'income shifting'. This legislation will potentially apply from 6 April 2008 to:

- private company dividends; and
- profits from a partnership.

It will not affect dividends from a quoted company or investment income from savings accounts or from rental property (as long as the rental income does not arise from a partnership business).

The proposed legislation refers to an individual (1) who shifts such income to another individual (2) and may catch many owner-managed businesses involving husbands, wives and other family members, as well as businesses run by people who are living together but are not married. Three conditions have to apply:

- an individual who is shifting income is party to an arrangement or understanding, or can control or influence such an arrangement or understanding;
- that individual forgoes income (directly or indirectly), as it has been shifted to another individual; and
- the individual who is shifting the income has the power to control or influence the amount of the income shifted.

If these conditions are met, the individual who has shifted the income will be liable for the tax and any national insurance due on the income shifted.

Of course, if Individual 2 does contribute to the business, then some or all of the income will not be treated as shifted income. How to quantify the amount shifted is left, according to HMRC, to:

'... individuals, together with their advisers, to use their own judgement in working out the level of shifted income.'

HMRC also state that:

'The income shifting legislation does not mean that businesses will have to maintain any additional records.'

But how are individuals going to support a case where they do put time into the business if they have no records? HMRC are living in cloud cuckoo land!

The legislation will not apply to:

- genuine commercial arrangements; and
- situations where, even though income has been shifted, there is no tax advantage gained.

The rules will no doubt create much extra work and many arguments with HMRC in the future. Clearly, you may wish to review your clients' positions before April 2008. To help you keep your clients informed of the changes, we have written a client letter. A detailed review of the new rules is part of our current Topical Tax courses.

### The new Entrepreneurs' Relief

In the Pre Budget Report in October 2007, the Chancellor announced a series of changes to the CGT regime for individuals and trustees. These changes included the abolition of taper relief and indexation relief and the introduction of a single rate of CGT of 18%.

The Chancellor had dug himself a big hole. To quote Blackadder:

'We're in the stickiest situation since Sticky the Stick Insect got stuck on a sticky bun.'

So, on 24 January 2008, in response to pressure from the business community, the Chancellor announced a new 'Entrepreneurs' Relief' from 6 April 2008 ([www.hmrc.gov.uk/cgt/disposal.htm](http://www.hmrc.gov.uk/cgt/disposal.htm)). The first £1m of gains qualifying for relief will be charged at an effective rate of 10%. Gains in excess of £1m will be charged at 18%. An individual will be able to make more than one claim for relief, up to a lifetime total of £1m of gains qualifying for relief.

# Life as MD Out and about

2008 started as most recent years have, with most of you not wanting to see or hear from us! This provides the chance for our technical teams and lecturers to spend some rare time together. As our lecturers tend to be at opposite ends of the country for most of the lecturing season, you can imagine that when they get together there is no shortage of ideas. For new courses, new manuals, new services. The only shortage we ever seem to have is the resource to immediately implement them all.

However many of them reach fruition and for me, January provided a great opportunity to communicate the progress we have made and our plans and developments for the year ahead to the whole of the Mercia team.

The less busy diaries also meant I was able to move forward one of our major initiatives for 2008. I shared in my last VISION article that having had great success with our website product we are taking this to the next generation and developing a powerful client service platform product. Having successfully completed extensive testing we can now prepare to launch the product this summer. Watch out for invites to our series of seminars around the country.

Those of you that have nothing to do with tax did allow us to visit you in January as part of our CRM programme and during February I've seen many familiar faces on my recent round of Audit Update courses. It has been interesting to hear how many of you are making some significant changes. Specialist audit teams are now the norm and it is a pleasant change to have a course full of delegates who are actually keen to listen and learn the latest audit rules!

I find it particularly interesting to see how many of you are now part of national and international networks, not to mention how many of you are now consolidating your practices. A couple of recent client visits have led to interesting discussion and surprise on behalf of firms who now appreciate how all our new services can help you in what can be challenging times. Please give me a call on 0116 258 1200 or email me at jane.everingham@merciam-group.co.uk if you think we can help you or you would like to discuss any ideas.

**Jane Everingham**  
Managing Director

# The Money Laundering Regulations 2007

At the end of 2007 new Money Laundering Regulations came into effect. John Welsford and Belinda Auchimowicz both worked on incorporating the requirements of the new Regulations, as well as the CCAB guidance for the accountancy sector, into Mercia's range of money laundering support products. John has since been busy presenting money laundering update courses across the country and Belinda has written a number of summary publications for our marketing support team. Here she summarises the key changes arising from the new Regulations.

## The new Regulations and why they have been introduced

The Money Laundering Regulations 2007 (the Regulations) came into force on 15 December 2007 when they replaced their 2003 counterpart. The new Regulations continue to contain the detailed procedural requirements for those affected and they stem from the European Union's Third Money Laundering Directive.

## Who is caught by the Regulations?

Subject to certain specified exceptions, the Regulations apply to the following persons acting in the course of business carried on by them in the United Kingdom:

- credit institutions;
- financial institutions;
- auditors, insolvency practitioners, external accountants and tax advisers;
- independent legal professionals;
- trust or company service providers;
- estate agents;
- high value dealers; and
- casinos.

These are perhaps more commonly known as 'relevant' or 'regulated persons'. The Regulations also go on to provide more detailed definitions.

- **Auditor** means any firm or individual who is a statutory auditor within the meaning of Part 42 Companies Act 2006 (statutory auditors), when carrying out statutory audit work within the meaning of s1210 of that Act.
- **External accountant** means a firm or sole practitioner who by way of business provides accountancy services to other persons, when providing such services.

The CCAB guidance (see below) defines this further as '...the recording, review, analysis, calculation or reporting of financial information'.

- **Tax adviser** means a firm or sole practitioner who by way of business provides advice about the tax affairs of other persons, when providing such services.

## Key changes introduced by the new Regulations

The good news is that the new Regulations do not bring about wholesale change for those already acting in accordance with the previous Regulations and the CCAB guidance (see below). There are, however, some changes which do require firms to take action.

## Accountancy service providers

There is perhaps one significant change which does affect those firms of accountants who are not already monitored for compliance with the Regulations by a professional body such as the ICAEW, ACCA, ICAS or ICAI. Such firms, known as 'Accountancy Service Providers' (ASPs), will now be supervised by HMRC. Those affected must apply to register their business with HMRC and there is an administrative deadline of 1 July 2008 for the receipt of applications. HMRC's ASP register will open on 1 October 2008.

ASPs may continue to trade until the register opens, irrespective of whether they have applied for registration before the administrative deadline. However, if they are not included on the register from 1 October they will not be able to trade legally. Similarly, any ASP that applies for registration after the register opens will not be able to trade legally until they are included on the register.

## New terminology

All of those affected by the Regulations will need to get to grips with some new terminology. One such term is 'Customer Due Diligence' (CDD). This means:

- identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source;
- identifying, where there is a beneficial owner who is not the customer, the beneficial owner. Also, taking adequate measures, on a risk-sensitive basis, to verify their identity so that the relevant person is satisfied that they know who the beneficial owner is. This includes, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement; and

Continued on inside back cover >>>

> > > **Continued from inside front cover**

- obtaining information on the purpose and intended nature of the business relationship.

For example, for a company, a beneficial owner is any individual who:

- ultimately owns or controls (whether through direct or indirect ownership or control, including through bearer share holdings) more than 25% of the shares or voting rights in the company; or
- otherwise exercises control over the management of the company.

### New policies and procedures required

The Regulations require those affected to implement:

- policies and procedures to prevent money laundering;
- CDD procedures;
- record keeping procedures (evidence of identity and transactions);
- internal reporting procedures; and
- training.

Broadly speaking, firms should have policies and procedures in place for:

- determination and recording of procedures to deal with money laundering awareness;
- client acceptance;
- CDD and ongoing monitoring, consultation with, and reporting to, the money laundering nominated officer (MLNO);
- dissemination of such policies to all staff;
- development of the firm's risk assessment of its business;
- training of relevant staff;
- methods of identification of update material and dissemination thereof;
- systems for periodic testing that policies, etc comply with regulatory requirements;

- monitoring the compliance of the firm with its policies and addressing any identified deficiencies;
- more detailed documentation of policies not routinely a matter for staff eg due diligence for higher risk clients;
- considering the money laundering implications in the development of new services; and
- periodic consideration of the firm's business profile and whether policies and procedures need revision.

Looking at CDD procedures in more detail, those affected should now have client risk assessment policies in place and must conduct their CDD on the basis of their assessment. Different levels of CDD apply depending on this risk assessment:

- simplified due diligence;
- normal due diligence; and
- enhanced due diligence, which should include provisions relating to 'politically exposed persons'.

