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# **Action Tax Consulting limited**

**End of year**

**and**

**Budget review April 2010**

**For further information please call**

**02392 001 251**

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**[www.actiontax.co.uk](http://www.actiontax.co.uk)**

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## **Today**

- VAT update John Crawford (The VAT Consultancy)
- CT update Azad Majid (Action Tax)
- Remuneration planning Geoff Bond (RM2)
- **10:45 'ish Coffee!**
- Legal update Izaz Ali and Ben Evans (Lawdit)
- Employer taxes update Paul Coombes (Action Tax)
- Q & A

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# THE VAT CONSULTANCY

## Tax Mitigation and Risk Profiling

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**The VAT Consultancy**  
Independent Professional Advice

# AGENDA

1. Tax Compliance.
2. Risk Management.
3. Penalties.
4. VAT Refunds.



# TAX COMPLIANCE

1. Right tax at right time.
2. Don't rely on HMRC 'Hotline'.
3. Get it in writing.
4. Seek Professional advice.



# RISK MANAGEMENT

1. HMRC large business risk review.
2. BRR document.
3. Governance – Openness and co-operation.
4. Tax strategy – use of tax planning.
5. Delivery – right tax at right time.



# PENALTIES

1. Failure to notify penalty.
2. Inaccuracy penalty.
3. Compliance checks.
4. Voluntary disclosures.
5. Time limits for assessments.



# VAT REFUNDS

1. EU VAT refunds.
2. Are you claiming all you can?
3. Travel and subsistence.
4. Share issues.



# AND FINALLY

We supply our clients with regular newsletters, updates, etc., free of charge.

If you would like to receive such information, please leave your business card, or:

Telephone +44(0)1962 735350

Fax +44(0)1962 735352

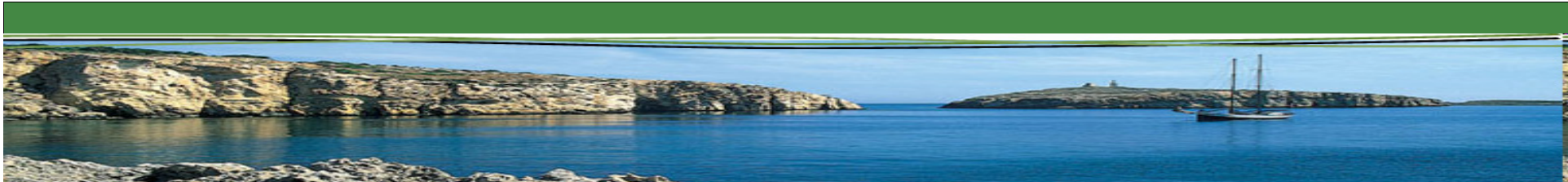
Email [vat@thevatconsultancy.com](mailto:vat@thevatconsultancy.com)

with your details and we will be pleased to add your name to our database.



**The VAT Consultancy**

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# Corporate and Business Tax Update

Azad Majid

**ACTION TAX CONSULTING LTD**



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# Tax Update

- **Corporation tax rates**
- **Loss carry back claim**
- **Amendments to foreign profits regime**
- **Tax on overseas dividends**
- **Worldwide Debt Cap**
- **Relief for patents and video games industry**

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# Tax Update

- **Annual investment allowances extended to £100,000**
- **Loans by close companies**
- **Entrepreneurs relief extended to £2m**
- **Senior Accounting Officers rules now in force**
- **Tax Tips**

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## **Corporation Tax Rates and Loss Relief**

Large company rate maintained at 28% for profits in excess of £1.5m

- Phased increase of small companies rate from 21% to 22% delayed for another year
- 3 year loss carry back claim
  - Accounting periods ending 24 November 2008 to 23 November 2010
- Restricted to £50,000 against most recent years first

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# Foreign Profits Regime

- **Following extensive consultation**
- **Exempts most UK and foreign distributions from UK tax from 1 July 2009**
- **New legislation will be introduced**
  - NOT prevent distributions from being exempt because capital in nature
- **Profits on foreign branches NOT included**
  - currently going through consultation

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# Tax on overseas dividends

**Sometimes called Verkooijen Claims, EU Dividend or FII GLO claims**

**Groups have filed claims to exempt dividends received from overseas companies from corporation tax**

## **Claims in different ways:**

- claim double tax relief, then amend return to claim dividend not taxable under EU law
- DTR claimed, then withdrawn when EU law claim made
- returns without DTR claim as dividends not taxable or claim later

**If ECJ rules UK rules lawful, need to make DTR claims**

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## Tax on overseas dividends (cont'd)

- Normal time limit for DTR claim is 6 years from end of AP dividend received
- Changed to 4 years from 1 April 2010
- **ACTION**: Review dividend exemption claims submitted
- Where relevant, for AP ended not more than 4 years make protective claim for DTR

