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Managing partner John McCuin examines the balance between regulation and responsibility.



Burdens on business

Our clients' usual reactions to new, or changed, regulations affecting business range from a resigned groan to a tirade about how red tape is strangling enterprise. We sympathise; there is no doubt that business regulation has increased, is increasing, and seems likely to increase still further.

But some changes to regulations can be for the better. We welcome the Government's decision to raise the audit threshold (see page 9). This means that many owner-managed businesses will be spared the expense of an annual audit of their accounts, unless they need it for a specific reason, for example their bankers or other third party loan creditors require it. Yes, it does mean that we as a firm may lose some audit business, but we take no satisfaction in providing a service which a client neither wants nor needs.

Not all rules and regulations are bad for business. On the back page of this issue of *Shipsape*, Paul Taylor explains how internal regulation and control are essential if a business is to grow and prosper. And we cover other areas of external regulation in this issue where a degree of regulation is obviously necessary to protect the interests of businesses, their staff, suppliers and customers.

Balance

The problem, of course, is in striking the right balance, both in the regulations themselves and in their interpretation.

I have no doubt that the new money laundering regulations described on page 8 will be an additional administrative burden for businesses such as our own, and will probably lead to all sorts of nonsenses in the early stages of their interpretation.

We have all heard the story (probably apocryphal) of the bank teller who refused to change a fifty pound note into tens for a long-standing customer who was well known to him, on suspicion that the customer might be laundering the money.

But the Proceeds of Crime Act, under which these regulations are made, has already proved successful in the fight against criminal activities such as drug trafficking, and so the sensible way forward is to find the right balance between excessive bureaucracy and the protection of society.

Responsibility

The business community has responsibilities to the society in which it operates, and the acceptance of proper responsibility can actually be good for business.

Butchers, bakers and candlestick makers probably moaned when an agreement to have a national standard of weights and measures was included in the Magna Carta, but no honest trader queries the value of such Trading Standards legislation today.

On page 9 we remind company directors of their responsibilities. It is in everyone's interests that directors are responsible for the proper financial management of their company.

I am not convinced, however, that it is reasonable for employers to be responsible for the roadworthiness of their employees' cars if they are used for business trips. Nor that they should be held responsible for an employee who uses a hand-held mobile phone while driving, which, in certain circumstances, they can. These are matters of personal responsibility, and should not be a burden on business.

“business regulation has increased, is increasing, and seems likely to increase still further.”

STARTING UP IN BUSINESS

Thousands of enthusiastic would-be entrepreneurs flocked to the weekend Business Start-up Exhibition at the new Excel Exhibition Centre in London's Docklands in November, and at times AGN Shipleys' stand was almost overwhelmed by those eager for practical advice.

"We had a relatively slow start," remembers Stuart Dey, Business Development Director, "because it was the morning of the Rugby World Cup, but after that it was all systems go!"

AGN Shipleys used the occasion of the exhibition, which is the biggest annual small business show in the country, to launch their new booklet 'Starting up in Business', and demand was so high that they had to send back to base for additional supplies on the second day.

Tax seminars

Highlights of the event for AGN Shipleys were the two seminars given by tax partners Mike Luckett and Sanchia Norris, 'Earning for yourself and not the Taxman'. All seats were quickly taken in the large auditorium for the Saturday seminar, so it was standing room only, and even then security staff had to turn people away; the Sunday seminar was almost equally well attended (and the AGN



Shipleys team noted with satisfaction that their seminars were much more popular than those given by the Inland Revenue!).

"Those seminars certainly brought the crowds to our stand," says Stuart Dey, "and we were almost swamped immediately after both of them.

"Most of the interest came from people who wanted to start up in business on their own account in quite a small way, and so we were able to give them straightforward and practical advice there and then, if only to stop them starting off on the wrong foot. Since then we've already helped a number of them with the first stages of their own businesses, and there are others who are still at the planning stage. The exhibition was a great success from our point of view; we all found it very stimulating and rewarding."

Sir John Harvey-Jones (right), Patron of Business Start-up, visited the AGN Shipleys stand and chatted to tax partner Mike Luckett.



If you would like a free copy of our new booklet, *Starting up in Business*, please contact Sue Robinson, telephone 020 7312 6534, e-mail robinsonsue@agnshipleys.com

Enterprise Capital Funds

The Chancellor's Pre-Budget Report in December announced another vehicle to encourage investment in start-up situations. Enterprise Capital Funds (ECFs) will supplement private money with 'soft' loans from the Government, with a maximum leverage ratio of 2:1. The interest rate on the Government loans will be close to that on gilts, with payment to be deferred until cash flow permits.

ECFs will invest in UK companies with growth potential, subject to a maximum investment of £2 million. There will be no tax reliefs comparable to those afforded investors in Venture Capital Trusts or EIS-qualifying companies. The idea is that the 'soft' Government finance will be enough to encourage private equity investment.

There is to be a 'pathfinder round' of ECFs in the Spring, from which the Government will deduce the most effective structure for future ECFs.