You can find a copy of the Regulations in SI 2007/2157 at [www.opsi.gov.uk](http://www.opsi.gov.uk)

### Existing clients

CDD procedures must also be applied to existing clients, although your first thought should not be that you will have to ask your existing clients to bring their passports in when they next visit. On the contrary you are likely to have more than enough existing information in respect of your long standing clients to be satisfied over their identity. Look for government agency issued documentation in the first instance, for example tax returns, coding notices and documents issued by Companies House.

### Ongoing monitoring

You are required to monitor, on an ongoing basis, your relationship with the client and keep your CDD information up to date. Triggers, such as a change in the nature of the services that you provide or changes in the client's business,

should prompt you to consider updating your CDD information.

Remember that someone at your firm (generally your MLNO) must also monitor the firm's compliance with the Regulations, so an annual compliance review is recommended.

### Training

The Regulations require firms to take appropriate steps to ensure that employees are:

- made aware of the law relating to money laundering and terrorist financing; and
- regularly given training in how to recognise and deal with transactions and other activities which may be related to money laundering or terrorist financing.

### The Consultative Committee of Accountancy Bodies (CCAB) guidance for the accountancy sector

This guidance is essential reading for all firms of accountants, whether they are regulated by a professional body or not. It has been issued to provide the accountancy sector with not only an interpretation of the requirements of the Regulations and primary legislation relating to money laundering and terrorist financing but also to provide practical guidance on good practice for matters not prescribed in law.

A final version of the guidance was issued in December 2007, which included information on new tipping off provisions and further clarification of the requirements for the identity of beneficial owners. The existing provisions contained in s333 Proceeds of Crime Act 2002 in respect of tipping off were replaced by a new s333A from 26 December 2007. Details of these new provisions can be found in SI 2007/3398 - The Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007, at [www.opsi.gov.uk](http://www.opsi.gov.uk)

## How can Mercia help?

We have a range of money laundering support products and services including:

- a money laundering compliance manual which provides you with written procedures, checklists and other supporting documents on which to base your firm's internal anti-money laundering procedures. The manual is accompanied at no extra cost by supplementary training material; both a seminar pack and a digital copy of our latest money laundering update course;
- specific money laundering training for your firm through an in-house course;
- our free monthly newswire which will keep you up to date with the latest news in this and other technical areas. The December 2007 edition, which is available on our website, included a summary taken from the seminar pack which is part of our compliance manual package; and
- for your clients, a briefing written in simplified terms which explains the requirements of the new Regulations as they apply to your clients.

If you would like to know more please visit our website at [www.mercia-group.co.uk](http://www.mercia-group.co.uk) or contact Belinda Auchimowicz at [belinda.auchimowicz@merciamercia-group.co.uk](mailto:belinda.auchimowicz@merciamercia-group.co.uk) or on 0116 258 1200.



The conditions for the new relief will be based broadly on the old Retirement Relief but the new rules are designed to be simpler:

- there will be no minimum age limit; and
- the relief will be available where the relevant conditions are met for a period of one year.

The relief will apply to gains arising on the disposal of the whole, or a part, of a trading business that is carried on by the individual, either alone or in partnership. Where a business ceases, relief will be available on gains on assets used in the business and disposed of within three years of cessation.

The relief will also apply to gains on the disposal of shares in a trading company, or holding company of a trading group, provided that the individual making the disposal:

- has been an officer or employee of the company, or of a company in the same group of companies; and
- owned at least 5% of the share capital of the company and that holding enables the individual to exercise at least 5% of the voting rights.

The terms 'trading company', 'holding company' and 'trading group' will have the same meaning as they had for taper relief purposes.

Where an individual qualifies for the relief on a disposal of shares, relief will also be available in respect of any 'associated disposals' of assets which were used in the company, or group's, business. A similar rule will allow relief on an associated disposal by a member of a partnership who is entitled to relief on the disposal of their interest in the assets of the partnership. Trustees may also be able to benefit from the relief.

So it appears that we go back ten years to the days of Retirement Relief – it's a strange old world!

### Residence and domicile

The government has announced the completion of the residence and domicile review with a package of reforms which will take effect from April 2008 ([www.hmrc.gov.uk/cnr/res-dom-tax-amends.htm](http://www.hmrc.gov.uk/cnr/res-dom-tax-amends.htm)).

The main proposal is that UK residents who are non-domiciled and/or not ordinarily resident, who wish to continue to be taxed on a 'remittance basis' rather than on their worldwide income and gains, will have to pay an annual charge of £30,000 if they have been resident in the UK for more than seven years out the last ten (subject to a de minimis). Other proposals include:

- to ensure that when determining if an individual is resident in the UK, days of arrival and departure are counted;
- users of the remittance basis will lose their automatic entitlement to certain allowances, such as the personal allowance and the CGT annual exemption (subject to a de minimis); and
- to amend the current rules to remove flaws and anomalies that allow individuals who are assessed only on a remittance basis to sidestep UK tax where it is due on income and gains.

The government will consult on the detail of these proposals and on a wider range of options, including an option to make those individuals who are resident in the UK for more than ten years contribute more.

Obviously, some of these changes, particularly the day count change, mean that many clients may face higher bills from April 2008 and their positions should be reviewed as a matter of urgency.

### The rising cost of the car fuel benefit

The car fuel benefit is set to increase considerably from 6 April 2008, with the 'multiplier' increasing to £16,900, a 17% increase! When combined with previously announced changes to the emissions percentages, thought needs to be given by employers and employees as to whether the employee would be better off if they provided their own fuel and claimed a mileage allowance from their employer for business travel. The approved mileage rates have been increased for journeys in employer provided cars from 1 January 2008 ([www.hmrc.gov.uk/cars/advisory\\_fuel\\_current.htm](http://www.hmrc.gov.uk/cars/advisory_fuel_current.htm)).

As the costs of motoring and fuel increase, businesses need to consider their car policies prior to April 2008. We have written a client letter to help your clients, in which we set out details of the increase and look at the implications.

### HMRC powers, etc

And finally, HMRC released three more consultation documents on 10 January 2008 ([www.hmrc.gov.uk/news/january.htm](http://www.hmrc.gov.uk/news/january.htm)).

The first consultation document deals with two basic areas:

- extending the new penalty provisions introduced by FA 2007 to cover all taxes and not just the five main taxes administered by HMRC; and
- including within these penalties the offence of failure to notify.

The second document follows on from the responses to the May 2007 consultation. It looks at:

- the new proposed approach to compliance;

- record keeping requirements; and
- information powers.

There is much in the consultation document about the need for HMRC to see records and visit premises whilst at the same time providing some safeguards for taxpayers. The draft legislation is extensive and covers a number of areas:

- power to obtain information and documents;
- producing documents;
- restrictions on powers to obtain information and documents;
- appeals against notices;
- offences in relation to documents;
- powers to inspect businesses; and
- penalties

One of the most concerning areas is the power to inspect business premises. Currently HMRC have the power to inspect records only for the purposes of PAYE and VAT. The VAT legislation also gives a right of access to premises but no equivalent power exists in direct tax. HMRC have made great play of this in the consultation document and they obviously consider it to be a very important part of the new investigation process. They state that the procedure has advantages for both taxpayers and HMRC, although the reasons they give for this do seem to be largely in their own favour!

The possibility exists of the visit being made before a return has been issued. In other words, a real time visit rather than a post return check. There are significant issues in this approach which have been raised by the profession but HMRC are determined to press ahead.

The third document looks at the collection and payment of tax.

Hopefully the summary helps you catch up a bit with your reading but please get in touch if you would like to know more. Contact Mark Morton by email at [mark.morton@mercia-group.co.uk](mailto:mark.morton@mercia-group.co.uk) or call 0116 258 1200.

## A new face...

### Pat Nown ACA CTA ATT

Pat joined Mercia at the end of January as a Tax Lecturer bringing a wealth of experience. Previously she worked for many years with FTC Kaplan where she was a Tax Product Director for the Midlands. She has lectured both for exam based training and for the profession in general as well as being involved in technical writing.

An Association of Taxation Technicians Council Member for 12 years, she is still actively involved at Committee level.

Pat has 2 children, Tom and Ellie, and in her spare time she is Honorary Treasurer for a local Rugby Club and enjoys holidays and good wine.



