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the firm

MOORE & SMALLEY
CHARTERED ACCOUNTANTS AND BUSINESS ADVISORS

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Welcome

To the second edition of 'The Firm' for 2007. Following the government's U-turn on Home Information Packs, and the recent changes to capital allowances, we have devoted much of this issue to property – both residential and commercial.

Increasingly the purchase, use, development and sale of commercial property attracts a number of tax and VAT pitfalls but also opportunities to make significant savings. Our specialist tax department can help clients to maximise opportunities and avoid the pitfalls. We would be happy to speak to your commercial property team to explain how we do this, and other ways we can assist your clients in reducing their tax bills.

Also in this issue, we provide more details on our forthcoming seminar for senior and managing partners, covering a number of issues for growing legal practices. This seminar will include making the most of mergers – a particularly topical issue in the North West, where Napthens LLP and Cuddy Woods and Cochrane have just announced plans to merge from October 1st.

I hope you find the newsletter helpful and informative, and should you wish to suggest any topics for future editions, please contact Mark Brennan on 01772 821021.

Help is at hand for growing practices

Following the success of last year's seminar for senior partners of the region's legal practices, Moore and Smalley will again be hosting a seminar for our clients and contacts in this sector.

Continuing on from last year's theme around building and structuring practices, this year's theme is on growing a legal practice successfully, comprising topics such as the benefits of LLP status, making mergers and acquisitions work for you, attracting high-quality new partners in a competitive market and long term strategic planning.

With issues like the increasing consolidation of medium to large North West practices, proposed changes to legal aid, changes in Solicitors Account Rules, and the draft Legal Services Bill all becoming increasingly fundamental, the legal sector is taking the first steps towards dramatic reform. The industry faces a period fraught with challenges, but also with opportunities to develop a more businesslike and strategic approach.

The seminar provides an excellent opportunity for senior partners to listen to ideas and proposals about how to grow a practice and consider what methods may be of interest for them. Our special guest speakers from professional practice consultancy Kato Consulting will be on hand to answer any questions you might have along with our specialist professional practices team.

The seminar will be held at Farington Lodge Hotel in Leyland on Thursday 27th September 2007. The presentations and question and answer sessions will run from 3.00pm to 5.30pm and the seminar will count for 2 hours of non-accredited CPD.

Places at the seminar are limited and we would urge you to avoid disappointment by booking your place as early as possible. Places cost £25 + VAT each.

To book your place, contact Mark Brennan on 01772 821021 or mb@mooreandsmalley.co.uk. Further reminders of the seminar dates, times and topics will be issued nearer to the time.

Moore and Smalley LLP – Legal Practice Specialists

Moore and Smalley currently act for a number of legal practices of differing sizes throughout the North West. As well as legal accounting and personal tax support, we offer a number of specialist services to legal practices:

- Advice on compliance with Solicitors Account Rules and relevant accounting regulations and standards such as UITF 40.
- Advice on practice mergers and acquisitions, and due diligence to ensure both parties understand the financial implications of the transaction.
- Support in converting a partnership to an LLP.
- Wealth management service for partners or any of your clients you feel would benefit.
- Special tax advice – covering inheritance tax planning, capital gains tax advice, and support with minimising tax and VAT on land and property transactions.

To find out more about the advice and support we can offer, contact Karen Hain on 01772 821021.

Residential Property

Does the Government need a HIP replacement?

This month was supposed to be the start of the Home Information Packs (HIPs) revolution. However, following a legal challenge from RICs, HIPs will be delayed until 1st August 2007 and initially only affect houses with four or more bedrooms.

The Law Society has described the whole HIPs project as 'a total shambles', with Deputy Vice President Paul Marsh adding:

"The government has turned the whole process of HIPs into a farce. Its consultation with stakeholders has fallen seriously short of what we would expect in a genuine consultation exercise for something as important as this for consumers."

Government ministers have increasingly used the fact that the packs (which are expected to cost sellers between £400 - £700) will contain energy performance certificates would encourage people to make their homes more energy efficient, thereby cutting carbon emissions. However, following RICs legal challenge, and in light of the fact that there is a severe shortage of qualified energy performance assessors, the judge ruled that energy performance certificates could be left out of the packs 'for the time being'.

The legal challenge from RICs came as they agreed with the Law Society that there had been a lack of proper consultation on the packs. The judge's decision was that there should now be a 12-week consultation period. However, the Government has paid little attention to this in setting the new implementation date inside that 12 week period.

In addition to concerns about the feasibility of the scheme, there are also fears that HIPs will have a distorting effect on the housing market, as vendors rush to put their houses on the market prior to the implementation of HIPs, so they can avoid the upfront cost of assembling the pack.

The government will still look to phase in HIPs for all home sales as soon as possible after 1st August, despite the delays and setbacks, although they have made the concession that initially sellers would only have to have commissioned a pack, rather than have a completed one, before marketing their property.

Key Facts: Home Information Packs

Contents:

- Evidence of title
- Copies of planning, listed building or building regulation consents
- A local search
- Guarantees for any work on the property
- An energy performance certificate

Cost:

- Around £400 - £700

Commercial Property

Capital allowances hit by outgoing Chancellor

The hotel sector had reason to be cheerful prior to the Budget, with the announcement that the Government would not be implementing the Lyons report recommendations of a 'tourism tax' levied on hotels and guest houses by local authorities. However by the time the future Prime Minister sat down after his speech, the industry was reeling from a number of very costly changes.