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# Worldwide Debt Cap

- **Effective for APs beginning after 1 January 2010**
- **Restricts tax deductions for finance expenses for large groups**
  - defined as NOT micro, small or medium sized enterprises !!!
- **UK companies effected**
- **Examines the worldwide group**
- **Intra group finance v net external finance**
- **‘Gateway test’**
  - does UK net debt exceed 75% of worldwide gross debt
- **New legislation proposed to clarify definitions**

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## Patent Box and Video Games Industry

- **Encourage innovation in the UK**
- **Patents need not be held in same country as R&D undertaken**
- **Might encourage UK holding of patents**
  - may keep mobile income in the UK
  - competition from tax havens + other countries
- **Corporation tax rate on income from patents reduced to 10% from 2013**
  - relevant to patents granted after legislation passed in 2011
- **Measuring income from patents difficult**
  - straightforward where licensed at arm's length
  - what happens if incorporated in price of products?
  - also major transfer pricing problem

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## Annual Investment Allowances

- **Allowances are available for most expenditure on plant and machinery incurred by businesses of any size**
- **Exclusions, notably for cars**
- **Special rates expenditure attracts relief at just 10 per cent per year**
- **Will increase from £50,000 to £100,000 with effect from April this year**
- **Benefits business that spend more than £50,000 per year on qualifying plant and machinery**

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## Annual Investment Allowances (cont'd)

- **Example 1: If a business buys a commercial property at £500,000 and fixtures of £100,000 are identified in the property.**
  - Allowances can be claimed on the whole of that £100,000
- **Transitional rules: An apportionment is made between period before 1 April 2010 and the period after that date. Companies will not be able to claim more than £50,000 for expenditure before 1 April 2010**
- **Example 2: A company with accounts to 31.12.10 has qualifying expenditure of £120,000, of which £10,000 is incurred in March 2010. It can claim maximum AIA's for the year of £87,500.**

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## **Loans by close companies**

**Companies which wrote off or released a loan to a participator**

**Loans written off or released on or after the 24<sup>th</sup> March 2010 where a charge to tax under the close company rules has previously arisen**

**The close company will not be able to claim a deduction in respect of the write off or release**

**Will come into affect in the Finance Bill 2010**

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## **Entrepreneurs relief extended to £2m**

- **Lifetime limit on gains doubled from £1m to £2m**
- **Benefit from 10% rate of capital gains tax rather than 18%**
  - **Individuals broadly need to hold 5% of the voting rights, and**
  - **rights to assets on a winding up in an unquoted company for which they work**
  - **hold the shares for at least 1 year**
- **If £1m already used, can benefit from another £1m of qualifying gains after 1 April 2010**

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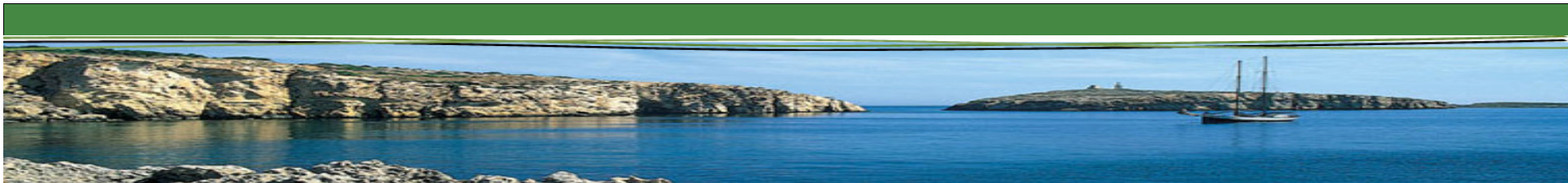
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## **Senior Accounting Officers rules**

- **Effective for financial years beginning on or after 1 July 2009**
- **Apply to UK registered companies or groups of UK companies – aggregate £200m turnover or £2bn gross assets**
- **Main duty of the SAO to take reasonable steps to**
  - ensure company establishes and maintains appropriate tax accounting arrangements
  - monitor the accounting arrangements
  - identify where arrangements are not appropriate
  - provide HMRC with certificate stating whether company has appropriate tax accounting arrangements

**£5,000 penalty on the SAO for failure to comply and further £5,000 not providing certificate !!**

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## Tax Tips

- **Invest in assets that produce gains subject to capital gains tax (CGT) at 18% rather than income taxed at up to 50%**
- **Choose the right company car and reduce your tax**
- **Buy green equipment and save tax**
- **Do not forget to claim for the costs of your travel to your investment property**
- **Remember tax reliefs and rules can be changed with little or no notice**

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# Equity based rewards

*effective and tax efficient*

*enjoy the growth*

*The Rose Bowl 14<sup>th</sup> April 2010*



benefits  
methods  
about RM2

# benefits

- boosts share values by aligning interests of participant and company
- striking tax advantages
- succession planning opportunities
- linkage to wealth management

# boosting share values

- share price performance
- productivity
- gross value added
- qualitative evidence



# tax advantages

- default tax on all benefits = income tax  
**but ...**
- approved share options = **CGT only**
- deferred share purchase = **CGT only**
- approved share incentive plans  
= **reduced IT or no tax at all**

# .....CGT v Income Tax

- No contest with new tax regimes

Comparison

Bonus of £50,000

Cost to company at 12.8 (13.8) NICs

= £56,900 **Net Reward = £29,500**

Reward through equity-based plan

No NICs or income tax

Use of CGT allowance

Cost = £50,000 **Net reward = £42,818**

Footnote: The Individual CGT allowance currently stands at £10,100 or £20,200 per married couple.