The original idea was that, once an ECF had sufficient cash flow, the Government loans and the interest on them would be repaid in priority to the repayment of any private investors' capital, then the private investors and the Government would both receive a share in the profits. But commentators were dissatisfied with this, and the Government now suggests that applicants for ECFs in the pathfinder round should specify in their bids the method of distributing the proceeds of successful investments. The one overriding principle is to be that the risk to public funds must not be greater than the level of risk to which the private investor's capital is exposed.

If you would like more specific advice on the implications of these proposals please consult your usual AGN Shipleys contact.

Pensions

At the same time as the Chancellor's Pre-Budget Report in December a fresh version of the Government's proposals for the simplification of the taxation of pensions from 6 April 2005 was published, and you will find a summary of this on the Hot Topics page of our website at www.agnshipleys.com

Of particular note are:

- The ungenerous alternative to buying an annuity at age 75;
- The potentially more generous option to be offered to those whose pension fund exceeds £1.4 million at 5 April 2005, or think it might exceed that limit even if contributions cease at that date;
- The much more precise detail of how a FURBS (funded unapproved retirement benefits scheme) will be treated under the new regime.

Transfer Pricing

A more detailed note on the extension of transfer pricing from April 2004 is on the Hot Topics page of our website at www.agnshipleys.com

Businesses within the definition of 'small and medium enterprises' (SMEs) will generally not be affected by the new provisions as drafted. The exceptions will be cases where the other party to a transaction involving a UK resident enterprise is resident in a 'non-qualifying' territory; ie generally one with which the UK does not have a double taxation treaty which includes a non-discrimination article. The Revenue will also reserve the power to intervene on certain other occasions in the case of medium enterprises.

The other point worth emphasising is that the definition of SME is a more generous one than applies for capital allowance purposes (see page 9). For transfer pricing purposes an SME must not employ more than 250 persons

full-time (or the equivalent if part-timers) and must either not have an annual turnover over €50 million (about £35 million), or not have gross assets over €43 million (about £30 million), or not do so over two consecutive accounting periods.

Where transfer pricing does apply and results in an adjustment to the consideration for the purposes of UK tax, there is to be provision for a compensating payment to be made without UK tax consequences for the recipient.

Child Trust Funds

The Government is to introduce Child Trust Funds from April 2005 for children born on or after 1 September 2002. A child living in the UK for whom Child Benefit is paid will automatically receive a Child Trust Fund (CTF) award in the form of a voucher for £250 sent to the Child Benefit claimant, usually the parent. This can be used to open a CTF account for the child.

Some children will receive an additional payment of another £250 if they are part of a lower income household receiving Child Tax Credit.

The Government will make a further payment to the children for their seventh birthdays. The amount of this will be decided nearer the time.

Family and friends can contribute between them a total of £1,200 a year to a child's CTF account. There will be no tax relief on these contributions, but the income produced will be tax exempt.

The funds in a child's CTF account cannot be taken out of the account until the child is 18, but there will be no restrictions on how the money can be used when it is withdrawn.

There will be different sorts of accounts available, including cash accounts, unit trusts, life products etc. Investment providers will also have to offer a 'stakeholder' CTF account where the money will be invested in equities.

Attacks on small companies?

A few words in the Pre-Budget Report suggest that either the Revenue will be given additional weapons to help in their current attack on husband and wife companies (invoking the 'settlements' legislation) or that the Chancellor may be having second thoughts about the generosity of the corporation tax rates given to small companies, especially the exemption from tax where profits are £10,000 or less. He said *"The Government will... bring forward specific proposals for action in Budget 2004 to ensure that the right amount of tax is paid by owner managers of small incorporated businesses on the profits extracted from their company."*

Home workers

Following a successful challenge by an Inland Revenue home worker against the threat of business rates on her home, the Revenue has agreed to change its guidance to ensure that people working from home, provided they are not running a full-scale business or employing people on the premises, will not be burdened with business rates.

The Land Tribunal concluded: "A home should only be re-rated if the accommodation loses its domestic character and where employees visit the premises."

Previously the Revenue had argued that those simply using a room as an office, equipped with a printer and fax for example, while still liable for council tax, should also pay business rates on the part of the home they were using for work.

Stamp duty and partnerships

Draft clauses have been published concerning the stamp duty land tax charge on the transfer of an interest in land into and out of a partnership (including an LLP) and the transfer of an interest in a partnership. Until the Finance Act 2004 receives Royal Assent, stamp duty continues to apply to such transfers.

Budget Day will be on Wednesday 17 March.

Strips loophole closed

The Government is to bring in legislation effective from 15 January 2004 to close a potential loophole whereby an artificial loss may be created on disposal of strips of government bonds.

Professional work in progress

FRS 5 (see page 9) could mean a significant extra tax liability for professional firms (including LLPs). There is a division of opinion over its application, and the debate has only just begun. We will be following this subject over the coming months. For more on this see the Hot Topics page of our website.

