

# Technical Factsheet 87

## Incorporation of Accountancy Practices



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## INTRODUCTION

Many unincorporated businesses, both sole traders and partnerships, are considering transferring their businesses to limited companies. Although this technical factsheet is aimed primarily at accountancy businesses, many of the points raised are also relevant to other types of businesses. This technical factsheet does not discuss any personal risk, investment requirements nor other personal factors that will require consideration.

In summary the points discussed in this technical factsheet are as follows:

### Tax on Profits and Tax Computations

- basic comparison of the types of tax
- extraction of profits made by a company
  - remuneration
  - pension contributions
  - benefits in kind
  - dividends
  - loans to directors/shareholders
  - retain profits in company
- examples of the tax and NI savings to be made by incorporating
- Capital Gains Tax consequences of incorporating
  - allow the whole gain to crystallise
  - use section 162 to rollover (all or part of) the gain against cost of shares
  - use section 165 to hold over (all or part of) the gain against the transferee's base cost

(These choices can effect the amount of annual exemption used, taper relief used and credit balance subsequently available on the directors/shareholders loan account which can be withdrawn tax free.)
- taper relief
- stamp duty

### Other Incorporation Considerations

- ACCA and Companies Act rules relating to company names, stationery and control issues

- proposals for the new Companies Act which may effect the decisions to incorporate
- procedure of informing ACCA about the firms decision to incorporate
- necessary steps to take for transferring audit clients to newly formed company
- liability of directors/shareholders
- National Insurance Contributions and the effect these have on possible state benefits
- National Minimum Wage and the effect this may have on companies
- possible settlement problems caused by dividend waivers and share transfers

## TAX ON PROFITS AND TAX COMPUTATIONS

### BASIC COMPARISONS OF THE TYPES OF TAX

Corporation tax is payable on income and gains 9 months and a day after year end. Large companies have a system of quarterly accounting for corporation tax.

A large company (subject to certain exemptions) is a company whose profits in any accounting period exceed the small companies rate upper relief limit in force at the end of the accounting period. For 2003/2004 this is £1,500,000 divided by one plus the number of "associated companies" (if any) at any time in the period, proportionately reduced for periods of less than twelve months.

Income Tax due for a sole trader:

- half previous years liability due 31 January (before end of the tax year)
- half previous years liability due 31 July
- balance due next 31 January (maximum 21 months and 24 days after year end for year ending on 6 April)

Example: Small company, year ended 31 December 2002  
- corporation tax payable on 1 October 2003

Sole trader, year ended 31 December 2002.

Income tax payable:

- first instalment 31 January 2003
- second instalment 31 July 2003
- balance due 31 January 2004

The payment dates for income tax compared to corporation tax have implications relating to cash flow of the business.

If the accounting period ends soon after 5 April then corporation tax will be less beneficial for cash flow, whereas if the accounting period is just before 5 April then corporation tax will be more beneficial for cash flow.

### **Treatment by Companies of Intangibles**

The Finance Act 2002 introduced a new treatment of expenditure and receipt in respect of intangible assets. It applies only to companies and only to assets acquired or created on or after 1 April 2002. The rules relate to expenditure on the creation, acquisition and enhancement of intangibles together with their preservation and maintenance. Profits on disposal of such assets are taxed as income. Losses on disposal and payments are relievable against income. The tax treatment of amortisation normally follows the accounts treatment. A form of rollover relief (similar to, but not to be confused with, capital gains tax rollover relief) is available where realisation proceeds of intangibles are reinvested in new intangibles.

In the hands of the company, the goodwill will not qualify for this treatment if it was acquired from a related party.

### **METHODS OF WITHDRAWING PROFITS FROM COMPANIES - CHECKLIST OF CONSIDERATIONS**

Profits earned in a company can be withdrawn as follows:

- remuneration
- pension contributions
- benefits in kind
- dividends
- loans to directors/shareholders

Profits not withdrawn will be accumulated in the company and consequently increase the share value. This will be available as a capital item when shares sold or company wound up.

### **Remuneration**

Effect on Company:

- deductible expense
- Nlers payable

Effect on Individual:

- pays PAYE and Nlee

### **Pension Contributions**

There is no difference in tax effect as to whether

- the company pays contributions (which would be an allowable expense for corporation tax)
- the director/employee pays the contributions out of net income (tax relief given at his marginal rate); or
- the sole trader pays the contributions (tax relief given at his marginal rate).

There may be a saving of NIC if the company pays contributions.

For personal pension schemes and stakeholder pensions:

- before 6 April 2001, eligibility to make contributions to a scheme was determined by the possession of "relevant earnings".
- from 6 April 2001, only need to have relevant earnings once every six years, (new pension proposals in Green Paper may amend this so that relevant earnings in each year are required again).

### **Benefits in Kind**

Effect on Company:

- costs of providing benefit is a deductible expense
- Nlers payable

Effect on Individual:

- pays PAYE based on the taxable benefit, which is calculated using various methods depending on the type of benefit. The tax treatment for an individual, of assets provided for non-business use, is different depending on whether the individual is a director/employee in a company or a proprietor/partner in an unincorporated business.

### **Motor Car**

A director/employee in a company is taxed based on a percentage of the car's list price. The percentage used is obtained from a table based on the car's carbon dioxide emissions. The percentage can be as high as 35%. A proprietor/partner has a percentage of the cost of providing the car added back to the individual's tax computation. The percentage is based on the non-business miles as a proportion of total mileage of the car in the year.

### **Assets Generally**

A director/employee in a company is taxed based on the annual value (or if higher, the rent or hire charge paid by those providing the benefit) plus any expenses related to the asset's provision. Annual value of the use of an asset is:

- for land usually the property's gross rateable value
- for other assets, 20% of market value at time asset was first provided as a benefit.

A proprietor/partner has the cost of providing the asset added back to the individual's tax computation.

### **Dividends**

Effect on Company:

- no tax effect

Effect on Individual

- not taxable if basic rate tax payer

- if higher rate tax payer, gross taxable at 32.5%, less tax credit at 10%
- the dividends have the tax credit, even if company's profits less than £10,000
- tax credits cannot be refunded.

Need to ensure dividends are legal (i.e. not in excess of distributable profits). If illegal Inland Revenue may treat excess payments as remuneration and PAYE and NI will be due from date of payment (interest and penalties due if payments or returns late).

Dividends can be waived, but they need to be waived before the date the dividend is declared.

There can be different types of shares issued, giving shareholders different rights. This would enable different dividends to be paid.

### **Loans to directors/shareholders**

The company is likely to be a "close" company as it will be controlled by five or fewer shareholders or directors. Therefore any loans made by the company to its shareholders will be caught by ICTA 1988 sec. 419 and "penalty tax" at 25% of the loan will be charged.

Effect on Company:

Section 419. Company pays 25% of loan if still outstanding 9 months after year end

Effect on Individual:

Pays tax as loan is benefit in kind if no interest, or interest less than approved rate. Approved rate since 17 February 2003 is 4.75%. A director, or an employee earning £8,500 or more a year, who receives a loan by reason of his employment may be charged to tax on the cash equivalent of the benefit for the year. There is no charge to tax if either:

- (a) all the beneficial loans provided by reason of the employment; or
- (b) all the beneficial loans, excluding loans qualifying for tax relief, do not exceed £5,000.

### Profits retained in company

Value of shares in the company will increase and when shareholder sells the shares the gain will be subject to Capital Gains Tax, but will be eligible for business asset taper relief.

Higher rate tax payer effective rate  $40\% \times 25\% = 10\%$

Basic rate tax payer effective rate  $22\% \times 25\% = 5.5\%$

Further information on the above methods of extracting profits from a business can be obtained from the Inland Revenue web-site [www.inlandrevenue.gov.uk](http://www.inlandrevenue.gov.uk).

### Summary of effect of extraction of profits from a company:

Method of Extraction	Effect on Company	Effect on Individual
Remuneration	Deductible expense Nlers payable	PAYE & Nlee payable
Pension contributions	Deductible expense Nlers not payable	Tax relief obtained at the individual's marginal rate
Benefits in kind	Cost of providing is deductible Nlers payable	Nlee payable
Dividends	No tax effect	Not taxable if basic rate tax payer. If higher rate tax payer gross taxable at 32.5% less tax credit at 10%
Loan to director/ shareholder	Not an allowable expense. 25% due if outstanding nine months after year end	Treated as a benefit in kind (subject to exemptions)
Profits retained in company	Will have paid corporation tax on its profits	Will be liable to capital gains tax (subject to taper relief)

### RATES OF TAX

CORPORATION TAX RATES			
		Year to 31.3.04	Year to 31.3.03
Starting rate	£0 to £10,000	0%	0%
Effective marginal (starting) rate	£10,000 to £50,000	23.75%	23.75%
Small companies rate	£50,000 to £300,000	19%	19%
Effective marginal (small companies) rate	£300,000 to £1.5 m	32.75%	32.75%
Full rate	Over £1.5m	30%	30%
Starting rate fraction		19/400	19/400
Small companies fraction		11/400	11/400
INCOME TAX RATES			
		Year to 5.4.04	Year to 5.4.03
£0 to £1,960		10%	
£0 to £1,920			10%
£1,961 to £30,005		22%	
£1,921 to £29,900			22%
Over £30,500		40%	
Over £29,900			40%

### EXAMPLES OF TAX AND NATIONAL INSURANCE DUE ON COMPANIES AND UNINCORPORATED FIRMS

Incorporation can lead to significant savings in tax and national insurance. In examples 1 to 4 in the next section, comparisons are made between the tax and national insurance charges for various profit levels. In each example it is assumed that the individuals have no other income, and all income in the company are withdrawn in the form of salary and dividends.

