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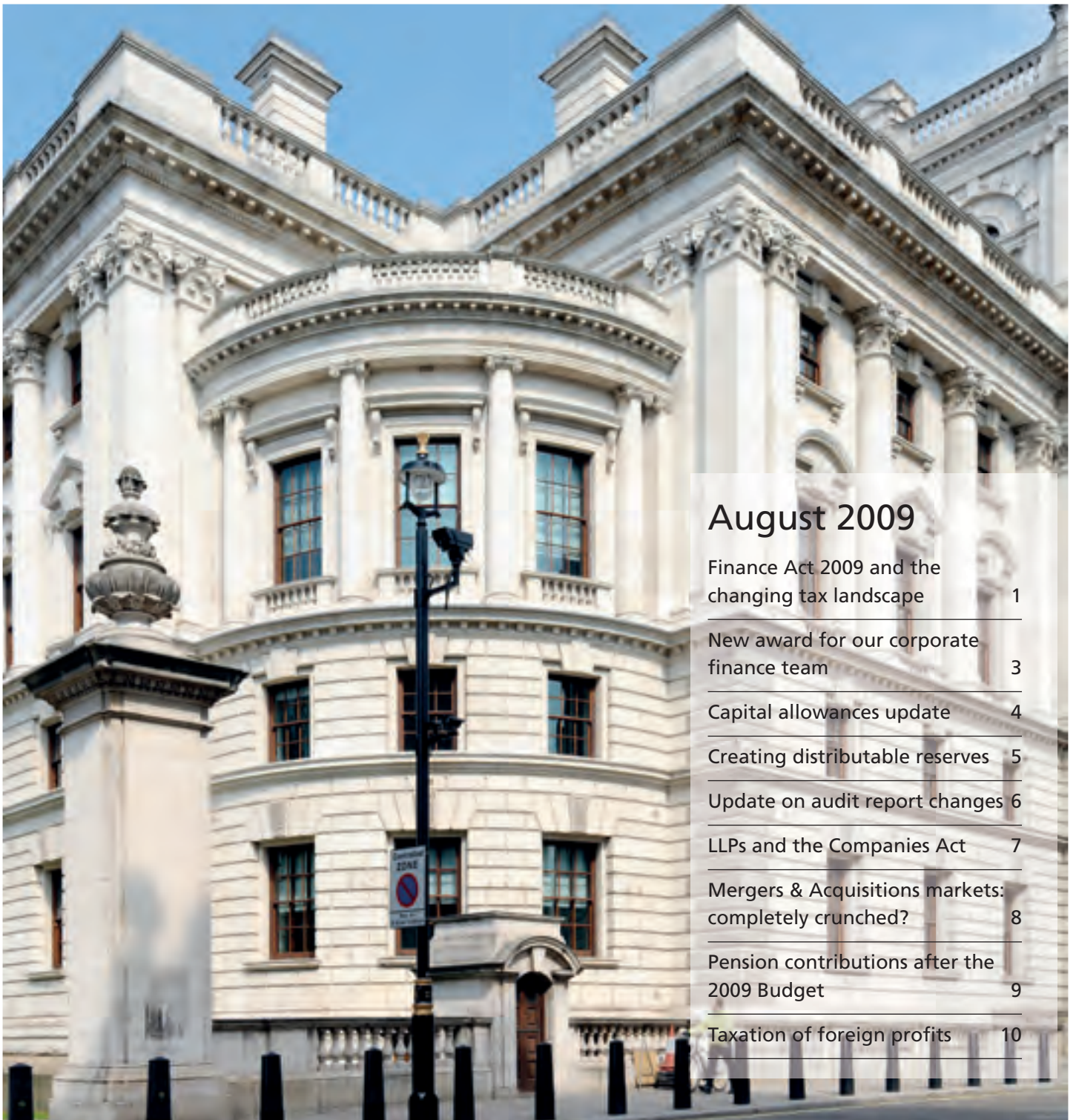


**Saffery Champness**

CHARTERED ACCOUNTANTS



# BUSINESS UPDATE



## August 2009

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The past two years have seen a shift in the UK's taxation landscape, with reform of capital gains tax taking place last year and now with a new rate of income tax being announced for top-rate taxpayers. We explore this topic in our lead article this month, highlighting some consequences of the UK's shifting tax landscape – in particular the growing gap between income and capital gains tax – and looking at some potential tax planning ideas that may be of use for those affected.