Domicile and Residence

Readers may recall that a discussion paper was issued on Budget Day in 2003, inviting comments on possible changes to the law on domicile and residence. It was expected that proposals would be published in the Autumn. But the Chancellor said nothing about this issue in his speech on the Pre-Budget Report in December.

The associated documentation said that *"the Government recognises that this is a complex and far-reaching issue and is determined to proceed on the basis of evidence and in keeping with its key principles. The Government is continuing to examine responses to the background paper published in April 2003 and welcomes further contributions. Once this process is complete it will move forward with a formal consultation paper on possible approaches to reform."* So the message remains: watch this space.

Please talk to your usual contact at AGN Shipleys if you would like further information about any of these changes.

Nancy Cruickshanks is one of AGN Shipleys' specialist VAT advisers.



VAT

EU Enlargement

From 1 May 2004, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, will join the EU, raising the total number of Member States to 25. VAT and/or excise registered traders will need to be aware of which countries have joined the EU, and should subsequently treat trade with these countries as they treat trade with existing Member States.

Outsourcing

There has been much press comment regarding outsourcing in the financial services industry, following an announcement from Customs & Excise that they would be tackling what they regard as an abusive planning scheme involving the VAT grouping regulations.

There have been no changes yet, but Customs & Excise have issued a Consultation Document 'Tackling VAT Group Abuses' (available on their website) inviting comments by 1 March.

Partial Exemption

The Pre-Budget Report announced changes to the partial exemption regulations, effective from 1 January 2004.

The new regulations apply only to those businesses that operate an agreed partial exemption special method. Special methods must continue in operation until a new method has been approved by Customs & Excise.

Customs & Excise believe that some businesses are deliberately delaying the negotiation of a new method, because their existing method is favourable. The new regulations overcome this problem by giving Customs & Excise the power to require businesses to

apply a different calculation until a new agreed special method is in place.

Bad Debt Relief

Customs & Excise have also been tinkering with the inner workings of the bad debt relief scheme, to counteract yet another planning device.

With effect from 11 December 2003 the rules have changed where the right to receive payment from a customer is assigned to a connected person. Bad debt relief will still be available if the customer does not pay, but payments to the connected person have to be taken into account.

Doctors' Services

VAT liability on the services of medical practitioners was examined in a recent European Court case. The main point to emerge was that for a doctor's services to qualify for exemption they must involve the protection, maintenance or restoration of the health of the patient, otherwise exemption does not apply. So, acting as an expert witness, for example, would not qualify for exemption.

Single or Multiple Supply?

The effects of the Card Protection Plan case continue to be felt. The latest business to enter the fray is Telewest, who supply cable TV services and a TV Listings magazine. They tried to argue that part of the consideration should relate to the magazine and be zero rated, but lost that argument in Tribunal.

So they rearranged their affairs so that the magazine would be supplied by a different company in the group, notified existing customers of the change, and changed the agreement that all new customers signed. But they have lost again, demonstrating how far-reaching CPP is proving to be.

New Team Member

We are pleased to welcome Mrs Shruti Shah to our VAT team in London. Shruti has joined as VAT Assistant and will be responsible for dealing with VAT Registration, Deregistration and other VAT compliance work. Her direct line is 020 7312 6579, or e-mail shahs@agnshipleys.com

You can contact Nancy Cruickshanks on 020 7312 6526, or e-mail cruickshanksn@agnshipleys.com

END OF YEAR TAX PLANNING

The tax planning information in this article is based on what we already know about tax rates for 2004/05 and on the Pre-Budget Report (see the Hot Topics page of our website at www.agnshipsleys.com). However, the Chancellor may make changes with immediate effect in his Budget statement on 17 March, making the timing of any action very difficult.

Capital gains tax

If tax rates and the rules for taper relief are unchanged, there are attractions in deferring until after 5 April 2004 the disposal of any asset showing a gain. Even without postponing paying the tax by 12 months, this may increase taper relief and reduce the effective capital gains tax rate. But note that there are circumstances where taper relief is actually reduced by delaying disposal, so expert advice is needed.

In past years it has generally been wise to realise capital losses sooner rather than later. But taper relief has made the timing of such losses much more critical.

Losses are set against gains before taper relief is calculated, and set off in the order most beneficial to the taxpayer. But if gains have already been realised in 2003/04 on business assets that attract taper relief at, say, 50%, and no gains realised on non-business assets, a loss realised in the current year would have to be set off against those business gains before the 50% taper is calculated, effectively tapering the loss.

Conversely, if the gain in 2003/04 to be sheltered is on a non-business asset (where taper relief would be a maximum of 20%), but a gain is anticipated in 2004/05 on a business asset (perhaps then attracting 75% taper relief), it is better to realise the loss in 2003/04. Assuming a top rate of 40% the tax saving on the loss is then at 32% instead of 10%.

But remember that losses unused in 2003/04 and carried forward to 2004/05 are then set against that year's gains before taper relief.

Realising sufficient capital gains to utilise the annual exemption (this year £7,900) remains good planning.

Deferral

Deferral of income and gains into 2004/05 will normally defer tax liability, but if such income and gains are then taxed at a higher rate, deferral would be unwise.

