

October 2009

Mercer & Hole news update



I am pleased to announce that Liz Cuthbertson became a partner in Mercer & Hole on 1 October 2009. Already a Director of Mercer & Hole Trustees Limited, we are delighted to promote Liz to Private Client partner, based largely in our London office. Liz qualified as a Chartered Accountant with KPMG working in their Hamburg office, before going on to qualify as a Chartered Tax Adviser. Liz is fluent in German and Italian and also has a good working knowledge of French.

Another one of our Private Client partners, Helen McKie, was a recent winner of 'Private Client Practitioner' magazine's Top 35 Under 35 award. Myself and fellow partners Gill Tallon and Lisa Spearman attended the awards ceremony in London with Helen last month and we were obviously delighted that Helen's abilities have been recognised on a national scale.

August also saw us celebrate our 20th anniversary in Milton Keynes, having opened our first office there on 16 August 1989. Without doubt, Milton Keynes has been an exciting and

challenging place in which to do business and we have loved every minute of it! We continue to look forward to an exciting and challenging future in Milton Keynes for many years to come.

Finally, I am conscious that some of the changes which came into force on 1 October 2009 as a result of the 2006 Companies Act are proving quite popular with some of our clients. General Practice partner Gary Farnes has written an article on the changes in this issue, but I also wanted to remind directors that from 1 October, if they wish, they can lodge with Companies House the company's registered office as the service address for any director, rather than continuing to show just their personal address. If any of our clients wish to make this change, please do not hesitate to contact your normal relationship partner.

Senior Partner

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Mercer & Hole celebrate 20 years in Milton Keynes

Mercer & Hole are delighted to announce their twentieth anniversary in Milton Keynes, celebrating this milestone one year on from moving into larger offices in Silbury Court.

On 16 August 1989 the Mayor of Milton Keynes opened Mercer & Hole's first offices in Milton Keynes, within Ashton House in Silbury Boulevard. Current Mercer & Hole partners Howard Wilkinson, Mike Joy and Paul Maberly were among the first intrepid half dozen who opened the office.

Mercer & Hole opened its Milton Keynes office when the economy was booming, only to witness a "bust" in the early 1990s. The Milton Keynes team worked extremely hard to make a name for itself and this included the partners taking to the ice dressed in MK Kings kit and skating with guests during one of the firm's early office Christmas receptions!

On the landmark, Howard Wilkinson commented,

"Twenty years after first coming to Milton Keynes and on our first birthday in our new offices, is an ideal time for Mercer & Hole to reflect on our growth and successes in Milton Keynes. We started from scratch here and worked unbelievably long hours, but it was great fun. Over the years we have built a strong reputation, particularly with fellow professionals in the Milton Keynes business community. For me, Milton Keynes

has a buzz all of its own and despite current conditions, remains a vibrant place to work twenty years on."



Also featured in this issue

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- VAT implications for not-for-profit organisations
- The Companies Act 2006 - in place at last!

Pension planning for businesses



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It's a common concern that individuals, often the younger generation, put off arranging their financial future and Nightingale Associates are encouraging not only individuals to plan for their pensions now, but businesses as well.

In October 2012 'personal accounts' will be introduced as part of the Government's reform of pension provision in the UK, with the onus transferred to employers to encourage their employees to save via their pensions. The Government's drive to encourage individuals to save for their future will result in increased costs for employers. This is due to all employees earning at least £5,035* (including temporary and contract workers) aged between 22 years of age and the state pension age being enrolled automatically into the personal accounts system at the time of introduction.

It is highly probable that business owners will incur significant additional pension costs from 2012. For those who do not currently offer a scheme or those who do not currently contribute to a pension scheme, the costs are likely to be significantly higher.

Under the personal accounts scheme compulsory contributions will be 3% for the employer and 5% for the employee from October 2016 onwards. The contributions levels will be phased in over four years. Employees will be able to opt out of the system, but will be required to do so

every three years.