Mercia Group Limited, Best House, Grange Business Park, Enderby Road, Whetstone, Leicester LE8 6EP

t: 0116 258 1200 f: 0116 258 1250  
[enquiries@mercia-group.co.uk](mailto:enquiries@mercia-group.co.uk) [www.mercia-group.co.uk](http://www.mercia-group.co.uk)

Mercia Group Limited is the approved trainer for





# Audit & Tax Technical Update

*Welcome to the spring edition of Vision.*

*Quite amazingly, it has been an extremely busy quarter, particularly in tax. There have been numerous consultation documents issued in January, even though HMRC must appreciate that most practitioners have no chance of reading them. A deliberate policy by HMRC? I'll let you decide!*

*If you have any comments about Vision, please contact Mark Morton by email at [mark.morton@mercia-group.co.uk](mailto:mark.morton@mercia-group.co.uk) or call 0116 258 1200.*

## AUDIT AND ACCOUNTANCY

2-4

- Companies Act 2006
- APB Bulletin 2008/1 - Audit issues when financial market conditions are difficult and credit facilities may be restricted
- APB PN 21 - The Audit of Investment Businesses in the United Kingdom
- APB PN 16 - Bank Reports for Audit Purposes in the United Kingdom
- ASB - Reminder for quoted companies in respect of Enhanced Business Reviews
- Money laundering update
- National Housing Federation SORP - Accounting by Registered Social Landlords 2008
- ICAEW update
- Other publications
- Diary deadlines

## GENERAL

4

- SI 2007/3570 - The Employment Rights (Increase of Limits) Order 2007
- Charities update
- Pensions update

## TAXATION

5-7

### DIRECT TAXES

- Revenue & Customs Briefs Direct Taxes
- Northern Rock ISA savers
- 2008/09 allowances announced
- SDLT Practitioners' News 19
- New form to transfer unused Inheritance Tax nil rate band
- Openness and Early Dialogue
- Paper substitute returns
- Agent Update 2
- Centre for non residents: Statement of Practice 02/07
- A clearances pilot from January 2008
- Corporation tax enquiry window
- HMRC guidance on which pension schemes need to file returns
- Income shifting consultation

- A consultation on residence and domicile
- More consultation on capital allowances
- Changes to the advisory fuel rates from 1 January 2008
- Interest rates - corporation tax
- Interest rates
- IHT & Trusts Newsletter
- SDLT Technical News 6
- Working Together 29

### VAT

- Revenue & Customs Briefs Indirect Taxes
- VAT Information Sheet 14/07 - HMRC guidance: Assets used partly for non-business purposes
- VAT Information Sheet 15/07 - VAT: Supply of parts and equipment for qualifying ships and aircraft
- VAT Notes 4 2007
- VAT Information Sheet 01/08

## TAX CASES

8-9

- Neil Martin Ltd v R&C Comms - was compensation payable by HMRC?
- Able (UK) Ltd v R&C Comms - was compensation income or capital?

## SPECIAL COMMISSIONERS

9

## PUBLICATIONS AND INTERESTING ARTICLES

10

## IT NEWS

11-12

- Company news
- New releases
- Microsoft Office Accounting 2008
- Discounted software - for charities and certain professions
- Software rental
- Digital TV switchover
- Common IT issues

No responsibility for loss occasioned to any person acting or refraining from action as a result of the content or omission of material from this newsletter can be accepted by the authors or company.

### Companies Act 2006

There have been a number of developments under the Companies Act 2006:

- SI 2007/2607 - The Companies Act 2006 (Commencement No. 4 and Commencement No. 3 (Amendment)) Order 2007
- SI 2007/3495 - The Companies Act 2006 (Commencement No. 5, Transitional Provisions and Savings) Order 2007
- The final timetable for the implementation of the Act has been announced. Originally, the whole of the Act was due to be implemented by October 2008 but the government has announced that the final implementation date will now be 1 October 2009.

*Reference: Accountancy, December 2007, pages 10 and 129 and February 2008, page 123 and Practical Audit & Accounting, December 2007, page 29*

A number of related statutory instruments have also been issued:

- SI 2007/2541 - The Companies (Tables A to F) (Amendment) Regulations 2007
- SI 2007/2826 - The Companies (Tables A to F) (Amendment) (No. 2) Regulations 2007
- SI 2007/3152 - The Company and Business Names (Amendment) (No.2) Regulations 2007
- SI 2007/3494 - The Statutory Auditors and Third Country Auditors Regulations 2007
- SI 2007/3534 - The Independent Supervisor Appointment Order 2007
- SI 2007/3535 - The Companies (Fees For Inspection and Copying of Company Records) (No.2) Regulations 2007

*Reference: Accountancy, November 2007, page 118 and December 2007, page 129*

At the time of going to print a number of key draft statutory instruments had also been published:

- The Companies (Late Filing Penalties) and Limited Liability Partnerships (Filing Periods and Late Filing Penalties) Regulations 2008
- The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008
- The Large and Medium-Sized Companies and Groups (Accounts and Reports) Regulations 2008
- The Small Companies and Groups (Accounts and Directors' Report) Regulations 2008

*Reference: Accountancy, February 2008, page 123*

### APB Bulletin 2008/1 - Audit issues when financial market conditions are difficult and credit facilities may be restricted

The Bulletin provides guidance for auditors on audit issues that may arise when financial market conditions are difficult and credit facilities may be restricted. While the Bulletin may be of assistance to those auditing financial institutions, it has been written to apply more generally and focuses on the possible risks of misstatement to the financial statements for all entities arising from:

- the possibility of the reduced availability of finance; and
- difficulties with valuing some assets for balance sheet purposes, especially those that are required to be measured at 'fair value'.

*Reference: www.frc.org.uk/apb*

### APB PN 21 - The Audit of Investment Businesses in the United Kingdom

The revised PN, amongst other matters:

- reflects the relevant changes to the law and FSA rules made over the last year which were in effect on 31 December 2007. These include the changes in FSA rules following the introduction of the Markets in Financial Instruments Directive (MiFID), and the removal of the previous requirement for auditors to report to the FSA under Handbook section SUP 3.9; and
- includes new guidance on reviewing controls over client assets for the purpose of reports to the FSA under FSA Handbook section SUP 3.10.

*Reference: www.frc.org.uk/apb*

### APB PN 16 - Bank Reports for Audit Purposes in the United Kingdom

The PN summarises the protocol recently agreed between the UK accountancy profession and the British Bankers Association regarding the process auditors use when requesting confirmations of balances, transactions or arrangements from the bankers of the entity being audited.

The revised PN is effective for accounting periods commencing on or after 26 December 2007.

*Reference: Practical Audit & Accounting, December 2007, page 32 and www.frc.org.uk/apb*

### ASB - Reminder for quoted companies in respect of Enhanced Business Reviews

The ASB has reminded UK quoted companies of the requirement to follow the Enhanced Business Review reporting requirements in s417 Companies Act 2006 for years beginning on or after 1 October 2007. The ASB believes that all of the Enhanced Business Review requirements found in the Companies Act 2006 are already included in its Reporting Statement on Operating and Financial Review (OFR reporting statement) issued in January 2006. In order to further assist UK companies in preparing their business review, the ASB has issued a table which illustrates the link between the OFR reporting statement and the latest legislative requirements.

*Reference: Accountancy, February 2008, page 73 and www.frc.org.uk/asb*

### Money laundering update

The Money Laundering Regulations 2007 came into force on 15 December 2007. A number of related documents have also now been issued:

- **Final CCAB Anti-Money Laundering Guidance for the Accountancy Sector**

The guidance was issued in December 2007 and can also be found in ICAEW Technical Release 07/07. The ICAEW has also issued Tech 08/07, a summary of changes since the Second Interim Guidance.

• **SI 2007/3287 - The Proceeds of Crime Act 2002 (Business in the Regulated Sector and Supervisory Authorities) Order 2007**

This legislation amends the meaning of a business in the regulated sector and the meaning of a supervisory authority for the purposes of Part 7 of the Proceeds of Crime Act 2002. It reflects the changes to the scope of the regulated sector made by the EU Directive that lead to the new 2007 Regulations. Two major changes are the expanded definition of a trust or company service provider and the exemption for financial activity on an occasional or very limited basis.

All sectors within the scope of the Regulations now have to be effectively monitored for compliance.

• **2007/3299 - The Money Laundering (Amendment) Regulations 2007**

These Regulations, which also came into force on 15 December 2007, amend the Money Laundering Regulations 2007. They apply a number of essentially minor changes, which include adding the International Association of Book-keepers as a supervisory authority that may supervise persons regulated by it for compliance with the 2007 Regulations.

• **SI 2007/3398 - The Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007**

These essentially amend the tipping off offences in POCA, to make it an offence to tip off in the regulated sector. See inside front cover for further details.

- The Joint Money Laundering Steering Group has revised, reissued and received Treasury approval for its guidance notes for the financial sector. The latest version is dated November 2007.

