tlp - news

April 2011 **The monthly newsletter of The Long Partnership — www.thelongpartnership.co.uk**

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Quotes

"Successful people are always looking for opportunities to help others. Unsuccessful people are always asking, What's in it for me?"

"It doesn't matter where you are coming from. All that matters is where you are going."

"Develop an attitude of gratitude, and give thanks for everything that happens to you, knowing that every step forward is a step toward achieving something bigger and better than your current situation. "

Brian Tracy

You may have noticed that the March newsletter was a little late. George Osborne's fault, not mine. We held back the newsletter because we thought there would be plenty of material in the budget. There was enough but we had to hunt through a lot of material to find it and that took longer than expected. We should not complain about fewer new rules and "simplification", which must be good. If they make it too simple that could do us out of a job. Seems unlikely.

Anyway, it is April and I am already working on the newsletter, but will it last? I know that I am supposed to do the newsletter at the start of the month but it does not always happen, in fact it is rare. There always seems to be other things to do. Maybe I will keep it up and surprise you.

I was in one of my favourite parts of the world this week, one hour west of Thurso. For those of you not familiar with the North of Scotland, there is indeed enough road to drive one hour west of Thurso, no matter how fast you drive. In fact you can go much further, which I must do again shortly. I recommend you go at least as far as Tongue even if you do not make it as far as Durness, it is well worth the drive and believe it or not they even have internet and mobile phones, so you have no excuse.

I think it is one of the most rewarding aspects of my work that I get to go all over the North of Scotland, travel on a variety of ferries and meet a range of people. I bet you did not think that the life of an accountant was that interesting, did you?

As it happens I am writing this, having returned from my adventures in Tongue and I am now sitting on yet another ferry. It will soon be the tourist season and amongst other things that means that I will not be sure of getting my "usual" seat. The joys of travel.

However, I get to know the A9 as well as any ferry and tourists on the A9 are not good, especially the convoys of caravans. You know the ones. They follow the articulated lorry that is stuck behind the tractor. We do have a secret weapon, a 1.8 Diesel Focus and it overtakes as well as cornering very nicely.

Mind you, the worst road in Scotland, in my experience must be the A96 and here our secret weapon gives us little advantage. This should be a major artery for Scottish transport and yet travelling east from Inverness is a painful experience. Slow convoys and little opportunity to overtake. Our Inverness connections mean that we take on work all around that area and so we experience the road networks at first hand.

Question for you! What does our website have to do with us travelling the highways and bye ways of Scotland? Have a look -

www.thelongpartnership.co.uk.

There is a new tab for Online Accounting. You see, shortly we will be travelling around and seeing people all over, and we will be setting them up on our online accounting system. They will be able to access it from wherever they are (in the world) and so will we, even at the same time. If they have a problem with their books, we will go in and sort it out. We communicate by phone, email or Skype. And there you were thinking that we were a sleepy bunch of paper shufflers stuck in a gloomy office from dawn to dusk, drinking coffee and ..... Sorry, not us, you must have been thinking of another firm of accountants. I only drink tea!

What about online accounting as part of a Fixed Price Agreement that includes a range of services, unlimited ad hoc advice and fee protection. Now, that's got to be worth at least a phone call.

Even if an online system is not for you, we have experience of Sage and QuickBooks and can help with getting you set up and any problems that you may be having. And if that is not for you, many businesses now get us to do all their bookkeeping because the saving in the cost of accounts at the year end can go a long way to pay for the bookkeeping.

So, just tell us where you want to be and then let's talk about how we can help to get you there.

TLP in Kirkwall, Thurso and Inverness.

The New 0T Tax Code

Unsigned P46

Where a new employee failed to sign the P46 (i.e. complete any of certificates A, B or C), previously they would be put on Emergency code of BR. From April 2011 those who do not sign P46 will be put onto the new emergency code of 0T Week 1/Month 1.

This will allow the higher rates of income tax to be collected month by month, so the employee will not have the benefit of paying only BR for the period during which he does not have a correct code.

"Post P45" termination payments

When a taxable element of a termination payment is due to be paid to an employee leaving his job, it is not unusual for this to be paid after the employee has technically left the employment. Normally the P45 is raised and the termination payment is made after this (frequently only by a day or so) and the payment separately reported. When this happens, the standing instruction has been to deduct basic rate tax from the taxable amount, leaving the employee to account for the balance of the tax due. Once again this leaves those due at 40% or 50% with a significant tax free loan, and this practice is also to cease. In future the default code for post P45 payments will also be 0T.