These examples can be summarised as follows:

	Profits	Tax & NI		Annual Saving
		Sole Trader	Company	
1	£14,615	£2,869	£0	£2,869
2	£35,115	£8,727	£4,869	£3,858
3	£50,000	£14,830	£10,787	£4,043
4	£80,000	£27,130	£22,726	£4,404

The above examples demonstrate the savings that can be made on an annual basis for various levels of income.

These savings can be significant resulting in 100% tax savings in some circumstances as shown in example 1.

**Potential problems if income is paid to a connected person**

The settlements legislation (section 660 of Income and Corporation Taxes Acts (ICTA) 1988) is intended to prevent an individual from gaining a tax advantage by making arrangements which divert his or her income to another person who is liable at a lower rate of tax or is not liable to income tax.

Whether or not the settlements legislation applies to an arrangement depends on the particular facts of the case. It is necessary to look at the arrangement as a whole. If there is a bounteous arrangement which effectively transfers income earned by one person to another resulting in a reduction in overall tax liability the arrangement may be liable to challenge under the settlements legislation.

A purely commercial transaction or series of transactions at arms length is outside the meaning of "settlement". Most commonly the legislation will apply where individuals seek to divert income to members of their family or to friends.

A good test of whether or not the legislation could apply is to consider would the same payments be made to a person who acquired shares in a company or a share of a partnership at arms length. Or whether income is being paid simply because the recipient is your spouse or child or some other individual you might wish to benefit. This is referred to on page 25.

**Example 1**

Taxpayer with trading profits of £14,615 for 2003/04

<b>As self-employed trader</b>		£	£
Income tax	£4,615	personal allowance	-
	£1,960	@ 10%	196
	£8,040	@ 22%	1,769
	<u>£14,615</u>		<u>1,965</u>

NI	Class 2	£2 x 52	104
	Class 4	(£14,615 - £4,615) @ 8%	800
			<u>2,869</u>

**Incorporated**

Salary	£4,615	No tax or NI	-
Corporation tax	(£14,615 - £4,615 salary) £10,000 @ 0%		-
Dividend	£10,000	No tax liability	-
			Nil
<b>Saving each year</b>			<b><u>2,869</u></b>

**Example 2**

Taxpayer with trading profits of £35,115 for 2003/04

<b>As self-employed trader</b>		£	£
Income tax	£4,615	personal allowance	-
	£1,960	@ 10%	196
	£28,540	@ 22%	6,279
	<u>£35,115</u>		<u>6,475</u>
NI	Class 2	£2 x 52	104
	Class 4	(£30,940 - £4,615) @ 8%	2,106
		(£35,115 - £30,940) @ 1%	42
			<u>8,727</u>

**Incorporated**

Salary	£4,615	No tax or NI	-
Corporation tax	(£35,115 - £4,615 salary) = £30,500		
	£10,000 @ 0%		-
	£20,500 @ 23.75%		4,869
			<u>4,869</u>
Dividend	£25,631	net	-
	£28,479	gross (£25,631/0.9)	
			tax credit satisfies liability
Dividend =	Trading profit - salary - corp tax		
	35,115 - 4615 - 4869 = £25,631		
			<u>4,869</u>
<b>Saving each year</b>			<b><u>3,858</u></b>

**Example 3**

Taxpayer with trading profits of £50,000 for 2003/04

<b>As self-employed trader</b>		£	£
Income tax	£4,615	personal allowance	-
	£1,960	@ 10%	196
	£28,540	@ 22%	6,279
	£14,885	@ 40%	5,954
	<u>£50,000</u>		<u>12,429</u>
NI	Class 2	£2 x 52	104
	Class 4	(£30,940 - £4,615) @ 8%	2,106
		(£50,000 - £30,940) @ 1%	191
			<u>14,830</u>

<b>Incorporated</b>			
Salary	£4,615	No tax or NI	-
Corporation tax	(£50,000 - £4,615 salary) = £45,385	£10,000 @ 0%	-
	£35,385 @ 23.75%		8,404
			<b>8,404</b>
Dividend	£36,981	net	-
	£41,090	gross (£36,981/0.9)	
	£30,500	no further liability	
	£10,590	@ 22.50%	2,383
	£41,090		<b>2,383</b>
Dividend =	Trading profit - salary - corp tax		
	50,000 - 4615 - 8404 =£36,981		
			<b>10,787</b>
<b>Saving</b>	<b>each year</b>		<b>4,043</b>
Example 4			
Taxpayer with trading profits of £80,000 for 2003/04			
<b>As self-employed trader</b>		£	£
Income tax	£4,615	personal allowance	-
	£1,960	@ 10%	196
	£28,540	@ 22%	6,279
	£44,885	@ 40%	17,954
	£80,000		<b>24,429</b>
NI	Class 2	£2 x 52	104
	Class 4	(£30,940 - £4,615) @ 8%	2,106
		(£80,000 - £30,940)@ 1%	491
			<b>27,130</b>
<b>Incorporated</b>			
Salary	£4,615	No tax or NI	-
Corporation tax	(£80,000 - £4,615 salary) = £75,385	£10,000 @ 19%	1,900
	£65,385 @ 19%		12,423
			<b>14,323</b>
Dividend	£61,062	Net	-
	£67,847	gross (61,062/0.9)	
	£30,500	no further liability	
	£37,347	@ 22.50%	8,403
	£67,847		<b>8,403</b>
Dividend =	Trading profit - salary - corp tax		
	80,000 - 4615 - 14,323 =£61,062		
			<b>22,726</b>
<b>Saving</b>	<b>each year</b>		<b>4,404</b>
CAPITAL GAINS TAX CONSEQUENCES OF INCORPORATING A FIRM			
An owner wishing to transfer an unincorporated business to a company would be liable to capital gains tax payable on the transfer of any chargeable assets. Since the business owner and the new company are connected			

persons for capital gains tax purposes, any transfers of the business to the company are treated as being at market value, whatever the actual purchase consideration.

Two reliefs are available to reduce the capital gains tax liability.

Section 162 TCGA 1992. This is a form of rollover relief called Incorporation Relief. No claim is required, as this relief is automatic. For transfers after 5 April 2002, it is possible to elect under section 162A to dis-apply incorporation relief under section 162. Prior to this, the person transferring the business had to deliberately break one of the conditions; otherwise, it was applied automatically.

The gains on the business' chargeable assets, that would otherwise be subject to tax, are deducted from the cost of acquisition of the shares in the new company. There are three aspects to the conditions that must be met for the relief to apply. These are:

- a person who is not a company transfers to a company a business as a going concern;
- the transfer is of the whole assets of the business, or the whole of those assets other than cash (cash includes sums held by the business in a bank deposit or current account); and
- the business is so transferred wholly or partly in exchange for shares issued by the company to the person transferring the business.

The transferor has to be a person who is not a company. This can include an individual, two (or more) individuals in partnership, trustees or personal representatives. Sometimes partnerships include companies as partners. In these circumstances no relief is given to the corporate partner but relief is not precluded for individual partners. Although it is often the case in practice, there is no requirement under section 162 for the transferee company

to be specially formed for the purpose of the transfer. So the provisions are equally relevant where an established company acquires a further business in exchange for shares.

The business must be transferred wholly or partly in exchange for shares issued by the company to the individuals transferring the business. Where there is other consideration for the transfer apart from shares (for example, cash, credit to directors loan account or the issue of debentures), a proportion of the gains arising on the transfer is immediately chargeable to CGT. However, since "other consideration" does not preclude the relief, this can work to the individuals' advantage; it can allow their annual capital gains tax exemption to be used.

The chargeable gain is rolled over against the base cost of the shares in the proportion:

Consideration received as shares / Total consideration.

#### Example 5

Example of using section 162 rollover relief.

Suppose that Mary has a balance sheet as follows:

			£
Business assets	Chargeable to CGT	Land & bldgs	200,000
	Non chargeable	Trade debtors	45,000
		Cash	5,000
			250,000
Less	Trade creditors		(20,000)
			230,000
Capital and reserves			230,000

The balance sheet amounts are stated at cost. The chargeable assets have a current market value of £500,000. The non-chargeable assets' value is as stated in the balance sheet. No individual asset is standing at a loss. Mary Ltd to which Mary is transferring her business is issuing Mary with ordinary shares. Mary Ltd is not taking over the liabilities, nor having the business' cash transferred to its account. The calculation of the relief then proceeds as follows:

#### Calculate the gain on the chargeable assets.

	£
Market value of chargeable assets	500,000
Less: cost	(200,000)
Unindexed gain	300,000
Less: indexation allowance to April 1998 (say)	(25,000)
Indexed gain	<u>275,000</u>

#### Calculate the value of the shares

The value of the shares issued as consideration by Mary Ltd is the net value of assets transferred.

	£
Chargeable business assets	500,000
Non chargeable business assets (cash not transferred)	45,000
Total value	<u>545,000</u>

Since the value transferred to the company exceeds the gains on the chargeable business assets, the whole gain may be rolled over, and so none is immediately taxable.

The cost of Mary's shares in Mary Ltd is then reduced by the gain.

	£
Consideration for shares	545,000
Less: rolled over gain, Sec 162 relief	(275,000)
Revised acquisition cost carried forward	<u>270,000</u>

The indexed gain (before taper relief) is rolled over against the cost of the shares. The cost of the shares to Mary is effectively reduced by £275,000 from £545,000 to £270,000.

#### Accounting

If Incorporation Relief (section 162) is to apply then all the assets of the trade (or all except cash) need to be exchanged wholly or partly for shares in the company. The assets need to be transferred at market value. This will involve valuing Goodwill, tangible fixed assets and stocks. These will effectively be sold by the unincorporated business to the new company.

#### Goodwill

Care needs to be taken when valuing this to ensure it is reasonable. The valuation will depend on client types, age,

profitability and overall practice profit. (e.g. for an accountancy business approximately 75% to 150% times recurring annual fee income)

#### *Tangible fixed assets*

For capital allowances purposes in the new company these can be transferred at tax written down value, although for accounting purposes market value would still be used. If market value also used for tax purposes balancing allowances or balancing charges may occur.