Reference: [www.ccab.org.uk/documents.php](http://www.ccab.org.uk/documents.php), [www.icaew.co.uk](http://www.icaew.co.uk), [www.jmlsg.org.uk/bba](http://www.jmlsg.org.uk/bba) and [www.opsi.gov.uk](http://www.opsi.gov.uk)

**National Housing Federation SORP - Accounting by Registered Social Landlords 2008**

The new SORP applies to accounting periods commencing on or after 1 April 2008, although earlier adoption is encouraged. The format of the SORP has been changed and there have been technical amendments in a number of areas including:

- shared ownership properties;
- land acquired below market price or donated land;
- stock transfers; and
- related party disclosures.

Reference: *Inside Track*, January 2008, page 8

**ICAEW update**

The ICAEW has:

- launched a new Financial Reporting Faculty;
- launched a new special interest group to support non-executive directors;
- published the second Practice Assurance report, January 2006 - June 2007;

- issued Technical Release 03/07 - the accountant's report on service charge accounts prepared in accordance with regulations made under the Commonhold and Leasehold Reform Act 2002;
- simplified the practising certificate arrangements; and
- increased the minimum amount of Professional Indemnity Insurance cover required.

Reference: *Accountancy*, November 2007, page 97 and January 2008, pages 88 and 92, *Audit & Beyond*, November 2007, page 5 and [www.icaew.co.uk](http://www.icaew.co.uk)

**Other publications**

- APB consultation draft of a revision of PN 19(I) - The Audit of Banks in the Republic of Ireland
- APB consultation draft of PN 27(I) - The Audit of Credit Unions in the Republic of Ireland
- APB discussion paper - The Auditor's Report: A Time for Change?
- APB consultation papers:
  - proposed addition to International Standard on Auditing (UK and Ireland) (ISA (UK and Ireland)) 600, 'Using the work of another auditor', to reflect forthcoming legal requirements in relation to statutory audits of consolidated accounts; and
  - the action the APB should take regarding the recent revision by the International Auditing and Assurance Standards Board of ISA 600, with the new title 'Special considerations - Audits of group financial statements (including the work of component auditors)'.

Reference: *Audit & Beyond*, February 2008, page 7 and [www.frc.org.uk/apb](http://www.frc.org.uk/apb)

- ASB ED of amendments to Financial Reporting Standard (FRS) 20 - Share-based Payment: Group Cash-settled Share-based Payment Transactions. A consequential amendment is proposed to UITF Abstract 44 - FRS 20: Group and Treasury Share Transactions
- ASB discussion paper - The Financial Reporting of Pensions

Reference: *Inside Track*, January 2008, page 8, *Accountancy*, February 2008, page 74 and [www.frc.org.uk/asb](http://www.frc.org.uk/asb)

- POB draft regulations:
  - Draft Statutory Auditors (Transparency) Instrument 2008
  - Draft Statutory Auditors (Registration) Instrument 2008
  - Draft Statutory Auditors (Examinations) Instrument 2008
  - POB follow-up report on the actuarial profession's progress in implementing the recommendations made to it by the Morris Review in March 2005.
  - POB policy conclusions on the reporting of Audit Inspection findings.
  - POB updated review of how accountants support the needs of small and medium-sized companies and their stakeholders.

Reference: *Practical Audit & Accounting*, December 2007, page 26, *Accountancy*, January 2008, pages 8 and 113 and [www.frc.org.uk/pob](http://www.frc.org.uk/pob)

- FRC consultation draft guidance on the use of agreements between companies and their auditors to limit the auditor's liability, as provided for under the Companies Act 2006.

Reference: *Accountancy*, January 2008, page 15

- FRC additional questions for audit committees to consider in respect of the implications of the dramatic liquidity challenges for financial institutions and indications that these conditions are affecting the availability of credit to companies.

*Reference: Accountancy, January 2008, page 8, Audit & Beyond, February 2008, page 7 and www.frc.org.uk*

- Department of Business, Enterprise and Regulatory Reform consultation on proposals for the application of the Companies Act 2006 to Limited Liability Partnerships.

*Reference: Practical Audit & Accounting, December 2007, page 30 and Accountancy, January 2008, page 110*

- ICAEW Audit & Assurance Faculty Technical Release: Perspectives on assurance – engaging practitioners.

*Reference: Audit & Beyond, December/January 2008, page 3*

- ICAEW Tax Faculty - Supplementary Anti-Money Laundering Guidance for the Tax Practitioner: Exposure Draft.

*Reference: icaew.co.uk*

**Diary deadlines**

	<b>Effective:</b>
AIM-listed companies – compliance with IFRS	for financial years beginning on or after 1 January 2007
FRSSE (effective January 2007)	for financial years beginning on or after 1 January 2007
Higher audit thresholds for charities (England and Wales)	for accounting periods starting on or after 27 February 2007
Higher audit thresholds for unincorporated charities (Scotland)	for accounting periods starting on or after 1 April 2006
Amendment to FRS 17, Retirement Benefits	for financial years beginning on or after 6 April 2007
Amendment to FRS 3: Reporting Financial Performance	For accounting periods beginning on or after 1 January 2007
The Money Laundering Regulations 2007	from 15 December 2007

**GENERAL**

**SI 2007/3570 - The Employment Rights (Increase of Limits) Order 2007**

This Order increased, from 1 February 2008, the limits applying to certain awards of employment tribunals and other amounts payable under employment legislation. Key limits include:

- unfair dismissal cap £63,000 (£60,600); and
- a week's pay for the purposes of calculating redundancy payments, etc. £330 (£310).

The government has also announced the new rates that will apply to a number of benefits, including:

- SSP £75.40 per week (£72.55); and
- SMP £117.18 per week (£112.75).

*Reference: Accountancy, February 2007, page 124*

**Charities update**

The Charity Commission has published:

- Charities SORP 2005 Information Sheet 1, which provides informal guidance on the application of the SORP; and
- general guidance on 'public benefit'.

In addition:

- the 'register of mergers' has gone live; and
- a new procedure for dealing with customer dissatisfaction about service delivery issues has been launched.

*Reference: Inside Track, January 2008, page 8, Accountancy, January 2008, page 123 and www.charitycommission.gov.uk*

- An article in Audit & Beyond has indicated that a consultation draft of a revised version of PN 11, The Audit of Charities in the United Kingdom, is expected to be published in spring 2008.

*Reference: Audit & Beyond, December/January 2008, page 4 and Accountancy, February 2008, page 84, which also includes a review of forthcoming changes for charities.*

**Pensions update**

The Pensions Regulator has published:

- guidance on voluntary employer engagement in Group Personal Pensions. This guidance is designed to support employers who choose to be involved in the governance of the scheme by identifying options and sharing case studies. Alongside the guidance the Pensions Regulator has also published a Defined Contribution Update;
- in association with the Pension Protection Fund (PPF), the second version of the Purple Book, which pulls together the latest data and analysis of the final salary pension landscape, including areas such as scheme size, industry-type, funding levels, rates of insolvency and the way assets are invested. It also contains new information about the number and size of claims on the PPF, a breakdown of levy payments made by eligible schemes and the number of people benefiting from PPF protection; and
- a new online web-based scheme return.

*Reference: www.thepensionsregulator.gov.uk*

## DIRECT TAXES

## Revenue &amp; Customs Briefs Direct Taxes

**Revenue & Customs Brief 70/07  
27 November 2007**

This Brief contains an article on Research & Development Tax Relief - claims time limit change.

Reference: [www.hmrc.gov.uk/briefs/company-tax/brief7007.htm](http://www.hmrc.gov.uk/briefs/company-tax/brief7007.htm)

**Revenue & Customs Brief 71/07  
28 November 2007**

This Brief contains an article on Inheritance Tax and the valuation of property owned jointly by spouses or civil partners.

Reference: [www.hmrc.gov.uk/briefs/income-tax/brief7107.htm](http://www.hmrc.gov.uk/briefs/income-tax/brief7107.htm)

**Revenue & Customs Brief 03/08  
21 January 2008**

This Brief contains an article on Capital Gains Tax and Corporation Tax on chargeable gains: contribution of assets to a partnership.

Reference: [www.hmrc.gov.uk/briefs/cgt/brief0308.htm](http://www.hmrc.gov.uk/briefs/cgt/brief0308.htm)

## Northern Rock ISA savers

The government has announced that it will allow the people affected to re-invest their money into any cash ISA, including Northern Rock's, and so restore their tax advantages. This announcement applies to funds withdrawn from Northern Rock ISAs between the 13 and 19 September 2007 inclusive.

Reference: *Taxation*, 25 October 2007, page 444 and [www.hm-treasury.gov.uk/newsroom\\_and\\_speeches/press/2007/press\\_110\\_07.cfm](http://www.hm-treasury.gov.uk/newsroom_and_speeches/press/2007/press_110_07.cfm)

## 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. The Statutory Payment rates for 2008/09 have also been published.

