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Business Start-Up Guide

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£4.99

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CHAPTER 1

1) Have you got what it takes?

Whilst there are approximately half a million people who start-up a new business each year there are similar number of businesses that, for a wide variety of reasons, cease in the same period. Whilst some of these are for unavoidable reasons it is a sad fact that many new businesses do not survive for more than a year or so. Planning and an honest self-appraisal of both the business and one's talents are therefore essential. The following describes some of the attributes that are considered to be necessary for the proprietor of a successful business: -

a) Self Discipline
You must be prepared to spend a lot of time on your own, working in solitude and often outside normal working hours. As the business progresses you will work in the company of others and have the responsibility of being the one to whom they will look for guidance and motivation.

b) Determination
You will almost certainly encounter some difficulties that cannot possibly be predicted and will therefore need plenty of determination to get the business off the ground and perhaps more importantly to keep it running successfully. These occasions will bring their own problems and personal determination and the willpower to succeed are invaluable.

c) Responsibility
The well-known saying 'the buck stops here' is true for the proprietor of any business, particularly a new one. Such responsibility must be realised rather than feared, and the support of one's family will be extremely important. If the business is started with others such responsibility will of course be shared but this brings the added necessity of being able to work together as a team.

in attempt to encourage businessmen to pass on a trading entity to their children.

Capital Gains Tax is not payable on assets held at the date of death and in general terms therefore there is an incentive for Proprietors of a business to retain ownership, knowing that on their death there would be no Inheritance Tax payable (providing the appropriate criteria were met) and the person inheriting the business would acquire it at an enhanced value for Capital Gains Tax purposes. In such instances the value of the business at the date of death becomes the new owner's acquisition cost for Capital Gains Tax purposes should they in the future decide to dispose of the business. The same situation applies if one is looking at shares in a trading company.

CHAPTER 12

How Goddards Accountants Can Help

Head-quartered in West Molesey, Goddards is a firm of highly experienced accountants, committed to providing a wide range of accounting, taxation and consulting services for the small to medium sized client. The firm also specialises in forensic accountancy and expert witness services for the legal profession, incorporation and nomination services.

The practice has specialist skills in strategic planning, business development, corporation and tax structuring. Integrity, independence and professionalism are the backbone of the practice. The wide and diverse experience of the partners, managers and staff is reflected in the confidence and trust of its clients. Each one is greatly valued.

effective for disposals after 5th April 1998, with this particular relief completely abolished 5th April 2003.

In many family businesses it is the intention of the Proprietor to try and pass the business to the next generation. Any gift of assets, and this would include ownership of a business or shares in a Limited Company, count as a disposal for Capital Gains Tax purposes and in such instances the market value can be interposed by the Inland Revenue to determine whether any Capital Gains Tax is payable. Fortunately it is possible in the case of gifts of a business (and again this includes shares in a trading company) to avoid an immediate Capital Gains Tax liability. In effect the acquirer of the business takes over for Capital Gains Tax purposes the original cost value of the person making the gift, and you will readily see therefore that whilst there is not an outright Capital Gains Tax saving there is an indefinite postponement of any liability. However, when making any gift one needs to keep in mind not merely Capital Gains Tax but also Inheritance Tax. This can be a most complicated subject and one that is best dealt with at a specific meeting. However, the following brief outline may be of help in understanding the situation.

A gift on any asset from one person to another is treated as a %potentially exempt transfer+ and providing the donor lives for 7 years from the date of the gift there can be no question of an Inheritance Tax liability. If the donor dies after 3 years but before the 7th year after having made the gift there is a tapering of the amount of the gift that become liable to Inheritance Tax. However, gifts of qualifying shareholdings in a trading company and gifts by a Sole Proprietor or Partner of an interest in trade qualify for an immediate reduction in their value for Tax Inheritance Tax purposes. For an interest in a business owned by a Sole Trader or a Partner the reduction in value is 100% and obviously in this event there could be no question of an Inheritance Tax liability for either a gift during oneqs lifetime or on death. In the case of a shareholding in a qualifying trading company 100% relief applies to any level of shareholding and where a controlling shareholder transfers an asset which is personally owned but used by the trading company, or where such an asset passes on death, 50% relief is available. This is therefore a generous relief and was clearly introduced

d) Imagination

The reason why you are contemplating starting in business should be thoroughly examined. It is most unlikely that yours will be a business without competitors and therefore imagination will be necessary at the outset to consider the possible gaps in the market that could be filled by your business. Continued imagination will therefore be necessary to ensure that one stays ahead of most, if not all, of the competition. This may be achieved by trying to put yourself in the shoes of your potential customers, trying to anticipate what they are looking for and then to plan how best to deliver the services or goods you offer.

e) Ability

Do not automatically assume that you have the necessary skills to make your business a success. There are many skills needed to run a successful business, including marketing, selling and financial control. Whilst much can be learned from quality books, courses etc. it is essential from the outset that you, the proprietor, know your own strengths and weaknesses and are prepared to make every effort to continually improve. Before making any irrevocable decision to start a business it will be
necessary to draw up a business plan. This will consist of a number of different plans, including possibly the following:

1. List your requirements for the business within say the first year and then the first five years. What is your ultimate goal in so far as the business is concerned? A plan will help you work out how you will achieve your ambitions.

2. Think about the service or product you intend to sell and then plan ways of finding out your market to ensure that you get off to a good start. Knowing what makes your service or product special, knowing the type of custom you want to attract and knowing about the competition you are likely to face will strengthen your chances of success. Think about how you will sell and promote your service or product.