Pension contributions

The proposed introduction of the 'simplification' proposals from April 2005 makes a review of current pension arrangements especially desirable (see page 10 for Tor Consulting's offer of a free Review).

Subject to that, there may be merit in making pension contributions in 2003/04 (say on 1 April rather than 10 April), either to get tax relief at a higher rate than might be anticipated in the later year or simply to get the tax relief earlier.

Employees in occupational pension schemes should consider the merit of topping up their own contributions by 5 April to the maximum of 15% of earnings (capped at 15% of £99,000 generally).

Charitable Gift Aid

If a donor to charity makes a gift aid declaration the charity can reclaim the basic rate tax notionally deducted by the donor from monetary gifts, which enhances the gift by about 28%. If the donor pays tax at 40% his tax liability is cut by about 23% of the gift. Again, the timing of a gift to charity can be significant.

If quoted shares or interests in land are given to charity there is no capital gains tax on any gain which might otherwise have arisen. The donor is also entitled to income tax relief on the market value of the gift.

Tax-efficient investment

Those able to do so should consider using their 'ration' of tax-aided investment opportunities – ISAs, Venture Capital Trusts and Enterprise Investment Scheme investments. And companies should not overlook



Corporate Venture Relief; relief from tax on amounts subscribed by a company for up to 30% of the shares in a qualifying trading company. This has added attraction now gains on 'substantial shareholdings' (10% upwards) in trading companies are exempt.

Inheritance tax

Inheritance tax has scarcely been changed for some years, except for anti-avoidance action. The following are currently exempt from inheritance tax even if the donor does not live another seven years:

- Gifts out of income on a regular basis which leave the donor able to maintain his usual standard of living out of income;
- Gifts out of capital each tax year of up to £3,000 per donor (plus any amount unused from that 'allowance' in the previous tax year);
- Gifts in anticipation of marriage, from £1,000 to £5,000 depending on the closeness of the relationship;
- Gifts between husband and wife without limit (unless the donor is domiciled in the UK and the recipient is not, in which case the cumulative maximum amount exempted is £55,000);
- Gifts to charity of any amount; and
- Outright gifts (the others mentioned can be either outright or into trust) of up to £250 each to any number of donees in each tax year.

If you would like help with your tax planning please talk to your usual contact at AGN Shipsleys.

Recruitment Matters

AGN Shipleys has established a joint venture with Kite Financial Ltd to provide a specialist financial recruitment service for clients.

Kite Financial, based in Guildford, are experienced in the search and selection of financial executives, from middle management to finance directors and chief executives, and non-executive directors who are both independent and suitably skilled.

Howard Foster, a Director of Kite Financial, explains the company's approach:

"All too often, recruitment is unplanned, rather than part of a client's strategy for success.

"Unplanned recruitment, or quick reaction to an unexpected vacancy, can lead to costly mistakes, and the cost is not just financial. There will be effects on morale and productivity, and the distraction of management time if you have to go through the recruitment process again.

"At Kite Financial, we aim to find people with the skills and abilities which the client needs for future

success as well as for now. We spend time with our clients to ensure that we have a thorough understanding of the organisation and its needs."

Kite Financial offers both recruitment and consultancy services. Recruitment services include:

■ **Retained Advertising Search:** advertising is an effective method of targeting senior individuals. Prospective candidates are interviewed to produce a short-list for the client. The processes of second and final interviews are managed through to offer and acceptance.

■ **Non-Executive Director Search:** to identify suitable independent board members. Working with partner company Totally Independent Directors Ltd, and using their extensive



*Howard Foster
Director of
Kite Financial.*

This proposal would hit IHT avoidance schemes made before the Finance Act 2003 tightened the rules, as well as the currently popular 'twin-trust' ideas.

But the measure as currently proposed goes much further. There is no reference to any time limit on when the asset was 'pre-owned'. It fails to reflect the fact that 'gifts with reservation' rules did not apply before the introduction of inheritance tax in 1986. As worded, it would apply even if the asset had been sold to a connected person for the full market price.

Retrospective legislation can never be acceptable. AGN Shipleys has already made its views on this proposal known to the Government, and we shall continue to oppose its introduction by any means available.

If you would like more details see the Hot Topics page of our website at www.agnshipleys.com



database, Kite Financial conducts a discreet search to identify individuals with the requisite skills and experience to fit the client's profile and specific requirements.

■ **Database Search:** a fast and efficient service more suitable for lower to middle management positions, using the Kite Financial database to find individuals with appropriate skills and experience.

Kite Financial's consultancy services include:

■ **Best Practice Frameworks:** as recruitment can be costly, and getting it wrong even more costly, Kite Financial can develop a framework for consistency and best practice in recruitment and selection for all grades of staff, which is right for your business.

■ **Employee Manuals:** production of an employee manual detailing the latest company information, its policies and procedures, all tailored to fit your needs and meeting legal requirements.

■ **Salary Level and Structure:** are you paying your staff enough or too much? A detailed report on salary and benefits scales for your finance staff, in comparison to market rates for companies of a similar size, can be an invaluable investment.