Employers who already offer a pension scheme may be able to avoid setting up a personal account, if an existing scheme qualifies as an alternative and this is very likely to involve a significant uplift in members and increased costs. Even so, this is worth considering as a preferable option, as these schemes will most probably provide more investment choice and allow for higher contributions. Of late, many businesses have been offering group SIPP arrangements to senior staff, which offer a range of investment flexibility. Business owners should consider how running their own scheme could offer a more attractive recruitment, benefit and retention tool for staff.

Personal accounts are designed to be low cost (requiring an annual management charge of only 0.35%) and they will have a limited investment choice. It is anticipated that contributions will be collected alongside PAYE administration. Personal accounts do not provide allowances for advice and it should be noted that some of the most successful group pension schemes hold work place education sessions and face-to-face enrolment.

Employers should plan for their pension future now, as although legislation is yet to be passed, principal elements are unlikely to change. Failing to comply with personal account requirements could result in fines of up to £50,000 and ongoing, daily fines for continuing non compliance.

* In 2006/07 earnings terms

Michael Lockyer is managing partner of Mercer & Hole LLP, trading as Nightingale Associates financial advisers. You can contact Michael at mlockyer@ngale.co.uk or call 0845 828 1000.

Valuation of businesses



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It is an overused adage that valuation is an art and not a science. However, it is very true - there is no universal valuation methodology that can be applied to all business, therefore logic, judgement and experience are the key tools we use in determining value.

Mercer & Hole are regularly asked to value businesses. The reason can vary from shareholder disputes and divorce cases to company acquisitions and group reconstructions. HMRC require business valuations for a number of purposes - including employee share schemes, estate valuations for inheritance tax and intra-family gifts for capital gains tax.

In many cases a business is valued as a multiple of profit. Private company multiples can be as high as 20 - with businesses likely to sell for three to five times profit before interest and tax in the current market.

Profits have been severely hit in recent years and this has impacted business valuations. It is therefore not uncommon for the value of the businesses assets (ie machinery, stock,

debtors etc) to be greater than a 'profit-multiple' valuation. Discounted cash flow valuations are used by savvy investors to appraise acquisitions, but the subjectivity in the selection of key variables can make the outputs unreliable.

Whatever the valuation calculated by an accountant, the real value of a business is the amount somebody is willing to pay for it. In this respect profits may be totally irrelevant. Good examples of this are the Premier League football clubs which change hands for hundreds of millions, despite generating enormous losses and little prospect of every producing a profit.

Strategic acquisitions attract a premium over the typical valuation models. In some cases this may be because a buyer wants access to certain markets, customers or intellectual property. In the case of football club acquisitions a premium is probably paid for the prestige and exposure that comes from joining this elite club of billionaires, and no accounting models can put a value on that.

Julian Dobbin is a partner at Mercer & Hole and leads the Special Projects & Reporting department, which covers valuations. Julian is also a member of the Valuations faculty of the ICAEW. You can contact Julian at juliandobbin@mercerhole.co.uk or call 01908 605552.

Eurobonds held in international settlement systems



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There are some unusual points about immobilised securities, such as Eurobonds that have led to some surprising UK tax consequences. Within this article, I have reviewed these in terms of how they affected one of my UK resident, but not UK domiciled clients.

In many cases clients acquire these securities through international clearing systems such as 'Euroclear' or 'Clearstream'. Euroclear is held in Belgium and Clearstream is in Luxembourg and they are different from normal securities because there is no paper trail to them. Instead, they are effectively 'suspended' in a mixed clearing house where no one security is assigned to the owner but they are mixed in a single instrument to a depositary.

In deciding the tax treatment there is no case law to guide us and we therefore need to rely on the interpretation of leading counsel.

1. UK Inheritance Tax

There are currently two schools of thought, firstly, situs (Latin for site or location) of these securities follows the place of residence of the issuing institution. For example, a Tesco Plc Eurobond would be UK situs. The second is that situs follows from the place of the relevant clearing system ie Belgium or Luxembourg.

The second view is the more widely accepted one and this means that immobilised securities are non UK situs assets for inheritance tax.

