tlp - news

August 2009 **The monthly newsletter of The Long Partnership — www.thelongpartnership.co.uk**

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Quote

"I am grateful for all of my problems. After each one was overcome, I became stronger and more able to meet those that were still to come. I grew in all my difficulties."

-- J.C. Penney, businessman

Dates in August

17 AGM Caithness Chamber of Commerce

Every month I sit down to write the TLP newsletter. At this point I have no idea what is going to appear but somehow, there is always something that provides the inspiration or a trigger, apparently out of nowhere. Then again, there are sometimes things that happen that lead me to want to share my thoughts with you. Today is one such day.

I find myself sitting once again on my least favourite ferry, which in fairness shall remain nameless. I have just come through security where, before I could travel I have had to show my photo ID. Does it annoy anyone else the way that it annoys me? Being a mild mannered sort of guy (sorry, person) I like to think that I can live with almost any small administrative burden, but this one really gets up my nose. The security guardsperson at the desk glared at me because I did not produce my ID as soon as it was demanded. I would not have minded but it was quite clear that she (sorry they) never looked at it. How do I know this? Because my photo looks more like an escaped terrorist than I do. I'll show it to you some time and you will see exactly what I mean. It could be anyone.

While I am ferry bashing, let me share a business lesson with you. Now, since my last trip on my least favourite ferry, signs have appeared. Very subtle little signs which already show signs of being picked at by small children (I'll give the big people the benefit of the doubt). The signs say "Please refrain from undoing the curtain hooks". Now, you may not have noticed these signs. Have a look next time you travel. My least favourite ferry has curtains which are just for decoration, being little stubby things that can serve no other purpose. They annoyingly obscure the view but cannot be drawn across to shield the sun. Obviously some people have found the same and have carefully undone the curtain hooks at the bottom.

So, what is the business lesson here, you may well ask. It is this. Why do fare paying customers "adjust" the curtains? Because they have a need. Has the company ever considered this. Have they considered how they could make their customers experience better. Their response is to create a "rule" to control the behaviour of these wayward passengers, people upon whom they depend for their livelihood.

Coming back to my first point, this is the company that had decided that before I can travel into or out of Orkney, I must prove who I am. Customer focused? Another day, another rule. Are they accountants? Don't answer that.

This month we have some interesting pieces for you. If you are in construction, that is in the building business, not pregnant, you will be interested in the potential new attack on subcontractors. That could cost you dearly. There is also another chance for you to disclose all your offshore bank accounts. And lots more….

HMRC are currently considering how to interact with tax agents, i.e. like us. They are trying to improve the accuracy of the information they receive. Is regulation on the way? Who knows.

Did you get one of the scam emails apparently from HMRC telling you that you had a tax refund. It almost fooled a few of you but if you ever get anything like this do check with us before you respond to the email. It is amazing just how many scams are out there now, so be careful. We all get caught sometimes, yes even we have been caught out. We realised what we had done immediately and a quick phone call put it straight but it just goes to show that you must stay alert and vigilant all of the time.

Sage 2010 is on the way. There is a lot of software on the market now, so there is plenty of choice. Online accounting is becoming more common and you will hear more about that as time goes on. Anyway, Sage is well known and reliable. It is the main accounts software that we use, but don't worry if you want to use something else, we are "multilingual" in accounting software.

Anyway, we hope that you have had a good summer, managing to fit in a few barbecues, etc.

Alan, Helen and the teams at TLP in Kirkwall and Thurso

False self-employment in construction: taxation of workers

At Budget 2009, the Government announced that it remained committed to addressing the problem of false self-employment in the construction industry and would consult with a view to future legislation.

This consultation outlines the Government's proposal for ensuring that construction workers engaged in an employment relationship are taxed appropriately. The objective of the consultation is to develop the best legislative approach.

False self-employment occurs where workers are treated as self-employed for income tax and National Insurance despite the fact that the way in which the work is carried out on a day to day basis demonstrates that there is an employment relationship. It does not matter that they are registered as subcontractors with HMRC.

The problem of false self-employment affects not only the ability of compliant businesses to be competitive, but also workers' entitlement to social security benefits, as well as representing a risk to the Exchequer.

The consultation is available in Adobe Acrobat Portable Document Format (PDF). Let us know and we will send you a copy.

The consultation starts on 20 July 2009 and comments should be sent by 12 October 2009.

Sage 50 Accounts 2010

Next month, Sage will start shipping the latest version of its flagship application, Sage 50 2010.

The enhancements do not represent a spectacular transformation for Sage 50, but is more a matter of improving "the little things that make a big difference", according to Sage.

The RRP for all this new functionality will be £550 - with upgrades starting from £280 for users of the previous version.

Implementing the 2006 Companies Act for small businesses

The Companies Act 2006 (CA06) applies for accounting periods commencing on or after 6 April 2008, and it is now beginning to bite – especially with April 2009 year ends being prepared.