Howard Foster, who founded Kite Financial, is an accountant by training but has specialised in financial recruitment for almost twenty years. He explains, "My experience includes joining a small recruitment company, growing the business, and conducting a successful management buy-out. So I have also gained experience of all the problems faced by small and growing businesses along the way!"

You can ask your usual AGN Shipleys contact for an introduction to Kite Financial, or contact Howard Foster direct on 01483 537922, e-mail hfooster@kitefinancial.com, or visit the website at www.kitefinancial.com

Unreasonable Proposal

The background papers to the Pre-Budget Report included an unreasonable proposal designed to defeat certain types of inheritance tax (IHT) avoidance schemes by raising an *income tax* charge on the benefit of continued use of a 'pre-owned' asset.

The intention is that from 6 April 2005 the 'pre-owner' would be liable to income tax on the 'benefit' of using an asset which had been given away. This could be 'market rent' for a house, or 5% of the market value of other assets such as works of art.

The Government says that arrangements like this are often made to avoid the IHT gifts with reservation rules, which are intended to stop people giving their assets away (so that for IHT purposes they are out of their estate when they die) while continuing to enjoy the benefits of owning them during their lifetimes.

Data Protection

The 1998 Data Protection Act lays down rules for processing personal and sensitive personal data. This is information, facts, or opinions, held electronically or on paper, that relate to a living individual. The Act gives increased rights to individuals. Under the Act the term 'processing' has a very wide definition and incorporates the concepts of obtaining, recording, holding, using, selling, erasing, and destroying personal data. This means that almost everything that an organisation does with personal information is subject to the Act and its rules.

The Act contains seven fundamental principles:

1. Information must be processed fairly and lawfully.
2. Information may only be obtained and used for specific and lawful purposes.
3. Information obtained must be adequate, relevant and not excessive.
4. Information must be accurate and, where necessary, kept up to date.
5. Information must be kept for no longer than necessary.
6. Information must be processed in accordance with the individual's rights.
7. Information must be kept secure.

Organisations that are considered to be data controllers must register with the Data Protection Office and renew their registration annually – failure to do so is a criminal offence. If an organisation is found to have breached the Act, the Information Commissioner can take enforcement action which can lead to court proceedings and the criminal prosecution of the organisation or even individual employees. If substantial damage or distress has been caused to an individual, that individual can claim compensation from the organisation through the court system.

A key purpose of the Act is to protect people's personal information. If you hold personal or sensitive personal data you are required to take



*Paul
Druckman*

appropriate steps and install adequate safeguards to protect that information from theft, loss, disclosure or damage. Not only is this relevant to electronic information, and therefore information technology security, it also applies to paper records. Most notable amongst these rights is the absolute right to prevent processing of personal data for direct marketing purposes and that of subject access.

Compliance

To comply with the Act you should:

- 1 Identify all occurrences of personal data including:
 - structured manual systems
 - sensitive personal data.
- 2 Ensure that consent to process has been obtained from all data subjects, including staff:
 - explicit consent is needed for sensitive data
 - devise notices for obtaining consent.
- 3 Devise and implement a Data Protection Policy, including:
 - identifying the Data Protection Coordinator
 - policy on monitoring actions
 - policy on disclosure
 - policy on retention of data.
- 4 Assess level of security and compare to ISO 17799.
- 5 Identify who is:
 - Data controller
 - Data processor
 - Consider any third party processing.
- 6 Devise a procedure to cater for individuals to access their data.
- 7 Consider any implications arising from marketing.
- 8 Set up awareness training and monitoring.

If you would like help with your data protection policy and procedures you can contact Paul Druckman at Orange Consulting Limited, telephone 020 7312 6514, e-mail orangeconsulting@agnshipleys.com

The Proceeds of Crime

New Money Laundering regulations, made under the Proceeds of Crime Act, will come into force on 1 March.

Because you are not a terrorist, or a drug trafficker, you may think that this has nothing to do with you. But it may affect all AGN Shipleys' clients, particularly if the nature of their business involves individual transactions of high value.

The main purpose of the Proceeds of Crime Act, and the many regulations that come with it, is to prevent criminals enjoying any profit from their crimes by taking the profit away from them. 'Criminals' include terrorists and gangsters, as you would expect, but also tax evaders and those who profit from what is euphemistically called 'the black economy'. The proceeds of crime include cash and any other form of property dishonestly obtained, including costs saved.

The New Regulations

The new regulations require accountants, tax advisers, lawyers, management consultants, estate agents and others to report any suspicions that their clients have been profiting from crime, however small the amount involved, to the National Criminal Intelligence Service (NCIS). Failure to do so could lead to a five year jail sentence, or up to fourteen years if the professional has assisted or supported the client in any way, eg by turning a blind eye to what might be going on.

The result is that the professionals concerned are having to tighten their own internal controls and procedures, for instance by appointing a Money Laundering Reporting Officer, in much the same way that banks and other regulated financial services have been doing for the past few years.