3. Think about how you will manage your business and your finances and in particular whether you will need to borrow any money to start your business and how the cash will flow in and out when you actually get under way. What monies will you need to extract each month to finance your required standard of living and is this a subject that has been discussed and agreed with other members of you family? In conjunction with the financial side, you should prepare a monthly summary showing under appropriate headings for your business the amounts you expect to receive and expend for the business, and this is commonly termed a cash flow statement. This should be for each of the first twelve months of your business and will help to show how funds may be required in order to finance anticipated growth. Once the business has commenced the actual monies received and expended should be compared against the cash flow projection as it is essential to try and anticipate future financial hurdles in order that the appropriate plans can be made. Many businesses, both new and long established, suffer from a lack of funds. It is, of course important to establish whether the problem is a short term delay in the receipt of funds that will definitely be received; or perhaps a lack of profit, possibly caused by inadequate profit margins or insufficient turnover. In the former instance, careful planning can minimise the problem and the solution could be a short-term bank overdraft, factoring of the sales invoices, or a number of other possibilities. (Ask for a copy of our booklet %Guide to writing a business plan+)

CHAPTER 11

Passing on the Business

There will come a time in the development of any business when the Proprietors start to contemplate a possible disposal. This may be for a wide variety of reasons, and need not necessarily be associated with a potential retirement. If the business is conducted through the medium of a Limited Company a choice will need to be made regarding the possible sale of the shares in the company or whether the company itself should dispose of its business and associated assets. In the former case the purchasers of the shares acquire the company %lock, stock and barrel+ and the vendors would invariably need to give a considerable number of warranties and undertakings; basically saying that there are no %skeletons in the cupboard+. In the latter instance it is the company that is making the disposal and the resulting consequences of the sale. In certain instances, if these proceeds are then distributed to the shareholders, there could be an element of double taxing and therefore great care must be taken. This problem of course does not arise if the business has been conducted as either a Sole Trader or a Partnership. In such instances the proceeds belong entirely to the individuals concerned who as individuals suffer the appropriate taxation consequences.

Individuals who have reached age 50 at the point of sale are eligible for comparatively generous retirement exemptions from Capital Gains tax. In effect the first £250,000 of taxable gain is completely free of Capital Gains Tax and one-half of the gains between £250,000 and £1,000,000 are similarly tax free, and this ±etirement reliefqis available providing certain criteria are met. Broadly speaking the business must have been operated for a minimum of 10 years, although the above exemption limits apply on a pro-rata base for each complete year of ownership i.e. 10% for each complete year until one reached the maximum exemption. The exemption applies separately to both husband and wife and is available to shareholders of trading companies providing they meet one or two additional criteria. We have already mentioned in Chapter 3 the changes within the 1998 Finance Bill relating to Capital Gains Tax Retirement Relief and these will be

Whilst it would be possible to effect cover for a shorter deferment period the premium would be much greater.

ii.) Critical Injury

Insurance cover at comparatively modest premiums can be obtained for the loss of a limb or an eye. One can also insure against having to cease work completely as a consequence of a critical injury of illness. For a monthly premium of £10.75 a man aged 35 could insure for a sum of £50,000.

iii.) Term Assurance

The conventional whole of life insurance policy will pay out an assured sum on the eventual death of the policy holder. However, it is possible to insure one's life for a specific number of years only and this might, for example, be until the youngest child has reached an age where they may be financially independent or perhaps at an age coinciding with your own pension retirement date. This form of limited period life cover is called Term Assurance and is frequently utilised in connection with life cover associated with a home mortgage. It is possible to effect this type of life assurance under the Personal Pension Plan legislation, thereby ensuring Income Tax relief at one top rate for the premiums paid. For the gross monthly premium (i.e. before Income Tax relief) of about £11 a man aged 35 could effect, say, 15 year term assurance for a capital sum of £50,000. These figures are only intended as a broad guide. With all forms of life assurance and pensions there is no substitute for a specific tailor-made quotation.

CHAPTER 2

Selecting a Legal Entity

The alternatives when you start in business, or need to consider a change in how you operate, are to become a Sole Proprietor, to form a Partnership with others or to form a Limited Liability Company. A Sole Trader or Partner is liable for the debts of the business to the full extent of his personal assets and can in the extreme be made bankrupt. A company shareholder's liability is normally limited to the amount already paid as a share capital and any unpaid sums still due on his shares. Protection of private assets is usually one of the main reasons for trading through a company. However, lenders, landlords and sometimes suppliers can require directors to give a personal guarantee in respect of the company's obligations, which reduces significantly the benefit of limited liability.

There are also major compliance requirements for a company under the Companies Acts, including the need to prepare and publish possibly audited accounts which must be sent promptly to Companies House. The accounts of a company whose annual turnover is £6,500.00 or less need not be audited.

As a Sole Trader or Partner you will pay Income Tax at 40% on all income (after personal allowances and other tax reliefs) in excess of £42,385, whether you leave the profits in the business or withdraw them. This threshold is available to both a husband and wife and this is one of the criteria to be kept in mind in considering whether a partnership between husband and wife could be attractive. But if you are a controlling Director-Shareholder you can decide how much profit to take in the form of remuneration or dividends and on this you will suffer Income Tax; and on how much to leave within the company to be taxed at Corporation Tax rates on profits is only 20%.

You will however need to look not only at the comparative rates of Income Tax but also National Insurance Contributions. A Sole Trader or Partner pays Class 2 National Insurance Contributions of £2.80per week for 2015/16. Additionally all self-employed people are liable to Class 4 National Insurance contributions of 9% on £8,060 and £32,760 and 2% over £42,385.In a husband and wife partnership both may

have to pay Class 2 & Class 4 Contributions. Exemption from Class 2 NI contributions is available if an individual's annual business profit is below £5,965. The National Insurance Contribution on remuneration drawn from a company depends upon the level of earnings. NI contributions commence at a level of earning of £94.01 per week. Between £94.01- £630.00 is 12.8%. Over 630.00 is 1% for employees; for employers 12.8% on all income over £94.01 per week. The employer is of course ones own Limited Company and even allowing for the fact that this expense is deductible for Corporation Tax purposes; the additional National Insurance cost of operating through a company at that particular profit level is therefore considerable.
The overall Income Tax position is also affected by whether profits are withdrawn from a Limited Company as salary or dividend. Dividends are received by shareholders effectively net of 19% tax reduction, and that tax credit covers the shareholder's Income Tax Liability on the dividend unless his income exceeds the basic rate threshold. This is because even though the individual may be liable to Income Tax on their total income at 20% the additional 1% liability is not payable in respect of dividends & this can sometimes be taken into accounts in one's overall planning. The question of company dividends is discussed in more detail in Chapter 7.

