Asian Business Forum newsletter

5th edition

THE ASIAN BUSINESS FORUM

Welcome to the fifth edition of the PricewaterhouseCoopers Asian Business Forum newsletter.

So much has happened since our last edition, including continued uncertainty around the economy, some high profile company collapses and most recently the 2009 Chancellor's budget. We have tried to cover some of the more relevant issues to our readership.

Managing through a downturn is certainly what the Lalani family are doing and doing very well indeed. Seizing on opportunities has been key to their success. In our client profile we are given a fantastic insight into 99p Stores and the true entrepreneurial spirit of the family by Hussein Lalani.

I do hope you enjoy the content and as always any suggestions you may have for future editions would be welcome.

Best wishes,

Ruby Parmar

Ruby Parmar
Partner, PricewaterhouseCoopers LLP

Are you non-UK domiciled?

Summarised below are some key messages which may impact non-UK domiciled persons living the UK.

Domicile rulings

HMRC will no longer provide domicile rulings. Until March 2009, individuals could submit initial non-domicile claims to obtain a ruling, but individuals are now required to self-assess their domicile status as part of their tax return.

What is the impact of this?

This approach formally opens the door for HMRC to query an individual's domicile status over time rather than be bound by a previous ruling. HMRC's guidelines specifically state that any ruling originally given under the old system may become a less useful indicator over time.

Individuals who consider themselves to be non-UK domiciled should consider the new guidance published by HMRC and assess carefully why they consider themselves to be non-UK domiciled, especially as the burden of proof will be on the individual. HMRC view that long-term residents of the UK who consider themselves to be non-UK domiciled need to demonstrate a "clearly foreseen and reasonably anticipated contingency" at which point they intend to leave the UK; remaining in the UK beyond the occurrence of that contingency will weaken the chances of a non-UK domicile claim succeeding.

Inheritance tax planning

In the guidance, HMRC also accept that persons of an Indian or Pakistani domicile are not affected by the "17 out of the last 20 years" rule in being deemed UK domiciled.

Will I have to pay £30,000 every year to benefit?

In our experience, most non-UK domiciled individuals do not need to pay the £30,000 remittance basis charge to benefit from domicile-related planning.

Offshore trusts

Trustees of offshore trusts need to be aware of unanticipated consequences of the Finance Act 2008 changes.

Before 5 April 2008, offshore trusts could potentially make capital distributions or benefit payments to non-UK domiciled settlors or beneficiaries with no UK capital gains tax (CGT) consequences. These rules were changed in Finance Act 2008 so that a capital receipt in the UK after 6 April 2008 could result in a UK CGT charge.

Where trusts have made gains prior to 5 April 2008, capital payments can still be distributed free from UK CGT, so long as the payment matches the pre-5 April 2008 gains. However, due to the complexity of the new "matching" rules, it may be possible to inadvertently crystallise UK CGT charges and we, therefore, recommend that professional advice is sought by settlors, trustees and beneficiaries before extracting value.

Managing through the downturn

Hussein Lalani, co-owner of the family-owned 99p Store chain talks to the Asian Business Forum about why he is feeling upbeat in the downturn.

As one chapter closed for Woolworths in January 2009, another one opened for 99p Store owners Hussein Lalani and brother Faisal. The two entrepreneurs added to their retail empire in 2009 by buying eight of the former Woolworth store sites as part of their expansion strategy across the UK.

"It's a very interesting time", says Hussein. "The recession is having a profound effect on buying behaviour across the UK. Shopping in low-cost outlets no longer has the stigma attached to it that it once did. We're seeing people in suits coming into our stores to see what they can pick up for 99p before visiting their normal supermarket to buy their fresh produce and we're hearing anecdotal evidence from customers who are proud of their low cost purchases and the great deals they are getting, rather than talking about purchases they have made in premium food stores."

Hussein and Faisal have retail in their blood. They started 99p Stores with their father, the retail entrepreneur Nadir Lalani, in January 2001. Hussein fondly recounted a tale of when his father, Nadir, took him on a driving lesson, "My dad told me to look left and right. Not for the traffic, but to see which shops were busy and to question why they were – he taught me to always keep an eye on business opportunities."

