



# hospitality | briefing

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## editorial – going green



**Sustainability and “going green” have been an issue in the travel and tourism sector since 1996 when the World Travel and Tourism Council, the Earth Council and the World Tourism Organisation jointly launched “Agenda 21 for the**

**Travel and Tourism Industry: Towards Environmentally Sustainable Development”.**

The first sign that green issues were being taken seriously in the industry was the request by hotels that guests reuse their towels; an instant cost saving for no outlay. However, the momentum has accelerated from those early days and it is clear that green issues are more than just a fad. In these current times where demand has fallen it could be environmental factors that act as the differentiating factor when consumers make their decisions.

The Carbon Trust is offering interest free business loans of up to £500,000 to SMEs with relatively generous repayment terms based on your projected CO<sub>2</sub> savings. Apart from funding the Carbon Trust through the Department of Energy and Climate Change, the government are offering other incentives to green minded companies. These include changes to capital allowances regimes to allow businesses to claim 100% allowances on environmentally friendly plant and machinery. These are particularly useful in the sector as items such as efficient freezers and fridges, taps and toilets, flow controllers, rainwater harvesting equipment, efficient lighting and boilers are covered by this regime.

Although in a recent survey by the Carbon Trust consumers put the big three of price, traditional quality values and brand as the top factors influencing their purchases, 63% of consumers were more likely to buy a product if they knew action was being taken to reduce its carbon footprint. Further to this, 58% of consumers said they valued companies that were taking action on carbon reduction but only 12% think companies are doing enough to cut carbon emissions and tackle climate change. Fascination in this trend is only likely to increase and it will be interesting to see how long it takes for the green issue to join the top three and make it a big four. My guess? Two or three years.

Sitting side by side with the green issues, Corporate Social Responsibility is an increasingly important issue for companies in the hospitality industry. And on that note I would like to introduce our guest writer, Amy Carter-James from CSR experts, Thin Cats Thinking, and thank her for the insightful article on CSR in the context of the hotel industry.

We also bring you up to date on the new penalty regime for late payment of taxes and consider the significant issue of tied pubs which has received a lot of press attention of late.

I hope you enjoy this issue and please do not hesitate to contact any member of the Hospitality Team if you would like further information.

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## guest article – the change that we seek...



**Over the past decade Amy and Neal Carter-James have become forerunners in hospitality CSR (Corporate Social Responsibility), successfully integrating ethics into commerce to the mutual benefit of all stakeholders. With many**

**international awards under their belt, their consultancy, Thin Cats Thinking, works with businesses to make CSR more than just a policy.**



The hospitality industry is ever changing, but now more than ever communities and the environment are playing key roles in that change. The world is shrinking and as global citizens, we are starting to understand our ethical responsibilities. Ironically, as companies grow and become “global”, it is now more important than ever that they are well rooted in their local communities.

As “social responsibility” becomes more essential and both climate change and poverty seem to be on everyone’s lips, customers are quickly becoming more discerning. Their imagination is easily captured at the thought of buying a great product or service that also benefits disadvantaged people and

does not harm the planet. With this in mind, there is no doubt about the direction the hospitality industry will be forced to take.

As hoteliers ourselves we have demonstrated just how successful integrating philanthropy into a business can be. Our hotel, Guludo Beach Lodge ([www.guludo.com](http://www.guludo.com)), is situated on a 12km white beach in one of the poorest areas of Mozambique. The impact in the surrounding area has been profound. Our multi-award winning model comprises of the hotel, which is a commercial entity, and our charity Nema, which implements projects. The hotel stimulates the economy and develops skills, while the charity tackles the root causes of poverty and environmental devastation through donations from the hotel, guests and partners.

Through this model we have provided: 15,000 people access to clean water, 650 malnourished children a school meal a day, 85 scholarships, 2 new primary schools, 8,000 mosquito nets, household training in nutrition, malaria, HIV, hygiene and sanitation. We have over 150 local suppliers, 60+ staff and have established 5 local enterprises and this is all just the very tip of the iceberg.

Now, because of the hotel, the local economy is developing, children are healthier, poverty is falling, environmental pressures are decreasing and there is a buzz of optimism in the region. If you are thinking that surely our business must suffer as a result of our philanthropy, you’re wrong. While our competitors struggled to stay afloat in 2009, we experienced exceptional growth that is continuing into 2010.

We passionately believe that other businesses can viably adopt the same approach and play a significant part in tackling serious social and environmental issues while continuing to achieve ambitious growth.

It's not a case of turning businesses upside down, creating substantial financial risk by making extravagant changes. Instead, small steps can be taken to help companies become better connected to their local communities and less harmful to their environment, all while working towards larger, long-term targets. These innovative changes can be small, inexpensive and quick to implement but done intelligently can have a profound impact.