The following other factors should be taken into account in deciding the appropriate legal entity for one's business:

a) Certain benefits, in particular unemployment benefit/job seekers allowance and earnings-related retirement pension are not available to self-employed individuals.

b) In order to obtain a deduction in calculating taxable profits, earnings for directors or employees are required to be wholly & necessarily exclusively for the purposes of the business, so particularly where a husband or wife doesn't work full-time in a business the earnings may be challenged by the Inland Revenue as excessive in calculating the taxable profit of the company. There is no such requirement for a wife or husband who is a partner, albeit working less than full-time, although some artificial arrangements will not be viable.

d) How much Pension Premium?

The following chart may be assistance in your decision making. The figures show the monthly pension premium needed to fund for a pension of £10,000 per year commencing at age 60.

Commencement Age

	Male	Female
25	£207	£230
30	£252	£280
35	£316	£352
40	£414	£461
45	£580	£646
50	£960	£1069

These figures assume 9% growth and show the necessity of early planning.

e) Other Related Insurance Matters

A self employed businessman, including the proprietor of a small trading Limited Liability Company, would be heavily dependent upon his ability to work in order to fund his personal and family lifestyle, including monthly commitments such as mortgages. In the case of illness or serious injury such a person is extremely vulnerable, particularly in the early years of a new business. It is possible to effect various insurances in order to protect against such risks and the more common types of insurance are as follows:

i.) Sickness
It is possible to insure for a specified monthly benefit in order to provide the funds necessary to meet one's normal monthly commitments. In order to maintain monthly premiums at a sensible level one would try to effect a policy for the first 13 weeks of any such benefit.

A man aged 35 requiring a weekly benefit of £230 until age 60 would incur a monthly premium of £23.

flexibility with regard to deferring purchasing an annuity at retirement age, although it is felt that this may be available in the not too distant future.

c) Self –Administered Pension Schemes

Under both categories of pension arrangements referred to already the premiums would be paid to an approved insurance company, who would then be responsible for the investment and management of the pension fund. Almost all such pension companies offer the ability to the pension scheme member to have a measure of choice regarding the investment funds into which the premiums are placed e.g. Property Fund, Far East Fund, American Fund etc. It is possible however to choose,
for both Personal Pension Plans and Occupational Pension Plans, to have the scheme fully self-administered i.e. the pension scheme member determines, within Inland Revenue parameters, the form of investment. While it gives maximum flexibility in managing a fund, the pension scheme trustees must invest in the best interests of the members in order to provide their pension benefits. In
general terms, however, this type of scheme is more frequently found where it is reasonable to assume that the business will acquire its own business property at some stage in the future. A small self-administered scheme may borrow up to an amount equal to three times the normal annual contribution (premium) plus 45% of the scheme assets. Invariably this scheme must have been in existence for a number of years before the purchase of the premises in question and the borrowing could be paid off by future annual contributions. The pension fund would also charge a rent to the occupying employer business, and such rent received by the pension fund would be completely tax free, but an allowable deduction in the accounts of the employer. Whilst loans to pension scheme members or their families are forbidden, loans to the company itself in the case of a Limited Liability Company employer may be permitted.

Specialist advice is essential for any contemplated self administered pension arrangements and we are able to effect introductions to competent, independent advisors.

c) A company shareholding is only available to full-time working directors and employees, and part-time directors don't qualify. However there are no such restrictions where a partner working less than full time disposes of all or part of his partnership.

d) With a Partnership there are automatic joint and several liabilities for all business debts. This means that any single partner can be made liable for all of the business debt, leaving him to make an appropriate counterclaim against his partner(s) for their appropriate proportion of such debts but, if they perhaps do not have sufficient funds to make them worth suing, the entire debt could therefore fall on one single partner.

e) It is possible to have the shares of a limited company owned by a nominee if it is important to avoid disclosing the true ownership of the company. Whilst this would still technically be possible in the case of a sole trader or partnership it is more difficult and costly to put into effect.

f) Whilst there are no legal formalities required to commence a business Partnership it is recommended that a Partnership agreement be prepared, with the help of a solicitor, in order to outline exactly how the Partnership will be organised. The agreement should cover, for example, who is putting what into the business at the outset, who does what work, how profits and losses are to be shared and in what circumstances the business can be wound up and how this is to be effected.

Whilst trust is crucial in this type of business relationship there is no substitute for a competently prepared partnership agreement. It is a well known business saying that whilst one hopes for the best, one plans for the worst.

CHAPTER 3

Initial Contact with the Authorities

It is necessary to inform the Inland Revenue and the Department of Social Security (Contributions Agency) of the commencement of a new business, and the completed form is sent to the Department of Social Security at Newcastle (CWF1). This particular form however only applies to those who are self-employed, including partners, and a separate form (GT41G) is necessary for newly incorporated limited companies. A copy of this form is also enclosed but one is automatically sent by the Inland Revenue to the registered office for all newly incorporated limited companies.

It is important to inform the Department of Social Security and Inland Revenue of the commencement of a new business relatively soon after it has started. Under ±self-assessmentq to Income Tax there are penalties for notification beyond 30th September of the tax year after that in which the business started. If you have employees you will need to deduct appropriate Income Tax and National Insurance Contributions and will therefore need in place a PAYE Scheme. Application will need to be made to the Inland Revenue to effect such a scheme.

You will see that the initial notification form CWF1 contains provision for you to indicate that a copy of the form will be forwarded by the Department of Social Security to the Customs & Excise. More detail regarding Value Added Tax appears in Chapter 7, but if it is decided that the business should register for VAT it is preferable to make early contact oneself direct with the Customs & Excise. Clearly the obtaining of an appropriate VAT registration number is essential from the outset, not only to facilitate the printing of invoices but also to ensure that one has statutory authority to add VAT to oneqs own invoices. We maintain a list of the addresses and telephone numbers of all Customs & Excise VAT Offices within the United Kingdom and can arrange for an appropriate VAT registration application form to be issued to you with the minimum delay.

