Simmers & Co
Chartered Accountants

[FACTSHEET]

Running a Limited Company

Running a limited company presents a range of unique challenges and responsibilities. A limited company is a separate legal entity and the finances of a limited company are separate to the individual shareholders and directors finances. Limited companies are subject to tight reporting and financial responsibilities and the directors of the limited company have their own duties and responsibilities.

Here we outline what owners (the shareholders) should be aware of in order to successfully run their company.

Administration

Shareholders

Businesses which set out to make a profit usually form a company which is limited by shares. The shares are owned by the shareholders (who can be individuals, another company or an institution) who must own at least one share of the company. A shareholder invests money in the company by buying shares and has the potential for sharing in the profits of the company.

The liability of shareholders is limited to the value of their share capital (including any unpaid part).

The shares issued to the shareholders are decided upon and noted in the Memorandum of Association which is the initial document setting up the company. The type of shares or the 'class' is recorded together with what rights the shares give to each of the shareholders. This could be the amount of dividend to be paid, if the shares can be redeemed (exchanged) for cash, if the share gives a right to vote on company matters and how many votes each share receives.

The rules for operating the company are contained in the Articles of Association.

When a company is formed the Memorandum and Articles of Association are produced and completed by the initial shareholders.

Dividends

Dividends are paid from the profits of the company once the tax liability has been met. Dividends can be paid at a different rate on the different types of shares issued by the company and can be paid as an interim dividend in advance of the final profits being established, however it is a legal requirement for the profits of the company to be sufficient to pay these dividends after allowing for the corporation tax liability.

Dividends are income for the shareholders and are subject to the shareholders' individual tax rates, depending on the shareholders' own individual circumstances.

Limited liability

A company normally provides limited liability. If a shareholder's shares are fully paid they cannot normally be required to invest any more in the company. However, banks often require personal guarantees from the directors for borrowings. The advantage of limited liability will generally apply in respect of liabilities to other creditors.

Legal continuity

A company will enjoy legal continuity as it is a legal entity in its own right, separate from its owners (the shareholders). It can own property, sue and be sued.

Directors

A director can be involved from the start in establishing a new business or appointed to the Board of a company. A director is an officer of the company with extensive legal responsibilities. The Companies Act 2006 sets out a statement of general duties.

The legislation requires that directors act in the interests of their company and not in the interests of any other parties (including shareholders). Even sole director/shareholder companies must consider the implications by not putting their own interests above those of the company.

The Act outlines seven statutory directors' duties:

- Duty to act within their powers - in accordance with the company's constitution
- Duty to promote the success of the company
- Duty to exercise independent judgment
- Duty to exercise reasonable care, skill and diligence
- Duty to avoid conflicts of interest
- Duty not to accept benefits from third parties
- Duty to declare interest in a proposed transaction or arrangement

Where a company director's income is all taxed at source there is no need for them to file a Self assessment tax return.

Company secretaries

Since April 2008, unless there is an express requirement in the company's articles of association, the Companies Act 2006 no longer requires private limited companies to appoint a company secretary. Even if the articles do require it, it is relatively straightforward for the directors of a company to amend the provision, subject to shareholder agreement.

The important tasks that would normally fall to a company secretary, including shareholder administration and communication, corporate governance and statutory compliance, must still be done. In the absence of a company secretary, company law states that directors must take on this responsibility.

The company should inform Companies House of the resignation of any existing company secretary.

Maintaining statutory registers

All companies must maintain up-to-date registers of key details. These include:

- Register of members
- Register of directors
- Register of directors' residential addresses
- Register of mortgages and charges
- Register of debentures
- Minutes of board meetings
- Minutes of general meetings
- Directors service contracts
- Register of People with Significant Control (an individual who ultimately owns or controls more than 25% of a company's shares or voting rights or who otherwise exercises control over a company or its management).

Failure to keep the registers up to date can incur a penalty of up to £5,000.

The registers must be made available for inspection by the general public at the company's registered office or at a single alternative inspection location (SAIL), which must also be recorded at Companies House.

Accounts and Confirmation Statement

There is a requirement for a company to prepare financial statements and for tax purposes a requirement to maintain accounting records for six years from the end of the last company financial year they relate to, or longer if they show a transaction that covers more than one of the company's accounting periods or if the company has bought something that it expects to last more than six years, like equipment or machinery.