Additional tax developments featured this month include a look at the consequences of the 2009 Budget for pensions, an update on the capital allowances regime, and news of long-awaited reform of the taxation of foreign profits earned by companies resident in the UK.

Market sentiment and economic conditions also feature in this edition by way of a look at worldwide M&A markets and their impact on UK companies. We also explore new rules governing the creation of distributable reserves and provide a timely reminder of some Companies Act implementation rules, both for LLPs and in respect of some new audit report requirements.

**John Shuffrey**



## Finance Act 2009 *and the changing tax landscape*

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**The last Budget wrought significant change to certain aspects of taxation for owner-managers, as well as increasing the disparity between income and capital gains tax. However, opportunities still exist for owners to implement tax efficient planning measures.**

### **Current conditions**

Writing in mid July, the biggest impact for certain taxpayers in the Finance Bill looks to be the rise in the top rate of income tax to 50%, effective from next April. This only increases the incentive for higher earners to implement planning to seek to convert their income into capital (taxed at 18%).

From April 2010 for individual taxpayers the top rate of income tax will move to 50% for those earning income in excess of £150,000, with tax relief for pension contributions being capped at 20% for individuals earning more than £180,000 from April 2011 with a tapering of the relief from 40% to 20% between earnings of £150,000 and £180,000.

The top dividend rate will also increase to 42.5%. These changes, and others relating to NICs, result in effective tax rates well above headline rates.

By way of example: if an employer company wishes to use cash of £1,000 to pay a bonus (to an employee who pays tax at 50%) and all associated tax costs, the position is as follows:

- Employer's NICs of 13.3% will have to be paid. Thus the bonus payable will actually be £1,000 multiplied by 100 and divided by 113.3, giving a result of £882.61
- From that, 50% income tax and 1.5 % in NICs need to be deducted. That leaves £882.61 multiplied by 48.5%, giving a net amount of £428.06 in the hands of the taxpayer.

In other words, the effective top rate of tax on income is, in reality, 57.2%. For the self employed or those who are partners in a partnership, the effective top rate of tax on income is 51.5%.

In extreme cases, the rate of tax paid by an individual could be more than 100%. Just before Business Update went to press, the House of Lords was warning that some people, under the new measures of Budget 2009 face marginal income tax rates of more than 100%.

This is based on the proviso that someone earning a top rate of tax (say, £160,000) was given a £10,000 pay rise. You would pay 50% income tax, or £5,000 on that £10,000, plus National Insurance contributions of £150.

Now, say that person also makes a £50,000 pension contribution – when he or she earned £160,000, this attracted 40% tax relief, or £20,000. At £170,000, it gets just 30% relief or £15,000, and therefore the tax payable has gone up by £5,000.

Finally, when the £5,150 of income tax and NICs payable is added, that individual is £10,150 worse off on £10,000 — a marginal rate of 101.5%.

These rates are encouraging many to look at ways in which they can structure their arrangements to reduce their tax liabilities.

#### Income versus Capital Gains Tax

Given the disparity between these income tax rates and the rates of capital gains tax (CGT) - 18% or 10% if Entrepreneur's Relief is available - planning ideas for high net worth individuals are likely to focus on

methods of converting income into capital gains or on retaining income within a company before the individual emigrates from the UK and then subsequently extracting the retained profits as dividends or as capital gains (e.g. by selling the company).

In addition, where earnings are derived from a company there may be benefit from receiving an interest free loan which is taxed as a benefit in kind on which the effective interest rate is currently only 1.9% per annum for a higher rate taxpayer and rising to 2.375% for a 50% taxpayer (assuming the official interest rate stays the same).

If the company is a close company, (that is broadly, an unquoted private company controlled by five or fewer participators e.g. shareholders) loans which remain outstanding to such individuals more than 9 months after the accounting year end incur a corporation tax charge for the company at 22%.

This tax charge is simply a cashflow item for the company as the tax will be repaid once the loan has been repaid, waived or otherwise discharged. Without further tax planning the loan

arrangement will mean only a deferral of tax due if a salary or bonus is to be paid to enable the loan to be repaid. There will also be commercial and contractual issues to consider.