#### *Stocks*

Stocks need to be transferred at market value, which may result in an increase or decrease in profits in the unincorporated business. The double entry would be

Dr	Amounts due from new company
Cr	Sales

There is no VAT chargeable (subject to conditions) on the transfer of an unincorporated business to a limited company.

eg. Net assets of the business have a market value of £40,000. These are transferred to the company and 1,000 ordinary £1 shares are issued as consideration.

Dr Various assets and liabilities	40,000
Cr Share capital	1,000
Cr Share premium account	39,000

In general:

Dr Various assets and liabilities (including goodwill)	A
Cr Share capital	B
Cr Share premium account	C
Cr Directors loan account	D

A = B + C + D

#### **Section 162A**

On a transfer of a business which takes place after 5 April 2002, the transferor may make an election to the effect that the incorporation relief under TCGA 1992, sec 162 should not apply. The election must be made by notice in writing to an officer of the Board. The deadline for making it is normally the second anniversary of 31 January following the tax year in which the transfer takes place. If, however, by the end of the tax year following that in which the transfer takes place, the transferor has disposed of **all** the "**new assets**", the deadline is brought forward by one year. For this purpose, an inter-spouse transfer within TCGA 1992, sec 58 is not counted as a disposal, but a subsequent disposal by the recipient spouse (other than a transfer back to the original spouse) counts as a disposal by the original spouse.

**"New assets"** are the shares received by the transferor in exchange for the business.

eg. Business transferred to a company on 30 April 2003. Sole trader Mr A received 100 shares as consideration for the business and conditions for sec 162 are met. He sells all his shares on 31 December 2004.

If sec 162 is to be dis-applied election under sec 162A to be made by 31 January 2006.

If not all shares sold before 6 April 2005 (i.e. some of the 100 shares still held at 6 April 2005) then time limit for election under sec 162A is 31 January 2007.

## Incorporation using relief for gifts of business assets

### Conditions to be met

As far as its application to business incorporation is concerned, the general scheme of Sec 165 is uncomplicated. The first and overriding condition is that the relief applies to disposals "otherwise than by way of bargains at arm's length". Consequently it applies both to outright gifts and sales which occur at a value less than market value. There are then three other types of condition, which are:

- the transfer must be made by an individual;
- the transfer must be made to a person who is resident in the UK; and
- the assets transferred must be used in a trade, profession of vocation carried on by the transferor.

In the first condition the term individual includes partners (other than corporate partners). In some circumstances it also applies to trustees.

Except where there are restrictions because an asset has not always been used for trade purposes, if no payment is received for the disposal, the full amount of the gain may be held over that otherwise would have been chargeable. So, there is no chargeable gain at the time of the disposal, but the amount of the held over gain is deducted from the transferee's company's base cost. The held over gain is therefore brought into the capital gains computation automatically on any subsequent disposal of the assets by the company.

### EXAMPLE 6

This is an example of using Section 165 gift relief (outright gift of assets from Glenn to Glenn Ltd). Glenn, who is 39, has carried on a business trading as an accountant for ten years. He wishes to transfer his business to a newly incorporated company, Glenn Ltd.

He has business assets, as follows:

		£	£
Freehold premises	(market value)	400,000	
Goodwill	(market value)	270,000	
Stocks		150,000	
Debtors		90,000	
Cash		25,000	

Glenn purchased the premises, when he set up in business, for £85,000. Glenn is making a gift of his business assets to Glenn Ltd.

Disposal consideration premises (market value)	400,000	
Less: cost	(85,000)	
Unindexed gain	315,000	
Less: indexation allowance to April 1998 (say)	(44,000)	
Indexed gain		271,000
Disposal consideration goodwill (market value)	270,000	
Less: cost	-	
Unindexed gain	270,000	
Less: indexation allowance to April 1998	-	
Indexed gain		270,000
<b>Total indexed gains on transfer to company</b>		<b>541,000</b>

Because Glenn received no payment from Glenn Ltd, he is entitled to claim holdover relief for the full amount of the gains. When Glenn Ltd sells the assets its allowable expenditure is the amount it is deemed to have given for the assets (market value at the date of transfer) less the amount of the held over gain.

If the transferor does receive payment, but it does not exceed his or her allowable expenditure for capital gains tax purposes, the treatment for hold over relief is the same as though he or she received no payment at all. If, however, the transferor receives a payment that exceeds that allowable expenditure, there is a restriction on the amount of the gain that may be held over. In determining whether the payment does or does not exceed the assets' base cost, any indexation allowance (to April 1998) due to the transferor is not taken into account as allowable expenditure. The amount of the gain which may be held

over is reduced by the amount by which the payment received exceeds the allowable expenditure.

If payment is received for the assets:

- no effect if payment is no more than the allowable cost (ignoring indexation allowance)
- if payment is more than allowable cost, then gain held over is reduced.

### Section 165 Relief (hold-over relief)

A nominal number of shares are issued for cash. The sole practitioner/partnership enters into a contract with the company whereby the individual assets and liabilities of the business are sold to the company at a value to be agreed by the two parties.

The transferring sole practitioner/partnership makes a joint election with the company to hold over the chargeable gain arising from the market value of the assets transferred.

This only applies to assets subject to capital gains tax (eg. goodwill, land and property). Stamp duty can be saved by opting not to transfer debtors or other dutiable assets.

### Claim for hold-over relief

There is a form for claiming relief under section 165 in the Inland Revenue help sheet IR 295. This can be found at [www.inlandrevenue.gov.uk/sa/forms/net\\_02-03.htm](http://www.inlandrevenue.gov.uk/sa/forms/net_02-03.htm) (for 2002/2003).

### Book-keeping entries in the company

Goodwill transferred at a nominal value of £31,600 (say market value £45,000)

Freehold property	Book value	£40,000		
	Market value	£500,000		
	Transfer value	£60,000		
			Dr	Cr
Dr	Goodwill		31,600	
	Freehold property (say)		60,000	
Cr	Directors loan account			91,600

Entries in the companies accounts are the agreed transfer values - not necessarily the market value and not necessarily the book values in sole traders accounts.

### Example 7

John transfers his business to John Ltd on 30 April 2003.

The transfer was satisfied by the issue to John of all the authorised share capital of 100,000 ordinary shares of £1 each in John Ltd (a newly formed company) and a credit to his directors loan account of £60,000.

The market value of assets transferred was:

	£	Original cost £
Goodwill	87,500	Nil
Freehold offices	80,800	
Office equipment	20,000	
Motor car	5,000	
Trade debtors	15,000	
Creditors	(2,300)	
	<u>206,000</u>	

John's chargeable gain on transfer of business to John Ltd

	Goodwill £	Offices £	
Market value on transfer to company	87,500	80,800	
Market value at March 82	(25,000)	(30,000)	
Indexation allowance March 82 to April 98	(26,175)	(31,410)	
Chargeable gain before rollover relief	36,325	19,390	55,715
Less rolled over against base cost of shares in John Ltd (consideration in shares/total consideration) x gain ((206,000-60,000)/206,000) x 55,715			(39,487)
Chargeable gain before taper relief			16,228
Business assets taper relief 75%			(12,171)
Chargeable gain 2003/2004 (subject to annual exemption)			<u>4,057</u>

John is not entitled to taper relief in respect of the gain rolled over against the base cost of the John Ltd shares.

As and when he disposes of the shares, taper relief will be based on the time the shares have been owned (i.e. the taper clock will start from 30 April 2003).

The capital gains tax base value of the shares in John Ltd is £146,000 - £39,487 equals £106,513.

<b>Accounting Entries</b>		Dr	Cr
Dr	Goodwill	87,500	
Dr	Freehold offices	80,800	
Dr	Office equipment	20,000	
Dr	Motor car	5,000	
Dr	Trade debtors	15,000	
Cr	Credits		2,300
Cr	Share Capital		100,000
Cr	Share Premium Account		46,000
Cr	Directors Loan		60,000
		<u>208,300</u>	<u>208,300</u>

#### Example 8

Details as in example 7 except offices retained by John personally and rented to John Ltd. Sec 162 relief not available as not all assets transferred. Sec 165 relief can be claimed to hold over gain on the goodwill.

If John had not used his capital gains tax exemption of £7,900 he could transfer the goodwill for its 31 March 1985 value of £25,000 plus the annual exemption grossed up by 75% business asset taper relief (i.e. £7,900 x 100/25 equals £31,600). Plus the indexation allowance of £26,175, this gives a transfer value of £82,775.

	£
<b>Goodwill</b>	
Market value on transfer to company	87,500
Market value at 31 March 1982	(25,000)
Indexation allowance March 82 to April 98	<u>(26,175)</u>
	36,325
Less gain immediately chargeable	<u>(31,600)</u>
Gain held over	<u>4,725</u>

The company would have a base cost for the goodwill as follows:

	£
Market value on acquisition	87,500
Less: Held over gain	<u>(4,725)</u>
	<u>82,775</u>

	£
<b>Gain immediately chargeable</b>	
Actual proceeds	82,775
Value at 31 March 1982	(25,000)
Indexation allowance March 82 to April 98	<u>(26,175)</u>
	31,600
Taper relief @ 75%	<u>(23,700)</u>
	7,900
Annual exemption	<u>(7,900)</u>
Taxable gain	<u>-</u>

<b>Accounting Entries</b>		Dr	Cr
Dr	Goodwill	82,775	
Cr	Directors Loan		82,775

The company will be entitled to indexation allowance on the amount of £82,775 as corporate taxpayers continue to get indexation allowance (not taper relief).

The individual proprietor's or partner's taper relief clock starts again based on the date the shares were acquired (or if later, when the company starts to trade). The consequential loss of the taper period should be taken into account when an incorporation is being considered, particularly if there is a strong likelihood of the business being sold in the next two years.