Fundamentally the changes must be based upon a deep understanding of local, regional and global issues. Only then can a company truly understand the full impact of their operations and see how improvements can be made. From there, changes can start to be developed, prioritised and implemented. Some of these changes will include creating economic opportunities for disadvantaged groups, improving the implementation of a good environmental policy and developing more ethical supply chains.

**“Small steps can be taken to help companies become better connected to their local communities and less harmful to their environment, all while working towards larger, long-term targets”**

For philanthropic giving, changes can be made to improve efficiency, ensuring that allocated funds and resources have maximum benefit and impact.

In essence, decision-making needs to move away from solely focusing on the financial bottom line. The metaphorical blinkers need to be taken off to see and understand the social and environmental impact of these decisions. Essentially, companies must start to make ethical decisions that consider all stakeholders, not just shareholders and put CSR at the heart of overall corporate business strategy.

The beauty of this revolution is that those leading the way and making these changes first, will reap the most rewards. The earlier CSR is integrated into the heart of a business strategy, the further ahead companies will be, giving them a significant competitive advantage.

Simply put, these changes can create better companies; more efficient, more ethical and with happier employees and, ultimately, more satisfied customers. Achieving this, together with efficient communications, will inevitably make a company and its brand stronger and more visible in the growing ethical marketplace.

Therefore, it is becoming startlingly clear, business and philanthropy can and must work successfully together. An active, efficient CSR policy, oozing with integrity, not only makes good ethical sense but also good business sense.

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# corporate tax update

## increase in income tax



**As the last briefing of the current tax year it would be incomplete not to discuss the higher tax rate which applies to income over £150,000 from April 2010 - what can be done to possibly mitigate its effects? Here we briefly look**

**at the opportunities available for owner managers of a company.**

**Dividends** - might be brought forward to be paid before 6 April 2010. Where cash and distributable reserves are permitting, consideration might be given to the payment of interim dividends in the current tax year on account of next or future years' profits, ensuring these additional dividends are taxed at 25% (rather than 36.11% for dividends that increase your income above £150,000). In appropriate circumstances these might be loaned back to the company to assist the company's cash flow.

**Bonus payments** - similar considerations apply where discretionary bonuses are to be paid to ensure they are taxed at 40% instead of the forthcoming 50%. Where appropriate, consideration might be given to accelerating bonus payments with respect to future years or making payments on account of such bonuses in the current tax year.

**Equalisation of income between married partners** - thought should be given to tax planning involving the equalisation of income between married couples. The object here is to ensure that both spouses utilise their personal allowances and lower rates of tax which is normally achieved by transferring income deriving assets (i.e. shares in private companies where dividends are frequently paid) to significantly decrease tax liability if income is received by one spouse (i.e. all shares are held by one spouse). This requires careful thought as HMRC are agitated by income splitting arrangements, (although they have twice deferred introducing the legislation to deal with this). It should be noted that dividend waiver arrangements should be avoided - these are likely to be caught by the anti avoidance legislation currently in place for income splitting arrangements.

## capital allowances – how are you affected?

The second decision of the *J D Weatherspoon Plc v HMRC* case was published recently, helping to clarify the definition of "plant & machinery". Items that qualify for plant & machinery are tax favourable as the business is able to claim tax relief on them (usually a 20% reducing balance basis).

The recent case concerned the refurbishment of 288 pubs in which Weatherspoon's and HMRC could not agree the capital allowance treatment of certain spend.

The key point established is the treatment of "preliminary/overhead" expenditure where it was held that spend which was neither specific to individual items of work nor attributable to the project as a whole, could be allocated based on an overall global apportionment of this preliminary spend. This follows the first decision where it was held that overheads/preliminaries relating to the whole project could be allocated using global apportionment. The first tier tribunal also held that:

- splashbacks to cater for the use of splash producing equipment (including sinks and lavatory basins) were plant;

- tiles forming part of the general wall and floor coverings functioning as splashbacks did not qualify as plant. HMRC had accepted that a proportion of such wall and floor tiling (functioning as a splash back area) did qualify but the courts held that this was concessionary practice. Whether HMRC will continue to adopt this practice is not known;
- the installation of non-slip and wipe clean floors was not plant;
- the total cost of creating an inclined floor for the purposes of drainage equipment in a cold store was plant. The fact the floor cost more than the drainage equipment was immaterial;
- the installation of lighting in the ladies toilets qualified on the basis that it was intended to create a specific ambience;
- the cost of partitions and walls between toilet cubicles (and bowls and cisterns) also qualified as plant;
- the cost of replacing a floor that supported kitchen equipment qualified as plant.

If your business has incurred similar spend but its tax treatment is not in line with that outlined above you should consider submitting revised tax returns.

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## better late than never, but better never late...