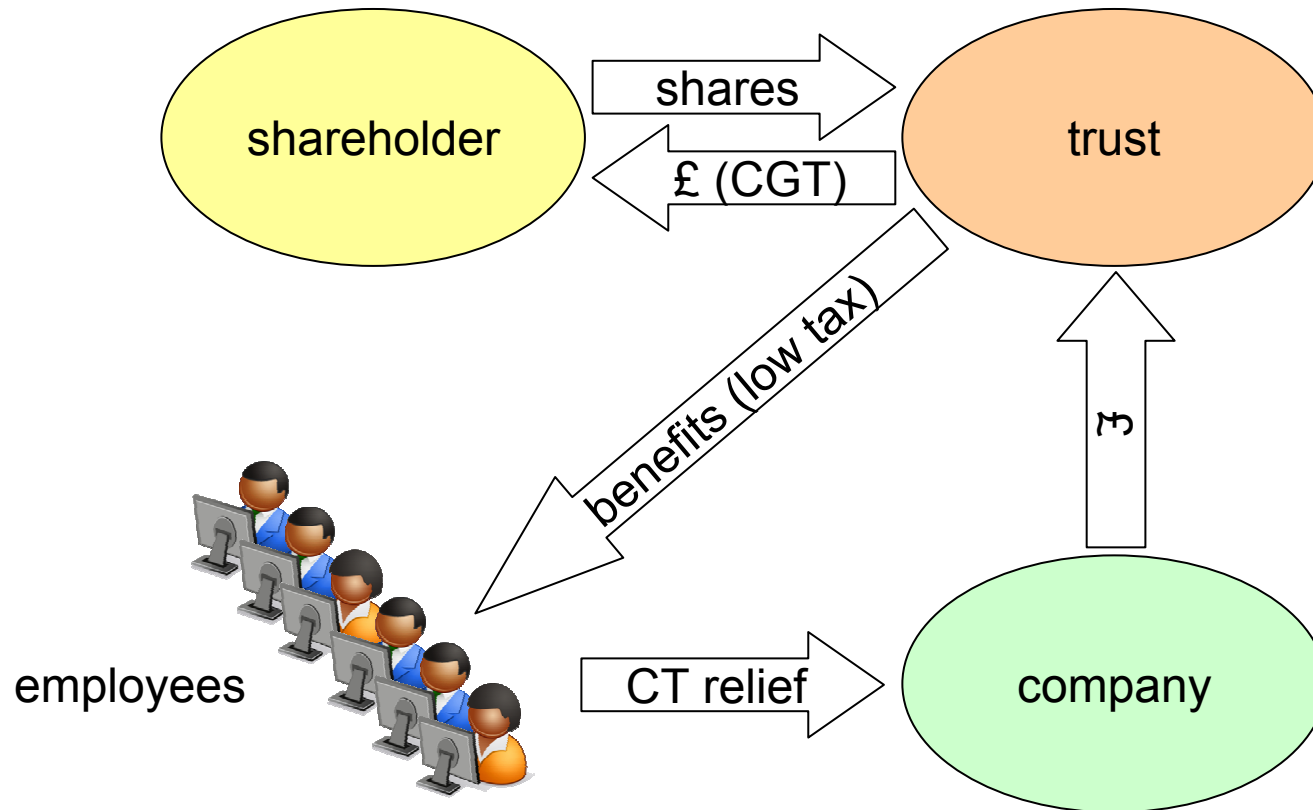
In this example if both allowances are used then the **Net Reward is £44,636.**

**You choose!!**

# succession planning

- shareholder can sell shares into trust
- up to 100 per cent. of equity can be transferred
- CGT for shareholder, not dividend tax
- tax efficient incentives for employees
- corporation tax relief for employer
- entrepreneurs' concession now £2m at 10 per cent – are you using yours?

# Succession planning



# types of schemes

## *The medium*

### Share Gift:

EMI, CSOP, SAYE

### Share Gift:

The Share Incentive Plan

### Share Purchase:

DSPP, JSOP

## *The message*

no risk, CGT, no dividends or votes

some risk, low or no tax, dividends

some financial commitment, CGT, dividends

# complete solutions

- ✓ scheme design
- ✓ documentation
- ✓ trustee services
- ✓ share capital structure
- ✓ valuation
- ✓ resolutions and minutes
- ✓ employee presentations
- ✓ administration, compliance

## About RM2

- the most comprehensive employee share scheme consultancy in the UK
- largest dedicated share scheme team
- more than 500 successful schemes
- from SMEs to large listed companies, every sector



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**The RM2 Partnership Ltd**

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# Questions?