Where gifts holdover relief is claimed, the Revenue requires the shares to be subscribed for separately from the document for the transfer of the gifted assets.

#### **Consider selling goodwill at its market value, instead of at under value**

In many cases, the sole trader's goodwill will have accrued the maximum business asset taper rate of 75%. Hence, it should be possible to sell the goodwill to the company for its fair market value at a relatively low tax cost, (i.e. effective CGT rate of 10% with no stamp duty (for post 22 April 2002 transfers)). This would enable the credit to the director loan account to be increased.

### Example 9

Details as in example 7 except goodwill transferred at market value of £87,500.

	£
<b>Gain on sale of goodwill</b>	
Actual proceeds	87,500
Market value at 31 March 1982	(25,000)
Indexation allowance March 82 to April 98	(26,175)
	<u>36,325</u>
Taper relief @ 75%	(27,244)
	<u>9,081</u>
Annual exemption	(7,900)
Taxable gain	<u><u>1,181</u></u>

<b>Accounting Entries</b>		Dr	Cr
Dr	Goodwill	87,500	
Cr	Directors Loan		87,500

### **Making the choice - transfer to a company relief or gift of business assets relief**

Which of the two methods is preferable depends entirely on the circumstances of the case but, on balance, the gifts of business assets route is probably used more widely. Its relative popularity is due principally to the perceived defect in Sec 162 that all assets (other than cash) have to be transferred to the company. This can involve considerable amounts of stamp duty being payable, although in the case of debtors, the position can be mitigated by converting as much as possible to cash before the transfer. The increase in the top rate of stamp duty to 4 per cent for assets worth more than £500,000 increases this cost; i.e. 4 per cent applies to instruments executed after 27 March 2000.

However, the stamp duty problem is at least a "one-off" at the time of the transfer. A much more significant problem arises, using sec 162, where the business is of a type that requires any asset that appreciates in value (ie. premises). In so far as it is commercially possible, and tax has no implications for other reliefs, it is good tax planning to keep such assets outside a company. This avoids the owner being exposed to a potential double capital gains charge (once when the company sells the premises) and again, indirectly, when the owner sells his or her shares in the

company. Using the gifts of business assets rules selectively enables the business owner to keep such assets outside the company.

The taper relief rules contain problems for both types of transfer. In each case the gains are deferred, until either the assets or the shares in the company are sold. The taper relief rules do not (except in the context of reinvestment of gains on EIS shares) count the period of ownership of the asset before the deferral. Since from 6 April 2002 the maximum taper relief for business assets accrues after two years, the owner will wish to consider whether the chargeable assets transferred, or the shares, are most likely to accrue the maximum taper relief before disposal.

### TAPER RELIEF

#### **What is a Business Asset?**

If you are an individual, a business asset is:

- a an asset (other than shares or securities) which is used for the purpose of a trade, profession or vocation carried on by you (either alone or in partnership) or by a qualifying company
- b before 6 April 2000, an asset (other than shares or securities) held for the purpose of an office or employment with a trading employer to which you were required to devote substantially the whole of your time
- c from 6 April 2000, an asset (other than shares or securities) held for the purpose of an office or employment with a person carrying on a trade (the substantial time requirement no longer being relevant)
- d shares or securities held by you in a qualifying company.

#### **What is a Qualifying Company?**

*For times before 6 April 2000*

A qualifying company is a trading company (or the holding company of a trading group) in which you hold shares

which entitle you to exercise at least 25% of the voting rights in that company. A qualifying company may also be a company in which you hold shares which entitle you to exercise at least 5% of the voting rights in the company and you as an individual are a full-time working officer or employee of that company (or group).

A full-time working officer or employee of a company is an individual or eligible beneficiary who:

- a is an officer or employee of that company or that company and one or more other companies connected with it; and
- b is required to devote substantially the whole of his time to the service of the company or service of those companies taken together.

"Devote substantially the whole of his time" is taken to mean at least 75% of normal working hours.

*For times from 6 April 2000*

A qualifying company is a trading company (or the holding company of a trading group) and any of the following are met:

- a the company is unlisted
- b you can exercise at least 5% of the voting rights in the company
- c you are an officer or employee of the company or of a company connected with the one in which you or the trustees hold shares.

Where the company is not a trading company or the holding company of a trading group, if you are an individual, a company will be a qualifying company at any time from 6 April 2000 when:

- a you were an officer or employee of the company or of one or more companies connected with it, and

- b you did not have a material interest in the company or a company which at that time controlled that company.

An **unlisted company** is one where none of its shares are listed on a recognised stock exchange and it is not a 51% subsidiary of a company whose shares, or any class of whose shares, is so listed. A recognised stock exchange includes the London Stock Exchange and any stock exchange outside the UK approved by order of the Board of Inland Revenue.

Shares traded on the Alternative Investment Market (AIM) of the London Stock Exchange will be treated as unlisted.

An individual will have a **material interest** when they have:

- 1 more than 10% of any class of share or security in the company
- 2 more than 10% of the voting rights in the company
- 3 rights to more than 10% of the income of the company
- 4 rights to more than 10% of the company's assets if the company is wound up.

You should also add in any shares or rights you do not have at the moment but you are entitled to acquire in the future, whether by options, conditional contracts or other means. When working out if you have a material interest, you have to add in the interests of people who are connected with you.

Taper relief of 75% may be available, if trading for more than 2 years.

A year is any continuous period of 12 months. An asset which is disposed of on an anniversary of its acquisition is accepted as having been held for a whole year.

A whole year does not have to coincide with a tax year, although it will do so for assets acquired prior to 6 April

1998, because only the holding period from that date is counted.

**Company becoming dormant**

Taper relief will not be available when a close company is dormant and the relief available will then be apportioned where appropriate.

*When is a company active?*

Subject to the following provisions, a company is regarded as active at any time when:

- a it is carrying on a business of any description
- b it is preparing to carry on a business of any description, or
- c it or another person is winding up the affairs of a business of any description that it has ceased to carry on.

*When is a company trading?*

"Trading activities" means activities carried on by the company:

- a in the course of, or for the purposes of, a trade being carried on by it
- b for the purposes of a trade that it is preparing to carry on
- c with a view to its acquiring or starting to carry on a trade, or
- d with a view to its acquiring a significant interest in the share capital of another company that
  - i is a trading company or the holding company of a trading group, and
  - ii if the acquiring company is a member of a group of companies, is not a member of that group.

**TAPER RELIEF WHEN A COMPANY IS BEING WOUND UP**

A company being wound up is deemed to be active not deemed to be trading. Therefore during the winding up period non-business taper relief applies.

**Example 10**

Jeremy incorporated a company on 1 June 1999, it started to trade on 1 November 1999. Trade continued until 31 October 2002 when the business was sold to a larger trader. Jeremy invested the proceeds inside the company but was unsuccessful in finding a new business and wound up the company on 30 April 2003. The Capital Gain arising on 30 April 2003 was £250,000.

Business taper is available from 1.11.99 to 31.10.02	1,095 days
Non-business asset taper from 1.11.02 to 30.4.03	181 days
<b>Total taper period</b>	<b>1,276 days</b>

	£
<b>Capital Gains Tax</b>	
Business gain £250,000 x 1,095/1,276 x 25%	53,634
Non-business gain £250,000 x 181/1,276 x 95%	33,689
	<b>87,323</b>

If the company had been wound up on 31 October 2002:

	£
<b>Capital Gains Tax</b>	
Business gain £250,000 x 1,095/1,095 x 25%	<b>62,500</b>

Saving if business wound up on 31 October 2002:	
Gain	24,823
Tax @ 40%	<b>9,929</b>

Complications can arise when business exit occurs shortly after incorporation. In the following example we discuss this point.

**EXAMPLE 11**

Jigna has carried on an accountancy business for many years. She decides to form a company Jigna Ltd to carry on the business. She transfers, in August 2003, the whole of the business undertaking, assets and liabilities to Jigna Ltd, in consideration for the issue of shares, plus an amount left outstanding on interest-free loan.

The business assets and liabilities transferred are valued as follows:

	Value	Chargeable gain after indexation to April 1998
£	£	£
Freehold offices (acquired in 1990)	80,000	52,000
Goodwill	36,000	26,000
Fixtures & fittings	4,000	
Trading stocks	52,000	
Debtors	28,000	
	<u>200,000</u>	
Mortgage on offices	50,000	
Trade creditors	<u>20,000</u>	
	70,000	
	<u>130,000</u>	<u>78,000</u>

The company issues 100,000 £1 ordinary shares, valued at par, to W in August 2003, and the amount left outstanding is £30,000. Jigna does not elect to disapply TCGA 1992, s 162.

In March 2004, Jigna sells 20,000 of her shares for £45,000 to X. Jigna's remaining shareholding is then worth, say, £155,000.

	£
Chargeable gain after indexation to April 1998	78,000
Gain rolled over on transfer of the business £78,000 x 100,000/130,000	60,000
Pre tapered gain	<u>18,000</u>
Taper relief @ 75%	<u>13,500</u>
Taxable gain (subject to annual exemption)	<u>4,500</u>

The allowable cost of Jigna's shares is £100,000 less £60,000 = £40,000

#### March 2004

On the sale of shares to X, Jigna realises a chargeable gain:

	£
Disposal consideration	45,000
Allowable cost £40,000 x (45,000/(45,000+155,000))	9,000
Chargeable gain	<u>36,000</u>

No indexation as shares acquired after March 1998. No taper relief as shares held less than 12 months.

#### Note

In the hands of the company, the goodwill will not qualify for the special treatment of intangible assets of companies introduced by FA2002, because it was acquired from a related party and was created before 1 April 2002 (by virtue of the business having been carried on before that date).