Born Dull

It is now 10 years since the collapse of Enron. Inspired by the creativity of the accountants at Enron, AccountingWEB members came up with their own creative accounting abbreviations:

EBIT = Earnings Before Irregularities and Tampering
CEO = Chief Embezzlement Officer
CFO = Corporate Fraud Officer
EPS = Eventual Prison Sentence
FRS = Fraudulent Revenue Stream
SSAP = Secret Scheme for Adding to Profit
UITF = Unearned Income To Find

..... Accountants like this sort of thing! Sad, isn't it.

Source: Accountingweb.co.uk

PAYE & CIS - Late payment penalty

Finance Act 2009 made provision for a new late payment penalty regime which will apply in addition to interest but no start date has yet been announced. They are getting serious about businesses deducting tax and CIS and then not paying them to HMRC, for whatever reason. You need to get out of the habit of using the tax deducted as working capital, and soon!

Late paid PAYE and CIS

The penalty is determined by the number of defaults in a tax year, that is late payments. The first default in a tax year is ignored.

- up to 3 defaults - penalty is 1% of the total of those defaults,
- 4, 5 or 6 defaults - penalty is 2% of the total of the defaults,
- 7, 8 or 9 defaults - penalty is 3% of the total of the defaults, and
- 10 or more defaults - penalty is 4% of the total defaults.

Any amounts that are unpaid more than 6 months after the penalty date are liable to 5%, and a further penalty of 5% applies after 12 months.

We warned you about this some time ago. Did you heed our warnings? We will find out in May when the 2010/11 late PAYE penalties start to come out. The reason why they come out after the tax year is so that HMRC can see how many payments you made late. Ouch!

Dividends - The Do's and Don'ts

It is a common occurrence for proprietors of private companies to extract their profits by way of dividend. From time to time, these arrangements are challenged by HMRC who typically seek to argue that the payment represents salary and hence subject to NIC. Anyone who has spoken to us about this will have been advised to pay dividends quarterly, although we have seen companies paying monthly or even weekly dividends.

In order to avoid this problem, we recommend the following:

1. The dividend must be lawful

The balance sheet must show positive reserves. So, even if the bank balance is in credit, the company still needs to have sufficient retained profits to cover the amount of the dividend at the date of payment. Any dividend paid in excess of this amount is ultra vires and therefore unlawful. No interim dividend should be paid out beyond the level of any profits shown in the company's management accounts - the accounts used must be those which 'enable a reasonable judgment to be made as to the amount of the distributable profits.'

It is not uncommon for HMRC to claim that shareholder directors of private companies which have broken the rules were aware (or at least had reasonable grounds to believe) that a dividend payment was unlawful. This is important because if you receive an unlawful dividend you will be required to repay the relevant amount to the company or suffer the tax consequences. This point is often picked up when an insolvent company goes into liquidation, given that the liquidator will routinely review the actions of the company's shareholder/directors over the three years prior to the start of the winding up and any unlawful dividend will be recovered from the shareholder directors' personal assets for the benefit of the creditors which will include HMRC.

2. Declaration of dividends

Directors of private companies can authorise the payment of interim dividends, but final dividends have to be approved by ordinary resolution of the members (i.e. a simple majority). Following the enactment of the Companies Act 2006, this can be done in writing – meetings are no longer required.

3. Dividend payment dates

Dividends are treated as paid on the date on which an enforceable debt is created. For a final dividend, the relevant date is the date of declaration, unless a later date is specified. However, because an interim dividend can be varied or rescinded at any time before payment, it will only be regarded as due and payable when it is actually paid or is credited to the directors loan account in the company's books and from which he can draw funds.

4. Dividend vouchers

A single dividend voucher covering the whole of the tax year is permissible. Dividend vouchers do not have to be presented at the time of payment.

Changes to Furnished Holiday Lets

The draft legislation to effect the proposed FHL changes was published in December 2010 and makes three key changes:

1. Loss Relief - From 6 April 2011 loss relief is restricted to the same FHL business.

2. Available to let - From 6 April 2012 the qualifying days that the property must be available for letting is increased from 140 days to 210 days.

3. Actually let - From 6 April 2012 the qualifying days that the property must actually be let is increased from 70 days to 105 days with a two year period of grace where this condition is the only one not met.

The 155 day rule for longer occupations appears to be unchanged.

It will therefore be harder to qualify as an FHL but when you do qualify you receive the same favourable status as before except losses. Losses are still available for relief but only against future profits from the same FHL business.