A solid foundation in retail

Hussein spent a year working as an accounts clerk at his father's former business, Whistlestop Food & Wine, before he went to university to study law. "Working at Whistlestop was one of the most informative times of my life. I learnt so much about retail. I reported in to Saleem Karim who is now our finance director at 99p Stores."

Finding inspiration

"I am constantly looking at what is selling and what might be popular next. I spend Saturday mornings flicking through children's TV channels to find out what the latest kids' craze is going to be. We know that children like the merchandise associated with their favourite TV programme or film character so when something new comes out we have to make sure that we have 99p Store options."

Remaining upbeat in the downturn

"The downturn has been extremely challenging but we have remained upbeat by flexing what products we can offer to clients as commodity prices increase. This means offering different bundles of products to meet economies of scale. For example, we found that we have a big Eastern European market of buyers who are looking for low cost D.I.Y products so we stock accordingly.

> "The recession is having a profound effect on buying behaviour across the UK."

We have also used this opportunity to find and negotiate better deals on rents from landlords. It's amazing to see how far we have come since we started trading. Initially we found it difficult to get sites as landlords often weren't interested in renting properties to discount stores, but the popularity of the stores, combined with market forces, has really worked in our favour.

Pictured (from left to right) are Faisal, Nadir and Hussein Lalani.

Branding is important too. We have been clever about how we package our products for example, offering some items, such as picture frames in nicer packaging minus the 99p Store label so that our customers can buy these items as gifts."

Looking to the future

Hussein aims to expand the business further in the coming months. His target is to employ 1000 more workers to meet the demand of the 1500 to 2000 customers who visit each 99p Store daily. Hussein thinks that his qualities of perseverance and having a vision are both important ingredients of making a successful business. "I really believe that you do make your own luck by anticipating the market changes and ensuring that you are in the right place at the right time." It's definitely a case of watch this space for the 99p Store chain.

Fast facts

- 9p Stores was founded in January 2001, when the first store was opened in Holloway, London.
- Following a UK-wide expansion, the group now has 75 stores across the country, serving 750,000 customers a week.
- By 2010, the family aims to have 120 stores across the UK, employing 3000 people sales of £300m annually.

Protect directors from personal liability risk

New rules concerning directors' conflicts of interest which impact all directors of UK registered companies came into force on 1 October 2008. Companies should act now to:

- Protect their directors from the risk of personal liability;
- Prevent a transaction involving a director becoming voidable.

Under the new legislation, a director needs to avoid any situation in which he has an actual or potential interest which conflicts with the interests of his company. This situation could arise, for example, where a director is a shareholder of a company; where a director owes duties to different entities within a group; or has cross directorships with a competitor, supplier or customer of the company. All companies should review and amend their articles of association to enable independent directors to authorise any conflicts of interest and stop them being in breach of the new legislation.

If the articles are not amended, directors run the risk of breaching their new statutory duties. In the event that an actual conflict of interest occurs and the correct authorisation procedures have not been followed, the company could be deemed voidable and the director may become personally liable.

Given the most volatile and uncertain conditions in living memory, leadership and management face challenges that lie at the very heart of competitiveness and the future of their business. Recent events have shifted the goalposts such that, in many respects, the way we will all conduct business in the future will change.

With this in mind, several forum members gathered at our Embankment Place office in April to hear from Tony Lomas, lead administrator for Lehman Brothers' UK and European operations, on the key lessons which could be extracted from the failure of Lehman Brothers which would be relevant to all businesses, regardless of sector. A lively discussion followed Tony's presentation.

The collapse of Lehman Brothers and the subsequent turmoil in the financial markets has dominated headlines for over six months now. As administrator of Lehman Brothers, PwC's Business Recovery Division is in a unique position to comment on the series of events that led to the downfall of one of the world's largest investment banks. Tony discusses below the key learning points which he has gathered from his first year working on the administration of Lehman Brothers.

"Perhaps the most important lesson that business managers ignore at their peril is that effective communication with key stakeholders is critical in these difficult times. Like so many other organisations before it, the accelerating loss of confidence in Lehman eventually consigned it to oblivion. In the weeks and months before 15 September 2008, and particularly following the springtime rescue of Bear Stearns, counterparties progressively withdrew their business and assets from Lehman and placed them elsewhere. The weekend of 13/14 September saw a group of major financial institutions meet with the US authorities to consider and then reject the opportunity to salvage Lehman, leaving it to its bankruptcy fate. The consequences of this are now clear and for the past six months in our role as administrators of the UK entities, we have worked together with Lehman staff to wind down the affairs of the bank, realise its assets, identify its creditors and return to third parties any assets which properly belong to them.

