ASTER & TRUJILLO

LEGAL . TAX . ACCOUNTANCY

Company Formation

When looking to form a company, there are a range of areas that must be considered. Proper forward planning is crucial in order to maximise the chances of success. Whatever your motivation for starting a business, Aster and Trujillo are on hand to help you.

Forming a company with Companies House

When seeking to set up a company with Companies House, you first need to decide whether the company is to be a private or public company limited by shares, or a private company limited by guarantee. You also need to decide on the purpose of the company and its capital requirements. There are a number of steps to follow:

- Choose a name for your company. Make sure you check the rules for company names, if the name you want is available and any existing trademarks.
- Choose your directors. You must appoint a director, but a company secretary is not compulsory.
- Decide who the shareholders or guarantors are. At least one shareholder or guarantor is required.

- Identify the people with significant control (PSC) over your company. PSCs can be anyone with 25% of the company's shares or a person with voting rights.
- Prepare the Articles of Association and the Memorandum of Association. The written Articles of Association must outline the rules about running the company, and must be agreed by the shareholders or guarantors. The Memorandum of Association constitutes a legal statement that must be signed by all initial shareholders or guarantors, agreeing to form the company.
- Establish what records you'll be required to keep. You'll need to keep certain accounting and company records.
- Register your company. You must register an official address for your company and select an SIC code identifying what your company does.

Obtaining a Unique Taxpayer Reference from HMRC

Once you have set up your limited company and within 14 days of the company being registered with Companies House, you'll be automatically sent a Unique Taxpayer Reference (UTR) number by HM Revenue and Customs (HMRC). This is a ten-digit number and the UTR together with your Government Gateway user ID and password will enable you to register for Corporation Tax. If you don't already have a Government Gateway ID and password, you can create this when you log in.

Applications can be made here: **bit.ly/2TGiU1t**.

Corporation Tax

Corporation Tax is payable on the UK and overseas profits derived from doing business, the investments and the gains made on selling of assets, as a UK based limited company or clubs, voluntary groups and community groups.

A foreign company with a UK branch will pay corporation tax on only the profits from its UK activities.

To calculate the amount of corporation tax due, you must keep accounting records and prepare a corporation tax return. Corporation tax is usually payable nine months and one day after the end of the company's accounting period at the current rate of 19% and there are no plans to reduce the rate in the future.

A look at dividends

A dividend is an amount which is paid out of the retained company profits after all of the business expenses and liabilities (including corporation tax and VAT) have been paid.

The directors of the company meet and decide the amount of the dividend to be paid per share and the correct record of 'voting' this dividend is then retained. The dividend is usually distributed with reference to the percentage of the shares owned by each shareholder and a dividend voucher is issued to each of the shareholders, showing the date, the company name, the name of the shareholder and the amount of the dividend.

Once the dividend is paid to the shareholder, as a general rule for a UK resident taxpayer, you do not have to pay tax on the first £2,000 of dividend income, regardless of the level of non-dividend income. Tax is charged on dividends received over £2,000 at the following rates:

- 7.5% on dividend income within the basic rate band
- 32.5% on dividend income within the higher rate band
- 38.1% on dividend income within the additional rate band.

The Dividend Allowance does not reduce total income for tax purposes and dividends within the allowance still count towards the appropriate basic or higher rate bands. This may therefore affect the rate of tax payable on dividends received in excess of the £2,000 allowance.

Directors' duties

Directors of limited companies have specific obligations. As a director, you are required to follow the company's rules as outlined in the Articles of Association; keep company records and report any changes; file accounts and your Company Tax Return; pay corporation tax; and inform other shareholders if you personally stand to benefit from a transaction made by the company. Directors are legally responsible for their company's records and accounts. Directors who fail to meet their responsibilities may be fined, prosecuted or disqualified.

Directors' payroll, PAYE tax and national insurance

Directors are classed as employees and must pay PAYE tax on salaries and bonuses over their tax free personal allowance and national insurance on annual income from salary and bonuses over £9,500. Contributions are calculated from directors' annual earnings, as opposed to what they earn in each pay period. Companies are also required to pay employers' national insurance on directors' salaries. This is applicable even if you are the director of your company, the only employee and running payroll.

Payroll software can be used to calculate the PAYE tax and national insurance due, and there are two ways of doing this. The standard annual earnings period method, which is commonly used for directors who are paid irregularly, or the alternative method, which is utilised for directors who are paid regularly. More information can be found here: **bit.ly/2XwOLmx**.

National Insurance Numbers

National Insurance numbers are issued to UK residents on attaining the age of 16.

If you do not have a National Insurance number you can only apply if you are going to work, claim benefits, apply for a student loan or make voluntary NIC contributions and if you have entered the UK on a visa.