# Protecting your Brand ®

Presented by Ben Evans Trainee  
Solicitor at Lawdit Solicitors

14 April 2010



# Introduction

- Recession – increase in intellectual property litigation
- In short during the downturn we have seen brand owners attempting to rely on unregistered rights to avoid the expense of trade mark registrations
- International applications down by 16%
- In the expected upturn it is important to extend the protection you already have in place and file relevant registrations where necessary



# What is a trade mark?

- Words (including names)
- Designs/logos
- Letters
- Numerals
- Colours
- Sounds
- Shapes of goods/packaging

# Unregistered trade marks

- If you trade under a brand then this is your trade mark, no registration is required
- However if another party starts using an identical or similar mark then you are only protected by 'passing-off'
- Passing off basically means the other party is passing their goods off as originating from you
- Three stage test: goodwill, misrepresentation and damages
- Notoriously difficult to prove



# Benefits of trade mark registration

- Registration puts you in the best position to stop someone else using the same or similar mark for competing products
- If a similar mark is applied for in the territory of your registration then you will be notified of it and will have the opportunity to oppose the application
- A registration is a recognised form of property right, making it easier to satisfy business partners that your brands are well protected
- Registration establishes rights in a mark even before it is used, providing possibilities for licensing and brand extension
- A mechanism to control the activities of your distributors, licensees and agents



## Benefits of trade mark registration cont.

- Trade mark owners benefit from Internet dispute resolution procedures e.g. provided by Google, eBay and Facebook, making it easier to combat misuse
- Trade mark owners can have first call on domain name registrations in the “sun-rise” period
- A registration enables trading standards officers, customs officers and police to bring criminal charges against counterfeiters
- A kind of “insurance” for your brand

# Trade marks in practice

- Trade Marks Act 1994 – Statutory protection of business name and goodwill.
- Register at UK or European Community;
- 6 months UK, 12 Months CTM
- Cheap effective way of protecting business (UK £600-£1000, CTM £1000-£1500)
- Offers monopoly in that name for 10 Years,
- Can be sold, bought, assigned, licensed, borrowed or given away

# Avoid Trade Mark Infringement

- A competitor may have already registered your trade mark or a similar one for the same or similar product.
- Trade mark infringement actions can usually be avoided by conducting relatively inexpensive searches (£50-£150) **before you enter** a new market
- Trade mark registers
- Company name and domain name registers
- Google
- Talk to local business advisors, chambers of commerce, trade associations
- Obtain local legal advice

# I have a registered trade mark is there anything I should be doing?

- This is an aspect that has been particularly neglected in recent years, simply businesses have been registering their marks and doing little to police them
- Ideally you need to be actively scouring your market for any unauthorised use of your marks, where such use is identified you will want to send a 'cease and desist' (be careful, groundless threats!) and where necessary instigate court proceedings
- One defence to trade mark infringement is that the trade mark owner acquiesced, the defendant would have to show that the trade mark owner knew (or should have known) of their existence and use of the mark (such use should be for a min of 5 years) and took no action

## TM or ®

- **TM** stands for **Trade Mark**, all this means is simply that you view whatever the TM is applied to as your trade mark.
- ® can only be applied to **Registered Trade Marks** if it is applied to an unregistered trade mark then this can constitute a criminal offence.
- Some businesses use TM despite owning a registered trade mark (Orange for example) this is because they think that consumers understand that TM means trade mark and do not know what ® means.

# Contact Details

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The logo for Lawdit Solicitors is located in the bottom right corner of the slide. It consists of a black square background. The word "Lawdit" is written in a bold, orange, sans-serif font, and the word "Solicitors" is written in a smaller, white, sans-serif font directly below it.



Presented by Izaz Ali Solicitor  
Advocate / Director of Lawdit  
Solicitors

14 April 2010



# Recession

- During the recession many businesses have overlooked legal and regulatory requirements.
- With the economy recovering you need to be aware what you have overlooked.
- The vast majority of businesses have websites either to sell goods / services or as an online advertisement.
- There are a number of applicable laws that you must adhere to.

# Applicable Laws

- The Consumer Protection (Distance Selling) Regulations 2000 (*SI 2000/2334*) (*Distance Selling Regulations*)
- *and The Electronic Commerce (EC Directive) Regulations 2002 (SI 2002/2013) (E-commerce Regulations).*
- Data Protection Act 1998



# Will the Regulations apply to me?

- If you sell goods or services to businesses or consumers on the Internet or by email;
- You advertise on the Internet or by email; or
- You convey or store electronic content or provide access to a communications network .
- Apply to online trading and advertising including email or mobile phone
- Regulations do not apply to the goods themselves, the delivery of goods or services not provided online, nor do they apply to online activities that are non-commercial.