"Effective communication with key stakeholders is critical in these difficult times."

Across the broader UK corporate landscape a range of lessons can also be usefully transferred from the Lehman experience. The first of these is around the relevance and importance of companies understanding their key stakeholders and communicating effectively with them in order to retain their confidence and thereby ensure the continuing stability of the business. Five very important categories of stakeholder come to mind – any corporate will depend upon the continuing support of its shareholders, customers, suppliers, finance providers and employees. The loss of confidence by one of these can quickly translate into a loss of confidence by another, contributing to a downward spiral in the fortunes of the business. However formal or informal, comprehensive or simple it may be, an effective communication strategy should be in place to ensure that a business is in tune with its stakeholders, aware of their concerns and anticipatory of their demands.

"Another very important lesson is to be sure to understand the terms of complex contracts that your company might be a party to. In the Lehman case there are numerous examples of extremely complex contractual terms which have resulted in entirely unforeseen, adverse consequences, either for Lehman or its counterparty, but which were entirely predictable if the parties had paid due regard to the documents. On many occasions counterparties had fallen into a routine course of dealings whereby individuals seem to have been oblivious to the precise contractual terms governing the transactions and the consequences that would ensue in the event of a default by either party. The true nature of the risk being taken by the counterparty was therefore not appreciated and the resulting loss unexpected.

"Although there may never be another business failure like it, the Lehman collapse provides an important lesson for everyone, to think the unthinkable and not to take for granted that your trusted trading partner will always be there for you."

For more information on managing in a downturn, and to access resources on a variety of issues which may be key to ensuring your business successfully negotiates its way through the current economic climate, please visit www.managinginadownturn.com

HMRC establishes High Net Worth Unit

Using sources such as rich lists, land registry records and company accounts, HMRC are notifying the UK's 5,000 wealthiest taxpayers that they will now be dealt with by a High Net Worth Unit (HNWU), which will replace the Complex Personal Return Team (the CPRT handled 42,000 cases). We expect that HNWU taxpayers will be risk assessed by HMRC within the coming months. Those taxpayers that are not classified as low risk will then be subject to regular enquiries and real time correspondence from the Revenue.

Filling the holes in the budget bucket

It may be sunny weather outside but it's looking gloomy in Alistair Darling's Budget box. Like Pandora, when he opened it, a plethora of dismal figures escaped; but just as Pandora found Hope still in her box, the Chancellor saw some positives in the middle distance and had a number of goodies to encourage individuals and business.

We all knew that the figures on the economy would be bad and that the position on the budget deficit and the public sector borrowing figures would have worsened considerably since the November 2008 Pre-Budget Report (PBR). This year, GDP will shrink by 3.5% but growth should resume at the end of the year – the Chancellor thinks GDP growth will be 1.25% for 2010, with 3.5% in 2011. The public sector borrowing requirement will be £175bn this year; it will reduce to £97bn in 2013/14.

But what was the Chancellor's strategy for filling the holes in the bucket?

Mr Darling was realistic in his assessment and his message that the fiscal holes would have to be filled by a combination of cutting spending and increasing taxes. These will not happen immediately but will come from next year onwards – building on the tight spending figures already announced and the PBR 2008 tax rises for 2010/11 and 2011/12. Whether the spending cuts can be delivered is the big question, in the same way as whether the inevitable attack on avoidance will deliver the extra £1bn over the next three years outlined.

Personal taxes

The Chancellor tightened the previously-announced higher taxes for the wealthier, phasing out of personal allowances in full for incomes of £100,000+ from next year. The planned 45% tax rate on incomes of £150,000+ will be 50%, and will come in from April 2010. The general rise in National Insurance (0.5% on all rates from 2011) remains in place. The temporary VAT cut to 15% will reverse as scheduled on 1 January 2010 to 17.5%; there was no sign of a higher rate later.