The Chancellor's Budget included major changes in capital allowances from 2008/09 which will reduce substantially the reliefs available to many businesses, particularly those investing heavily in buildings, plant and machinery and fixture, fittings and equipment.

1. Gradual removal of Industrial Buildings Allowances (IBA)

These allowances affect a variety of business sectors, not just the industrial sector (for example – hotels). Whilst the rate of the allowance is only 4%, with building costs generally being high and on the increase, IBA has been extremely valuable.

From 2008/09, IBA is to be phased out at the rate of 1% per year, with full abolition from April 2011. Some changes to the scheme have already taken effect and anyone buying or selling from now needs to know that the rules have changed.

The changes will probably trigger a reduction in the second hand value of some buildings as potential purchasers re-evaluate whether the reduction in allowances will make the purchase of a building worthwhile (bearing in mind how long their intended period of ownership is).

2. Reduction in Plant and Machinery Allowances

Currently plant and machinery allowances are given at 25% per annum reducing balance. From 2008/09, this rate will be reduced to 10% for certain buildings' fixtures and 20% for other plant and machinery. The effect of these reductions will be considerable, especially in relation to buildings' fixtures which can be a large part of the cost of investment in new building.

The table below shows how much of the total cost can be written off for tax over the first 5 years under the present and proposed new rates.

Rate of allowance	Percentage that can be written off
Current rate (25%)	76%
New plant and machinery rate (20%)	67%
New buildings' fixtures rate (10%)	41%

Whilst an increase in allowances for long-term assets, and a proposed new Annual Investment Allowance for expenditure on 'green technologies' have been announced, these are likely to have only marginal importance by comparison.

Round-up

The Chancellor's changes will hit SME's hard, coming as they do in conjunction with the increase in the rate of corporation tax for small businesses from 19% to 22% by 2009. This will clearly discourage investment in modernizing buildings where tax allowances are key to the finance of the project..

Even large companies, whose corporation tax rates are going down from 30% to 28% will still suffer from the changes to capital allowances. An operator building a new property could be faced with a substantial increase in tax over the next five years because of the changes.

The final insult with the capital allowances changes is that they will actually remove the tax relief from those companies who invested long before these changes were announced. The industrial buildings allowances gave tax relief of 4% pa over 25 years. A company which invested 4 years ago will have only received relief on 16% to date though it will have invested in the expectation of 25 years of tax relief. To find the Government withdrawing most of the relief for the next 21 years will be a huge shock.

Lynne Holmes

Tax Principal

Lynne joined the firm after spending 12 years at KPMG's Preston office, latterly as Tax Senior Manager. She has been responsible for a wide portfolio of clients ranging from professional partnerships to quoted PLCs with an emphasis on owner managed businesses. Lynne advises many professional practice clients on a variety of tax planning issues.

Disbursement or 'secret profit'?

A recent hearing of the Solicitors Disciplinary Tribunal ruled that so called 'secret profits' cannot be accounted for as disbursements.

'Secret profits' refer to a practice that is particularly prevalent in conveyancing departments, whereby firms agree to pay out certain disbursements (e.g. telegraphic transfer fees) which they invoice the client for, despite the fact that the cost of the disbursement for the firm is substantially lower. Nothing stops a firm from applying an administration fee in addition to direct costs, but the Law Society will not tolerate the practice of classifying these administration fees as disbursements.

This practice is high on the Law Society's agenda, and consequently we recommend that you review your procedures in this area. One solution that firms have adopted is to disclose fees and charges clearly on both invoices and Terms of Business letters.

To find out more, contact Karen Hain on 01772 821021, or kh@mooreandsmalley.co.uk.

Latest Changes to SAR take effect

Late last year, a number of changes were made to the Solicitors' Account Rules. These mostly minor changes were as follows:

1) SAR 21 – Payments to legal aid practitioners

Note (ix) to this rule has been amended to take account of the fact that once the new Code of Conduct comes into force, solicitors will no longer have an obligation to pay the fees of counsel, agents and other experts, although the obligation to pay foreign lawyers' fees does remain.

2) SAR 23 – Method of and authority for withdrawals from the client account

Additional notes (vii) to (xi) have been added to the rules to facilitate firms paying Land Registry fees by direct debit, either from the office account or the client account.

If the direct debit is made from the office account, the firm will be able to transfer funds into the office account from the client account as soon as the direct debit is taken, providing there are sufficient funds available for the client.

If the direct debit is made from the client account, then the firm must have good controls in place to ensure that the correct details are given to the Land Registry and that a specific signed authority is in place before the direct debit is taken.

3) SAR 30 – Restrictions on transfers between clients

The term 'private mortgage' has been updated to an 'individual mortgage'.

Please contact us if you require any further advice or support regarding Solicitors Account Rules.

Proposed Legal Aid Reforms attract mounting criticism

The Constitutional Affairs Select Committee (CASC) has published a damning report on the government's legal aid reforms. The highly respected group of MPs said the government is taking a "breathtaking risk", without adequate research or a proper timetable. On the key government reform – price competitive tendering – the committee said the government would be "reckless" if it did not pilot it carefully first, on a limited geographical basis.

The committee also noted that there had been a "catastrophic deterioration" in relations between practitioners, their representative organisations and the LSC.

Des Hudson, Law Society chief executive said: "The government cannot possibly ignore this evidence from a committee with a majority of government members."

MEET THE TEAM

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