# E-Commerce Regulations 2002

- General Pre-Contract Information
- Specific Contract Information
- Cross Border Trade
- Liability



# Specific Contract Information

- Languages provided for concluding the contract
- Technical steps to conclude the contract
- Filed and/or permanently accessible or not
- Method for identifying and correcting input errors **prior** to order




# Distance Selling Regulations 2002

- Concluded between supplier and consumer
- Supplier acts in a commercial or professional capacity
- Consumer acts outside his trade, business or profession



# Distance Selling Regulations Exemptions

- Financial Services
- Automatic vending machines
- Public payphones
- Construction of buildings
- Auctions



# Distance Selling Regulations Partial Exemptions

- Supply of food to home or workplace
- Accommodation, transport, catering or leisure to be provided on a specific date or during a specific period



# Right to Prior Information

- Identity
- Address of payee
- “Main characteristics”
- Price including taxes
- Cost of delivery
- Arrangement for delivery/performance
- Details of right to withdraw



# Right to Withdraw

- 7 working days
- No penalty, no reason
- Charge for “direct cost of returning goods”
- Full withdrawal period: 3 months



# Exemptions from Right of Withdrawal

- Services commenced within 7 day period
- Goods to consumers specification
- Personalized goods
- Perishable goods
- Unsealed recordings or software
- Periodicals and magazines

# So how do the Regulations affect ordering on the Internet?

- Subject to an agreement (except with consumers), you must, prior to an order being placed by the recipient of your service, provide to that recipient in a clear, comprehensible and unambiguous manner the following :
  - The technical steps to follow to conclude the contract, so that recipients are made aware of what the process will involve and the point at which they will commit themselves
  - Whether or not the finalised contract will be concluded by you, and whether it will be accessible to the recipient
  - The technical means for identifying and correcting input errors prior to the placing of the orders; and
  - The languages offered for the conclusion of the contract
- Subject to an agreement (except with consumers), you must indicate the relevant codes of conduct that you subscribe and provide information as to how these codes can be consulted electronically. The codes should be relevant to the order and not your business
- You must provide the terms and conditions applicable to the contract that are provided to the recipient, in a manner that makes the terms and conditions storable and so that the recipient can reproduce them if desired



# What about placing an order?

- The Regulations state that subject to an agreement (except with consumers), where the recipient places an order, you must
- Acknowledge receipt of the order to the recipient of your service without undue delay and by electronic means; and
- Make available to the recipient of the service appropriate, effective and accessible technical means allowing him to identify and correct input errors prior to the placing of the order.

Order and acknowledgement of the order will be deemed to have been received when the recipients are able to access them. “Access” has not been defined



# Enforcement/Penalties

- Cancel contract
- Sue for damages

# Case Studies

- Argos- have they learnt their lesson?
- In 1999 they mistakenly advertised TV's for sale at £2.99 and got themselves in to trouble. 6 years on... they find themselves in the same pickle but their terms come to their rescue!
- You may all remember the case of Argos and Homebase were the two companies received a large number of orders for TV sets and DVDs which were priced at 49p. This clearly was a pricing error however, learning from prior experience Argos were able to reject the orders made by their customers; because of the terms contained in their terms and conditions.
- When the customer places his order; there is no contract at this stage this is because of the following term.
- "Acceptance of your order and the completion of the contract between you and us will take place on dispatch to you of the products ordered unless we have notified you that we do not accept your order or you have cancelled it (please refer to Returns and refunds)."
- So provided Argos or Homebase did not send there wrongly priced TVs out for delivery then they will not be bound as the contract had not crystallized.
- Furthermore the terms and conditions provide:
- "While we try and ensure that all prices on our website are accurate, errors may occur. If we discover an error in the price of goods you have ordered we will inform you as soon as possible and give you the option of reconfirming your order at the correct price or cancelling it. If we are unable to contact you we will treat the order as cancelled. If you cancel and you have already paid for the goods, you will receive a full refund."

# Case Studies

- Midasplayer.com Ltd v Watkins [2006] EWHC 1551 (Ch) Terms and conditions: in brief this case shows that the claimant was successful because he was able to show that the defendant was bound by the websites terms and conditions; in the absence of would mean that the defendant would be able to escape liability for the contract.
- The claimant internet gaming company (M) sought summary judgment and a perpetual injunction against the defendant (W) to stop him from using his cheat programs. The claimant had two websites where users could win money if they participated in games of skill successfully. W joined M's websites and was provided with a set of terms and conditions by M which included a term prohibiting the use of anything other than pure skill to win the games. M submitted that W was contractually bound by M's terms and conditions and was clearly in breach of them. M also submitted that W was inducing others to breach the terms and conditions by using his software and was guilty of unlawful interference with M's business.
- The court held inter alia, that the defendant was contractually bound by all the terms and conditions especially the term regarding cheating. W's own website and witness statement contained admissions that he had acted in breach of that clause. By offering cheat software for sale, W was inducing others to breach their contract with M. W's breach of contract was capable of constituting unlawful interference with M's business.

# Data Protection Act 1998

- Data Protection – the new buzz word.
- A government report carried out in 2007 showed: "horrifying number of companies, government departments and other public bodies have breached data protection".
- Recent cases involving T-Mobile, Virgin Media, Carphone Warehouse, Marks & Spencer and various NHS trusts. All of which have received heavy (and negative) media coverage as well as resulting in fines for the companies involved.
- Announcement this week that the fine for breaches is to increase from £5,000 to £500,000!