A company's accounts and confirmation statement (previously annual return) must be filed annually with the Registrar of Companies. Non-compliance will render the company liable to dissolution, with liabilities subsequent to the dissolution being the responsibility of the directors.

Penalties

The Companies Act 2006 provides for the Registrar of Companies to charge penalties and fines, including a penalty of between £150 - £1,500 for the late filing of accounts (the amount depends on the status of the company and the degree of lateness and is doubled if late for two successive years).

Failure to file Confirmation Statements, annual returns or accounts is a criminal offence which can result in directors being fined personally in the criminal courts.

Insurance

Insurance cover should be reviewed for Public Liability, Professional Indemnity and if the company takes on staff, Employers' Liability.

Taxation

PAYE, NICs and employing staff

For the directors of the company who receive a salary it will be necessary to register for a Pay As You Earn (PAYE) scheme and the payments made will need to be considered for deduction of PAYE tax, National Insurance contributions (NICs) and pensions auto-enrolment.

If the company employs staff members, they will be paid on a regular basis and along with PAYE tax, NICs and pensions auto-enrolment deductions from their wage the company as an employer will potentially be required to pay an employers' NIC and pensions auto-enrolment contribution.

The company directors and employees are able to receive benefits-in-kind from the company (for example company cars and private medical insurance). Most benefits are subject to income tax and the company will have to meet an extra charge of NICs on the value of the benefits. Special rules apply to company directors who receive loans from the company at no or beneficial rates of interest.

VAT

VAT is a tax charged when a VAT registered business sells its goods or services. The company collects this tax and pays it over to HMRC typically on a quarterly basis. The company may also pay VAT on items purchased and in some circumstances can deduct the VAT it has paid from the VAT it has collected from customers.

A company must register for VAT within 30 days of the end of any month, when the total VAT taxable turnover for the last 12 months was over the VAT threshold.

Corporation tax and self assessment (CTSA)

The company will be subject to corporation tax at the current rate of 19% and there are no plans to reduce the rate in the future.

CTSA key features

- A company has to calculate its own corporation tax liability.
- A company is required to pay the tax due in advance of filing a tax return.
- A 'process now, check later' enquiry regime applies when the tax return is submitted.
- The inclusion in the tax return, and in a single self assessment, of the liabilities of close companies on loans and advances to shareholders and others, and of liabilities under Controlled Foreign Companies legislation.
- The requirement for companies to self assess by reference to transfer pricing legislation.

Notice to file

Every year, HMRC issues a notice to file to companies. In most cases, the return must be submitted to HMRC within 12 months of the end of the accounting period.

Companies must file their corporate return online. Their accounts and computations must also be filed in the correct format - inline eXtensible Business Reporting Language (iXBRL).

Penalties

Penalties apply for late submission of the return of £100 if it is up to three months late and £200 if the return is over three months late. Additional tax-geared penalties apply when the return is either six or 12 months late. These penalties are 10% of the outstanding tax due on those dates.

Submission of the return

The return required by a notice to file contains the company's self assessment, which is final, subject to:

- taxpayer amendment
- HMRC correction; or
- HMRC enquiry.

The company has a right to amend a return (for example changing a claim to capital allowances). The company has 12 months from the statutory filing date to amend the return.

HMRC has nine months from the date the return is filed to correct any 'obvious' errors in the return (for example an incorrect calculation). This process should be a fairly rare occurrence. In particular the correction of errors does not involve any judgement as to the accuracy of the figures in the return. This is dealt with under the enquiry regime.

Payment

Payment of the corporation tax liability must be made by the due date, which is usually nine months and one day after the end of the accounting period. Interest is charged on the late payment of corporation tax.

How we can help

We would be very pleased to discuss any matters relating to the running of your limited company with you. Please get in touch to find out how we can help.

Simmers and Co Chartered Accountants and Registered Auditors
Albany Chambers, Albany Street, Oban, Argyll PA34 4AL

Phone: 01631 562169 | Fax: 01631 565959 | Email: mail@simmers.co.uk

www.simmers.co.uk

Partners: David A McGregor | Jacqueline M Hoey