If a property ceases to qualify as an FHL you will have to value its qualifying assets at market value and this could trigger a clawback of capital allowances. This is less likely to be a problem if you have multiple properties some of which still qualify.

The assets are then an addition for the now "buy to let" property but where these are for use of the tenant, no capital allowances can be claimed going forward although the 10% wear and tear allowance applies.

This does present issues with identifying and then valuing assets when properties breach the FHL conditions.

The new two year period of grace means that the above process for leaving the FHL regime will only be necessary when a property has consistently breached the FHL status rules for two tax years. You should note that the period of grace rules cannot apply in 2012/13. You will therefore need to keep some form of fixed asset register to identify the qualifying assets in each property.

Once a property qualifies as holiday accommodation in one tax year you may elect to treat the property as continuing to qualify for up to two later years even though it does not meet the 105 day letting condition in those years. The election has to be made in the first tax year in which the letting condition is not met. If it is not made for the first of the tax years it cannot be made for the second.

An election for a tax year must be made on or before the first anniversary of the 31 January following the tax year.

The period of grace will only apply if you breach the 105 day test alone. So, if the property is not available for the 210 days there is no period of grace and you will lose FHL status immediately.

Unfortunately the draft legislation does not appear to allow the period of grace to apply in 2012/13 as this will mean you are using 2011/12 as the "qualifying year" for the period of grace. The new provision only applies from 6 April 2012 so the first year it could apply to would be 2013/14 if you met the 105 day test in 2012/13.

The rules for averaging remain the same post 5 April 2012 and are likely to be more relevant given that we have the new 105 day condition to meet. Averaging is separately calculated for UK EEA (non UK) FHLs. So a UK holiday let cannot be averaged with a Spanish holiday let.

HMRC Employer CD-ROM

The Employer CD-ROM will not be issued this year, and instead the range of tools on it will be available to download from HMRC's website. Exceptionally, employers who cannot do this may still request a CD-ROM from HMRC.

Employers who have used the software on the CD-ROM to maintain payroll records (only suitable for less than 10 employees) must ensure that they have updated their installation as of September 2010 to allow them to use the new online tools to complete their end of year returns for 2010-11. Employers can register for an email alert when the online tools are updated.

Do you need help with Payroll or online filing for PAYE?

Many small employers are now asking us to take care of all this for them. If you are interested and would like to discuss this option (and get a price), just get in touch and we will be happy to discuss what help and support we can give to you and the cost.

The Sales Prevention Department

More stories from our own experiences of organisations that want to profit from us , have goods, services or ideas to sell, but fall short when it came to fulfilling our expectations, just did not deliver the value we were expecting and who will inevitably fail to maximise their profits.

You can tell when we have been away because the stories in this section turn to cafes and restaurants.

Cafe: Went into a Costa in a book shop for a quiet cup of something on a Sunday morning. Now, this is something that we do from time to time because we have found that generally we get what we want. On this occasion, it was a case of 5 young "baristas" who all appeared to be students being poorly supervised (there was no obvious supervisor). Tables went un-cleared and customers could be seen moving dirty cups out of the way, while the students played and had their own breakfasts, making quite a noise even though it was in a bookshop. In these difficult trading days when costs are being cut, I am not surprised that student labour is utilised to save money. But, the lesson here is that if you use cheap labour like this and it puts off future custom, it is not cheap. To be cheap. It has to be supervised and controlled. Costa, as a chain, lost some points that day as far as we were concerned.

Restaurants: Went for a pleasant drive and stopped for lunch by the side of a loch in very nice surroundings. Sat outside and ordered lunch and all but one arrived. Waited. Tried to attract a passing waitress who eventually came over and we explained the missing plate. A few minutes later, a plate was duly dropped on to the table and the waitress disappeared. No apology for the oversight and no cutlery!

Now, in any business things go wrong. We all know this. It is almost inevitable. The problem is not in the fact that something goes wrong but in the way you deal with it from the point of view of your "prospective future customer".

Later the same day we were at a restaurant. The meal was delayed, presumably because something went wrong in the kitchen. An apology and a free bottle of wine were offered immediately.

Which one will we be going back to?

Tax Tips and Tricks ....

Electronic P60s

Changes have been made to the PAYE regulations which will allow employers to provide P60 information to employees electronically. The changes come into effect for the tax year 2010-11 onwards, so that the first electronic P60's can be provided at the forthcoming year end process. The deadline for providing P60 information to employees has not changed.