Other possibilities include the use of Employee Benefit Trusts to extract cash or assets from a company. The trust then makes loans available to the directors and employees. These may be seen to be increasingly attractive propositions despite some of the complexities associated with the technical drafting of the trust deed and costs of running the trust which is normally set up in an offshore jurisdiction such as the Channel Islands.

The Finance Bill also introduces an anti avoidance rule for those looking to dispose of an income stream without any sale of the underlying asset from which the income stream derives in return for a capital sum taxed at the lower CGT rate. The scope of this will emerge in time as advisers seek ways around this.

More focus is also likely to be given to income splitting between couples where this can be done legitimately in relation to family owned businesses by say, gifting ordinary dividend paying shares being careful to avoid the "spousal settlement" rules.

#### Tax Planning Measures

In the meantime there are some straightforward measures that should be considered before 6 April 2010 to mitigate the impact of the new rates. These are as follows.

##### *Salary sacrifice*

This is a good way to reduce taxable income for those with earnings that may exceed, for example, the £100,000 threshold. Remember that losing personal allowances will mean that income between £100,000 and £113,000 will be taxed at 60% from 6 April 2010.



Employers may consider offering a range of benefits under a salary sacrifice scheme – sacrificing pay for pension, holiday, childcare vouchers, bikes and bus travel will all be effective at reducing taxable pay (and hence the effective tax rate paid by the employee). Note that different rules apply for the purposes of calculating earnings for restricting tax relief on pensions – specialist advice should be sought in these cases.

#### *Bonus deferral/advancement*

This can be used to keep pay within the required salary bands. Consider a bonus deferral linked with a loan facility to reduce negative cash flow implications in not being paid a bonus in a year.

Alternatively bonuses which were to have been paid within the first three months after April next year and taxed at 50%, might be paid in advance of 6 April on some alternative basis combined if necessary with a possible loan facility back to the company.

#### *Restructuring of long term incentives*

Share based incentives can be

structured to deliver benefits in a capital form (taxed at 18%) rather than income (taxed, broadly at what would be approaching 65%).

Whatever the company's corporate structure or circumstances, maximum use should be made of the available HMRC approved share plans (such as CSOP or EMI) and/or unapproved share incentive arrangements (e.g. partly paid shares) to deliver shares to employees as capital.

#### *Timing of payments*

As mentioned above regarding bonuses, the timing of remuneration payments or delivery of benefits should be reviewed where this avoids the new increased tax rates.

Similarly, if share options vest post-April, consideration might be given to altering the vesting date to facilitate an early exercise before the introduction of the new tax rates. A variation on a theme would be to restructure performance share plans as nil cost options – to enable employees to exercise small numbers of shares in a tax year (and hence keep taxable income within the lower rate bands).

#### *Employee Benefit Trusts*

These can be used to defer income and provide a valuable employee incentive under which the timing of receipt of benefits can be carefully managed.

#### *Globally mobile employees*

These provide potential tax planning opportunities depending upon the jurisdictions they live/work in. If duties can be performed anywhere, why not perform them in a lower tax jurisdiction?

#### *Short term assignees*

The employment of short term assignees may offer more flexibility for tax planning than longer term secondments.

As with all aspects of taxation, the 'devil' is very much in the detail and all of the above ideas require careful consideration and implementation. If you have any queries or require assistance in these areas, please contact your usual Saffery Champness contact or client partner.

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## New award for our corporate finance team



**We are pleased to let Business Update readers know that the Saffery Champness Corporate Finance team has been named 'UK Corporate Finance Adviser of the Year' by ACQ Finance Magazine in its annual awards.**

The award, which was recently announced in the ACQ Global Awards 2009, recognises a strong period for our team of specialist corporate financiers, who advise owner-managed, small and mid-cap businesses on transactions of generally up to £50 million.

Despite the economic slowdown, the team was instrumental in the completion of a number of high-profile and high-value deals during 2008. These included the acquisition of high-street retailer Oddbins and the merger of independent financial advisers Sumus plc with Lighthouse Group plc, which created the largest independent IFA network on the Alternative Investment Market (AIM).

2008 also included several international transactions with which we were involved, such as the acquisition of Metzeler Automotive Profile Systems by Raghav Industries of India, and investments by the UK subsidiary of global energy company Gazprom.

The award is the result of ACQ's canvassing of over 18,000 readers who voted on the deals that the magazine reported on during 2008, and also on those whom they thought 'stood out from the crowd' in corporate finance during the year.