As has already mentioned, Personal Pension Plans are available to individuals who are either self-employed or in non-pensionable employment. Self-employed people pay pension premiums gross and receive Income Tax relief by way of an allowance when calculating their annual Income Tax liability. Income Tax relief at present is given oneqs highest rate. Employees, however, pay Personal Pension Plan premiums net of basic rate Income tax and then make a separate claim to the Inland Revenue for an adjustment in their PAYE Coding in order to obtain the higher rate element of the Income Tax relief, or make a separate Income Tax Repayment Claim if there is insufficient time to have an amended PAYE Coding issued before the end of the tax year. Employers may make payments into a Personal Pension Plan of an employee, but all such premiums are paid gross and the total of the premiums paid by both the employer and employee are subject to the earlier mentioned percentage limitations.

b) Occupational Pension Schemes

It is possible for an employer to set a group Personal Pension Plan whereby each individual employee effectively has their own allotted plan within a structure encompassing many such plans for the employees and this can in certain instances produce administrative savings. It is however also possible for an employer to set up a type of pension scheme, often referred to as an Executive Pension Scheme, as is more commonly utilised by senior executives/director. Whilst a Personal Pension Plan has premium limitations expressed as a percentage of net relevant earnings (i.e. front end restricted) an Occupational Pension Scheme has its limitation based upon the number of years for which the employment will last until planned retirement date and the total remuneration (salary plus benefits) at retirement age. This type of pension is often referred to as a %final salary scheme+(rear end restricted), although there are restrictions in the definition of %final salary+if the pension scheme member holds 20% or more of the issued share capital in the employer company.

As with Personal Pension Plans there is a ceiling in the amount of qualifying earnings on which pension premiums can be based, currently £82,200. However, at the present time there is no comparable

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doesn't necessarily equate to retirement from one's business or employment. It is possible, for example, to commence receiving one's personal pension plan benefits at age 50 but continue in business for many more years or conversely cease business at say age 55 but not commence withdrawing pension benefits from the pension fund until a later date. This may in fact be a sensible investment decision, bearing in mind that any other capital you may have invested would have its income and capital growth taxed, whereas the pension fund would continue to grow completely free of all taxes on both Income and Capital Gains.

At retirement the whole fund may be used to buy an annuity, which will be taxed as income, or a tax free lump sum may be taken with the balance of the fund used to purchase an annuity. For Personal Pension Plans the tax free lump sum may not exceed one quarter of the fund. Whilst there is no overall maximum in the value of the tax free lump sum there is an automatic restriction by the imposition of a ceiling to the figure for net relevant earning, and this limit is index linked. Currently the earnings ceiling is £87,600. The balance of the retirement fund, after payment of the tax free lump sum is used to purchase an annuity and there are considerable variations upon the type of pension that can be paid. For example the pension could be a fixed amount or have an in-built inflationary increase, could incorporate a pension for the surviving spouse and it is also possible to opt for the pension to be paid for a guaranteed number of years.

A further option that became available in 1995 enables an individual to take the tax free lump sum, but defer purchasing an immediate annuity. This is particularly helpful when annuity rates are low and an approved annuity must be taken at the latest by age 75. In the interim it is possible to take taxable income withdrawals from the fund during the deferral period up to a maximum that is broadly equivalent to the annuity they could have taken, but with a minimum income withdrawal of 35% of the maximum. The fund will continue to build up tax free and, if the pension
scheme member dies during the deferral period, a surviving spouse or other nominated dependant will be able to take the fund in cash (subject to a tax charge of 35%).

In general terms we would discourage wherever possible direct contact between our clients and the Inland Revenue, Department of Social Security and Customs & Excise. We naturally have considerable experience in dealing with these authorities and not only know how in most instances they should be approached or how one should respond to their enquiries. We are also perhaps more readily able to deal with matters on a correspondence basis which is infinitely preferable to trying to answer queries over the telephone where there is no proof of guidance or information provided.
However, all of these Government agencies naturally undertake their own control/checking visits but these should always be by prior arrangement and at mutually convenient time.

We would advise that before any specific appointment is agreed you telephone us in order that we can give you the appropriate advice in the particular circumstances and, especially in the case of a first visit, ensure that we would be available over the telephone at the appointed time. In appropriate circumstances we could also attend the meeting. We would also recommend that all enquiry forms issued by any of the above three Government agencies are sent to us for checking and photocopying and we will then forward these on your behalf.

CHAPTER 4

Accounting Requirements

In the case of a Sole Proprietor, and or partnership, there are no specific statutory regulations determining the nature of the accounting records to be maintained, nor the date to which one should prepare annual accounts. Indeed under self-assessment there is no longer a requirement to submit to the Inland Revenue a copy of one's accounts as the appropriate detail must be entered on the official Tax Return Form issued each April. Nevertheless, it is our policy to still submit Accounts with the Tax Return as this affords a measure of protection against a subsequent investigation by the Inland Revenue. Business accounts will still be necessary for almost every category of business, not only to facilitate the completion of the annual Tax Return Form but also to help the proprietor in the management of the business. Accounts will also be required for applicants to a bank for financial assistance, the obtaining of a personal mortgage, and many other purposes. The choice of a year end date is less relevant than it has been in the past for Income Tax purposes, but nevertheless the choice of an appropriate year end can be helpful and this is a subject on which we will naturally give you guidance. It will undoubtedly be of assistance to all concerned if the annual accounting date coincides with the end of a VAT quarter for VAT registered businesses, although in many instances one can write to the Customs & Excise and specify a particular quarterly accounting cycle. Another criteria in deciding an appropriate year end might take into account whether the business was seasonal. It is often helpful to have a year end date at a time when one's stock is at its lowest level, simply to facilitate the year end date at a time when one's stocks are low, and one also finds many businesses having a year end immediately before their quiet time in order that additional accounting workload can more easily be accommodated. Whilst it is possible for both individuals and limited companies to change a year end accounting date it is better to try and give appropriate thought to the original choice.