Pensions

As widely predicted, higher rate tax relief on pension contributions is being targeted; it will be tapered to basic rate for those on incomes over £150,000 from April 2011. Coupled with the general moves on higher rates, there is a considerable squeeze on the better-off and the attractiveness of the UK for the internationally-mobile entrepreneur is considerably reduced.

Business taxation

There were some support measures for business including a doubling, for one year, of the main capital allowance rate to 40% to encourage investment. There was no mention in the speech of the taxation of foreign profits but the press releases confirm that the welcome dividend exemption will come in from 1 July and the 'worldwide interest cap' from 1 January 2010. But have HM Revenue & Customs devised a balanced set of rules that will give a fair result and not simply raise a lot of money for the Treasury?

Small businesses

Small business was not forgotten and the extension of the three-year carry back of losses, announced in PBR 2008, for another year will be welcome relief to many. The increase in the small companies' rate of corporation tax to 22% from next April does seem to be going ahead though.

Housing

The temporary stamp duty holiday for houses up to £175,000 will continue after September through to the end of this year, though a permanent change would have been better. There will also be more support for those struggling with mortgages through job losses, more efforts to get mortgage lending going and help for local authorities with energy-efficient house building.

Environment

But perhaps the most significant longer term measure was the unveiling of the UK's first Carbon Budget – pointing towards targets for cutting the UK's emissions by 34% by 2020 and giving business clear commitments for investment. Perhaps the holes in the Budget bucket will, in the long run, have some green patches over them.

Do you recruit staff from overseas?

In November 2008, the UK Government introduced updated rules for business visitors. Whilst initially the new rules appeared to provide a route for secondees to bypass the Points Based System, they have since been clarified and the UK Border Agency have dramatically reduced the scope of the business visitor route to only allow access to a small number of secondees in very limited circumstances.

Briefly, the new secondee category will only be available where the contract between the UK company and the overseas company is for the UK company to provide goods or services to the overseas company, not vice versa. In practice, the business visitor secondment route will no longer provide employers with an easier route to bring foreign nationals into the UK.

Employers will need to be aware of the new guidelines as, although the guidelines are vague, they will be applied stringently: non-compliance could lead to the assignee not being able to enter the UK for ten years, financial penalties and the potential loss for the employer of their sponsorship licence.

Asian Business Forum annual networking event

The forum's flagship annual networking event has become a popular event in the entrepreneurial calendar and was held on 1 December 2008. Key figures from the world of Asian business gathered at PwC's London offices for the event which was hosted by Ruby Parmar, PwC Partner and leader of the London Private Company practice.

This year's event saw Vijay Patel, Founder and Chief Executive Officer of Waymade Healthcare Plc, one of the UK's largest pharmaceutical businesses, share with the audience his journey from arriving in the UK with £5 in his pocket, to creating a business empire with an annual turnover of £300m. In addition, Professor Gareth Jones, one of Europe's leading experts on organisation culture, leadership and change talked about being an effective leader, inspiring some wonderful discussions between aspiring and experienced entrepreneurs.

The evening was completed with wine and cheese tasting and an opportunity for guests to network with colleagues from the Asian business community and also to talk to the various experts in attendance.

Pictured (from left to right): Dipan Shah, Professor Gareth Jones, Ruby Parmar, Vijay Patel at the PwC Asian Business Forum annual networking event.

Supporting the business community

The Asian Women of Achievement Awards

As part of our commitment to the Asian business market, PricewaterhouseCoopers is once again proud to be sponsoring the Young Achiever of the Year award at the Asian Women of Achievement Awards.

The Asian Women of Achievement Awards is a truly exciting and inspirational event that takes place annually in London. The awards applaud and celebrate the commitment, dedication and determination of Asian women from all over the country and from all walks of life. The awards have grown in strength and scope to become a key event in the diary and a sell-out each year.

These awards have achieved a huge amount by raising public awareness of the achievements of Asian women in the United Kingdom and their diversity.

They recognise all levels of achievement made by Asian women in the UK – whether professional or personal - within the commercial, professional, artistic and humanitarian sectors.

Coinciding with the tenth anniversary of the Asian Women of Achievement Awards, a publication titled "*The next ten years: Asian women and the future of British business*" is to be published by Real Business, in association with PricewaterhouseCoopers. This is a special one-off publication that spotlights the dramatic change in the profile and influence of Asian women in British business life; and looks forward to the likely further changes over the next decade.

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