The major issues

The major issues affecting preparer's of accounts for small companies are as follows:

- An increase in small company thresholds.
- Medium sized groups now require an audit.
- A reduction in filing deadlines.
- Directors are now prohibited from signing accounts that are not 'true and fair'.
- Directors' transactions.

Small company thresholds

The new company thresholds for small and medium sized companies are as follows:

	< Turnover	Balance sheet (Gross Assets)	No. of ees
Small company	£6.5 million	£3.26 million	50
Small group	£6.5 million net £3.26 million gross	£3.26 million net £3.9 million gross	50
Medium company	£25.9 million	£12.9 million net	250
Medium sized group	£25.9 million net £31.1 million gross	£15.5 million gross	250

References to 'net' and 'gross' are made in relation to intra group trading.

A company must satisfy two out of the three criteria above for two consecutive years before they can be classed as small. Where the size limits are increased (as in CA06), they must apply the new thresholds to the comparative year to see if they still qualify as small.

In addition, the exemption from audit test is not the same as the test for determining whether a company is small or not. In order to qualify for audit exemption a company must:

- Qualify as a **small company**.
- Have turnover of less than £6.5m.
- Have gross assets of less than £3.26m.

Reduction in filing deadlines

The deadline for filing abbreviated financial statements at Companies House has been reduced from ten months to nine. New filing penalties were also brought into force on 6 April 2008 but affect accounts filed after 1 February 2009.

The filing penalties are doubled when two consecutive sets of financial statements are filed late.

Directors' responsibilities: true and fair accounts

Under S.393 CA06, the directors of a company must not approve financial statements that do not give a true and fair view. However, what this essentially says is that all financial statements should not have a qualified auditor's report attached to them unless, of course, for some specific reason (for example the auditors not attending the stock take where stock is material).

Directors' transactions

Previously, where the directors entered into transactions with the company (for example drawing on their current accounts) there were limited disclosures. This is no longer the case. Accountants are now required to disclose:

- Every transaction in the year which results in the directors loan account becoming overdrawn.
- The amount.
- The interest rate.
- The conditions attached.
- Any amount(s) repaid.
- Total advanced in the year.
- Total repaid in the year.

Hopefully new legislation will be brought in to make this more sensible.

Abbreviated Accounts

Small companies have an option of filing abbreviated accounts or just filing a balance sheet with the related notes. Be careful with the wording here. There is a difference and the reports attached will also be different.

Business Expenditure : Capital or Revenue? Why is it important?

If you do not pay tax, this is an academic matter. If you pay tax, it is at its least a matter of cash flow and at best could save you a lot of money if you get it right.

It is probably clear that if you replace parts of an asset as opposed to the asset itself, then that will be a repair and "revenue" in nature. In these circumstances, you get tax relief for the whole cost immediately.

But, suppose that you had purchased a new computer network (a server and several PCs) some years ago at a cost of £10K. The server and one of the workstations has recently had to be replaced at a cost of £2,750 and £400 respectively. Should this expenditure be treated as a repair to the network as a whole and debited in the profit and loss account, or as the purchase of new individual assets and added to the balance sheet and capital allowances claimed against your tax and be written off at the whim of whatever scheme of capital allowances is flavour of the month with the current temporary occupant of 11 Downing Street.

At the moment, with the Initial Investment Allowance of 100% on the first £50000 of expenditure, the effective treatment of items is the same (almost). But, remember that not all assets qualify for capital allowances and those that do may not qualify for the Initial Investment Allowance. Have I got you attention?

I recently read an article by John Newth in which he showed that accountants have different criteria for deciding on whether an item is capital or revenue. No science this! In our computer network example, some accountants treated the new equipment as capital and others as revenue. Others expressed the view that the magnitude of the expense in relation to the size of the organisation was relevant so that a large company may well treat "small" expenditure of say under £10000 as revenue no matter what. So, size matters!

What about the element of improvement. Computers like most things are constantly improving and a replacement inevitably results in an improvement. Improvement could suggest capital expenditure. But double glazing can replace single glazing and it is treated as a repair because it is the norm for buildings today replacing the norm of the past and so is treated as like for like. Can the same be said about computers. I need a new laptop…..

One view is that if an item was useable in its own right or as a plug in accessory to another piece of equipment, it should be regarded as capital. If, on the other hand, it is a component which has no use other than as an integral part of another asset, then it is a replacement or repair. If the internal hard disc fails, its replacement is without question, a repair, as it is a component. What about the bucket on a digger? We had an interesting argument about this with another accountant some years ago. We said "repair", they said "capital". We saved <u>their</u> client a heap of tax.

What about an external hard disc. It is not a component of a larger piece of equipment, but rather a piece of equipment that can be plugged into any USB equipped computer. It is an asset to be capitalised but, in view of its likely small value, should probably be treated as an expense.

So, where does this leave us with our computer network example? It is a computer system that is being purchased and it is component parts of that system that are being replaced. But is the whole computer system made up of the aggregation of a number of individual assets. Its not easy, is it? Size probably comes into this and individual situations have to be looked at carefully. There is no hard and fast answer.