a) Personal Pension Plans

This type of policy is the only one that is available to self-employed individuals, including partners. This style of pension policy was introduced in 1988. Prior to this a similar type of policy was in existence, called a Retirement Annuity Contract. Whilst it is possible to continue paying premiums into a Retirement Annuity Policy that was effected prior to 1988, all policies effected since then are Personal Pension Plans and the maximum pension premium that one is allowed to pay into such schemes is as follows:

Age 35 and under	17.5%
Age 36 to 45	20%
Age 46 to 50	25%
Age 51 to 55	30%
Age 56 to 60	35%
Age 61 and over	40%

For any given tax year one does not pay the maximum allowable premiums. The unused proportion of the maximum relief can be carried forward for up to six years but in future years is only utilised after having paid the maximum premiums for that particular future year. The percentage shown is of one's net relevant earning for each year and broadly speaking net relevant earnings means one's taxable profits in the case of a self-employed person (after deducting Capital Allowances, Trading Losses from earlier years etc.) and in the case of an employee net relevant earnings would be total remuneration i.e. salary and taxable benefits-in-kind, providing that the employment is not already pensionable by virtue of an employer-funded pension scheme. This will be referred to later in this chapter.

The benefits from a Personal Pension Plan must commence not later than age 75, nor earlier than age 50, except in cases of ill health or where the occupation is one in which earlier retirement is customary; for example, professional athletes & other sportsmen have been able to negotiate with the Inland Revenue an earlier retirement date for approved pension arrangements. It must be stressed that whilst we refer to 'retirement' in so far as the pension plan is concerned this

CHAPTER 10

Pension Provision

State pensions are recognised as providing an inadequate income in old age, even though employee's pensions can be boosted be an earning related addition (SERPS). With an ever decreasing proportion of the population in the United Kingdom working and therefore funding the Social Security Benefits, including pension, of an ever increasing proportion of the population that is retired, the future for state provided pension benefits is not encouraging. The government therefore gives generous tax treatment to an Occupational Pension Scheme. The premiums paid into an approved pension scheme, subject to certain limitations, are allowable for Income Tax purposes in the hands of the payer and the investment fund in the hands of the pension company will grow completely free of all taxes. In the view of the ever increasing need for the private pension provision it is not likely that there will be in the foreseeable future any adverse changes in the tax treatment of Private Pension Schemes.

Whilst many major public Limited Companies have a pension scheme that guarantees on retirement a fixed proportion of the employee's final salary, with the proportion based upon the years of service and with a statutory limit of two thirds of the final remuneration, this type of scheme requires extremely high levels of funding and is extremely rare in private companies. Accordingly we shall make no further reference in this guide to this type of pension scheme, although we can provide further details if required.

For self-employed businessmen and employees of private companies (including directors) the normal method of pension provision is what is called a money purchase arrangement. Premiums are paid in accordance with the statutory limits and on the chosen retirement date the value of the pension fund is available to provide appropriate retirement benefits. There are a number of different categories of appropriate pension plan, and these broadly fall in the following categories:

Turning now to the specific accounting record to be maintained, it is important to realise that poor record keeping could lead you to pay too much tax, whilst the various statutory provisions do not specifically say which accounting records are sufficient in themselves to be able to show the correct profitability for the given accounting period. The records should show all business transactions and you must keep the original of all documents such as receipts, invoices, bank statements etc. Under self-assessment you are obliged by law to retain records relating to Income Tax and Capital Gains Tax and in the case of people who are in business such records must be retained for a minimum of five years from the date on which the annual Tax Return Form is due back to the Inland revenue, normally 31st January in the year following the tax year to which the return relates. Effectively this will mean that you will need to retain the accounting records for at least six full accounting years and this coincides with the requirements for good retention laid down by Customs & Excise. It is worth noting that the statutory provisions under "self-assessment" decree that all financial records of self employed businessmen must be retained and this includes those relating to financial matters other than the business e.g. personal bank statements, dividend counterfoils, building society passbooks etc. In the case of a Limited Liability Company, whilst there is again no statutory guidance regarding the specific nature of the accounting record to be maintained, the Companies Acts categorically place upon directors the responsibility of maintaining detailed and accurate accounting records that will enable the company's financial position at any given time to be readily ascertained. There are penalties that can be imposed by the Board of Trade where directors do not carry out their responsibilities under this section of the legislation and it is part of our responsibility as auditors of a Limited Company to confirm that proper accounting records have been maintained.

It is worth mentioning that at each year end date any business holding stock should organise a stock-take, listing the items in reasonable detail and showing these at cost price, exclusive of reclaimed input VAT. If any particular items have a saleable value less than original cost, this fact should be noted with the relevant value also shown. It is also helpful immediately after the year end date to prepare a schedule of monies owing to the business (debtors) and by the business

(creditors) as at the year end date. Any bad or doubtful debts should be included, but with an appropriate narrative.

We are frequently asked for guidance regarding the nature of accounting records that should be maintained by a particular business and we are also asked for guidance regarding whether such records should be manual or computer maintained. This is an area where we are happy to give appropriate guidance.

As the cost of the Cloud Accounting has fallen dramatically, we would always recommend that any business either use Excel or one of the Cloud Based Accounting Packages (see our website www.cloudaccoutningsurrey.co.uk)

Whilst there are opportunities in the correct circumstances for perhaps part of one¢s trading activity to be effective through the medium of an off-shore company, great care must be taken. Any tax avoidance arrangements whereby individuals who are themselves resident, ordinarily resident and domiciled in the UK form an off-shore company with the director¢s nominees in that tax haven will almost certainly become tax evasion, The avoidance or reduction of UK taxation liabilities by the legitimate arrangement of one¢s affairs is legal and termed tax avoidance whereas transactions that are fraudulent are categorised are tax evasion.

