

TECHNICALLY SPEAKING

Companies limited by guarantee

ODCE have been writing to some company directors and auditors reminding them of some company law issues particular to companies limited by guarantee. We are not aware of any prosecutions being taken once the breaches were corrected. The errors being noted are that companies limited by guarantee must:

- file full accounts in CRO, they are not entitled to file abridged accounts no matter how small they are;
- prepare a cash flow statement;
- have a statutory audit, they are not entitled to audit exemption no matter how small they are;
- The fact that the company is limited by guarantee should be clearly stated on the financial statements;
- The liability of members under the company's guarantee status should be disclosed; and
- The audit report should contain no reference to the requirement for an extraordinary general meeting under section 40 (1) of the Companies (Amendment) Act 1983.

Brendan Howard elaborates on these points on page 36.

Financial services ombudsman

Firms which are authorised by ACCA to conduct investment business under the Investment Intermediaries Act 1995 (IIA) may have recently received an invoice for €125 from the Financial Services Ombudsman. If your firm, or an entity associated with it, is directly authorised by the Financial Regulator for either investment business purposes under the IIA or for mortgage intermediary activity under the Consumer Credit Act then the levy is payable.

However, where your firm is authorised only by ACCA for the purposes of the IIA, the levy may not be payable subject to further clarification and discussion with the Ombudsman. It is not necessary, therefore, to discharge the levy until these discussions conclude.

The Financial Services Ombudsman has advised that statements are about to be issued to firms in respect of the outstanding amounts. In line with the above advice, the Ombudsman has agreed that only those firms with direct authorisation from the Financial Regulator need pay this amount at this stage.

Essential free e-news letters

A number of organisations provide a free e-news letter and are worth subscribing to, here is a selection:



Credit Union accounting policies

The Registrar of Credit Unions has issued a consultation document entitled 'Guidance Note for Credit Unions on Matters Relating to Accounting for Investments and Distribution Policy'. The document contains the Registrar's proposed guidance on accounting policy choice, valuation and income recognition with regard to investments as well as the Registrar's views on realised distributable reserves. The document is available from aidan.clifford@ie.accaglobal.com

- www.asb.co.uk
all new UK GAAP accounting and auditing changes
- www.cro.ie
announcements from company registration office
- www.odce.ie
company law guidance and prosecutions
- www.iasplus.com
IFRS GAAP changes and summaries
- www.companyreporting.com
reporting of accounting and disclosure by EU quoted companies
- www.complianceireland.com
compliance and financial services news

Hedge accounting amendment

IASB has issued an amendment to IAS 39 Financial Instruments: Recognition and Measurement. The amendment clarifies how the existing principles underlying hedge accounting should be applied in two particular situations;

- a one-sided risk in a hedged item; and,
- inflation in a financial hedged item.

Entities are required to apply the amendment retrospectively for annual periods beginning on or after 1 July 2009, with earlier application permitted. For further information visit www.iasb.co.uk

Construction industry VAT changes

Revenue have issued an explanatory leaflet containing information in a non-technical format to assist principal contractors and subcontractors in understanding the new reverse charge VAT in the construction industry which came into effect on 1 September, 2008. The haste in bringing in the new rules has left most software suppliers months behind and will require most construction firms to implement a manual system until the software catches up. Accountants in practice will also be visited much more regularly by subcontractors as they will now be in permanent repayment position and will want the cash quickly. The leaflet is at www.revenue.ie/leaflets/reverse-charge.pdf

Improvements to IFRSs

The IASB has issued an Exposure Draft Improvements to IFRSs as part of its annual improvements process, which is aimed to deal efficiently with non-urgent but necessary amendments to IFRSs. The ED contains 12 proposals for amendments to eight Standards:

- IFRS 2 Share-based Payments
- IFRS 5 Non-current Assets Held for Sale and Discontinued Operations

- IFRS 8 Operating Segments
- IAS 7 Statement of Cash Flows
- IAS 18 Revenue
- IAS 36 Impairment of Assets
- IAS 38 Intangible Assets (two amendments)
- IAS 39 Financial Instruments: Recognition and Measurement (four amendments)

Most of the amendments would be effective for annual periods beginning on or after 1 January 2010.