If you wish to apply for a National Insurance number, call the application line to request the appropriate form on 0800 141 0275.

Social security and income tax

Social security benefits are administered by government departments and devolved administrations. The tax treatment of social security benefits is legislated for in income tax legislation. The tax treatment of new benefits is confirmed when the benefit is introduced. The Bereavement Allowance, Carer's Allowance, Employment and Support Allowance, Incapacity Benefit, Income Support, Jobseeker's Allowance, Widowed Mother's Allowance, Widowed Parent's Allowance, Widow's Pension, the State Pension and industrial death benefit pensions are taxable.

On 29 October 2018, the government confirmed the tax treatment of nine additional social security benefits. Further information can be found here: **bit.ly/36DoIOA**.

VAT Domestic legislation and intra-community sales

VAT legislation largely arises from European VAT directives approved by the EU Council of Ministers. These are enacted into UK law primarily in the VAT Act 1994 (VATA 1994) and Statutory Instruments/Regulations.

When a supply is made in the UK by a VAT-registered person by way of business, the supply is either exempt from VAT or taxable. Exempt supplies are listed in Schedule 9 to the VAT Act 1994. If the supply is taxable, it may be listed as a zero-rated supply in Schedule 8 or a reduced rated supply, subject to 5% VAT, in Schedule 7A. If the taxable supply is neither zero nor reduced-rated, it is standard rated by default, and VAT should be charged at 20%. Most taxable supplies are standard rated. The position in regard to intra-community sales is likely to change on 1 January 2021, when the UK leaves the EU VAT Territory.

Currently, sales of goods from the UK to a customer in another EU Member State are called dispatches. If the customer can provide a valid EU VAT registration number and the goods are physically moved, the dispatch can be zero-rated. If the EU customer is not in business or is unable to provide a valid EU VAT registration number, the sale should be subject to UK VAT at the appropriate rate.

Purchases of goods from other EU member states are known as acquisitions. If the UK customer can provide a valid UK VAT registration number to the EU supplier, the supply can be zero-rated. The UK customer is then responsible for declaring and paying the VAT on the acquisition at the appropriate UK rate, although in many cases this VAT can be reclaimed on the same VAT return.

VAT MOSS and VAT TOMS

The VAT Mini One-Stop Shop, also known as VAT MOSS, was implemented to facilitate the payment of VAT to UK suppliers of certain electronic, telecommunications and digitally-provided services. When provided to non-business customers in other EU member states, these services are liable to VAT in the Member State where the customer belongs. To avoid UK suppliers having to register for VAT in numerous EU Member States, the supplier can make VAT MOSS returns, summarising their sales of such services to each Member State. A single payment is made to HMRC, which then forwards the VAT to the tax authorities in the relevant Member States. A Member State's VAT registration threshold is only available to people who are established in the Member State, so historically suppliers had to register for VAT MOSS if they made very few sales to EU customers. Since 1 January 2019, there has been a VAT MOSS threshold of £8,818. If total supplies of digital services to all EU customers fall below this annual threshold, supplies will be subject to UK VAT.

The Tour Operators' Margin Scheme (TOMS) is a special scheme for businesses that buy in and resell travel, accommodation and certain other services. It is a simplification measure, enabling VAT on travel supplies to be accounted for without a business having to register for VAT in each EU Member State where the travel supply takes place. Under the scheme, VAT is payable on the margin of supplies – the difference between the amount received from the customer and the amount paid to suppliers.

Considering EORI numbers

Sales of goods to customers outside of the EU are known as exports and can be zero-rated, provided the goods are physically exported and evidence of their export is obtained and retained within three months.

Purchases of goods from suppliers outside of the EU are known as imports. Some imports are subject to customs duty and import VAT, and this is paid at the point of importation. Import VAT will be charged at the appropriate UK rate. Importers and exporters will need to obtain an Economic Operator Registration and Identification (EORI) Number, which is used to track imports and exports to and from the UK. To apply for an EORI Number please visit **bit.ly/3euJ6nE**.

Deductible expenses for limited companies

Limited companies can claim a range of allowable expenses. These include:

- work carried out by accountants, solicitors, surveyors and architects
- advertising in newspapers, directories
- costs of maintaining a website
- bank, overdraft and credit card charges
- hire purchase interest and leasing payments
- car and van insurance, fuel, costs of parking, hire charges
- construction industry subcontractor payments
- repairs and maintenance of business premises and equipment
- salaries, wages, bonuses, pensions, benefits for staff or employees.

Please note this list is not exhaustive.

Aster and Trujillo have many years' experience in advising on business and tax issues. Please call us with any questions you may have on forming a limited company.

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