



## Corporation Tax Update

### for property management companies, small clubs and unincorporated associations

#### It's back to where we were!

In 2002 the Chancellor introduced a nil rate of Corporation Tax for companies with profits of up to £10,000. It was an untypically naive move that led to a rash of small companies being set up, purely for the purpose of avoiding tax. This resulted in the Chancellor in 2004 having to introduce a minimum 19% tax rate on dividends paid by small companies, a move which greatly complicated their tax affairs. The further result was that effective 1st April 2006 the Chancellor was forced to recant and the nil starting rate was abolished, taking the situation back to where it was before 2002.

#### Special rules

Following the change detailed above HM Revenue & Customs ('HMRC') has recently clarified the Corporation Tax status of property management companies, small clubs and unincorporated associations.

The guidance is that where the annual corporation tax liability is not expected to exceed £100, returns will not be required from:

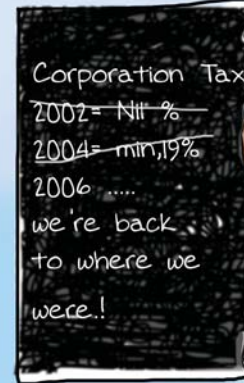
- property management companies which meet certain criteria (see right);
- clubs and unincorporated associations run exclusively for the benefit of their own members.

If this condition is met then HMRC will treat the organisation as dormant and review the position every five years; however, for each year there must be no anticipated allowable trading losses, disposal of chargeable assets (i.e. assets sold at a gain, such as property), or payments from which tax is deductible for payment to HMRC (e.g. interest paid to someone other than a bank).

## Barnes Roffe Topical Tips

- Be alert as the special rules are wider than potentially anticipated and affect the vast majority of ownership structures for blocks of flats or private housing developments.
- If you are involved as a flat owner either as a resident or an investor you should ensure that your management company is making the appropriate returns.
- You should further ensure that where returns are not necessary the company contacts the HMRC to obtain a dispensation as detailed above.

**Please contact your Barnes Roffe LLP partner for assistance on this important matter.**



#### What is a property management company?

For these purposes HMRC defines a property management company as one that:

- has a business consisting of the management, on a non-profit making basis, of a number of flats or apartments on behalf of the owners, lessees or tenants of those dwellings;
- the Articles of Association of which contains rules to ensure that only persons having an interest in the property under management own the shares in the company;
- is not entitled to receive any income from an interest in land (i.e. ground rent) and must not pay a dividend or make any other distribution of profits.

If the company earns interest on monies held in trust on behalf of tenants (i.e. a sinking fund) then it will be required to submit an income tax self assessment return, unless the annual interest is less than £1,000 and taxed at source.