Reference: *Simon's Tax Intelligence 2007*, page 2393, *Taxation*, 25 October 2007, pages 445 and 447 and [www.hmrc.gov.uk/employers/pay-rates-2008-2009.pdf](http://www.hmrc.gov.uk/employers/pay-rates-2008-2009.pdf)

## SDLT Practitioners' News 19

This issue contains information relating to Stamp Taxes Online filing - reviewing ways to file returns and the procedure for making payment/submitting plans and schedules.

Reference: [www.hmrc.gov.uk/so/newsletter-19.htm](http://www.hmrc.gov.uk/so/newsletter-19.htm)

## New form to transfer unused Inheritance Tax nil rate band

The new claim form IHT216 to claim a transfer of unused Inheritance Tax nil rate band is now available to download and HMRC have also published the nil rate band tables from 16 August 1914 to the present date.

Reference: *Taxation*, 15 November 2007, page 523, [www.hmrc.gov.uk/cto/ih216.pdf](http://www.hmrc.gov.uk/cto/ih216.pdf) and [www.hmrc.gov.uk/cto/customerguide/page15.htm](http://www.hmrc.gov.uk/cto/customerguide/page15.htm)

## Openness and Early Dialogue

HMRC have reviewed and consulted on current procedures around income and corporation tax enquiries and will test a different approach to enquiries in several areas across the country from November 2007 to the end of April 2008. This approach is called 'Openness and Early Dialogue'.

Reference: *Simon's Tax Intelligence 2007*, page 2491, *Taxation*, 8 November 2007, page 496 and [www.hmrc.gov.uk/ctsa/openness-early-dialogue-enquiries.htm](http://www.hmrc.gov.uk/ctsa/openness-early-dialogue-enquiries.htm)

## Paper substitute returns

It was announced some time ago that the government had accepted Lord Carter of Coles' recommendation that, to encourage online filing, computer generated substitute versions of the tax return should no longer be approved or accepted.

A note published by HMRC states that these changes will apply from April 2008 (2007/08 onwards) for:

- SA Individual returns – (SA100 series);
- SA Partnership returns – (SA800 series); and
- SA Trust returns – (SA900 series).

For the time being, HMRC will continue to accept approved substitutes for the remaining types of tax return (Trustees of Registered Pension Schemes - SA 970, and Non-resident companies liable to Income Tax - SA 700).

Reference: [www.hmrc.gov.uk/budget2007/substitute-returns.pdf](http://www.hmrc.gov.uk/budget2007/substitute-returns.pdf)

Agent Update 2  
November 2007

This issue covers a number of topics including deceased taxpayers and penalties; IHT200 worksheet amended; the new Money Laundering Regulations; the new PAYE regulations on filing online forms from April 2009; incorrect PAYE penalty notices issued; and changes for clients making intra-EC VAT supplies.

Reference: *Simon's Tax Intelligence 2007*, page 2557 and [www.hmrc.gov.uk/agents/update2/tax.htm](http://www.hmrc.gov.uk/agents/update2/tax.htm)

## Centre for non residents: Statement of Practice 02/07

The Statement of Practice on Advance Thin Capitalisation Agreements streamlines the process for companies wishing to obtain a forward agreement in respect of financing provisions to which Sch 28AA ICTA 1988 applies.

Reference: [www.hmrc.gov.uk/cnr/sop-atca-v2.pdf](http://www.hmrc.gov.uk/cnr/sop-atca-v2.pdf)

## DIRECT TAXES

**A clearances pilot from January 2008**

HMRC have announced that, from Budget 2008, they will provide business with a view of the tax consequences of significant commercial issues wherever there is uncertainty, regardless of when the legislation was enacted. They have also committed to responding to clearance applications within 28 days as the norm.

Reference: *Simon's Tax Intelligence 2007*, page 2791, *Taxation*, 13 December 2007, page 635 and [www.hmrc.gov.uk/largecompanies/clearance-pilot.html](http://www.hmrc.gov.uk/largecompanies/clearance-pilot.html)

**Corporation tax enquiry window**

HMRC has sent a letter to agents who act for corporate clients, advising them of the changes to the enquiry window for corporation tax self assessment.

Reference: *Simon's Tax Intelligence 2007*, page 2790, *Taxation*, 29 November 2007, page 581 and [www.hmrc.gov.uk/ctsa/change-period-mailshot.pdf](http://www.hmrc.gov.uk/ctsa/change-period-mailshot.pdf)

**HMRC guidance on which pension schemes need to file returns**

HMRC decided not to issue self assessment tax returns (form SA970) to all pension schemes from 6 April 2007, to reduce costs to both HMRC and the pensions industry. Previously, the return was issued to all self administered schemes but, with effect from 6 April 2007, it will only be issued if there has previously been any tax liability or a repayment has been claimed.

HMRC has now published guidance on which schemes will need to file, even if some schemes may not have received the form.

Reference: [www.hmrc.gov.uk/pensionschemes/newsletter25.htm](http://www.hmrc.gov.uk/pensionschemes/newsletter25.htm)

**Income shifting consultation**

Following the Arctic Systems case, the document 'Income shifting: a consultation on draft legislation' has been published.

Reference: *Simon's Tax Intelligence 2007*, page 2845, *Taxation*, 13 December 2007, page 633 and [www.hm-treasury.gov.uk/media/1/D/consult\\_income\\_shifting.pdf](http://www.hm-treasury.gov.uk/media/1/D/consult_income_shifting.pdf)

**A consultation on residence and domicile**

In the Pre-Budget Report the government announced a package of reforms affecting the residence and domicile personal tax rules. The government has now published a consultation document and draft legislation which contains further detail on these changes.

Reference: *Taxation*, 24 January 2008, page 58 and [www.hmrc.gov.uk/cnr/res-dom-tax-amends.htm](http://www.hmrc.gov.uk/cnr/res-dom-tax-amends.htm)

**More consultation on capital allowances**

HMRC have issued two more consultation documents. The first was a Technical Note containing detailed proposals and draft legislation for the new payable tax credit for enhanced capital allowances announced at Budget 2007.

Reference: [www.hm-treasury.gov.uk/media/6/0/payableenhanced171207.pdf](http://www.hm-treasury.gov.uk/media/6/0/payableenhanced171207.pdf)

The second included draft legislation on the capital allowances changes announced at Budget 2007.

Reference: [www.hmrc.gov.uk/legislation/pu451.pdf](http://www.hmrc.gov.uk/legislation/pu451.pdf)

**Changes to the advisory fuel rates from 1 January 2008**

The advisory fuel rates have been changed with effect for all journeys undertaken on or after 1 January 2008.

Engine size	Petrol	Diesel	LPG
1400cc or less	11p (10p)	11p (10p)	7p (6p)
1401cc – 2000cc	13p (13p)	11p (10p)	8p (8p)
Over 2000cc	19p (18p)	14p (13p)	11p (10p)

Reference: *Simon's Tax Intelligence 2007*, page 2839, *Taxation*, 6 December 2007, page 608 and [www.hmrc.gov.uk/cars/advisory\\_fuel\\_current.htm](http://www.hmrc.gov.uk/cars/advisory_fuel_current.htm)

**Interest rates – corporation tax**

New rates of interest, covering quarterly instalment payments and early payments of corporation tax not due by instalments, in respect of accounting periods ending on or after 1 July 1999, took effect from 17 December 2007.

The rate of interest charged on underpaid instalment payments of corporation tax changed to 6.75% (6.5%).

The rate of interest on overpaid instalment payments of corporation tax, and on corporation tax paid early (but not due by instalments), changed to 5.5% (5.25%).

Reference: [www.gnn.gov.uk/Content/Detail.asp?ReleaseID=338367&NewsAreaID=2](http://www.gnn.gov.uk/Content/Detail.asp?ReleaseID=338367&NewsAreaID=2)

**Interest rates  
News release 4 January 2008**

New rates of interest on direct and indirect taxes and national insurance contributions paid late and overpaid took effect from 6 January 2008.

Reference: *Simon's Tax Intelligence 2008*, page 91 and [www.gnn.gov.uk/content/detail.asp?ReleaseID=342649&NewsAreaID=2&NavigatedFromSearch=True](http://www.gnn.gov.uk/content/detail.asp?ReleaseID=342649&NewsAreaID=2&NavigatedFromSearch=True)

**IHT & Trusts Newsletter  
December 2007**

This issue contains articles on a variety of topics including the transferable nil rate band; applying for IHT references; when excepted estates are no longer excepted estates; IHT and the valuation of property owned jointly by spouses or civil partners; valuation of real and leasehold property; relief under s179 IHTA 1984 for losses on sales of shares; and reporting requirements for lifetime transfers and trusts.