# What is data protection?

- Concerns “personal data” – data that identifies a living person
- Applies to both computerised and manual data
- “Data controllers”
- Enforced by Information Commissioner
- Requires compliance with the DPA, including the 8 Data Protection Principles



## DPA Principles (summary)

1. Fairly and lawfully processed
2. Processes for limited purposes
3. Adequate relevant and not excessive
4. Accurate
5. Not kept longer than necessary
6. Processed in accordance with data subject's rights
7. Secure
8. Not transferred to countries without adequate protection

# What do we need to do to comply?

- Notification - £35 or £500
- Comply with 8 principles
- Particularly relevant is security – encryption etc must be “adequate” (don’t leave laptops lying around!)
- Consent from consumers re processing, business to consumer opt-in, business to business opt out
- Customer confidence – privacy policy and security policy, be proactive
- ICO publish a number of ‘Good Practice’ notes that should be followed where possible

# Contact Details

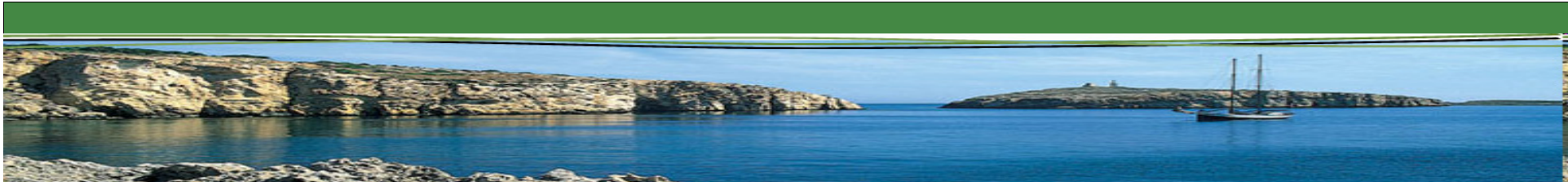
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The logo for Lawdit Solicitors is displayed on a black square background. The word "Lawdit" is written in a large, bold, orange sans-serif font. Below it, the word "Solicitors" is written in a smaller, white, sans-serif font.

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## **A Little about us!**

- Ex big four accountants
- Specialist tax advisors:
  - Corporation Tax
  - Personal Tax
  - Employment Tax and National Insurance
  - Work with clients of all sizes

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## Topics for the day

- **Budget update**
  - Rates and allowances
  - General update
  - Penalties
  
- **Proposals/ Consultations**
  - Construction Industry scheme
  - Paternity pay
  
- **Remuneration planning**
  - Salary sacrifice
  
- **HMRC activities/ experiences**
  - Hot topics
  
- **The election**

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## Rates and allowances

**Personal allowance** frozen at 2009/10 rates £6,475

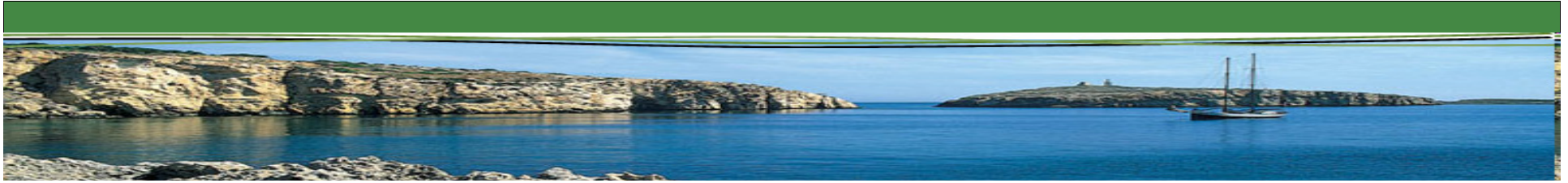
### Income tax bands 2010/2011

- 20% 0 - £37,400
- 40% £37,401 - £100,000
- **60% £100,001 – 112,950**
- 40% 112,951 - £150,000
- 50% 150,001 and above

### Dividends

- Basic rate 10% (effective zero rate)
- Higher rate 32.5% (effective rate 25%)
- Additional rate 42.5% (effective rate 36.1%)

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## Rates and allowances

### National Insurance 2010/11 rates

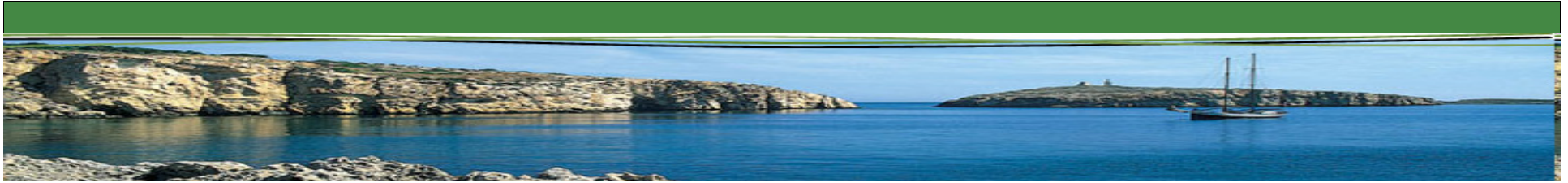
Bands largely frozen at 2009/10 rates

- Small movements in the LEL increases by £2 and
- Special class 2 voluntary Development Workers up by 10p per week to £4.85
- Employers remains at 12.8%
- Employees
  - Basic rate 11%
  - Higher rate 1%