Our Head of Corporate Finance, Charles Simpson commented: "We were very pleased to receive this award. It really does reflect the hard work done by our team in helping bring transactions to a successful conclusion against the undeniably difficult circumstances of the past 18 months, and also shows that deal-making continues to be possible despite the present tough trading conditions."

# Capital allowances **update**

**There are some important and potentially valuable updates to the tax allowances on capital expenditure of businesses and companies. These include radical changes to the capital allowance regime for cars.**

## First year allowances

First year allowances at a rate of 40% are temporarily reinstated for capital expenditure on plant and machinery incurred in the 12 months from April 2009.

The first year allowance applies to most loose equipment used in the business. The main exclusions are cars and "integral features" which are those items within buildings qualifying for the 10% per annum writing down allowance including electrical systems and air conditioning.



## Cars

There are fundamental changes to the tax allowances for expenditure on cars incurred by businesses and companies from April 2009.

Previously, capital allowances were restricted by reference to the price of the car, with a £3,000 per annum cap on the allowances for cars priced at over £12,000, the so called "expensive cars". Transitional rules will apply so that pre April 2009 expenditure will continue to be subject to the old "expensive car" rules.

The new regime, applying to expenditure incurred from April 2009, is based on the CO2 emissions of the car. Cars with CO2 emissions in excess of 160 g/km will attract writing down allowances at a rate of only 10%. Cars with CO2 emissions of 160 g/km or less will attract a 20% per annum writing down allowance. However, the current tax balancing allowance when a car is sold at a loss will disappear in most cases.

Again, with a nod towards environmental concerns, certain low CO2 emission cars attract 100%

capital allowances. These include cars with CO2 emissions not exceeding 110 g/km.

There are also changes to the tax allowances for car lease payments. The tax allowances will be restricted by applying a flat rate disallowance of 15% of payments for cars with CO2 emissions exceeding 160 g/km. This might encourage business use of green cars and simplifies the previous formula based tax disallowance by reference to price.

## Effect on businesses and companies

These changes to the capital allowances regime may go some way to alleviating the pain of earlier changes notably the reduction in the annual writing down allowance on general equipment from 25% to 20%.

The changes to capital allowances together with the enhanced loss carry back rules, whereby trading losses can be carried back for up to three years, may give a useful relief and possibly tax repayments to businesses and companies struggling in the current economic climate.

# Creating distributable reserves

**Companies can have substantial balance sheets but no distributable reserves. This typically occurs where a company has significant share capital and share premium, but negative revenue reserves due to a period of losses. Without a capital restructuring the company is unable to make a distribution until the accumulated losses have been eliminated by subsequent profits.**

Where share capital, share premium and capital redemption reserves exceed the accumulated losses, a capital restructuring can be used to eliminate the losses and put the company in a position to make distributions.

The new Companies Act contains all of the 1985 Act capital restructuring options, most of which take effect from 1 October 2009.

However, a particularly useful option, the simplified share capital reduction process, took effect on 1 October 2008 and is now being used by private companies to create distributable reserves from previously non-distributable reserves or share capital.

As might be expected with a share capital reduction exercise, rules and conditions apply, but it is a much easier process of capital reduction than existed before, which required a court procedure and the consequent legal costs.

The original share capital reduction legislation was given a useful boost by a follow up statutory instrument (SI 2008/1915 The Companies (Reduction of Share Capital) Order 2008) which confirmed that the reserve created from such a process could be treated as a realised profit and hence distributable.

## **In Brief**

An overview of the rules and conditions is as follows:

- The rules apply to private limited companies only
- After the capital reduction, the remaining share capital must not contain only redeemable shares
- A solvency statement is to be prepared and signed by directors
- A statement of capital to be prepared
- A special resolution is required
- Documentation is to be filed at Companies House

The main advantages of reducing share capital in this way are:

- It is less costly than the court order route
- There is no requirement for an audit report
- It can be quicker than previous available methods

## **More Detail**

A more detailed explanation of the points raised above is as follows:

### *Solvency statement*

Each director must confirm that they have formed the opinion, as regards the company's situation at the date of the statement, that there is no ground on which the company could then be found to be unable to pay (or otherwise discharge) its debts.

The solvency statement also confirms the directors' opinion that the company will be able to meet its debts throughout the coming year or in the event of a winding-up of the company.