If Jigna elected under TCGA 1992 s 162A to dis-apply TCGA 1992, s162:

	£
<b>Chargeable gain on transfer of the business</b>	
Gain after indexation but before taper relief	78,000
Taper relief @ 75%	<u>58,500</u>
Chargeable gain	<u>19,500</u>

	£
<b>Chargeable gain on sale of shares</b>	
Disposal consideration	45,000
Allowable cost £100,000 x (45,000/(45,000+155,000))	22,500
Chargeable gain	<u>22,500</u>

On the face of it, the election is not beneficial, producing aggregate gains of £42,000 as against £40,500 (£4,500 + £36,000). If, however, Jigna sells her remaining 80,000 shares for £155,000 in, say May 2004, she will have a chargeable gain for 2003/2004 of £124,000 without the election or £77,500 with the election, giving a considerable overall saving if the election is made.

	£
<b>Without election</b>	
Sale proceeds	155,000
Allowable cost (£40,000 less £9,000)	<u>31,000</u>
Chargeable gain	<u>124,000</u>

	£
<b>With election</b>	
Sale proceeds	155,000
Allowable cost (£100,000 less £22,500)	<u>77,500</u>
Chargeable gain	<u>77,500</u>

If instead of making these early sales, Jigna had retained all 100,000 shares until, say September 2005, such that the gain on eventual disposal would have qualified for 75% business asset taper relief, the election would have been neutral, the taper relief forgone on incorporation having been fully recovered. This does assume that the shares retain their status as business assets for taper relief throughout W's ownership.

		Using s162 £	Not using s162 £
Sept 2005	Sale proceeds	200,000	200,000
	Allowable cost (£100,000 less £60,000)	40,000	100,000
		<hr/>	<hr/>
	Taper relief @ 75%	120,000	75,000
	Taxable gain	<hr/> 40,000	<hr/> 25,000
Aug 2003	Using section 162	200,000	200,000
	£60,000 chargeable gain rolled over		
	Taxable gain	-	60,000
	Taper relief @ 75%	-	45,000
	Tapered gain	<hr/> -	<hr/> 15,000

#### STAMP DUTY

Stamp duty needs to be considered on incorporation as this may result in additional costs. Section 119 Finance Act 2000 refers to this, which is shown in Appendix B.

A company will be liable to stamp duty on:

- transfer of assets on formation
- on the issue and transfer of shares
- on the purchase and transfer of freehold property
- on the purchase and transfer of leasehold property

#### Rates of duty

	Stock trfs	Conveyance or transfer on sale with certificate of value	Lease premium where rent exceeds £600 p.a.
Not exceeding £60,000	0.50%	Nil	1%
£60,000 to £250,000	0.50%	1%	1%
£250,000 to £500,000	0.50%	3%	3%
£500,000 plus	0.50%	4%	4%

#### Rounding

With effect from 1 October 1999, the charging provisions were standardised to provide for the rounding up to the nearest £5 in all cases.

#### Exemptions

Transfers of intellectual property (after 27 March 2000)  
 Transfers to registered social landlords (after 28 July 2000)  
 Transfers of goodwill (after 21 April 2002)  
 Property transactions in disadvantaged parts of the UK designated for this purpose

#### Example

George transfers his accountancy business to G Ltd in March 2003. The assets transferred had a market value as follows:

	£
Goodwill	87,500
Freehold offices	80,800
Office equipment	20,000
Motor car	5,000
Trade debtors	15,000
Work in progress	30,000
Creditors	(3,000)
	<hr/> 235,300

Stamp duty is chargeable on the market value of dutiable assets transferred under the sale of business agreement, which are:

	£
Freehold offices	80,800
Debtors	15,000
	<hr/> 95,800

Goodwill is exempt from stamp duty for post 22 April 2002 transfers, which is especially beneficial for the incorporation of profitable businesses under TCGA 1992 sec 162. The stamp duty liability payable by the company is £960 (£95,800 @ 1% rounded up to nearest £5).

The following are not dutiable assets:

- cash in hand and/or cash at bank on current account
- goods
- chattels
- moveables

- intellectual property
- loose plant and machinery
- stock in trade
- goods subject to hire purchase less the hire purchase debt thereon

## **OTHER INCORPORATION CONSIDERATIONS**

### **STATIONERY AND DESCRIPTIONS**

The new business will require revised stationery from the date it commences trade, in addition to Business Names Act and other legislation requirements. ACCA practising members should also ensure they comply with the ACCA Rulebook.

### **ACCA rules**

The following has been extracted from Section 3.3.4 of the *ACCA Rulebook 2003*:

- 12 The description "Chartered Certified Accountant(s)", "Certified Accountant(s)" or "Registered Auditor(s)" must not form part of the name of a firm or company. (For example a limited company must not include the description in the name which is registered with Companies house in the UK (or equivalent elsewhere).)
- 13 A firm (containing holders of practising certificates of whatever category or insolvency licences) may describe itself as a firm of "Chartered Certified Accountants", "Certified Accountants" or "an ACCA practice" only where:
- (a) at least half of the partners (or directors) are ACCA members, and
  - (b) the principals noted in 13(a) above, control at least 51 per cent of the voting rights under the firm's partnership agreement (or Articles of Association).

- 14 A firm in which all the partners are Chartered Certified Accountants may use the description "Members of the Association of Chartered Certified Accountants".
- 15 A mixed firm, comprising partners (or directors) who are Chartered Certified Accountants or Chartered Accountants is not permitted to use the description "Chartered Certified Accountants and Chartered Accountants" or "Chartered and Certified Accountants". Such firms may use the following statement on their stationery (providing the Chartered Accountants within the firm have permission from their own Institute(s) to use the statement):
- "The partners (or directors) of this firm are members of either the Association of Chartered Certified Accountants or the Institute of Chartered Accountants in England and Wales (of Scotland/in Ireland)".
- 17 A firm that has at least one ACCA member as a partner or director may use the ACCA mark on letterheads, other stationery and on an Internet site. The mark should be used in an appropriate manner, so that it cannot be confused with the mark/logo of the firm, for example, in conjunction with the regulation statement in respect of audit or exempt regulated activities.
- 27 Firms composed wholly of insolvency licence holding partners/directors (whether issued by ACCA or other Recognised Professional Bodies/Authorities under the Insolvency Act 1986 or Insolvency (Northern Ireland) Order 1989) may describe themselves as a firm of "Licensed Insolvency Practitioners".

### **Companies House requirements**

Every company must paint or affix its name on the outside of every office or place in which its business is carried on (even if it is a directors' home). The name must be kept

painted or affixed and it must be both conspicuous and legible.

Business letters and order forms must show in legible lettering:

- 1 its place of registration
- 2 its registered number
- 3 the address of its registered office
- 4 the company's name

The place of registration must be one of the following, as appropriate:

Registered in Cardiff  
Registered in England and Wales  
Registered in England  
Registered in London  
Registered in Wales

For companies registered in Scotland:

Registered in Scotland  
Registered in Edinburgh

If a business letter or order form mentions more than one address it is recommended that you state which is the registered office address.

On the following documents the company name must be stated in legible lettering:

- 1 all its notices and other official publications
- 2 all bills of exchange, promisory notes, endorsements, cheques and orders for money or goods purporting to be signed by, or on behalf of, the company
- 3 all its bills of parcels, invoices, receipts and letters of credit.

#### *Directors Names*

A company does not have to state the directors' names on its business letters but if it chooses to do so it must state the names of all its directors. In other words a company cannot be selective about which directors' names it shows. It must show all of them or none of them.

#### *Miscellaneous*

A company exempt from using the word "limited" in its name must state on its business letters and order forms, the fact that it is a limited company.

#### *Company with share capital*

It is not necessary to state the share capital on stationery but, if the company chooses to do so, it must state its paid-up share capital, not its authorised capital.

#### **Proposals for the anticipated new Companies Act**

Practitioners deciding whether or not to incorporate will need to consider the possible changes that may be made in the Company Law Review process. Some of the proposals for the new Companies Act recently published in a White Paper are as follows:

- abbreviated accounts to be abolished (therefore companies will no longer be able to take advantage of the exemption that allows abbreviated accounts to be filed)
- accounts to be filed within 6 months of the year end by public limited companies
- accounts to be filed within 7 months of the year end by private limited companies
- companies will have a single document constitution instead of memorandum and articles of association
- it will be possible to entrench specific provisions in the constitutional document
- new companies will have unlimited capacity
- corporate directors will be abolished

- private companies will not have to hold AGMs unless they expressly resolve to have them
- public companies will be able to dispense with AGMs if all members agree
- extraordinary resolutions will be replaced by special resolutions which themselves will require 14 clear days notice
- there will be a mediation and arbitration scheme for shareholders disputes
- there will be a statutory code of directors' duties
- the remuneration of directors of quoted companies will have to be approved by the members at the AGM
- public companies will be able to have a single member
- private companies will no longer need to have secretaries
- the requirement for an authorised share capital will be abolished
- private companies will be able to give financial assistance for the purchase of their own shares
- the rules regarding financial assistance generally will be revised
- the ability for private companies to redeem or purchase their own shares out of capital will be removed
- directors will be able to file a service address with the Registrar, enabling their private address to be kept private
- the rules regarding company charges are to be revised
- company offences will be revised. They will fall within six types A to F with increasing levels of punishment.

#### ACCA RULEBOOK CONSIDERATIONS

A sole practitioner intending to incorporate should inform the ACCA Glasgow office of the name of the limited company and the date from which the company is to start trading. They should also send a copy of the intended letterhead for the limited company.

They should also inform ACCA whether or not their sole practitioner/partnership business will cease and if so on what date. If this is not specified then it will be assumed that the sole practitioner/partnership business ceased.

If a company is to have director/directors which are not all ACCA members then there is a fee of £245 per non-ACCA director for 2003.

There is a form to complete which should be submitted to the ACCA Glasgow office called "Incorporation Notification". A copy of this is attached as Appendix C (this form may be copied).