Reference: [www.hmrc.gov.uk/cto/newsletter-dec07.htm](http://www.hmrc.gov.uk/cto/newsletter-dec07.htm)

## DIRECT TAXES

**SDLT Technical News 6  
January 2008**

This issue contains articles on a variety of topics including announcements made relating to SDLT in the Pre-Budget Report; consultation on the use of SPVs to avoid payment of SDLT and on extending the SDLT disclosure rules to residential property; advice on how 75A notional land transactions (either real or follow-ups), which have already been filed electronically, should be filled in; Code of Practice 10 requests for information and advice should always be sent to Birmingham Stamp Office; the surrender of a lease for little or no consideration; and the provisions for relief from forfeiture of a lease.

Reference: [www.hmrc.gov.uk/so/technewsletter6.htm](http://www.hmrc.gov.uk/so/technewsletter6.htm)

**Working Together 29  
January 2008**

This issue contains articles on a variety of topics including improving Contact Centre services for agents; 31 January 2008 filing date; recording deferment of Class 4 NICs on the return; VAT Registration - top tips for completing form VAT 1 Application Form; Corporation Tax - avoiding late-filing penalty determinations where an accounting period ends during a period of account; collection of student loans - important changes to start and stop notices; and Advisory Fuel Rates.

Reference: [www.hmrc.gov.uk/workingtogether/publications/wt-29.htm](http://www.hmrc.gov.uk/workingtogether/publications/wt-29.htm)

## VAT

**Revenue & Customs Briefs Indirect Taxes****Revenue & Customs Brief 66/07  
5 November 2007**

This brief sets out HMRC's policy on the VAT treatment of the construction, and the grant of a first major interest in, 'independent living' units within the curtilage or grounds of residential care homes.

Reference: [www.hmrc.gov.uk/briefs/vat/brief6607.htm](http://www.hmrc.gov.uk/briefs/vat/brief6607.htm)

**Revenue & Customs Brief 65/07  
5 November 2007**

This brief announces that HMRC have withdrawn from the appeal in **JP Morgan Fleming Claverhouse Trust plc**.

Reference: [www.hmrc.gov.uk/briefs/vat/brief6507.htm](http://www.hmrc.gov.uk/briefs/vat/brief6507.htm)

**Revenue & Customs Brief 68/07  
14 November 2007**

This Brief contains an article on VAT: Assets used partly for non-business purposes – implementation of 'Lennartz Accounting' regulations.

Reference: [www.hmrc.gov.uk/briefs/vat/brief6807.htm](http://www.hmrc.gov.uk/briefs/vat/brief6807.htm)

**Revenue & Customs Brief 69/07  
19 November 2007**

This brief contains an article on the decision of the tribunal in **InsuranceWide.com Services Ltd**.

Reference: [www.hmrc.gov.uk/briefs/vat/brief6907.htm](http://www.hmrc.gov.uk/briefs/vat/brief6907.htm)

**Revenue & Customs Brief 73/07  
13 December 2007**

This brief contains an article on the duty treatment of mixtures of ultra low sulphur diesel and sulphur-free diesel from 4 September 2007.

Reference: [www.hmrc.gov.uk/briefs/excise-duty/brief7307.htm](http://www.hmrc.gov.uk/briefs/excise-duty/brief7307.htm)

**Revenue & Customs Brief 74/07  
14 December 2007**

This Brief contains an article on VAT: reduced rate on residential renovations and alterations.

Reference: [www.hmrc.gov.uk/briefs/vat/brief7407.htm](http://www.hmrc.gov.uk/briefs/vat/brief7407.htm)

**Revenue & Customs Brief 75/07  
19 December 2007**

This Brief contains an article on VAT: the Intrastat thresholds will remain unchanged in 2008 from those set on 1 January 2007.

Reference: [www.hmrc.gov.uk/briefs/vat/brief7507.htm](http://www.hmrc.gov.uk/briefs/vat/brief7507.htm)

**Revenue & Customs Brief 01/08  
3 January 2008**

This Brief contains an article on VAT Partial Exemption - **Cheshire Racing** Tribunal.

Reference: [www.hmrc.gov.uk/briefs/vat/brief0108.htm](http://www.hmrc.gov.uk/briefs/vat/brief0108.htm)

**Revenue & Customs Brief 02/08  
10 January 2008**

This Brief contains an article on the Memorandum of Agreement on the use of agricultural vehicles on the road.

Reference: [www.hmrc.gov.uk/briefs/excise-duty/brief0208.htm](http://www.hmrc.gov.uk/briefs/excise-duty/brief0208.htm)

**VAT Info Sheet 14/07 - HMRC guidance: Assets used partly  
for non-business purposes**

This Information Sheet provides comprehensive guidance on the 'Lennartz Accounting' regulations, which came into force on 1 November 2007.

**VAT Info Sheet 15/07 - VAT: Supply of parts and equipment  
for qualifying ships and aircraft**

This Information Sheet explains the VAT treatment of the supply of parts and equipment in the course of construction of qualifying ships and aircraft.

**VAT Notes 4 2007**

Items in this edition include zero-rating of intra-Community trade; Do you earn commission as a sub-agent in the travel industry? Do you provide management services to investment trust companies? Are you the owner of a care home or similar building?

**VAT Information Sheet 01/08**

This information sheet contains currency exchange rates required by non-EU businesses registered for the special scheme in the UK for reporting periods ending December 2007.

### Neil Martin Ltd v R&C Comms – was compensation payable by HMRC?

Mr Martin (M) applied, on behalf of a construction company, for a CIS6 certificate on 16 June 1999. He did not receive a certificate until three months later. That delay could be attributed the following matters:

- (i) the refusal by H, the nominated CIS local tax office co-ordinator (between 16 June and 20 July 1999), to accept that the company's application could be made on the basis of M's accounts when he was a sole trader;
- (ii) the failure of both H and M to notice that the forms (the July forms) had not been signed;
- (iii) the decision by someone at the local tax office to complete, without authority, the July forms as an application for a CIS4 registration card rather than as an application for a CIS6 certificate, leading to delay between 29 July and 9 August 1999, the date on which further forms (the August forms) were signed;
- (iv) the insertion in the August forms of M's personal UTR, rather than that of the company, leading to delay between 11 August and 7 September 1999 while that error was identified and corrected; and
- (v) a period of some ten days between the issue of the CIS6 certificate on 10 September 1999 and its receipt by Mr Martin, some part of which might be attributable to the decision by the Revenue to post the certificate to the address of M's parents.

The claimant brought proceedings against the Revenue, in the course of which certain preliminary issues were ordered to be tried, including whether a breach by the Revenue of s561(2) ICTA 1988 would give rise to a cause of action for damages; whether the Revenue owed a common law duty of care to process the claimant's application for a certificate under s561(1) with reasonable expedition; and whether, if either duty were established in law, the Revenue was in breach of that duty in the circumstances alleged in the particulars of claim.

The judge found neither duty to have been established but held that, had he found that they had, the Revenue would have been in breach. The claimant appealed and the appeal was allowed in part. The need for the Revenue to exercise reasonable diligence and reasonable dispatch in carrying out its statutory functions existed under the general law. It was unnecessary to read words into s561(2) in order to provide a basis for enforcement of those duties or to protect an applicant's rights under the European Convention of Human Rights.

The duty imposed by s561(2), namely a duty to issue a tax certificate to an applicant in respect of whom the relevant conditions were satisfied did not, of itself, give rise to a common law duty owed to the applicant to process the application with reasonable expedition.

No common law duty of care for which the Revenue would be vicariously liable was owed to the claimant by H when he refused to accept an application which was not supported by the claimant's own accounts.

No common law duty of care for which the Revenue would be vicariously liable was owed to the claimant by either the unidentified employee who had inserted the incorrect UTR on the August CIS3 form or the unidentified employee who had posted the CIS6 certificate to the wrong address.

Those were plainly administrative mistakes made in the ordinary course of processing the application under s561(2). In the circumstances, the legislature did not intend to impose a statutory duty, enforceable by an individual in a private law suit, to process such applications within a reasonable time.

However, a common law duty of care was owed to the claimant by the unidentified employee who chose to complete the declaration in support of an application for a registration card on the July CIS3 form without the authority of Mr Martin or the claimant. That went beyond an administrative mistake made in the ordinary course of processing the application under s561(2). In completing the declaration in support of an application for a registration card, the employee had taken it upon themselves to make an application on behalf of the claimant, an application which the claimant had chosen not to make, and which it had not made. The employee had not been processing an application which had been made. They had assumed an authority to make an application which had not been made. There was no reason why, in assuming that authority, the employee should not be taken to have assumed a responsibility to the claimant.