In forming their opinion, the directors must take into account all of the company's liabilities (including any contingent or prospective liabilities).



The solvency statement must:

- Be in writing and dated
- Include the names of each director of the company
- Be signed by each director of the company

#### *Statement of capital*

A statement of capital must be prepared for filing which must state with respect to the company's share capital as reduced by the resolution:

- The total number of shares of the company,
- The aggregate nominal value of those shares,
- For each class of shares:
  - prescribed particulars of the rights attached to the shares,
  - the total number of shares of that class, and
  - the aggregate nominal value of shares of that class, and
- The amount paid up and the amount (if any) unpaid on each share (whether on account of the nominal value of the share or by way of premium).

#### *Process*

Within 15 days of making the solvency statement, a special resolution must be passed regarding the capital reduction.

Within 15 days of the resolution being made the following documentation must be filed at Companies House:

- Solvency statement
- Statement of capital
- Statement that the solvency statement was made no more than 15 days before the special resolution was passed
- Copy of the resolution.

#### **Potential uses**

Subject to being able to meet the rules and conditions, potential uses include:

#### *Creation of distributable reserves to pay dividends*

Share premium and capital redemption reserves count as share capital for the reduction of share capital rules, so there can be considerable scope for the creation of distributable reserves. This can be useful after a period of losses have eliminated distributable reserves and the company wants to start making distributions.

#### *Striking off a company*

Another potential use is for simplifying a balance sheet prior to striking off a company. There are various considerations before a company can be struck off, but it can be made easier and cheaper (by avoiding the

need for a costly formal liquidation procedure) by scaling down the balance sheet with a legal return of capital to members prior to dissolution.

#### **Potential issues**

A key issue to consider is the tax consequences of distributing the reserves created by this process. Depending on circumstances, the distributed amount may be regarded as either income or capital in the hands of the recipient.

Advice needs to be taken at an early stage to ensure that no unexpected tax liabilities arise on a distribution arising out of a capital reduction exercise.

Some company Articles may prohibit capital reductions and will need to be changed accordingly. Note also that all directors must agree to the process – this is a requirement for this simplified process; otherwise the usual court order route needs to be followed

One of the objectives of The Companies Act 2006 was to create a more streamlined environment in which companies could do business, and this is one instance in which it delivers.

## Update on audit report changes

**The form and sign off of the audit report may not be uppermost in the minds of most business owners occupied with the challenges of running a business in today's economic environment. However, it is worth noting that audit reports are changing.**

For private limited companies for April 2009 year ends onwards, the audit report wording will change to accommodate international standards and the Companies Act 2006.

A second, and more readily apparent change, will be that the signature at the bottom of the report will be in the name of the audit partner as Senior Statutory Auditor.

If you prepare your own accounts, it is worth checking that you have received up-to-date wording and an appropriate signature block for the audit report, either from your accounts preparation package provider or from your auditor.

It is also worth ensuring that you have agreed a sign off timetable with your auditor, as it will not be possible for anyone other than the audit partner to sign your audit report. This may be an issue if the timing of obtaining a signed audit report is critical to another business activity, such as agreeing a new bank loan for example.

The signing change also applies to charitable companies, and will apply to limited liability partnerships for September 2009 year ends.

## LLPs and *the Companies Act*

**Some readers may have LLPs within their business structure. The Companies Act 2006 changes are being applied to LLPs, but over a different timeframe from that for companies.**

Some changes have already been advised in other articles and are due to take effect very soon; the remainder take effect under new regulations which will come into effect on 1 October 2009.

### **Filing deadlines**

The filing deadline change, reducing from 10 to 9 months, is applying at the same time as for private limited companies, and is in effect for April 2009 year ends. Increased penalties now apply for late filing at Companies House (although these don't take effect for LLPs until September 2009 year ends), so it is worth noting the impact the deadline change will have on year end timetables.

### **Accounts and reports**

Other accounts and reports changes (including the requirement that

members cannot approve accounts which do not give a true and fair view) will first apply to financial years ending on or after 30 September 2009.

### **Audit reports**

Changes to audit reports will take place in two phases. The sign off of the audit report by the Senior Statutory Auditor as a named individual will first apply to financial years ending on or after 30 September 2009.

The changes to the wording of the audit report will not take place until periods ending on or after 15 December 2010, so in effect December 2010 year ends.