An audit certificate will then be issued in the name of the company. The old audit certificate will no longer be valid unless the Glasgow office are informed that the sole practitioner/partnership wants to continue to trade. The renewal notice does have a box in which amendments can be made.

Glasgow office address : ACCA Professional Standards  
64 Finnieston Square  
Glasgow, G3 8DT  
Tel : 0141 309 4080  
Fax : 0141 309 4090

Professional Indemnity Insurers will need to be informed so that cover can be in place before starting to trade in the limited company.

The company will need to enter into a Continuity of Practice agreement with another accountant, a firm of accountants or a limited company to be responsible for the company's practice in the event of the its dissolution, winding-up or liquidation.

If the sole practitioner continues to trade he will need to have in force a Continuity of Practice agreement providing

for the "nominee" to be responsible for the individual's practice in the event of his death or incapacity.

An individual holder of a certificate who does not carry on public practice on his own account shall not have to have a Continuity of Practice agreement in force provided any firm of which he is a partner, director or employee and for whom he works has a valid Continuity of Practice agreement.

If the sole practitioner/partnership business and limited company are to trade at the same time there is likely to be two PII policies required which is likely to cost extra.

#### **Meaning of firm controlled by qualified persons**

Firms controlled by **qualified persons** are authorised for carrying on audit work in accordance with regulation 6 (Rulebook 2003 sec 2.2 page 89):

- a A firm shall only be regarded as controlled by qualified persons for the purposes of regulation 6 where:
  - i a majority of the members of the firm are qualified persons; and
  - ii if the firm's affairs are managed by a board or committee, a majority of the members of that board or committee are qualified persons, or if the body consists of only two persons, at least one of them is a qualified person.
  
- b References above to a person being qualified are, in relation to an individual, to his being qualified to hold an audit endorsement in accordance with regulation 7(2) and that he spends a material amount of his time working in the firm concerned, or being otherwise eligible to be appointed as an auditor.
  
- c A majority of the members of the firm above means:
  - i where under the firm's constitution matters are decided on by the exercise of voting rights,

- members holding a majority of the rights to vote on all, or substantially all, matters;
- ii in any other case, members having such rights under the constitution of the firm as enable them to direct its overall policy or alter its constitution.

- d A majority of the members of the management board or committee of a firm referred to above means:
  - i where matters are decided at meetings of the management board or committee by the exercise of voting rights, members holding a majority of the rights to vote on all, or substantially all, matters at such meetings;
  - ii in any other case, members having such rights under the constitution of the firm as enable them to direct its overall policy or alter its constitution.
  
- e The provisions of paragraphs 5 to 11 of Schedule 10A to the Companies Act 1985 of the United Kingdom (rights to be taken into account and attribution of rights) apply for the purposes of this regulation 8.

#### **AUDITORS' RESIGNATION AND APPOINTMENT**

The ACCA rules relating to change of appointment need to be followed. ie. write to old auditors/accountants; old accountants/auditors write to new .

#### **Auditors' Resignation**

##### *Companies Act 1985 Section 392(1)*

An auditor of a company may resign his office by depositing a notice in writing to that effect at the company's registered office.

##### *Section 392(2)*

An effective notice of resignation operates to bring the auditor's term of office to an end as of the date on which the notice is deposited or on such later date as may be specified in it.

*Section 392(3)*

The company shall within 14 days of the deposit of a notice of resignation send a copy of the notice to the registrar of companies. If default is made in complying with this subsection, the company and every officer of it who is in default is guilty of an offence and liable to a fine and, for continued contravention, a daily default fine.

There are various rights of resigning auditors, which are specified in section 392A CA1985. In most cases these will not be applicable on change of auditors resulting from incorporation.

**Report on ceasing to hold office**

***Statement to the Directors of XYZ Limited on ceasing to hold office as auditors***

In accordance with section 394 of the Companies Act 1985, we confirm that there are no circumstances connected with our ceasing to hold office that we consider should be brought to the attention of the company's members or creditors.

Registered auditors

Address

Date

(The report is normally made in the form of a letter signed in the firm's name. This is example 15 from Practice Note 8 in Auditing Handbook 2002/2003 page 494.)

**Auditors' Appointment**

The sole trader or partnership having resigned as auditors, the client will need to fill the casual vacancy in the office of auditor.

Companies Act 1985 Section 388 - **Filling of casual vacancies:**

*Section 388(1)*

The directors, or the company in general meeting, may fill a casual vacancy in the office of auditor.

*Section 388(2)*

While such a vacancy continues, any surviving or continuing auditor or auditors may continue to act.

*Section 388(3)*

Special notice is required for a resolution at a general meeting of a company-

- a filing a casual vacancy in the office of auditor, or
- b re-appointing as auditor a retiring auditor who was appointed by the directors to fill a casual vacancy.

*Section 388(4)*

On receipt of notice of such an intended resolution the company shall forthwith send a copy of it-

- a to the person proposed to be appointed, and
- b if the casual vacancy was caused by the resignation of an auditor, to the auditor who resigned.

*Special Notice - Section 379(1)*

Where by any provision of this Act special notice is required of a resolution, the resolution is not effective unless notice of the intention to move it has been given to the company at least 28 days before the meeting at which it is moved.

*Section 384(2)*

Auditors shall be appointed in accordance with section 385 (appointment at general meeting at which accounts are laid), except in the case of a private company which has elected to dispense with the laying of accounts in which case the appointment shall be made in accordance with section 385A.

*Section 384(4)*

Section 385 and 385A have effect subject to section 386 under which a private company may elect to dispense with the obligation to appoint auditors annually.

*Section 385(1)*

This section applies to every public company and to a private company which has not elected to dispense with the laying of accounts.

*Section 385(2)*

The company shall, at each general meeting at which accounts are laid, appoint an auditor or auditors to hold office from the conclusion of that meeting until the conclusion of the next general meeting at which accounts are laid.

Section 385A - Appointment by private company which is not obliged to lay accounts.

*Section 385A(1)*

This section applies to a private company, which has elected in accordance with section 252 to dispense with the laying of accounts before the company in general meeting.

*Section 385A(2)*

Auditors shall be appointed by the company in general meeting before the end of the period of 28 days beginning with the day on which copies of the company's annual accounts for the previous financial year are sent to members under section 238 or, if notice is given under section 253(2) requiring the laying of the accounts before

the company in general meeting, the conclusion of that meeting.

In summary section 385A requires the auditors' appointment by the directors to fill a casual vacancy to be ratified by the members in general meeting.

Section 386 - Election by a private company to dispense with annual appointment

*Section 386(1)*

A private company may elect (by elective resolution in accordance with section 379A) to dispense with the obligation to appoint auditors annually.

*Section 386(2)*

When such an election is in force the company's auditors shall be deemed to be re-appointed for each succeeding financial year on the expiry of the time for appointing auditors for that year, unless-

- a the directors of the company have taken advantage of the exemption conferred by section 249A or 249AA, or
- b a resolution has been passed under section 393 to the effect that their appointment should be brought to an end.

AUDITORS' LIABILITY

*Companies Act 1985 sec 3*

A company may have limited liability for its members. The effect of this is that, if the company is unable to pay its debts and is put into liquidation, the members will not be required to contribute more than they have actually paid or agreed to pay towards settling its debts. A private company may be limited by shares or by guarantee (a commitment to contribute a given sum if the company is wound up). All public limited companies formed since 1980 are limited by shares.

### *Companies Act 1985 sec 254*

While all public companies and most private companies have limited liability, it is possible to set up an unlimited company. This would not have Limited at the end of its name and would not normally be required to produce accounts for public inspection. If an unlimited company were unable to pay its creditors, the members of the company would be liable for the full amount of any debts.

If a director acts negligently which results in a loss, the person suffering the loss may be able to sue the director to recover the losses incurred.

### NATIONAL INSURANCE CONTRIBUTIONS

The self-employed, as well as partners in partnership, pay Class 2 NICs on earnings above £89pw. The rate of Class 2 contributions in 2003-04 is £2pw. In addition, they pay Class 4 NICs in respect of trading profits falling between the lower annual earnings limit (£4,615 in 2003-04) and the upper limit (£30,940). The rate of Class 4 contributions is 7%.

Companies are required to pay Class 1 National Insurance contributions - known as "primary" Class 1 contributions - on all remuneration they pay to their directors. (Directors in turn are required to pay employees' NIC contributions - termed "secondary" Class 1 contributions - on their own income between the lower limit and the upper limit.) For the tax year 2003-04, the rates of employer's and employees' Class 1 contributions are as follows:

<b>Earnings limits</b>	<b>Employees' Contribution</b>	<b>Employers' Contribution</b>
Below £77 weekly	No NICs payable	No NICs payable
£77 to £89 weekly	0%	0%
£89.01 to £595 weekly	11% on earnings above the earnings threshold	12.8% on all earnings
Over £595 weekly	1% on earnings above £595 weekly	12.8% on all earnings

The lower earnings limit is £77pw/£334pm/£4,004pa for 2003/2004. The earnings threshold is £89pw/£385pm/£4,615pa for 2003/2004.

Benefits payable can be split into two kinds:

- non-contributory benefits are paid irrespective of national insurance contributions paid
- contributory benefits are dependant on previous national insurance contributions paid

Contributory benefits are as follows:

- Incapacity benefit
- Contribution-based Jobseeker's Allowance
- Retirement Pension
- Statutory Maternity Pay
- Maternity allowance
- Statutory Sick Pay
- Bereavement payment (lump sum)
- Bereavement allowance
- Widowed parent's allowance

From 6 April 2000, receipt of earnings subject to Class 1 equal to or exceeding the lower earnings limit will mean that the individual has paid Class 1 contributions, even if no contributions have actually been paid due to the earnings not exceeding the earnings threshold.

### NATIONAL MINIMUM WAGE

All businesses, whether they are incorporated or not, are covered by the minimum wage rules if they employ staff. All businesses which are covered are, therefore, required to pay (at least) the statutory minimum wage and to comply with the associated administrative formalities, which are fairly extensive.