*Reference: Simon's Tax Intelligence 2007, page 2459*

### Able (UK) Ltd v R&C Comms – was compensation income or capital?

The company was the owner of land used as a landfill tipping site. Following a compulsory purchase order, the company was paid compensation of £2,185,000 following its claim under s31(3) Land Compensation Act 1961. The company treated that sum as capital but HMRC disagreed. The General Commissioners determined that the answer to the correct characterisation of the compensation depended on two questions:

- what was the compensation paid for; and
- would the sum which the trader ought to have received have been credited as an income receipt of the trade.

They concluded that the interruption to the taxpayer's business as a whole, as it was unable to fully exploit the landfill market as it had intended, was a loss for which compensation had been paid and that the loss had been for loss of profits. The taxpayer appealed to the High Court.

The judge upheld the General Commissioners' decision, holding that there had been no permanent or complete sterilisation of the use of the land for landfill, still less the deprivation of one of the company's fixed assets, but only a temporary restriction of its trading opportunities. Permission for a second appeal was granted.

The company submitted that the temporary disruption to use of the landfill site had the consequence of a permanent exhaustion of the opportunity to use the site for general waste, thereby diminishing its value. The compensation was paid to make good the permanent loss of that particular opportunity, diminishing the capital value of the site, and not to replace the profits which would otherwise have been earned by using the site for general waste.

The Court of Appeal held that a formulaic approach had to be avoided. The archetype of compensation classified as a capital receipt was a lump sum paid for destruction of the profit-earning capability of a capital asset, thereby diminishing its value. Consideration received for the once and for all realisation of the capital value of an asset was capable of being a capital receipt, notwithstanding that the asset remained in existence and the property of the recipient.

That principle might be applied to cases where an asset had the capacity to provide a number of distinct sources of income and the capital value of the asset reflected each of those sources. If one particular source was exhausted or realised, then consideration or compensation paid therefore might constitute a capital receipt if the value of the asset, which had hitherto reflected all those sources of profit to be derived from that asset, was diminished.

## TAX CASES CONTINUED

In this case, the payment was made for the temporary loss of use of a capital asset. Compensation was paid to replace the loss of profit which would otherwise have been earned. It did not help the company to establish that, after the interruption to use of the site, it could no longer earn profits from the deposit of general waste on the site. That was not attributable to the exhaustion of any profit-earning capacity but rather to a change in the market. It was not possible to identify any source of income, derived from the landfill site, which was exhausted or realised.

The value of the land depended upon its capacity, as a landfill site, to produce profits from the deposit of waste and it was that capacity that was temporarily interrupted by the service of the compulsory purchase order but it was not in any way exhausted. There was no error of law in the General Commissioner's approach nor in their conclusion. The appeal was dismissed.

*Reference: Simon's Tax Intelligence 2007, page 2700*

## SPECIAL COMMISSIONERS

## SpC 639

In **Barrett v R&C Commrs**, the taxpayer appealed against an amendment to Mr Barrett's tax return for 1998/99, which included a bonus of £2,800,000 and interest received of £161,219 as taxable income for the year.

The main issue in this case was whether Mr Barrett was resident and/or ordinarily resident in the UK in the 1998/99 tax year. Mr Barrett was a director of CMOS, which provided management and promotional services to artistes in the music and entertainment industry both inside and outside the UK.

Mr Barrett's contract of employment with CMOS stated that 'with effect from 5th day of March 1986' he was to act as a manager to popular music groups in all parts of the world outside the UK. This was '... for a period of five years and thereafter unless determined by either party giving to the other not less than three months' notice in writing.' The contract of employment provided for a salary, which was to be payable in equal monthly instalments, and for a bonus.

Mr Barrett contended that he was not resident or ordinarily resident in the UK in 1998/99 and so was outside the charge to UK income tax. HMRC contended that Mr Barrett had not shown that he was out of the UK on 6 April 1998 and so could not be treated as non-resident for 1998/99. Even if he had been non-resident, he went abroad for an occasional or temporary purpose ie to avoid tax, not full time employment or business.

The Commissioner found that there was no distinct change in his pattern of life. In fact, nothing changed. His contract continued. He did not establish an 'HQ' or permanent home abroad. The position was the same as if he had been on a long holiday abroad. Due to withdrawals made from a cash machine at the top of his road and other facts, Mr Barrett did not leave the UK till 8 April 1998 at the earliest. Even though Mr Barrett may have been out of the country after this, he continued to pay the UK outgoings, home insurance, council tax, electricity, gas etc. He did not register with a doctor or dentist abroad. He left his car here and did not tell the DVLA he was going abroad nor did he change the postal collection. He did not set up a bank account elsewhere. His partner and the children remained in the family home and he visited them when in the UK. Mr Barrett returned to the UK to watch football matches.

There was no evidence that Mr Barrett was working full time when out of the UK. There was no evidence of a distinct break in the pattern of Mr Barrett's life. Consequently, the payment related to a period when Mr Barrett was resident and ordinarily resident in the UK and was taxable.

The appeal was dismissed.

*Reference: Simon's Tax Intelligence, page 2416*

## SpC 640

In **Crusader v R&C Commrs**, Mr Crusader, Mrs Crusader and Mr Y owned between them the entire issued share capital of G Ltd. This case concerned the sale of G Ltd to a company called S Ltd, which was in turn owned by C Ltd, in October 1999.

S703 and s137 clearances were sought, in August 1999, and obtained, in September 1999, for the sale of the shares in G Ltd for consideration consisting of shares in S Ltd, together with loan notes and cash. The consideration was expected to be £3.7m.

On 8 October 1999, Mr Crusader settled most of his shares on the Crusader 1 1999 IIP Trust, using holdover relief. He also gave some shares to Y, as Y had become aware that the price had been reduced from £3.7m to £3.5m. Mrs Crusader gave some shares to her husband but most were settled on the Crusader 1 1999 IIP Trust, using holdover relief.

On 13 October 1999 the G Ltd shareholders disposed of their shares in G Ltd to S Ltd in return for an issue of S Ltd shares (worth £1.585m), cash (£415,000) and loan notes (worth £1,500,000). The total value of the transaction was £3.5m. At about the same time, C Ltd made a payment of £200,000 to the Fellowship, a recognised charity and a church of which Mr Crusader was a member. C Ltd claimed Gift Aid relief on this payment and its claim was accepted by the Revenue after enquiry.

The taxpayer argued that the reduction in price from £3.7m to £3.5m was pure coincidence. The initial price was reduced to £3.5m because it was felt to be too high relative to the price being paid for another company. The explanation for the donation was that Mr Crusader and the purchaser had known each other for eight years and the purchaser was aware of Mr Crusader's church and wanted to help a good cause. There was no agreement that the donation was to be part of the consideration for Mr Crusader's shares. It was not enough that Mr Crusader might benefit. There was no connection between the consideration of £3.5m and the payment of £200,000.

HMRC argued that the donation should be treated as part of the consideration for the shares. The Special Commissioner concluded that:

'... on the facts ... I am simply not satisfied that the donation of £200,000, which bridged the gap between £3.7m and £3.5m was just "pure coincidence". It seems to me that at some stage C Ltd and the Appellant decided upon the donation as a commercial expedient to push through the deal. The donation was part of the overall commercial consideration. Y had to be compensated but the Appellant had the comfort that his church obtained a substantial benefit.

The appeal was dismissed.

*Reference: Simon's Tax Intelligence, page 2418*

## PUBLICATIONS

## Direct taxes

- New:** IHT500 Election for Inheritance Tax to apply to asset previously owned.
- Updates:** CA3837 Application for form E101 when a self-employed person goes to work in the EEA  
CA8421 Application for form E101 when an employee is employed in two or more countries of the EEA  
CA8454 Application for certificate E106 or E109  
COP 26 What happens if we have paid you too much tax credit?  
EF6 Winding-up - what the company must do  
EF6 (NI) Winding-up in Northern Ireland - what the company must do  
EF6 (SCOT) Winding-up in Scotland - what the company must do  
IR111 Bank and building society interest  
PLA1 Exemption from income tax on the capital element of a purchased life annuity

## VAT

- Updates:** 1 A Customs guide for travellers entering the UK  
75 Fuel for road vehicles  
85C Anti forestalling restrictions: Cigarettes  
192 Registered dealers in controlled oils  
221 Inward Processing Relief  
235 Outward Processing Relief  
237 Processing under Customs Control  
334 Free Zones  
340 Importing scientific instruments free of duty and VAT  
341 Importing donated medical equipment free of duty and VAT  
342 Importing miscellaneous documents and other related articles free of duty/VAT  
343 Importing capital goods free of duty and VAT  
362 Imported antiques

- 364 Importing decorations and awards free of duty and VAT  
365 Importing animals for scientific research free of duty and VAT  
366 Importing biological and chemical substances for research free of duty and VAT  
367 Importing commercial samples of negligible value free of duty and VAT  
700/1 Should I be registered for VAT?  
Supplement to Notices 700/1 and 700/11  
700/21 Keeping VAT records  
760 Customs Freight Simplified Procedures  
826 Tariff Preferences: Imports  
828 Tariff prefs - rules of origin for various countries including Albania  
C&E810 Application/Authorisation for Inward Processing Relief  
LFT1 A general guide to landfill tax

- ICAEW** TD294 Taxation on divorce and separation  
TD295 Tax on pre-owned assets

- General:** AD516 IFRS disclosure checklist  
AD517 Unlisted company UK GAAP disclosure checklist  
AD518 The Companies Act 2006 - Directors' duties  
  
AAD67 IFRS disclosure checklist  
AAD68 Unlisted company UK GAAP disclosure checklist

## INTERESTING ARTICLES

## Open access

Considers the forthcoming statutory requirement for predecessor auditors to provide their successors with access to their working papers.