A new penalty regime for late payment of the following taxes takes effect in May 2010:

- Income tax and Class 1 NIC collected via PAYE
- Class 1A NICS on benefits
- Class 1B NICS on tax settled under a PAYE settlement agreement
- Construction industry scheme (CIS) deductions
- Student loan deductions

The first affected payments will be those due on or after 19 May 2010. From that date payments which are made late will incur a penalty which increases with the frequency of late payments. (See the table below).

Where a payment is more than 6 months late a further 5% penalty will be imposed and an additional 5% if it is still outstanding 12 months after the due date.

### relevant payment dates

- 'In year' PAYE payments, CIS Deductions and Student Loan Deductions by the 19th of the month for ordinary payments and 22nd of the month for electronic payments
- Year End PAYE payments by the 19th April for ordinary payments and 22nd of the month for electronic payments
- Class 1A NIC by the 19th July or the 22nd July for electronic payments
- Class 1B NIC by the 19th October or the 22th October for electronic payments

### things to note

**penalty notices** will not, at least for the first year of operating the new penalty regime, be issued by HMRC until April or May

2011. You may therefore be unaware that you have incurred a penalty until then.

**PAYE errors** may cause an underpayment. Perhaps now is the time to undertake a review of your employer compliance and make sure that you have the right controls in place and find any errors before the May 2010 start.

**payments** late by just one day will attract a penalty. Ensure that you have controls in place to prevent late payments.

**group companies** should take care to ensure that the correct payment references are used for all payments. HMRC guidance states clearly that an overpayment on one company will not offset an underpayment in another.

**class 1A NIC due with form P11D(b)** P11D errors may not be picked up until the employee receives the P11D and then queries it. P11Ds must be with employees by the 6th July following the end of the tax year which only allows for 13 to 15 days for any errors to be corrected. Consider issuing P11Ds earlier and actively requesting that employees report any errors or omissions by the 6th July.

**appeals** If you do incur a penalty then if you have a reasonable excuse you can appeal against the penalty. If you are unable to pay contact the HMRC Business Payment Support Service on 0845 302 1435. If you are permitted to enter into a 'Time to Pay' arrangement penalties will not be charged from the date you contact HMRC.

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| Number of times payments are made late in the year | Penalty percentage  | Amount to which penalty percentages apply  |
|--|---|--|
| 1  | No penalty unless payment is outstanding for more than 6 months | Total amount that is late in the tax year, ignoring the first late payment in that tax year. |
| 2 – 4  | 1%  |  |
| 5 – 7  | 2%  |  |
| 8 – 10   | 3%  |  |
| 11 or more   | 4%  |  |

## closing time for pubs? – the tie gets tighter



**Opened in circa 795 AD, Ye Olde Fighting Cocks, St Albans is listed in the Guinness Book of Records as the oldest pub in the world. An institution in Britain since then, the number of pubs in Britain peaked at**

**some 60,000 but now industry analyst, CGA Strategy, have released figures showing that eleven pubs close every week in London, eight in the rest of the South East, four in East Anglia and three in the South West. At this rate, Britain will run out of pubs by 2037.**

Competition from supermarkets is partly to blame where beer is cheaper than water, and indeed they are coming under significant pressure to increase their prices and discourage binge drinking.

However, the Campaign for Real Ale ("CAMRA") points the finger squarely at the "unfair tie arrangements" between breweries and landlords. In fact, CAMRA has announced it will issue a legal challenge to the Office of Fair Trading's ("OFT") decision to reject its super-complaint on anti-competitive practices in the UK pub market, calling on pub goers to donate to their Campaign Fund.

In taking the decision to make the challenge, Mike Benner, CAMRA's Chief Executive, said *"There simply cannot be effective competition between all pubs when many pub landlords are placed at a huge disadvantage, by paying wholesale beer prices that can be around 50p a pint greater than their free of tie competitors"*.

With the average price of a pint of beer in London currently £2.90<sup>1</sup>, this additional cost relates to a reduction in margin of 20.7%. With free houses achieving a gross profit margin on beer of circa 68%, tied pubs must cope with only 47%. After taking into account wage costs at an average of 25% of turnover, this leaves only 22% (64p) to contribute towards other variable costs and fixed costs, which include rent to the brewery.

The OFT concentrated their report on the effect of tied houses on consumers stating that *"consumers benefit from a good deal of competition and choice in the pubs sector"*. The OFT also found that higher prices exist for some products in tied pubs, but claimed that these are marginal, with a pint of lager costing drinkers 8p more in a ties pub compared to a free house.

1 Source Good Pub Guide 2010

## XBRL filing – are you ready?



**Of course the question that you might be asking is not "am I ready?" but "does it affect me and if so what is XBRL?"**

### does it affect me?

XBRL filing will affect all UK companies. For accounting periods ending after 31 March 2010, HMRC will require UK companies to submit both financial statements and corporation tax returns online in an XBRL format.