As with almost all tax planning, timely arrangements are essential. If, therefore, at the time of reading this particular guide you are contemplating perhaps for the first time business arrangements in the United Kingdom, having for many years been living outside the United Kingdom or perhaps, having been in the UK for many years, are contemplating a business abroad we would urge you to make early contact with us.

resident, even if they have accommodation available here. Visitors, however, will be regarded as resident in any tax year in which their visits add up to 183 days in total. If UK visits, while not accounting to 183 days in any particular year, average 91 days a year or more for 4 consecutive tax years (but exceeding any days spent in the UK because of exceptional circumstances beyond the
individual’s control), a visitor is then regarded as becoming both resident and ordinarily resident in the UK. If it was clear at the outset that he was going to make regular substantial visits he may be regarded as resident and ordinarily resident from the start.

Domicile is different from nationality and residence, and a person can only have one domicile at any one time. An individual’s domicile is usually the country in which he has his permanent home and a domicile of origin is acquired at birth and under UK
laws this is the father’s domicile for legitimate children and the mother’s domicile for illegitimate children. A wife’s domicile is ascertained independently of her husband’s.

The domicile of origin may be abandoned and a domicile of choice acquired but this necessitates positive action e.g. changing residence, making a will under the laws of the new country, obtaining citizenship of the new country, etc. A high standard of proof is required to establish a change of domicile.The effect of UK Income Tax, Capital Gains Tax and Inheritance Tax for individuals who may be regarded as not resident and/or not ordinarily resident and/or not domiciled in the UK is extremely complicated and if your circumstances are such that you could be interested in this area of tax planning we shall be pleased to discuss your particular circumstances with you. This is particularly relevant in the realm of Capital Gains Tax in view of wide ranging changes within the 1998 Finance Bill.

Under UK tax law any company that is incorporated in the UK is treated as being UK resident, no matter where it is managed and controlled. Companies incorporated abroad are regarded as UK resident if they are managed and controlled in the UK. A company may have more than one country of residence and a considerable degree of mis-information is heard regarding the benefits to be obtained by having a Limited Company incorporated outside of the UK e.g. Channel Islands.

CHAPTER 5

Employment of Staff

It is important to remember that if you have an employee there is a statutory obligation upon you the employer to operate a PAYE Scheme with the deduction of the appropriate PAYE and NI liabilities, and the total liabilities must be paid over to the Inland Revenue, usually on a monthly basis. This obligation and expense can be considered by some to be extremely onerous and is frequently sought to be avoided. This is an area fraught with difficulties and is one on which we can give specific guidance in each client’s circumstances. There are a considerable number of tests to be applied in determining whether a particular individual should be regarded as an employee or genuinely self-employed and the following are the principle ones most frequently used:

a) Does the person concerned work for many different businesses?

b) Does the person provide the main items of equipment that they will need in the performance of their task?

c) Does the individual concerned exercise professional judgement in the exercise of his task or are they invariably told what to do or when and how to do it?

d) Is the person paid by the hour, week or month, indicating employment or perhaps by the task, suggesting self-employment? Generally self-employed people can make a profit or loss depending on how quickly or how well they perform.

Invariably each case is a shade of grey rather then black or white and we are happy to give our professional guidance. It is important to remember that if the Inland Revenue or Department of Social Security subsequently examine a given situation and come to the conclusion that it should have been treated as an employment whereas it had been dressed as self-employment they can seek from the deemed employer all PAYE and NI obligations that ought to have been paid throughout the entire period for up to 6 years in the past and in addition can charge penalties and interest.

When a business acquires its first employee the Inland Revenue District dealing with the business taxation affairs should be informed

in order that a formal PAYE Scheme can be put into effect. This will apply to all salary payments and whilst most benefits-in-kind that are assessable to Income Tax will not be liable to National Insurance Contributions this is not the case in every instance. For example, car and fuel benefits attract for the employer a Class 1A National insurance Liability and we frequently give advice to clients on Income Tax and NI efficient remuneration packages for employees.

Under general employment legislation employees have a right to a written contract of employment and a payslip for each amount of pay showing the gross remuneration and various deductions and they are also entitled to various statutory benefits arising as a result of their employment, providing certain criteria are met. These benefits include such things as statutory sick pay, statutory maternity pay, etc., and, whilst certain %small employers+ can recover most if not all of these particular obligations, the cost to many employers can be considerable. It is no doubt with this cost in mind that many seek to treat their employees as %pseudo self-employed+ and it is for the same reason that the authorities are continually seeking to rectify such incorrect treatment with the appropriate penalties in their armoury.
On the subject of penalties it is worth noting that the Inland Revenue are increasing their use of penalties on employers who do not fulfil all proper obligations concerning PAYE compliance and this is particularly the case with regard to the end of the tax year form filling. This can be a most daunting task for new employers, particularly the forms relating to expense payments and benefits-in-kind and this subject is one on which we are always happy to give advice to clients. On the question of monthly payroll, we create our own payroll bureaux and we can deal with the computer based preparation of salary slips, PAYE/NI calculations etc. and also assist in the year end paperwork.

It is a criminal offence to employ anyone, including part-time and casual staff, who does not have permission to live and work in the UK. However, simple precautions can keep employers on the right side of the law and this would normally be requesting sight of a P45 or P60 or completion of a P46 and promptly sending this to your Tax Office, particularly if the person concerned does not hold a UK or E.U. passport.

CHAPTER 9

Overseas Implications

The liability to United Kingdom taxation is dependent upon one being classified as being within jurisdiction of our taxes. An individualqs liability to UK tax depends on where he is resident, ordinarily resident and domiciled. For a Limited Company ordinary residence and domicile are not normally significant and companyqs tax liability depends, usually, only on its residence.