AGN Shipleys is no exception, and Managing Partner John McCuin explains, "We hope that our usual professional and ethical standards will be sufficient to meet the new regulations with very little adjustment, but we are having to examine everything to make sure. Obviously we don't wish to inconvenience clients

by insisting that they bring their latest gas bills to every meeting, but we shall have to be vigilant about client acceptance and identification procedures.

“The most important change is going to be our obligation to report any suspicions we may have, or any wrongdoing that we come across, however small the amount of money concerned. It is very important that our clients understand this.”

High Value Dealers

Businesses such as auctioneers or car dealers that deal in goods and accept in cash the equivalent of €15,000 (approximately £10,000) or more for any single transaction will have to register with Customs & Excise by

1 April 2004 and put anti money laundering systems in place, including enquiring into the source of funds. A registration pack, which includes all relevant documentation and an explanatory video, can be obtained from Customs' National Advice Service, telephone 0845 010 9000.

Where it is practicable, the alternative is to refuse to accept such large payments in cash and insist on payment by credit card, cheque or bankers' draft.

Results so far

The Government has announced that more than £48 billion of 'criminal assets' were recovered in the financial year 2002/03 under the terms of this Act.

AUDIT & ACCOUNTING NEWS

New audit threshold

The level of annual turnover which determines whether a company is legally obliged to have its accounts audited has been raised from £1 million to £5.6 million (in line with the new definition of SMEs - see below). This will affect financial years ending on or after 30 March 2004, but will not alter the provision of the Companies Act which gives shareholders who hold at least 10% of a company's shares the right to require an audit.

The Government estimates that an additional 69,000 companies will now qualify for audit exemption.

SMEs: new definitions

The definition of what constitutes a small and medium sized company (SME) has been changed, to the maximum limits allowed by EU law.

The new definition of a small company is to satisfy two of the following: turnover not more than £5.6 million; balance sheet total not more than £2.8 million; no more than 50 employees.

The new definition of a medium sized company is to satisfy two of the following: turnover not more than £22.8 million; balance sheet total not more than £11.4 million; no more than 250 employees.

These definitions, which take effect in relation to financial years ending on or after 30 January 2004, are significant because they determine eligibility for capital allowances. But note that these new definitions do not apply to transfer pricing legislation (see page 4).

FRS 5

The amendment to the Financial Reporting Standard (FRS) 5, 'Reporting the substance of transactions', published in November 2003, is causing some controversy.

At issue is the correct accounting treatment for work in progress, and what should be included in this. Professional practices, such as solicitors, accountants and chartered surveyors, are likely to be particularly affected.

The amended FRS applies to accounting periods ending on or after 23 December 2003, and to all accounts prepared in accordance with generally accepted accounting practice, and may ultimately impact on the tax liabilities of some professional practices.

This subject will be covered in more detail in the next issue of *Shipshape*. In the meantime, see the Hot Topics page of our website.

Directors' Responsibilities

Company directors, executive and non-executive, have responsibilities to the company's shareholders, employees, suppliers and customers, and to government agencies.

If they fail in these responsibilities they can be criminally prosecuted, personally sued and disqualified from acting as a director for up to fifteen years.

As a director you could be disqualified for:

- failing to keep proper accounting records
- failing to prepare and file accounts
- failing to prepare tax returns and pay tax that is due
- allowing the company to trade when it is insolvent.

These are not just the responsibility of the finance director.

Directors also have responsibilities in respect of employment law, health and safety at work, ensuring compliance with data protection legislation, and many other areas in which the regulations are changed (ie expanded) quite regularly.

Insurance

Directors' and Officers' insurance, which indemnifies the individuals concerned against the financial consequences of some (but not all) litigation, is not compulsory, and it is quite expensive, but it is worth considering if you do not have it.

The company can arrange insurance to cover all the directors and nominated officers such as the company secretary, or an individual can arrange personal cover. You should consult a specialist broker.

Most important

Your most important responsibility as a director is to understand the extent of your responsibilities, and your usual contact at AGN Shipleys will be pleased to discuss these with you.

Asset Planning? Use a Trust

Free Review

The Financial Services Authority (FSA) is concerned that too many pension investors are paying too high charges and failing to receive value for money. The result, of course, is a lower pension in retirement.

The FSA says that “..there are about two million people in the government’s target group for Stakeholder pensions who already have a personal pension and who might, therefore, consider whether to switch to a Stakeholder.”

A Stakeholder pension plan’s main attractions are its low charges and flexibility, in contrast to the majority of more expensive pension plans (personal or company) taken out before 1999 when contract charges became a regulatory issue.

In practice this means that many people with a personal pension could be better off at retirement by switching to a Stakeholder.

We are pleased to offer a free review of your existing pension arrangements to see whether a switch to Stakeholder is likely to be beneficial. The process is straightforward and painless, so if you would like a review please contact us.

This is particularly important if any of your pensions have ‘With Profits’ investments. Although press forecasts of the death of these funds may be premature, many of them are invested in a way that suggests future growth will be hard to come by. The Equitable Life debacle indicates that a prompt review is advisable to avoid the possibility of being the ‘last one out’.