HMRC have rather got this one through under the radar and it is going to represent a major change in many company's reporting procedures. Whilst most current tax software allows for the

preparation of corporation tax returns in XBRL format, financial statements that are produced in Microsoft Word, Excel or comparable alternatives will not meet the new regulations, forcing company to reformat their accounts into XBRL format, through the process of XBRL "tagging".

It appear that HMRC are going to take a hard view on this matter, stating that any documents received in an incorrect format will simply be rejected.

### what is XBRL?

XBRL stands for "eXensible Business Reporting Language", a relatively new web based computer language written specifically for financial and business reporting. It allows financial information to be stored in a database, allowing for more analysis and comparison with other companies in a similar industry and in turn more bespoke questions from HMRC.

Unsurprisingly breweries have welcomed the OFT report and hit back at criticism that they have received, pointing to their own falling results as proof that they are not “bullying their tied landlords”. For the year ended 30 September 2009, Enterprise Inns’ (one of the UK’s biggest pub company) turnover fell to £811m (2008: £880m), whereas pre-tax fell by 21% to £208m (2008: £263m). Enterprise Inns also stated that “the Group remains committed to the tied pub model and continues to work hard to ensure its Code of Practice ensures a transparent and mutually beneficial relationship with its licensees.”

The appeal is likely to be heard in the second or third quarter of this year.

So what options are there for the long suffering tied licensee? In 2009, Enterprise Inns sold over 200 pubs to both landlords and for re-development. Although finance is difficult to obtain in the sector, there are banks which are willing to lend if the loan to value percentage works and the pub itself has a good underlying business. Current property prices may also be attractive to third party investors who are looking for the long term diversification that bricks and mortar provide.

There is always the opportunity to renegotiate your lease especially at renewal and rent review dates. However tenants should ensure that they had produced accurate cash flow forecasts, as the higher rent charge of switching to a free house may end up costing more than the gain in gross profit margin.

Another solution is to try and ride out these difficult economic times and hope that CAMRA are successful in their appeal against the OFT’s ruling.

Whatever the plan, the current rate of closure is a sorry sight for the hospitality sector and the pub going public. Pubs play a key role in communities up and down the UK where people can socialise with friends and colleagues and something needs to be done to protect this 1,215 year old tradition. I’ll drink to that!

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## what should you do?

Whilst HMRC are going to write to financial directors to inform them of the new requirements, it is something that needs to be considered now, especially if you have an April 2010 year end. Whilst Companies House currently have no requirement for companies to produce financial statements in XBRL format, it would seem sensible to only produce one format of accounts that are acceptable at both Companies House and HMRC. It also appears inevitable that Companies House will follow suit in due course.

One option is to purchase a package that will produce the financial statements in XBRL format. However they are relatively expensive to purchase and costly to maintain for new accounting standards just to produce one document a year. Alternatively haysmacintyre already operates the software to allow financial statements to be produced in XBRL format which is suitable for all but the most complex set of accounts and we would be happy to assist clients prepare their documents to meet this latest requirement from HMRC.

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## about the haysmacintyre hospitality team

We act for a range of clients in the hospitality industry from branded household names to independent boutique operations which include Gordon Ramsey Holdings Limited, Mandeville Hotel and Albannach Bar and Restaurant.

haysmacintyre's hospitality team is led by Andrew Ball, who trained and qualified with the firm. Originally dealing with a number of the firm's property clients, Andrew began specialising in hospitality following two sector specific projects where he acted as reporting accountant on AIM admissions. He is an active member of Hotel Property Network, the Tourism Society and Next Generation Network, recently sponsoring and speaking at an event hosted at the latter. Andrew also assists clients on the conversion to International Accounting Standards and sits on the Firm's technical committee.

haysmacintyre, Chartered Accountants and tax advisers, comprises 24 partners and 160 staff based in Holborn, London. It provides high quality auditing and assurance, business and personal taxation, corporate finance, financial planning and other business support services.

## future events

### Accounting and Tax Seminar – March 2010

We are holding an Accounting and Tax Seminar on Thursday, 25th March 2010 covering topical issues such as the new compulsory XBRL accounts filing, IFRS for SME's and business tax and VAT issues. This seminar is aimed at finance directors, owner managers and the finance team of both companies and LLPs. For further information please contact [scottle@haysmacintyre.com](mailto:scottle@haysmacintyre.com) or visit [www.haysmacintyre.com/events](http://www.haysmacintyre.com/events)

### Young Guns Awards

Sponsored by haysmacintyre, the Young Guns Awards are a competition that celebrates the most outstanding young entrepreneurs in the UK.

The closing date for applications is 26th June 2010, so please visit [www.young-guns.co.uk](http://www.young-guns.co.uk) for further information