Therefore, for my non UK domiciled client who is not yet deemed UK domiciled, these securities are outside his estate for UK inheritance tax.

2. Income Tax

As expected, interest arising on a Eurobond is treated as income from the country in which the issuing company is resident. For example, income from a Tesco Plc Eurobond is UK source income and is taxable in the UK. My non UK domiciled client is taxable on his UK source income. However if the Eurobond gives rise to non UK source income then there is scope for my non UK domiciled client, who is on the remittance basis, to avoid UK tax on that income.

3. Capital Gains Tax

Quite logically, if the securities are issued by a UK incorporated company then they are UK situate. This means that any gains arising are taxable in the UK for a UK resident taxpayer.

However, Eurobonds issued by non UK companies are in fact mostly situated where the creditor is resident. Therefore, my UK resident but non UK domiciled client will have a UK capital gain on disposal of his foreign bonds.

Given that many non domiciled clients enjoy the remittance basis for their foreign income and gains, the capital gains situs rules for these securities can give an unexpected and undesirable result.

Liz Cuthbertson is a partner at Mercer & Hole and advises a portfolio of high net worth clients on matters including wealth preservation, offshore tax planning, and inheritance tax and estate matters. You can contact Liz at lizcuthbertson@mercerhole.co.uk or call 020 7353 1597.

VAT implications for not-for-profit organisations



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As VAT is a tax on transactions and not on profits, not-for-profit organisations including charities, housing associations, trade associations, clubs and other representative bodies will be subject to the same VAT rules as a commercial organisation. There are, however, a number of special VAT reliefs and exemptions available for charities and certain eligible bodies, subject to certain conditions.

If an organisation is in business and its annual taxable income breaches the VAT registration threshold (£68,000), it will have to register and account for VAT in the normal way. Such organisations will normally have a complex VAT position as they may have a mixture of business income (taxable and exempt) and non business income (eg donations/funding). This means that VAT paid on costs has to be attributed to the

relevant income stream and the VAT will either be fully recoverable, irrecoverable or partly recoverable. There are various methods to calculate this VAT, some more favourable than others. This is where the organisation will often need to seek specialist VAT advice, as typically it won't have its own dedicated VAT resource.

As organisations are increasingly finding new ways to raise funds, it is more likely that they will enter into one-off transactions which may have unforeseen VAT consequences. For example, two charities working together in 'partnership' may inadvertently create a VAT cost when recharging each other for services. Property transactions can also have VAT implications, but early planning may achieve VAT savings.

Getting VAT wrong can be costly and HMRC do not generally take a lenient approach to not-for-profit organisations. Errors on VAT returns can result in penalties and interest.

Jane Stacey is a senior VAT manager at Mercer & Hole and has a wealth of experience in the not-for-profit sector. You can contact Jane at janestacey@mercerhole.co.uk or call 01727 869141.

The Companies Act 2006 - in place at last!



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On 1 October 2009, the last elements of the Companies Act 2006 (CA 2006) finally became effective. Many of these elements are technical, whilst others will have a day to day effect on many of us. Let's consider the more practical issues.

- **Form changes**

From 1 October 2009 new forms must be used for all company events. Old forms will be rejected. The form numbers will be prefixed with a two letter code which indicates their type, for example, AA for accounts and AD for change of address. These initials will then be followed by the CA 2006 section number.

- **Changes to the Articles of Association**

As a result of the CA 2006 virtually all the content of a company's memorandum will now be deemed part of its articles, so this could change the requirement of whether a special or ordinary resolution is required to change things.

- **Company names**

The rules on 'same as' will be stricter unless applied in a group situation.

- **Director's service addresses**

Each director must now provide their residential address and, for each directorship they hold, a service address. The service address will be on public record whilst the residential address will be protected information.

- **Single Alternative Inspection Location (SAIL)**

The company's registers should all be kept at the registered office or at a Single Alternative Inspection Location, known as the SAIL. The SAIL could be say the accountant's or solicitor's offices.

And finally, we are told that if you still choose to send in manually signed documents then the signatures must be in black ink. Sign in blue and they will be rejected!

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