When it comes to company directors, the position becomes slightly complicated. Directors are not, solely by virtue of their office, "employees" of their company. In employment law, an "employee" is regarded, broadly speaking, as a

person who is hired by an employer to carry out a specified function under specified terms and conditions.

Directors do not automatically come into this category, since they usually have powers and responsibilities to manage the whole of their company's operations without restriction. They will, however, be regarded as employees if they have a contract of employment with their company, written or unwritten, which creates an employment relationship. In larger companies, many companies give their directors service contracts and give them specific responsibilities, e.g. as finance director or sales director: directors in this position will be employees under the law. The actual term used in the minimum wage regulations to govern who is covered by the minimum wage regulations is not "employee" but "worker". This is defined as a person who is working under a contract of employment-this means an employee-or "some other form of contract under which he agrees to perform work for someone else but is not self-employed". The DTI and the Inland Revenue have agreed that, if there is no written contract of employment or other evidence of an intention to create an employer/worker relationship, they will not seek to argue that there is any unwritten employment relationship between the director and his company.

Therefore, if a company wishes to avoid all doubt about whether or not it needs to comply with the minimum wage rules, it should ensure that it does not give the Inland Revenue any encouragement to believe that there has been any intention to create any such relationship.

#### SETTLEMENT PROBLEMS OF DIVIDEND WAIVERS AND SHARE TRANSFERS

##### **Dividend waivers**

A shareholder may consider making their spouses shareholders with the intention of placing income in her hands to absorb her personal allowances and lower rate

bands of income tax. Thus reducing the higher rate income of the other spouse.

This may involve:

- 1 waiver by the husband.
- 2 transferring shares to the spouse (either ordinary shares or a new class of shares)

##### *Waivers*

- a waivers should be made before the dividend is declared
- b broadly speaking, a company should not declare dividends which exceed accumulated realised profits.
- c the Inland Revenue may look at waived dividends over a number of years. Problems may occur if over the period of years for which the waivers applied, the dividends payable in the absence of those waivers would exceed the accumulated realised profits.
- d the settlement problem may also occur if there is any other evidence which suggests that the same rate would not have been paid on all the issued shares of that class in the absence of the waiver.

##### *Inland Revenue queries on family holdings in a company*

In some cases where family members receive dividends and/or salary from a company, the Inland Revenue may argue that the income should be aggregated and treated as the income of one family member only.

Two legal cases (Young v Pearce and Young v Scrutton) were as follows:

The controlling directors and shareholders passed the following resolutions:

- altering the articles - as shareholders
- allotted preference shares to their wives - as directors
- recommended dividend payments - as directors
- declared dividends - as shareholders

It was decided that deemed settlements had come into existence and the dividends declared to the wives were treated as income of their husbands.

In *Copeman v Coleman*, partly paid preference shares subscribed for by the children out of their own money constituted a settlement by their parents.

Section 660A(6) TA 1988 allows one exception to the problems brought to light in *Young v Pearce* and *Young v Scrutton*. Section 660A(6) excludes from the definition of a settlement "an outright gift by one spouse to the other of property from which income arises unless:

- a the gift does not carry a right to the whole of the income; or
- b the property given is wholly or substantially a right to income".

Therefore to avoid a statutory settlement, the following conditions should be met:

- 1 the shares should be an outright gift;
- 2 there should be no conditions attached to the transfer;
- 3 there should be no consideration;
- 4 the transfer should be intra-spouse, not merely between co-habitees;
- 5 the transferee should be entitled to the whole income arising on the shares transferred; and
- 6 shares should not be limited to a right solely to income, there should also be other rights (e.g. to vote or to a distribution on winding up).

Shares should accordingly be given by one spouse to the other for this exception to *Pearce* and *Scrutton* to be obtained. If new shares are to be issued they should be subscribed for by the existing shareholder and then given away. Any attempt to limit the rights transferred is likely to jeopardise the arrangement.

## CONCLUSION

The incorporation of an accountancy business will change the way the business is taxed and have other effects. Some of these changes may be viewed as advantages and some as dis-advantages.

The advantages can be summarised as follows:

- tax charges each year will usually be lower
- Capital Gains Tax liabilities may be reduced
- liability (other than acts of negligence) may be limited in companies.

The dis-advantages can be summarised as follows:

- companies required to prepare accounts using specific disclosure requirements
- accounts to be filed at Companies House, which is a record open to the public
- method of extracting profits has different tax implications and compliance issues
- business asset taper relief may be reduced during the winding up period
- capital gains tax liability may crystallise on incorporation
- stamp duty liability may arise on incorporation
- administrative procedures to be followed on resignation and appointment of auditors and/or accountants
- costs may be incurred relating to the change of name and status to a limited company
- as the tax rates of company's profits recently changed, it is possible that they will be amended again in the future.

The advantages and dis-advantages will need to be considered by each sole practitioner and partner within a partnership when incorporation is being decided upon. Each individual will need to make a judgement based on their particular circumstances whether or not incorporation will be beneficial for them.

APPENDIX 1: TCGA 1992 sections 162, 162A and 165

On transfer from sole trader to limited company chargeable gain can be postponed as follows:

**TCGA 1992 Section 162 - Roll-over relief on transfer of business**

- 1 This section shall apply for the purpose of this Act where a person who is not a company transfers to a company a business as a going concern, together with the whole assets of the business, or together with the whole of those assets other than cash, and the business is so transferred wholly or partly in exchange for shares issued by the company to the person transferring the business. Any shares so received by the transferor in exchange for the business are referred to below as "the new assets".
- 2 The amount determined under subsection (4) below shall be deducted from the aggregate of the chargeable gains less allowable losses ("the amount of the gain on the old assets").
- 3 For the purpose of computing any chargeable gain accruing on the disposal of any new asset-
  - (a) the amount determined under subsection (4) below shall be apportioned between the new assets as a whole, and
  - (b) the sums allowable as a deduction under section 38(1)(a) shall be reduced by the amount apportioned to the new asset under paragraph (a) above;and if the shares which comprise the new assets are not all of the same class, the apportionment between the shares under paragraph (a) above shall be in accordance with their market values at the time they were acquired by the transferor.
- 4 The amount referred to in subsection (2) and (3)(a) above shall not exceed the cost of the new assets

but, subject to that, it shall be the fraction  $A/B$  of the amount of the gain on the old assets where:

"A" is the cost of the new assets, and

"B" is the value of the whole of the consideration received by the transferor in exchange for the business:

and for the purpose of this subsection "the cost of the new assets" means any sums which would be allowable as a deduction under section 38(1)(a) if the new assets were disposed of as a whole in circumstances giving rise to a chargeable gain.

- 5 References in this section to the business, in relation to shares or consideration received in exchange for the business, include references to such assets of the business as are referred to in subsection (1) above.

**TCGA 1992 Section 162A - Election for section 162 not to apply**

- 1 Section 162 shall not apply where the transferor makes an election under this section.
- 2 An election under this section must be made by a notice given to an officer of the Board no later than the relevant date.
- 3 Except where subsection (4) below applies, the relevant date is the second anniversary of the 31st January next following the year of assessment in which the transfer of the business took place.
- 4 Where, by the end of the year of assessment following the one in which the transfer of the business took place, the transferor has disposed of all the new assets, the relevant date is the first anniversary of the 31st January next following the year of assessment in which the transfer of the business took place.

- 5 For the purposes of subsection (4) above:
- (a) a disposal of any of the new assets by the transferor shall be disregarded if it falls within section 58(1) (transfers between husband and wife); but
  - (b) where a disposal of any assets to a person is disregarded by virtue of paragraph (a) above, a subsequent disposal by that person of any of those assets (other than a disposal to the transferor) shall be regarded as disposal by the transferor.
- 6 All such adjustments shall be made, whether by way of discharge or repayment of tax the making of assessments or otherwise, as are required to give effect to an election under this section.
- 7 Where, immediately before it was transferred, the business was owned by two or more persons:
- (a) each of them has a separate entitlement to make an election under this section;
  - (b) the share of the new assets, that is attributable to that person for the purposes of this Act.
- 8 The reference in subsection (7) above to ownership by two or more persons includes, in Scotland as well as elsewhere in the United Kingdom, a reference to ownership by a partnership consisting of two or more persons.
- 9 Expressions used in this section and in section 162 have the same meaning in this section as in that one. But references in this section to new assets also include any shares or debentures that are treated by virtue of one or more applications of section 127 (including that section as applied by virtue of any enactment relating to chargeable gains) as the same asset as the new assets.

**TCGA 1992 Section 165 - Relief for gifts of business assets**

- 1 If (a) an individual ("the transferor") makes a disposal otherwise than under a bargain at arm's length of an asset within subsection (2) below, and
- (b) a claim for relief under this section is made by the transferor and the person who acquires the asset ("the transferee") or, where the trustees of a settlement are the transferee, by the transferor alone,
- then, subject to subsection (3) and (sections 166, 167 and 169), subsection (4) below shall apply in relation to the disposal.
- 2 An asset is within this subsection if:
- (a) it is, or is an interest in, an asset used for the purposes of a trade, profession or vocation carried on by:
    - (1) the transferor, or
    - (2) his (personal company), or
    - (3) a member of a trading group of which the holding company is his (personal company), or
  - (b) it consists of shares or securities of a trading company, or of the holding company of a trading group, where:
    - (1) the shares or securities are not listed on a recognised stock exchange, or
    - (2) the trading company or holding company is the transferor's personal company.
- 3 Subsection (4) below does not apply in relation to a disposal if:
- (a) in the case of a disposal of an asset, any gain accruing to the transferor on the disposal is (apart from this section) wholly relieved under Schedule 6, or

- (b) in the case of a disposal of shares or securities, the transferee is a company or the appropriate proportion determined under paragraph 7(2) or 8(2) of Schedule 6 of any gain accruing to the transferor on the disposal is (apart from this section) wholly relieved under that Schedule, or
- (c) in the case of a disposal of qualifying corporate bonds, a gain is deemed to accrue by virtue of section 116(10)(b), or
- (d) subsection (3) of section 260 applies in relation to the disposal (or would apply if a claim for relief were duly made under that section).