### From 2011/12

- Employers increases by 1% to 13.8%
- Employee's increases by 1%
  - Basic rate 12%
  - Higher rate 2%

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## Other budget and pre budget changes

### Company cars

- Zero emission cars and vans i.e. electric no taxable benefit (remains so for 5 years!)
- CO rates moved down by 5g/km and a new <75g/km 5% charge (8% D)
- Qualifying Low Emissions Cars (QUALECs) no longer (cars with 99g/km or less)
- Fuel benefit company cars increases from £16,900 - £18,000
- Private vans fuel increases from £500 - £550

### Policy changes

- “Available to all” and the NMW will be relaxed
- EBT’s legislation to be introduced
- From 2011/12. Pensions restricted tax relief from £150,000 - £180,000. Earnings over £180,000 basic rate only. Anti forestalling measures in place from the 22<sup>nd</sup> of April unusual payments in excess of £20k will trigger then.
- Salary sacrifice for food lost!





## New penalties

**From April 2009 for Income tax and NI**  
**Genuine mistake – zero penalty**

**Failing to take reasonable care – max 30%**  
*0% with unprompted disclosure*  
*15% with prompted disclosure*

**Deliberately understating – max 70%**  
*20% with unprompted disclosure*  
*50% with prompted disclosure*

**Deliberate understatement and concealment – max 100%**  
*30% with unprompted disclosure*  
*50% with prompted disclosure*

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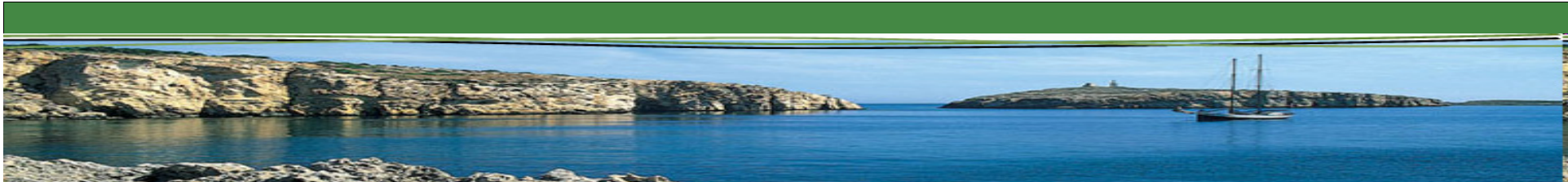


## Penalties cont.

### New In Year penalties

- End of the electronic surcharge penalties
- From May 2010 in year penalties on:
  - Income tax and Class 1 NICs collected via PAYE;
  - Class 1A NICs on benefits;
  - Class 1B NICs
  - Construction Industry Scheme deductions;
  - Student loan deductions.
- Penalty based upon the amount underpaid



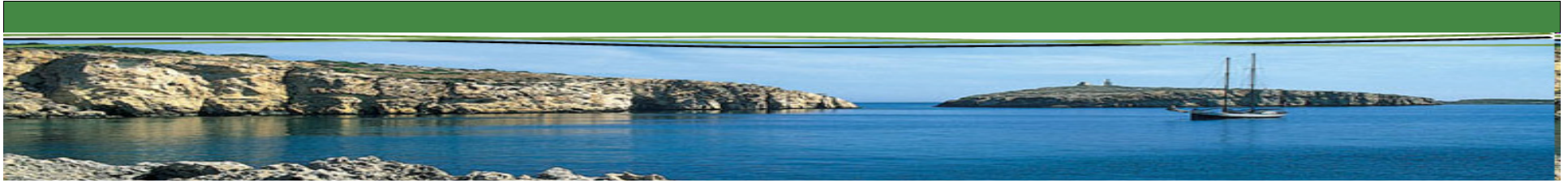


## Penalties cont.

### New In Year penalties

No of times payments are late in a tax year	Percentage	Amount to which penalty percentages apply
1	No Penalty	Total amount that is late in the tax year (ignoring the first late payment in that tax year).
2 – 4	1%	
5 – 7	2%	
8 – 10	3%	
11 or more	4%	
Over 6 months overdue	5%	





## The Future of employment status within the CIS

**If the subcontractor does not meet one of the following criteria then will be deemed an employee for tax purposes!**

**The three criteria will be:**

- a) The provision of plant and equipment – excluding tools of the trade normally and traditionally used in the industry that individuals provide for themselves, or
- b) The provision of all materials – where a person provides all materials required to complete a job; or
- c) The provision of other workers – where a person provides other workers to carry out operations under the contract and is responsible for paying them.