Other changes taking effect from 1 October 2009 include:

### **Members**

LLPs will be required to keep a register of members containing a service address for each individual member, and this must be available for inspection.

LLPs must also keep a register of members' residential addresses.

### **LLP Names**

The new rules align LLPs with companies. Therefore LLPs will be subject to the same restrictions on names such as use of sensitive words and expressions and will not be able to use a name which is too similar to an existing organisation.

### **Trading disclosures**

The new regime for companies will apply to LLPs from 1 October 2009. LLPs will be required to display their name and registered office at their registered office and any other business location in a place clearly visible to any visitor. The LLP's name, number and details must also be included on correspondence including emails and on any website.

# Mergers & Acquisitions markets: completely crushed?



**With relatively limited access to new sources of funding, corporate mergers and acquisitions (M&A) activity is currently at a historic low.**

But how are market trends in the UK comparing to those in the US, historically the driver of worldwide M&A? And is there any potential light at the end of the tunnel?

## UK activity

Looking back 18 months, the first half of 2008 was the last busy period for the M&A market, with many deals being driven by the change, in April, to a capital gains tax rate of 18% from the previous 10% available to many sellers of businesses.

But, by the second half of 2008, deal volumes were falling sharply, with the collapse of investment banking giant Lehman Brothers being the trigger for a 47% fall in activity in the second half of the year. A look at some key UK sectors paints a stark picture; deals in the hotels and leisure industry fell by 61.4%, real estate by 34%, and manufacturing saw a 44% reduction in deal activity. These are all trends that have continued into 2009.

Private equity investors have also been hit hard by the downturn, both in terms of their investments in UK businesses and internationally. The last quarter of 2008 saw a massive drop

in deal value, to the lowest level for over 13 years, and to the point where investments completed totalled less than one fifth of those in the previous quarter.

With the UK's private equity market formerly second in size only to that of the US, this fall in activity obviously has had a significant impact. That said, some investments are continuing to be made; however most are in the small to mid-market, and tending to be more onerous to negotiate and longer to complete, due, in part, to the greater levels of due diligence that are often being carried out.

## US markets

2008 was as challenging in the US as elsewhere, with the lack of available credit being the biggest issue. Comparisons with the UK abound, with the value of announced transactions in 2008 falling by over 37%, while deal volume fell by over 22%. During the period from September to November 2008 there was a further drop of 38%. Equity-based deals fared worse than M&A in terms of activity and, in the same period, private equity deal value fell by 75%.

Two potential chinks of light may be detected. Firstly, the stimulus plan now being implemented by the US government has put incentives in place for more private equity investments in

infrastructure projects and in public/private partnerships, which could have a significant positive knock-on effect.

In addition, weak valuations and distressed businesses often present an opportunity for cash-rich acquirers, and it is possible that some sectors may begin to see more activity.

For example, in the technology sector, pricing is likely to create opportunities in software, internet and online business activities, while 'clean' and alternative technologies will also be attractive.

Healthcare is another potential area, with the US Government's expansion of access potentially boosting the pharmaceutical and medical devices industries. UK businesses with access to US markets will be following developments in certain sectors closely.

## Emerging markets

'Emerging markets' economies are growing in importance. But the number of western firms buying into emerging markets fell by 37% during 2008. In contrast, deals going in the opposite direction have held up, to the point where by the second half of 2008, emerging markets buyers accounted for 47% of all deals.

Recently, deals are (unsurprisingly) down generally, but this is more due to a lack of available credit,

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rather than a fall-off in the appeal of emerging markets opportunities. The biggest emerging markets investor into the established economies is India, responsible for 38% of deals over the last five years, followed by Russia, Eastern Europe and China (who all account for between 10% and 11% each). US companies, followed by those in the UK, remain the largest western investors into emerging markets.

More than ever, when investing in emerging markets companies, it is important to formulate a clear strategy and reasons for investment, establish market entry tactics, understand the risk profile and know

what the business is worth – don't be 'bid up' unnecessarily. Investors will also need to modify their approach to 'fit' the market and, of course, undertake thorough due diligence.

#### **The future**

Despite some signs of optimism – April and May have seen an unexpected growth in GDP – the deal-doing environment is likely to remain tough for at least the next year to 18 months. Pressures on employment and output are likely to be combined with limited availability of bank debt and more regulation – all of which will impact on corporate profitability, business valuations and the ability and desire to do deals.

