

SETTING UP AND REGISTERING A LIMITED COMPANY

Forming a Company

Companies are formed in the UK by filing certain key documents with Companies House. The officers of the company are the directors and company secretary. The names and addresses of the company's officers must be included on the registration documents. If they resign or if new ones are appointed or other details change, Companies House must be informed.

Private companies must have at least one director. A company secretary is not necessary from October 2008. This is different to the position in Ireland where two directors and a company secretary are always required.

It has been possible for a number of years for one person to form a "single member" private company and to be the sole director of this company. There are some special rules applicable to single member companies, reflecting the fact that there will be no members meetings to decide critical matters.

The vast majority of companies in England and Wales are private limited companies. Public limited companies (plcs) can raise money by selling shares. Private companies cannot do so. Plcs are subject to a tighter regime and must have share capital of at least £50,000. They must have at least two shareholders, two directors and a qualified company secretary.

Shareholders Agreements

The UK Companies Act, 2006 has reformed company law with a view to making it more user friendly. However, even with these reforms, the Companies Act still tries to provide a "one size fits all" solution for the management of companies. In reality, there is a

significant difference between smaller companies where the shareholders are also the managers and directors and larger companies with multiple shareholders, who do not participate in the running of the business.

It is desirable to have a Shareholders Agreement for private companies. This is because shareholders in a private company are more like partners and participate jointly in the business. A well drafted shareholders agreement can avoid potential disputes and uncertainties and clarify the role of parties. It will typically deal with key matters such as critical decisions, financing issues and the parties' obligations to contribute capital, loans or grant guarantees. There is a wide variety of protection which can be drafted into a shareholders agreement to ensure the smooth running of the company and protect the long term interests of the participants.

Shareholders Agreement should deal with long term issues and exit mechanisms for shareholders. For example, they should cover a situation where one party wishes to sell but the other does not. They may cover circumstance where one party receives an offer for shares and it would be desirable to be able to require the other parties to sell. Alternatively, the other parties might themselves want the right to ensure that they are also bought out.

General Obligations

Limited companies must pay corporation tax and must register with Her Majesty's Revenue and Customs (HMRC). Companies House will pass on the details to HMRC on formation of the company. A company will need to operate the PAYE system to collect income tax and National Insurance contributions for its employees and directors. Companies must pay Corporation tax under the self assessment system.

Companies must display their names outside of all of their offices or place of business. Names must be displayed on stationery, letters, receipts and cheques. The place of registration, registration number and registered office address must appear on all business letters and order forms as well electronic business communications.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.

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