The payer will be primarily responsible for PAYE/NIC on payments to workers although it is proposed that transfer of debt provisions could apply so that other parties may be held responsible for the PAYE/NIC payable.

**Legislation coming soon!**





## Paternity leave

- Proposed increase in the length of paid paternity leave from 2 weeks to 1 month (labour manifesto!)

### **Other proposals**

- Fathers would be able to take up to 6 months paid paternity leave (same rate of pay as the mother)
- Mother needs to allocate her maternity leave to father
- Cannot both have time off at the same time
- This is in addition to standard paternity leave
- Applies for babies borne on or after 3<sup>rd</sup> April 2011





## Salary Sacrificed

**A little can make a big difference:-**

- Cars (electric or low CO2)
- Home Broadband (contract correctly)
- Medical Check ups!
- Glasses for VDU use
- Employer provided sports facilities (not open to the public)
- Trivial benefits (flowers etc)
- Work related training
- Full Mileage allowances (full 40p per business mile)
- Subsistence
- Mobile phone (one per employee)
- Childcare (vouchers or employer finance and manage)
- Parking spaces (levy charge!)
- Works buses (more than 12 seats bus, 9 mini bus)
- Cycle to work scheme

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## Time to pay arrangements

- From April 2010 HMRC will require businesses seeking Time to Pay arrangements worth £1m or more to provide an Independent Business Review (IBR) in support of their request.
- HMRC have a new power to require financial security from employers with a history of serious non-compliance (details to be included within the finance act 2010)





# Employment Status

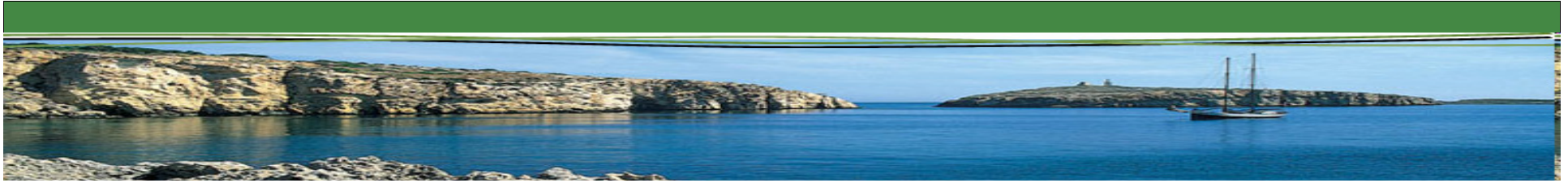
## The basics!

- Mutuality of obligation
- Substitution
- Integration (part and parcel)
- Economic reality (financial risk)
- Control

## Use the HMRC Employment Status Indicator

- <http://www.hmrc.gov.uk/calcs/esi-01.htm>





## Employment Status

Following the amendments (The income tax (PAYE) (Amendment) regulations 2008 SI 2008 No. 782) there is now scope for HMRC to transfer part of the employer's liability to the employee (newly reclassified). The transfer of liability will be limited to the tax previously settled by the employee via self assessment on the income paid by the employer.

For example if the employer had provided the previously self employed individual with £10,000, worth turnover, which after expenses and other deductions resulted in a tax bill of £1,000, duly settled by the newfound employee, the maximum transfer of liability will be £1,000. The employer will remain liable for any excess PAYE which now arises.





## Termination Payments

### One of the Revenue's 'Hot Topics'

- The Revenue will attempt to explode any payment into its component parts
- Case Law & legislation dictates the order of taxation: s62, s225, s393 and s401
- £30,000 tax free exemption does not automatically apply  
What exactly is 'ex-gratia'?
- Any Directors termination payments will invariably be reviewed
- Be careful of letters, e-mails and personnel files





## The election!

### In the blue Corner

- No increases in NI
- IR35 reform
- Marriage tax relief (transfer of none working spouse allowance (<£44k house hold income up to £750)
- Stop tax credits (incomes over £50k)
- Cut spending on the child trust fund (not for poorest and disabled)
- Cap public sector pensions (>£50)
- 5% pay cut for MP plus 5 year pay freeze and reduction in the number of MP by 10%
- Reverse the 10% tax credit abolition on pensions

### In the red corner

- NI up 1%
- £4 a week Toddler Tax Credit < £50,000 earnings
- paid paternity leave up to one month (plus switching proposal)
- End to the mandatory retirement age
- “Living wage” to £7.60 an hour



## The election!

### In the blue Corner

- IHT threshold to £1million
- 50% tax rate will stay (at least for the medium term)
- Some sort of control over banker bonuses (unsure of the details!)
- Corporation tax change in Northern Ireland (increase investment)
- Abolish the “cider tax” but raise taxes on those drinks' linked to anti social behaviour

### In the red corner

- Free care for the elderly after no more than two years in care (funded possibly from a 10% levy on estates not until after 2015)
- higher Winter Fuel Payment of £250, and £400 for the over-80s
- Stamp Duty to 5% for houses worth over £1m from April 2011



## **Problem Corner**

**Q & A**

**Over to you!**

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## Expert advice for professionals

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