*Reference: Accountancy, January 2008, page 122. There is a similar article in Audit & Beyond, December/January 2008, page 1*

## Companies Act implementation

Considers the next stage of the implementation of the Companies Act 2006 in respect of audit.

*Reference: Audit & Beyond, February 2008, page 5*

## What's my option?

A practical look at the option to tax rules.

*Reference: Taxation, 1 November 2007, page 476*

## What's the form?

A review of the **Neil Martin** case and the chances of suing HMRC.

*Reference: Taxation, 1 November 2007, page 480*

## Don't fear the reaper

A review of capital gains tax planning available on death.

*Reference: Taxation, 15 November 2007, page 528*

## Every second counts

Looks at the limits on HMRC's power to recover NICs.

*Reference: Taxation, 10 January 2008, page 14*

# IT News

*The latest IT news for the accountancy profession.*

**Remember - this is your IT newsletter.**

*Contributions, short cuts and ideas for future articles are always welcome.*

*Please contact Mike Rees by email at [mike.rees@mercia-group.co.uk](mailto:mike.rees@mercia-group.co.uk) or phone 0116 258 1200.*

## Company news

### Iris Group

Iris Group have acquired project management systems house PH-media. PH-media specialise in offering web-hosted software to professional services organisations using their project management software. The project management system will be integrated into the Iris Exchequer accounting software.

### Sun

In a \$1bn deal, Sun have purchased MySQL. The deal is subject to the normal regulatory approval procedures.

### New releases

Windows Server 2008, SQL Server 2008 and Visual Studio 2008.

## Microsoft Office Accounting 2008

Microsoft have released their Office Accounting software in the UK. It has been available in the US for the past two years and in the UK has been undergoing beta testing for the last 18 months.

Aimed at the small business sector, there are three versions of the accounts package and a payroll package:

- Office Accounting Express (which is free);
- Office Accounting Professional (£150 to upgrade from Express);
- Office Accounting Professional Plus (£250, including a one year subscription to the Payroll package); and

- Payroll for Office Accounting (£10/per month).

[www.msofficeaccounting.co.uk](http://www.msofficeaccounting.co.uk)

## Discounted software – for charities and certain professions

Are any of your charity/not for profit clients, or professional clients working for themselves, looking for cheaper software? Discounts of up to 70% off the RRP are available for certain products. Either a valid registered charity number, or a valid membership number of a professional body, is required.

[www.citnexus.co.uk](http://www.citnexus.co.uk)

## Software rental

Employing a temp, or someone on a short-term contract, who needs access to packages such as MS-Office but have run out of software licences? Consider renting the package instead. From about £15/month it is possible to rent the latest versions of many standard packages, such as MS-Office.

[www.expressware.co.uk](http://www.expressware.co.uk)

## Digital (TV) switchover

Hopefully you are aware that the whole of the UK TV network is being replaced by a digital system. The old analogue TV transmitters dotted around the UK are being switched off on a rolling programme.

This will not necessarily mean that all TV sets will require replacing but all TVs will either need to have a digital tuner or be connected to a digital box. Digital boxes were originally about £100 but are now readily available for £15 upwards (although the lower priced digital boxes tend not to include a scart cable). Some households (depending on location) may also require an upgraded aerial.

The digital channels available will be all those which are currently 'free to air', so all UK households will immediately gain some 10-20 additional channels. Sky customers will not be affected as they are already connected to a digital service.

The digital switchover started last autumn with the Whitehaven and Copeland district of Cumbria. The analogue transmitters to this area were switched off during October 2007 and replaced with some 18 digital channels.

Some regions only have one main transmitter and a number of dependent relays, whilst other regions have a number of different transmitters. The actual cut-off date for each house depends on when the local transmitter it uses is switched off. Detailed dates are currently available for regions starting their switchover between now and December 2010.

There are plenty of information sources, including [www.freeview.co.uk](http://www.freeview.co.uk), [www.digital-tv.vo.uk](http://www.digital-tv.vo.uk), [www.digital.co.uk](http://www.digital.co.uk) and [www.direct.gov.uk](http://www.direct.gov.uk)

TV Area	Switchover date
Border	2008-2009
West Country	2009
Granada	2009
Wales	2009-2010
West	2009-2010
STV North (Grampian)	2010-2011
STV Central	2010-2011
Central	2011
Yorkshire	2011
Anglia	2011
Meridian	2012
London	2012
Tyne Tees	2012
Ulster	2012

*This quarter, we have asked the Mercia IT team to brief us on some of the more common issues that come up on a regular basis.*

### Sarah Cooper looks at the mechanics of the Mercia website and how user profiles work.

#### Mercia website – user access

There are three categories of user:

- Member co-ordinator (add/remove users and view/book courses);
- Booking user (book/view courses); and
- View only user (view courses only).

The most 'powerful' user is the member co-ordinator, who has additional access rights which enable users to be added or deleted.

If a firm uses Mercia for training or services, the chances are that they will already have a website account set up. If you are not sure of your details, please contact us so that we can advise you of your username and password.

We often find that, rather than contacting us to obtain the details for their firm or contacting a member co-ordinator for their details, many people simply re-register. This raises a couple of issues:

- the problem of duplicated information; and
- loss of access rights. If a client is a full member firm and a member of staff re-registers rather than being set up as a new user of their existing account, then they will no longer be recognised as a full member and will not then have full access to the services that they are entitled to.

Please contact us if you believe this to be the case. Sarah Cooper will be pleased to answer any queries regarding website access, at sarah.cooper@mercias-group.co.uk

### This quarter's special from Mike Rees looks at a dozen or so of his favourite documented (and in some cases undocumented) shortcuts.

#### Excel

##### Double-Click to copy down

To copy a formula down quickly then point the mouse at the bottom right hand edge of the cell to be copied and when you see a black plus sign, double click. Excel stops when it encounters a blank row.

N.B. Excel needs data in an adjacent column (either in the column to the left or the right).

##### Before double clicking

NET	VAT
55.00	9.63
99.00	
562.50	
25.00	
500.00	

##### After double clicking

NET	VAT
55.00	9.63
99.00	0.00
562.50	98.44
25.00	0.00
500.00	87.50

##### Ctrl click and drag to stop incrementing a date

When copying a cell containing a date, Excel will increment automatically. To stop it doing this, use Ctrl Click and drag to copy and the date will not increment.

##### Right click drag when copying

This is a brilliant shortcut if you want to copy a column as values only, for example.

Highlight the cells to be copied, press right click and drag where you want the new column, and let go. Click the relevant option from the menu (as below).



#### Word

##### Shift and F5

Can't remember where you were when you last saved the document? Word can and does. On opening the document press Shift and F5 to take you to where you were.

#### PowerPoint

In the middle of a presentation it may be necessary to show a blank screen, for example whilst a point is discussed by the audience.

Press B (or full stop) to display a black screen. (Press B again to resume the show).

Press W (or comma) to display a white screen. (Press W again to resume the show).

#### Sage 50 Accounts

##### Right click

To display additional columns on the Bank Rec. screen right-click on the Date column heading in the unmatched items window and click either Type or Trans Number (or both).

##### Shift F1

To display context sensitive help, press Shift F1 in any Sage screen.

##### Shift F6

F6 copies the field above but Shift F6 also increments the value above. Very useful, for example, for incrementing a reference number in a posting screen.

##### F7 and F8

Respectively insert and delete a line. Use these either on any posting screen or, more usefully, when editing the Chart of Accounts layout.

#### Sage 50 Payroll

##### Click and drag column headings

The employee list columns can be configured the way you want simply by clicking and dragging the column headings across the top.

For example, the Last Updated column has been dragged over to the far left of the employee screen making it the first column in the example below.

Last Updated	Employee Reference	Works Number	Employee Surname	Employee Forenames
--------------	--------------------	--------------	------------------	--------------------

To put the column headings back to the default layout, then right click somewhere in the employee list window (not the column headings) and select Reset Column Widths.