- 4 Where a claim for relief is made under this section in respect of a disposal:
- (a) the amount of any chargeable gain which, apart from this section, would accrue to the transferor on the disposal, and
  - (b) the amount of the consideration for which, apart from this section, the transferee would be regarded for the purposes of capital gains tax as having acquired the asset or, as the case may be, the shares or securities,
- shall each be reduced by an amount equal to the held-over gain on the disposal.
- 5 Part I of Schedule 7 shall effect for extending the relief provided for by virtue of subsections (1) to (4) above in the case of agricultural property and for applying it in relation to settled property.
- 6 Subject to Part II of Schedule 7 and subsection (7) below, the reference in subsection (4) above to the held-over gain on a disposal is a reference to the chargeable gain which would have accrued on that disposal apart from subsection (4) above and (in appropriate cases) Schedule 6, and in subsection (7) below that chargeable gain is referred to as the unrelieved gain on the disposal.

- 7 In any case where:
- (a) there is actual consideration (as opposed to the consideration equal to the market value which is deemed to be given by virtue of section 17(1)) for a disposal in respect of which a claim for relief is made under this section, and
  - (b) that actual consideration exceeds the sums allowable as a deduction under section 38, the held-over gain on the disposal shall be the amount by which the unrelieved gain on the disposal exceeds the excess referred to in paragraph (b) above.
- 8 Subject to subsection (9) below, in this section and Schedule 7:
- (a) personal company, holding company, trading company and trading group have the meaning given by paragraph 1 of Schedule 6, and
  - (b) "trade", "profession" and vocation" have the same meaning as in the Income Tax Acts.
- 9 In this section and Schedule 7 and in determining whether a company is a trading company for the purposes of this section and that Schedule, the expression "trade" shall be taken to include the occupation of woodlands where the woodlands are managed by the occupier on a commercial basis and with a view to the realisation of profits.
- 10 Where a disposal after 13 March 1989, in respect of which a claim is made under this section, is (or proves to be) a chargeable transfer for inheritance tax purposes, there shall be allowed as a deduction in computing (for capital gains tax purposes) the chargeable gain accruing to the transferee on the disposal of the asset in question an amount equal to whichever is the lesser of:
- (a) the inheritance tax attributable to the value of the asset, and

(b) the amount of the chargeable gain as computed apart from this subsection, and, in the case of a disposal which, being a potentially exempt transfer, proves to be a chargeable transfer, all necessary adjustments shall be made, whether by the discharge or repayment of capital gains tax or otherwise.

11 Where an amount of inheritance tax:

- (a) falls to be re-determined in consequence of the transferor's death within 7 years of making the chargeable transfer in question, or
- (b) is otherwise varied, after it has been taken into account under subsection (10) above, all necessary adjustments shall be made, whether by the making of an assessment to capital gains tax or by the discharge or repayment of such tax.

APPENDIX B: SECTION 119 FINANCE ACT 2000  
(Butterworths Stamp Duty manual page 9 of 55)

Under the provisions of Section 119 Finance Act 2000, property transferred from a person to a company, where some or all of the consideration consists of the issue or transfer of shares in a company with which that person is connected, is liable to ad valorem duty on the market value of that property.

"Person" is the person in the legal sense. This means any legal entity such as another company, a partnership, a trustee of a unit trust or an individual.

The legislation provides that the question of whether a person is connected with a company is to be determined in accordance with the provisions of Section 839 of the Income and Corporation Taxes Act 1988. There are several definitions given but a main one is that if, at a general meeting, one person's voting rights mean that person can direct the operations of the company, that person has control of the company. A further definition is that two companies are connected if the same person has control of both.

It should be noted that this provision extends to situations where the shares are not in the company to which the estate or interest in land is transferred.

A transfer made from a connected person to a connected company may be made for no consideration or at undervalue. In these circumstances duty is charged on the open market value of the property at the date of transfer.



# INCORPORATION NOTIFICATION

## REGISTRATION DETAILS

Is this an incorporation of an existing firm?  YES      Name of existing firm \_\_\_\_\_  
 NO      Will your existing firm continue to trade?  YES  NO  
 Does this firm require to be registered/continue to be registered as an ACCA Approved Training Practice?  YES  NO

## CONTACT DIRECTOR

Full Name \_\_\_\_\_ ACCA membership number (if known/applicable) 

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## FIRM DETAILS

Name of firm\* \_\_\_\_\_ Trading name (if applicable)\* \_\_\_\_\_

Firm's existing reference number (if known/applicable) 

--	--	--	--	--	--	--	--

Companies House Registration number 

--	--	--	--	--	--	--	--	--	--

 Country in which registered \_\_\_\_\_

Date of last Annual Return to Registrar of Companies \_\_\_\_\_

\*Auditing certificates will be issued in the name of the incorporate firm, not other trading names.

## ADDRESS DETAILS

### PRINCIPAL OFFICE ADDRESS

is this the firm's registered office? YES/NO  
(if no please indicate registered office clearly below)

TOWN \_\_\_\_\_ COUNTY \_\_\_\_\_ POSTCODE \_\_\_\_\_

TEL \_\_\_\_\_ FAX \_\_\_\_\_ E-MAIL \_\_\_\_\_

### BRANCH OFFICE ADDRESS(ES) (continue on a separate sheet if necessary)

**A** \_\_\_\_\_

TOWN \_\_\_\_\_ COUNTY \_\_\_\_\_ POSTCODE \_\_\_\_\_

TEL \_\_\_\_\_ FAX \_\_\_\_\_ E-MAIL \_\_\_\_\_

**B** \_\_\_\_\_

TOWN \_\_\_\_\_ COUNTY \_\_\_\_\_ POSTCODE \_\_\_\_\_

TEL \_\_\_\_\_ FAX \_\_\_\_\_ E-MAIL \_\_\_\_\_

## DIRECTORS

### ACCA DIRECTORS

OFFICE	NAME

### ACCA MEMBERSHIP NUMBER


### NON-ACCA DIRECTORS

OFFICE	NAME

### PROFESSIONAL QUALIFICATION (if any)

### Appropriate Qualification for audit held

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

YES/NO  
 YES/NO  
 YES/NO  
 YES/NO

Continue on a separate sheet if necessary.

## NON-DIRECTORS RESPONSIBLE FOR SIGNING AUDIT REPORTS

Persons listed here must hold an appropriate qualification enabling them to undertake audit work

OFFICE	NAME	PROFESSIONAL QUALIFICATION
_____	_____	_____
_____	_____	_____
_____	_____	_____

## SHAREHOLDER DETAILS

### SHARE CAPITAL

AUTHORISED SHARE CAPITAL \_\_\_\_\_ SHARES OF £ \_\_\_\_\_ EACH. SHARES ISSUED \_\_\_\_\_

If there is more than one class of shares, please provide details on a separate sheet.

### SHAREHOLDERS

NAME \_\_\_\_\_ DIRECTOR YES/NO \_\_\_\_\_

ADDRESS \_\_\_\_\_ POSTCODE \_\_\_\_\_

NUMBER OF SHARES HELD \_\_\_\_\_ PERCENTAGE OF VOTING RIGHTS \_\_\_\_\_ %

NAME \_\_\_\_\_ DIRECTOR YES/NO \_\_\_\_\_

ADDRESS \_\_\_\_\_ POSTCODE \_\_\_\_\_

NUMBER OF SHARES HELD \_\_\_\_\_ PERCENTAGE OF VOTING RIGHTS \_\_\_\_\_ %

NAME \_\_\_\_\_ DIRECTOR YES/NO \_\_\_\_\_

ADDRESS \_\_\_\_\_ POSTCODE \_\_\_\_\_

NUMBER OF SHARES HELD \_\_\_\_\_ PERCENTAGE OF VOTING RIGHTS \_\_\_\_\_ %

Continue on a separate sheet if necessary.

## PROFESSIONAL INDEMNITY INSURANCE

POLICY NUMBER \_\_\_\_\_ INSURER \_\_\_\_\_

### CONTINUITY OF PRACTICE

NAME OF FIRM \_\_\_\_\_ PROFESSIONAL BODY \_\_\_\_\_

ADDRESS \_\_\_\_\_ POSTCODE \_\_\_\_\_

OR  within the memorandum and articles of association

If arrangements have been made with more than one firm please provide details on a separate sheet.

If the company practises in more than once country, your continuity arrangements must make provision for this.

## AUDIT REGISTRATION

Does this firm require audit registration? \*\*  YES  NO

\*\*Where there are no changes (other than incorporation) to the structure of a firm which has existing audit registration with ACCA then a firm's auditing certificate will be issued automatically. Where the firm's structure has changed or this is a new company then an application for a firm's auditing certificate will be sent to the contact partner for completion

## ENCLOSURES

### HEADED NOTEPAPER

Please enclose a sample of your (proposed) headed notepaper with this form. If the principal and branch offices use different notepaper, enclose a sample of each notepaper used by the firm.

### ADDITIONAL SHEETS OF INFO

I attach \_\_\_\_\_ (enter 'no' if applicable) additional sheets of information

## CONFIRMATION

I confirm that the information given in this form is true, accurate and complete to the best of my knowledge and belief after making all reasonable enquiries.

Contact director's signature \_\_\_\_\_ Date \_\_\_\_\_



Please return this form to: Authorisation, ACCA, 64 Finnieston Square, Glasgow, G3 8DT  
tel: +44 (0)141 309 4175 fax: +44 (0)141 309 4237 e-mail: members@accaglobal.com