Residence is a question of fact and usually requires physical presence in a country. The residence of husband and wife are determined independently. It is possible for an individual to be resident in more than one country for tax purposes. Ordinary residence is broadly equivalent to habitual residence. You are regarded as remaining resident and ordinarily resident in the UK despite a temporary absence abroad unless the absence spans a complete tax year. Strictly speaking you are either resident or non-resident for the whole of a tax year but by Inland Revenue concession a tax year may be split into resident and non-resident periods. If you leave the UK to take up full time employment abroad for a period which will span a complete tax year you are regarded as not resident and not ordinarily resident from the day after you leave, and as a new resident when you return, providing your UK visits do not overstep the limits for visitors (see below). If you leave the UK for any other purpose you may be provisionally treated as not resident and not ordinarily resident if you can produce evidence of leaving the UK permanently (e.g. selling your house here and buying one abroad) and the provisional ruling will be confirmed when your absence has spanned a complete tax year. If evidence is not available at the start of the period abroad you will provisionally be treated as remaining UK resident for a period of up to 3 years and if your UK visits have averaged less than 91 days a tax year you will treat as not resident and not ordinarily resident from the time of your leaving. If you have property within the UK available for your use you will need to be able to show that retaining the property is consistent with your stated intention of living permanently abroad. Those who visit the UK for a temporary purpose will not be regarded as

VAT regulations state that all accounting records must be retained for a minimum of six years; all VAT reclaimed on businesses expenditure must be supported by you retaining an appropriate VAT invoice/receipt and there are penalties for late submission of a VAT Return and/or late payment of the appropriate liability.

Each VAT registered business will receive an Assurance Visit (we prefer the former title, Control Visit!) from the Customs & Excise, usually every 3 to 5 years. We would advise clients to notify us before agreeing a particular date with the officer who telephoned, particularly if this would be your first visit, and if required make arrangements to either attend or be available over the telephone at the appointed time.

CHAPTER 6

Subcontractors

You may well need to work as a Subcontractor for a firm in the Construction Industry. If so, you will need to get a CIS number. Your contractor will need to clear your CIS number with HMRC, and then deduct the relevant CIS deduction (normally 20%).

If you employ Subcontractors you will need to check with HMRC the Subcontractors National Insurance Number and Unique Tax Reference (UTR) or if they still have the CIS Card, there CIS Number prior to you using their services. Failure to do so can carry a fine. HMRC will confirm their status i.e. 100% payment, 80% payment or 70% payment with a Unique Verification Number. If HMRC state the Subcontractor is 80%, but the Subcontractor claims he is 100%; you **MUST:**

a) Report him to HMRC
b) Only pay the 80%. Failure to comply with these rules will carry a fine.

We would recommend that you ask for a copy of our CIS book.

CHAPTER 7

Tax on Profits

Before considering the taxation liabilities that will arise on a trades profit, we should first look at what will constitute the profit for taxation purposes.

A set of accounts for a business will be prepared in order to try and show accurately the trading profit that has been achieved. Indeed this is the principal purpose for preparing accounts and these accounts are then useful in agreeing with the Inland Revenue the taxable profit. Certain items included within a business Profit & Loss Account will be treated differently for taxation purposes and the more usual items are as follows.

Depreciation:

The cost of fixed assets e.g. plant, equipment, motor vehicles etc. purchased by a business would rarely be taken completely as an expense in the year of purchase. The assets would be utilised to earn profits over a number of years and the original cost be written-off to the Profit & Loss Account over an appropriate number of years, and this annual write-off is called depreciation. For taxation purposes, however, the legislation specifically provides, in most cases that in the year of purchase 25% of the original cost price will be allowed as a taxation deduction, even though the asset may in fact have only been owned for perhaps the last day of the accounting year in question. In year two you can claim 25% of the residue of the expenditure brought forward and this 25% of residue brought-forward principle is followed in each successive year if the asset in question is owned and used in the business. The taxation allowance for such items as industrial premises is somewhat different and there is no taxation deduction against trading profits for the cost of freehold land or buildings other than those used for industrial purposes.

All supplies of goods and services will fall into one of the following VAT categories:

a) Standard-Rated
b) Zero-Rated
c) Exempt
d) Outside the scope of VAT

Any VAT incurred by a VAT registered business on expenditure related to the supplies of either standard or zero-rated supplies can be recovered in full. However there are restrictions on the recoverability of input VAT by a business that has turnover that is either deemed to be exempt outside the scope of VAT. If your business is likely to be affected by these restrictions we will be able to provide further details. If your business is involved in the provision of services on an international basis or the sales of land, including buildings, it is preferable that you seek our early guidance on VAT as these areas are particularly complicated.

We have already mentioned that each VAT registered business will need to complete a quarterly VAT Return, but there are provisions for the completion of monthly returns if, for example, your business is regularly paying out on business expenditure more VAT than is being charged on sales and accordingly you are due for regular repayments from the Customs & Excise. It is also possible for businesses with a VAT inclusive annual turnover of no more than £300,000 to elect to complete one single annual VAT Return. At the outset of the year a provisional VAT liability is agreed with the Customs & Excise and the agreed liability divided by ten. Nine equal monthly payments are then made by direct debit starting four months after the beginning of the year. The annual return and balancing payment have to be made within two months after the end of the year.

This annual accounting scheme has further been modified for businesses with a turnover of less than £100,000, who will now be able to make quarterly instead of monthly interim payments and the quarterly payments, are 20% of the estimated liability for the ensuing year.

CHAPTER 8

Value Added Tax

VAT is charged on the supply of both goods and service in the UK and on import of goods and certain services into the UK. It applies where the supplies are taxable supplies made in the course of business by a taxable person.

At the current time a business person is liable to be registered for VAT at the end of any month if the taxable turnover i.e. sales of all business activities in the year ended on the last day of that month has exceeded £82,000. The only exception to this is if one can satisfy Customs & Excise that the taxable turnover in the next 12 months will not exceed £82,000. You are required to notify Custom & Excise within 30 days of the end of the month in which the annual limit was exceeded and will automatically be registered from the beginning of the immediately following month, or such earlier date as is agreed with Customs & Excise. Liability to register also arises at any time if your taxable supplies in the next 30 days are expected to exceed the £82,000 limit and you must notify Customs & Excise within the 30 days and you will be registered from the beginning of that 30 day period.