Consequently, companies and investors will be examining their cost base, seizing some opportunities, but also choosing their acquisitions and investments very carefully.

Our award-winning corporate finance team is currently advising some clients on issues such as these and, together with our associates in Nexia International, can of course assist businesses and individuals with their investments abroad, or with their potential interests in the UK's capital markets.

Do get in touch with your usual client partner or Saffery Champness contact if you would like to know more.

## **Pension contributions after the 2009 Budget**

**The Budget in April 2009 introduced new rules to come into effect from April 2011 in respect of higher rate tax relief for pension contributions.**

Those whose income exceeds £150,000 will no longer receive full higher rate tax relief on their contributions. Once income exceeds £180,000 only basic rate relief will be received. This affects everybody from the self employed to members of defined benefit schemes run by large companies.

The Government announced with much fanfare the simplification of the taxation of pensions under the current regime which took effect in April 2006, known as "A-Day". Under those rules, maximum annual pension contributions (subject to earnings) and lifetime limits were set.

Contributions would attract relief at the individual's highest rate. These rules are all still in place and need to be borne in mind when paying contributions or planning for the future.

The changes proposed in the Budget will not affect anyone whose total income is less than £150,000. Note that the draft legislation talks about income and not just earnings, although this may be clarified in due course.

Once income has reached £150,000 there is a band of £30,000 in which taper relief is applied to pension contributions, so that higher rate relief obtainable on contributions at £150,000 is reduced to basic rate relief only, at the point income reaches £180,000.

The Budget also introduced transitional provisions to apply to contributions paid in the 2009/10 and 2010/11 tax years. These provisions sought to restrict the amount of contributions which would attract relief, essentially trying to stop individuals paying large amounts in contributions over the next two years before the new regime comes into effect.

The original proposals were quite draconian and were discriminatory against the self employed and owner

managed businesses and imposed a limit of £20,000 except where established regular (quarterly or more frequent) contributions exceeded that amount

The Finance Act recognises that this may be unfair on those who make irregular contributions. Amendments have been included to provide that, "if irregular contributions have been made over the past three years, the special annual allowance will be increased to the average of those contributions, but with an upper limit of £30,000".

Careful planning will be needed over the next few years, particularly in relation to the interaction of tax relief on pension contributions and the new 50% rate of tax to be applied to incomes over £150,000 from 2010/11.

# Taxation of foreign profits

**Finance Bill 2009 contains long-awaited proposals on the reform of the taxation of foreign profits received by companies resident in the UK.**

The main focus is to exempt most foreign dividends from corporation tax. At the same time, however, groups of companies, other than small or medium sized groups, face a new restriction on tax relief on interest and other finance costs.

## Foreign dividends

Where the recipient is a *small company*, dividends will be exempt provided the payer is a resident of the UK or territory with which the UK has a double tax treaty with a non-discrimination clause. The dividend must not be disguised interest nor made as part of a tax advantage scheme and must not be deductible in computing the payer's profits.

Where the recipient is a *company other than a small company*, dividends will be exempt if they fall within one or more of 4 exempt classes: distributions from controlled companies; distributions made in respect of ordinary non redeemable shares; distributions in respect of shareholdings of less than 10%; or distributions other than those paid out of avoidance profits.

There is specific anti avoidance aimed at schemes that, amongst other things, seek to convert trading income into exempt dividends and more general anti avoidance that denies the



exemption to dividends paid out of avoidance profits.

In considering this, HMRC will have regard to how the profits arose and whether they are profits that were diverted out of the UK and are now being repatriated by way of a dividend on which exemption is sought.

HMRC will be issuing guidance on the application of the new rules and intends to offer an advance clearance procedure but details of these are not expected to be issued in advance of Royal Assent. The changes will apply to dividends and other distributions received on or after 1 July 2009.

## Debt cap

New legislation will cap the tax deduction for interest payable by UK

members of a group of companies to the consolidated gross finance expense of the group. This will prevent UK companies from obtaining tax relief on interest payable to group companies that exceeds the group's external interest expense.

Companies that are affected by the debt cap must make a return to HMRC within 12 months of the end of their accounting period to show the amount of the interest disallowed and the allocation of the disallowance amongst the group companies.

The debt cap rules will apply to interest payable in accounting periods beginning on or after 1 January 2010.