Contact Julian Hawkes or Chris Holmes at Tor Consulting on 020 7306 0026, e-mail info@tor.uk.com

Tor Consulting Limited, a joint venture with AGN Shipleys, is an Independent Financial Adviser authorised and regulated by the Financial Services Authority.

Despite the reform of the taxation of Trusts that was announced in December 2003, probably to be effective from April 2005 (see the Hot Topics page at www.agnshipleys.com), Trusts will remain of value to plan and manage the retention or distribution of assets.

The Trust team at AGN Shipleys specialises in this area of law, taxation and accountancy, and helps clients maximise their tax savings and plan and safeguard their own and their families’ financial futures.

Each set of circumstances is different, but Trusts can often play a part in effective planning, and anyone planning for the future should consult one of our experts who will advise whether a Trust would be appropriate or useful.

Most of us, when we set out to plan for the future, run into the complications of the imponderables, the ‘what ifs?’. This is where Trusts can help.

Protecting the family home

Take a typical family, parents and two children, with the family home as their major asset. They would like to live happily ever after, but know that this may not happen. The first step is a well drafted Will, but what about the ‘what ifs?’

What if one parent dies young? What if the surviving parent remarries, perhaps to someone with children of their own, or moves to a smaller house and squanders the capital released from the sale of the family home?

What if the inheritance tax nil rate band (currently £255,000) is given to the children on the death of the first parent, but the surviving parent eventually needs to go into a nursing home and the remaining assets are not sufficient, so depriving the parent of proper care in old age?

Simple planning, using Trusts introduced either during lifetime or in



*Partner
Jane Henman
is head of
AGN Shipleys’
Trust team.*

the Wills, allows both parents to plan for these and other eventualities.

Protecting business and property

The same sort of ‘what if?’ scenario applies to protecting a family business or property portfolio; how does the present owner and manager plan effectively to make sure that the interests of the whole family are safeguarded, in ever changing circumstances.

There are so many combinations of factors, some known at the time and others which could occur after the death of the person trying to plan. The introduction of a Trust ensures that your wishes will be carried out after your death, no matter what the family circumstances are at that time.

Setting up a Trust

A Trust exists when a ‘settlor’ places assets in the hands of a ‘trustee’. Normally a ‘Deed’ is drawn up, setting out the wishes of the settlor and listing the beneficiaries or the classes of beneficiaries. This defines the type of Trust and will allow for the succession of trustees, so that a Trust may exist and be administered over many generations, benefiting successive classes of beneficiaries, children, grandchildren, etc.

There are many different types of Trust to suit particular circumstances and the AGN Shipleys specialist team will be happy to help, answer questions or advise if you think that a Trust could be useful to you.

Please speak to your usual AGN Shipleys contact or call Jane Henman, Stewart Holmes or Tony Mitchell at our London office, telephone 020 7312 0000.

CLIENT NEWS



Musical Centenary

In January AGN Shipleys organised a reception to mark the centenary of the birth of composer Richard Addinsell.

Although he is now probably best remembered as the composer of the Warsaw Concerto, Richard Addinsell's career was long and varied, and much of his music is still heard regularly today.

He began by composing music for revues and the plays of Clemence Dane in the 1920s and 1930s, and then established himself as a very successful composer of film music, including the scores for *The Prince and the Showgirl* starring Laurence Olivier and Marilyn Monroe and *Goodbye Mr Chips* starring Robert Donat.

Richard Addinsell (right) with director David Lean on the set of 'The Passionate Friends' (1949).

He also had a long term collaboration with Joyce Grenfell, and composed the music for most of her songs.

When he died in 1977, Richard Addinsell's Will established a Trust, administered by AGN Shipleys, to receive the royalty income from his compositions.

Carol Stevens of AGN Shipleys, who is one of the trustees, explains: "The Trust was set up to provide an income for life to six of Richard Addinsell's friends, with the capital and income then reverting to his chosen musical charities: The Royal College of Music, The Musicians' Benevolent Fund and The National Youth Orchestra of Great Britain. It continues to be a very tax-efficient legacy, and we enjoy perpetuating his memory and promoting his work to keep the royalty stream flowing!"



The other trustees are Michael Lister, a retired senior partner of AGN Shipleys and Robert Dolman, senior partner of solicitors Wedlake Bell. The musical executor is the composer and record producer Philip Lane.

If you would like to know more about establishing a Will Trust please contact a member of our Trusts Department, whose contact details are shown on the facing page.

Champion Timber

When Champion Timber opens its eighth branch, in Chessington, in April it will reinforce the company's position as the premier timber merchants in south east England and one of the most profitable timber merchants in the UK.

Founded in 1929, Champion Timber is a third generation family company,

which has built its success on the quality and range of its products and the expert service provided by almost 200 highly-trained staff, many of whom have passed the examinations of the Builders' Merchants Federation.

76% of the company's business is trade-oriented, and these knowledgeable customers have complete confidence in its products.