Findings of the Financial Reporting Review Panel in respect of the accounts of the Investment Company PLC

At issue was the treatment of the company's participating preference shares ("PPS") and the departure from the requirements of IAS 32 "Financial Instruments: Disclosure and Presentation". The PPS are non-redeemable shares that entitle the holders to a fixed net cash dividend and in addition, in certain circumstances, to participate in a dividend at the rate of 25 per cent of any dividends paid on Ordinary shares. The company treated the shares as equity shares rather than as compound financial instruments with both an equity and liability component. Presentation in accordance with IAS 32 would have resulted in substantially all of the carrying value of the PPS being allocated to the liability component and the fixed net cash dividend being treated as an expense in profit and loss. The 2008 financial statements have been issued with the matter corrected by way of a prior year adjustment.

Mandatory e-filing

Section 164 of Finance Act 2003 introduced a new Section 917EA on mandatory electronic filing and payment of tax. The section allows the Revenue Commissioners to make regulations to oblige certain taxpayers to file tax returns or pay tax liabilities electronically. The section could only come into operation following a commencement order by the Minister for Finance and the publication of regulation by Revenue. The Minister has now signed the commencement order and Revenue has published regulations which oblige companies dealt with by Large Cases Division, and a number of state agencies, to pay their taxes and file their returns through ROS from 1 January, 2009.

The ACCA position has always been to oppose mandatory e-filing while broadband is not universally available in Ireland. Broadband is a minimum requirement to operate ROS and discriminating against accountants or taxpayers based on living or working in certain geographical areas of the country is simply unacceptable. ACCA would like to



Property owner management companies (POMC) – transfer of title to land

POMC are companies set up to hold title to common areas of apartments and housing estates. The company pays for maintenance etc. and bills this to the residents as an annual service charge. It is usual for the title to the land to vest with the developer until they have finished the development and then transfer once the development is complete. It has now become common for builders to delay transfer of the common land sometimes in the hope of further developing the land or sometimes just by oversight. This does not preclude the POMC charging residents their annual service charge although it is likely that an auditor will put in an emphases of matter paragraph in their audit report drawing attention to the non transfer. Not owning the grass does not mean that you can't mow it and you certainly have an insurable interest in maintaining the property you may not technically own. However, it is very common for the property transfer agreements to state that the builder is responsible for maintenance until the common area is transferred. For some reason this seems to have been ignored in most developments. An auditor would be minded to check the transfer agreements as there may be no basis for charging the annual service charge where the builder has held on to title to the common area and this standard clause is in the transfer agreement.

hear from any members working in or for affected companies and for whom broadband is not available.

UK companies legislation

Most of the accounting and auditing requirements of the UK Companies Act 2006 came into force for periods beginning on or after 6 April 2008. The Act requires that the auditor's report should be signed by the 'senior statutory auditor' in his or her own name. To clarify, audit reports of UK registered companies, including Northern Ireland companies for periods beginning on or after 6 April 2008 should be signed as follows:

- The name of the Responsible Individual
- Senior Statutory Auditor
- The firm name
- Statutory Auditor(s)

- Chartered Certified Accountants (if desired and applicable), Firm address

From April 2008, the turnover limit for small companies and audit exemption in the UK has been increased to £6.5m, with an equivalent increase in balance sheet total to £3.26m. The limits for medium sized companies have increased to turnover of £25.9m and balance sheet total of £12.9m.

Changes to insolvency rules – NI

Practitioners should note that the Insolvency (Amendment) Rules (Northern Ireland) 2008 - S.R. 118 of 2008 - which are effective from 6th April 2008, make changes to the Insolvency Rules (Northern Ireland) 1991.