Employers may want to agree with employees whether they wish to receive their P60 electronically. If the P60 is provided electronically, the employer will need to provide secure facilities for employees to view and print their P60. If this is not possible, an electronic P60 can be issued to an email address that has been provided by employees. If employees do not have access to a computer the employer must continue to provide a paper version of the P60.

Any substitute P60s which arise from the output of an electronic P60 must carry the text 'this is a printed copy of an eP60'. This must be at the top of the form near to the form title – P60 End of Year Certificate and in an acceptable font size, no smaller than point 10.

Duplicate P60s for the tax year 2010-11 onwards, irrespective of whether they are provided on paper or electronically, will no longer need to carry a 'duplicate' annotation.

Subsidised meals for employees – salary sacrifice

Where a subsidised meal or canteen arrangement is available to employees but the cost of the meals taken is adjusted against the employee's salary through either a salary sacrifice arrangement or a flexible benefit package, the provision will no longer be tax free with effect from 6 April 2011.

The Plumbers Tax Amnesty

Plumbers, gas fitters and heating engineers are being targeted by the tax authorities in a clampdown on tradespeople failing to declare their earnings and pay tax.

You can be sure that they have information gathered from trade suppliers and trade registrations that they can use to "catch" people who have not come clean with HMRC.

Under the tax plan, plumbers, gas fitters, heating engineers and members of associated trades who have tax to pay which they have not yet told HM Revenue & Customs (HMRC) about can come forward by 31 May to tell the department of their intention to disclose what they owe. If they make a full disclosure, most face a low penalty rate of 10 per cent, with a maximum of 20 per cent. They have until August 31 to make their disclosure and arrange for payment to be made.

After that date, using information pulled together from various sources, HMRC will carry out targeted investigations aimed at those who have failed to come forward and make a full declaration.

Substantial penalties or even criminal prosecution could follow.

Mike Wells, HMRC's Director of Risk and Intelligence, said "Our aim is to make it as easy as possible for plumbers to come forward, make a full disclosure and benefit from a reduced penalty...... We will be using various intelligence sources to target plumbers who have not declared their full income."

Flat Rate Scheme and bank interest

There has been some discussion about whether bank interest earned by a business should be included as income to which the flat rate percentage should be applied or whether it should be exempt.

HMRC are adamant that it should be and to be helpful, they have clarified their view in the new version of Notice 733 which was issued on 1 April 2009. It now expressly includes "bank interest on a business account" at para.6.2 as an example of exempt income that must be included in FRS turnover and therefore subject to a payment of VAT in Box 1. In the previous version of the Notice there was no reference to interest.

One commentator has expressed the view that interest on a bank account is not "consideration for an exempt supply" when received by a small company, but rather passive income that is earned in the capacity of a mere investor. It is therefore outside the scope of VAT, and should be excluded from the FRS.

Two recent Tribunal cases have agreed with this interpretation so that if you use the Flat Rate Scheme and are earning interest on surplus business monies, this could apply to you. However, if you want to be absolutely safe, move surplus funds out of the business account, unless you are a company, and then there is no question of it being interest earned by the business. If you are a company. Speak to us first.

How much can you earn before you pay 40%

The level of personal allowances goes up after 5 April 2011 to £7475 (previously £6475). However, the basic rate band that was previously £37,400 has been reduced to £35,000. Therefore the amount that you can earn before paying higher rate taxes has gone down from £43,875 to £42,475. Not only that but above this reduced level of earnings you will now pay 42% (40% tax plus 2% NIC) compared to 41% (40% tax plus 1% NIC) last year.

Remember that there are strategies to reduce the tax you pay. Gift Aid payments to charities and contributions to pensions can help as can things like planning your capital purchases (claiming AIA at the right time) and farm averaging.

If you operate through a company, dividends do not attract any NIC charge and that is one reason for taking a reduced salary and paying the balance as dividends, but check out our Do's and Don'ts on page 2.

Income Tax relief for Loss on disposal of Shares

In order to get income tax relied for a loss on the sale of shares, or if the company goes out of business and the shares become of negligible value, you must have subscribed for the shares. That means that the company has issues new shares directly to you in return for a payment in one form or another. Shares that have been transferred to you or which you bought from someone else will not qualify for this very useful relief.

If you operate through your own company and you have put in money to help finance it by way of loan, then provided that the company still has a value, you can convert that loan to shares and you should qualify for this relief if the company fails.

In these difficult trading times, this might at least ensure you get some of your money back through income tax relief.