There is a penalty of up to 15% of the net Value Added Tax due for failure to register, with a minimum penalty of £50. It is also possible to voluntarily register for VAT where oneqs turnover is below the statutory registration limit if you decide that it would be financially advantageous to voluntarily register. Notification of VAT registration is made on a form VAT1, a copy of which is enclosed in the appendices. A certificate of registration is then issued, usually within a few weeks of the form having been submitted to the local VAT registration office.

A VAT registered business must complete a quarterly VAT Return Form, and a specimen is enclosed as part of the appendices. When the VAT registration certificate is issued it will show the quarterly VAT accounting cycle allocated by the Customs & Excise, although it is possible to request a particular quarterly cycle that perhaps coincides with an already chosen accounting year end date. This is best done at the time the registration firm is submitted to the Customs & Excise.

Business Entertaining:

Whilst it is possible to obtain taxation relief against business profits for the cost of entertaining employees (not freelance sub-contractors), one cannot obtain a deduction for the entertaining of a person of any other category. Entertaining is described as being %hospitality of whatever nature+.

Office Use of Home:

If you work from home it should be possible to claim a proportion of heating, lighting and maintenance bills. However, you should beware of setting aside any part of your home to be used exclusively for business as any Income Tax
advantage could be more than off-set by a potential liability to business rates and/or capital gains tax when the property is sold.

Expenditure that is not "Wholly and Exclusively" Incurred for the Purpose of the Business:

Strictly speaking, an item of expense that is partly private and partly business should be completely disallowed for taxation purposes, although by concession this aspect of the legislation is not always strictly followed. For example, a home telephone that is used partly for business purposes could have the appropriate proportion allowed for taxation purposes against profits. A similar situation arises for a motor vehicle. Turning now to the tax charge on profits; a Sole Trader and a Partner in a business, will suffer Income tax on the total profit achieved for the year, irrespective of whether this has been withdrawn from the business or left in as working capital. After deduction of appropriate allowances and reliefs the first £42,385 of taxable profit will suffer Income Tax at 20%, and all profit in excess of £42,385 will suffer Income Tax at 40%. These rates are those applicable for 2015/16.

The basis of assessment and payment of tax relating to business profits has recently undergone dramatic changes. We are now under %self-assessment+and for the simplicity we will look at the rules as they

apply since 1998/99 and any business starting now will be involved entirely with the new procedures.

The businessman may take his annual accounts to whichever date he wishes and this matter has been discussed in the previous chapter. It is preferable however, having chosen a year end, to leave this unchanged for as long as possible. For any particular tax year of assessment the individual will be assessed to Income Tax on the profits shown by his accounts for the business year ending in that tax year. For example, accounts for the year ended 30th June 1998 will be assessed to income Tax as 1998/99. In the case of a continuing business an estimated payment on account will need to be made to the Inland Revenue on 31stst January 1999 and in normal circumstances this would be precisely one half of the actual liabilities due to the Inland Revenue for the previous tax year. A further identical payment would be made to the Inland Revenue as a second payment on account on the 31st July 1999 and any balancing liability would need to be made to the Inland Revenue on 31st January 2000. Of course at this time one would then be paying the first instalment on account of the tax year 1999/00 and you will readily see the need to ensure that amounts are set aside out of profits as they are earned to meet the eventual Income Tax liability. If it transpires that the actual liabilities for any particular year are lower than the total of the two payments on account that have already been made, the Inland Revenue will automatically repay the excess. In certain instances it will be possible to make an application to the Inland Revenue for reduced payments on account if by the appropriate due dates you can demonstrate that the payment on account due to be made in accordance with the normal procedures would certainly prove to be excessive. There is, therefore, an incentive to have annual accounts prepared relatively promptly.

As the name suggests, the taxpayer (with obvious assistance from the accountant) will be calculating their own Income Tax liabilities and it will be rare for the Inland
Revenue to raise any formal assessments on business profits. The relevant details of business income and related expenditure will need to be shown on an Inland Revenue Tax Return Form and this will incorporate a working sheet to enable the taxpayer (or accountant) to calculate the appropriate Income Tax liability. Naturally a proportion of

all submitted tax Return Forms will be subject to inspection and checking by the Inland Revenue and whilst we are still in the infancy of 'self-assessment' it has been suggested that the proportion of returns to be checked by the Inland Revenue will be in the region of 10%. There will be automatic penalties for incorrect Tax Returns!

However, the Inland Revenue have stated that if a Tax Return Form is submitted to them no later than 30th September they will calculate the amount of a taxpayer's liability and this will hopefully avoid problems arising from perhaps a taxpayer making a simple error in their own calculations.

A Limited Company will suffer Corporation Tax on its assessable trading profit. If no more than £300,000 the rate of Corporation Tax will be only 22%. This ceiling of £300,000 is divided equally among all Limited Companies that are deemed to be under common control, and a higher rate of Corporation Tax is payable if the assessable profit exceeds the relevant ceiling. Corporation Tax is usually due for payment to the Inland Revenue nine months after the end of the relevant accounting period.

If a Limited company makes a trading profit, this will of course be after deduction as a normal trading expense of the director's remuneration. It would be possible for the director to be paid a bonus, which would have the obvious affect of reducing the company's taxable profit and hence the Corporation Tax Liability. However, the company, as the employer, would suffer a National Insurance liability on this salary bonus and the director would suffer Income Tax at his marginal rate together with a National Insurance liability if his total remuneration had not already reached the NI ceiling, currently £25,224. Providing a bonus is actually paid to the director within **MORE** months of the accounting year end date for the Limited Company, the bonus would be a tax allowable deduction in the company's accounts. One therefore needs to take into account not only the taxation and NI implications of salary as compared to a dividend but also the cash flow implications.