The company sources its softwood timber from the Nordic countries

which, over the decades, have actually planted more trees than they have cut down. Only top grade timber is specified, and when it arrives in the UK it goes to Champion's distribution plant at Edenbridge to be re-graded for the three different brands of timber that the company supplies.

Branding of timber products is unusual, but Champion believe that it is an important part of its service. Customers can be confident that each brand will be of appropriate quality for its intended use, whether that is a supporting joist or a door frame.

AGN Shipleys provides audit, accounting and taxation services to Champion Timber. "This is a splendid example of a really well-run family company," says Managing Partner John McCuin, "where we are able to advise on long-term planning in the interests of the family and staff."

To find out more about Champion Timber contact Kevin Babbage, Marketing Director, telephone 020 8949 1621, or visit their website at www.championtimber.com



At Champion Timber's distribution plant at Edenbridge, timber is re-graded for the three different brands that the company supplies.

IT'S YOUR BUSINESS

AGN Shipleys Partner Paul Taylor puts business issues under the spotlight.



Keeping Internal Control

Can internal controls and regulations help to grow your business? According to Michael Gerber, author of 'The E-Myth' (Why most small businesses don't work and what to do about it) the answer is a definite 'Yes!' Management systems are the key to creating a business that works without the owner having to be there, allowing him to work 'on' the business and not 'in' it.

There are many benefits of having good quality internal controls and procedures, including:

- Insurance premiums are reduced as you control risk
- Staff recruitment and retention are easier, as employees have a structure and sense of belonging
- The right people end up doing the right work, as staff are empowered to develop
- Obtaining Investors in People and ISO 9001 accreditation becomes more straightforward
- Increased value when you come to dispose of the business, as you can be replaced with minimal disruption.

Once your company has moved on from the spare bedroom at home to occupying office premises and recruiting staff, the business will struggle to grow without internal controls in place. You need to implement controls that are firm enough to protect the company without strangling the business and creating a 'jobsworth' mentality among the staff.

Implementing internal controls requires an analytical and logical

approach. These are some of the situations that I have encountered:

- Capital expenditure over £500 had to be approved by the Managing Director. Staff avoided this control by renting capital goods over a three-year period, rather than seeking authorisation to buy the asset, costing the company twice as much in cash expenditure as a consequence.
- One department seemed to be spending significantly more on entertaining staff than the other departments combined. Further investigation revealed that the department head was taking his team out to lunch every week and getting a junior member of staff to claim the expense, which he approved. Controls were changed so that the most senior person in attendance had to claim the expenses and, as a consequence, staff entertaining costs for this department came back into line.
- The Sales Director of a financial services company realised that over 60% of his work could be passed down to other members of his team, leaving him to work 'on' the sales strategy for the company. The increase in profitable business more than paid for the implementation of a system of internal control.

Once an internal control system has been established, it must evolve as the business grows to reflect changes in the trading environment. One of the cornerstones of good businesses is the implementation of controls that allow the owner manager to work 'on' the business and not 'in' it.

To contact Paul Taylor please telephone 01483 423607 or e-mail taylorp@agnshipleys.com

BUDGET 2004

Budget Day this year will be on Wednesday 17 March. Our Budget Summary will be on our website at www.agnshipleys.com overnight and will be available as a printed document on Thursday 18 March. If you are not on our usual mailing list and would like to receive a printed copy please telephone Sue Robinson on 020 7312 6534 or e-mail robinsonsue@agnshipleys.com

We shall also be holding Budget Briefings in London, Godalming and Saffron Walden, to examine the practical implications of the Chancellor's proposals. If you do not usually receive an invitation to one of these and would like to attend, please notify the appropriate person as shown below:

London: Breakfast Briefing, 18 March, at our offices in Orange Street, WC2. Contact Sue Robinson, telephone 020 7312 6534, e-mail robinsonsue@agnshipleys.com

Godalming: Lunchtime Briefing, 18 March, at Burhill Golf Club. Contact Jane Whalley, telephone 01483 423607, e-mail whalleyj@agnshipleys.com

Saffron Walden: Lunchtime Briefing, 18 March, at Saffron Walden Golf Club. Contact Doreen Harvey, telephone 01799 521301, e-mail harveyd@agnshipleys.com

Employers' Check List

Our 2004 tax year-end check list for employers will be available in March. This shows the key deadlines, from April onwards, for all PAYE, NIC and benefits returns relating to employees. It includes details of help lines for information, forms and advice, and also explains how to get money back from the taxman by filing your returns electronically.

If you are not on our regular mailing list and would like to receive a copy, please telephone Sue Robinson on 020 7312 6534, or e-mail robinsonsue@agnshipleys.com

Detailed advice should be obtained before taking action, or refraining from taking action, as a result of information in this newsletter.

This firm (AGN Shipleys) is not authorised by the Financial Services Authority but we are able in certain circumstances to offer a limited range of investment services because we are licensed by the Institute of Chartered Accountants in England and Wales. We can provide these investment services if they are an incidental part of the professional services we have been engaged to provide.

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