There is no right answer to the question of relative size of the expense compared to the size of the organisation. We have had inspectors argue quite forcibly that there is no de minimis, but realistically there has to be one otherwise we would capitalise every spanner, screwdriver, etc, anyone ever purchased. We operate a general rule of thumb of £100, but don't tell HMRC.

So, in the real world materiality has a real place to play, and each firm of accountants will have its own ideas of what is material, and what should be written off to revenue.

The difficulty is that, in the current tax climate, HMRC could make a discovery if they discovered the expenditure and did not agree with its treatment, whatever its size.

As always, if you have any questions about this article and how it impacts on your own situation, give us a call.

HMRC scam emails & texts

July has seen a massive surge in the number of scam emails claiming to be from HMRC. The emails all promise a tax refund and request the reader to click through to a website and enter bank and/or credit card details for the repayment to be made to. Some request three-digit security codes from the reverse of credit cards, and also mother's maiden name which would provide fraudsters with more marketable information.

HMRC is trying new ways of contacting taxpayers and is trialling automated voicemail and text messages.

These ask you to ring an HMRC telephone number.

The only genuine HMRC number that will be used is 0845 300 3900. Ignore anything else.

If in doubt have a look at "Fraud & Scams" on the HMRC website at www.hmrc.gov.uk/security/spoofs.htm or get in touch with us.

New Chance to Come Clean about your Overseas Bank Accounts

From 1 September those wishing to take part will need to notify the intention of making a disclosure and then disclose.

Scheme runs until 12 March 2010.

Those who make a complete and accurate disclosure will qualify for a 10% penalty, as opposed to at least 30% after the scheme ends.

Dave Hartnett, HMRC Permanent Secretary for Tax said "I know there are people who regret not taking advantage of our Offshore Disclosure Facility (ODF) in 2007 which focused primarily on the customers of five large banks. Now everybody, who has not paid the tax they should in relation to offshore accounts or assets, has this New Disclosure Opportunity to pay what they owe with penalties on more favourable terms than normal.

"The procedure is simple and straightforward. Customers will be able to contact us on paper or through a dedicated area of our website."

"This will be the last opportunity of its kind."

Tax Planning Tips and Tricks

.Vehicle Scrappage Scheme

The scheme was announced in Budget 2009 to boost new car sales. It is a voluntary scheme administered by participating motor manufacturers and dealers.

It will run until March 2010 or until the £300 million set aside for it runs out.

Participating car dealers are able to offer a discount of at least £2000 on a new car. £1000 of this is paid for by the Government and the rest by the motor industry.

The old vehicle must have been registered before 1 September 1999.

The manufacturers contribution is treated as a price discount to the final consumer. There is no change to the vat payments made by the dealer to the manufacturer.

The Government's £1000 is passed on as a part payment of the new price of the car so does not affect the vat.

Purchasers who are vat registered and buy a new car or van under the scheme may need to reduce their input tax in respect of the manufacturers discount. However, this is only relevant if the purchaser is entitled to claim vat on the purchase of the vehicle. Business purchasers will be able to claim capital allowances on the net cost of the new car or van. As the old vehicle is being scrapped its disposal proceeds are nil. The £2000 in subsidies are not taxable disposal receipts for capital allowances.

Company Tax Returns

HMRC is continuing its programme to increase online filing. The proposed timetable for companies is for compulsory online filing of company tax returns to apply to all returns delivered after 31 March 2011 for accounting periods ending after 31 March 2010, and electronic payment of all corporation tax liabilities after 31 March 2011.

Draft regulations to achieve this were published in May 2009. Remember that there are many ways of meeting the obligation to pay electronically. It is essentially any method except posting a cheque.

PAYE - e-filing for employees leaving pre-6 April

There are occasions when an employee leaves an employment before 6 April but receives a final payment on or after 6 April. In these cases the final payment is deemed to have been made in the later tax year and must be included in end of year returns due by 19 May of the following year.

When filing online you will need to ensure that details for these employees appear on your employees list for the year in which the payment is actually made.

Problems Using HMRC Bank Account

Some people have been finding problems in making PAYE payments to HMRC via Abbey. It seems the new HMRC sort code is shown as invalid. It is recommended that you use the old HMRC bank details for Abbey until the problem is fixed.

VAT - Failure to Notify

New rules for penalties came into force on 1 April 2009. Where there is a failure to notify, the scheme of penalty that will apply will depend upon whether the taxpayer went over the threshold before or after 1 April.

Correcting NI Numbers - form P46-ST

A transfer of tax records from HMRC's 10 separate regional PAYE databases to the NIRS2 NIC computer is imminent. Don't panic...yet.

This will enable all of a person's employments to be accessed by tax staff on one screen, rather than records being held on a employer by employer basis as has been the case until now.

So, what's that got to do with National Insurance contributions - apart from the fact that HMRC are using the same NIRS2 computer that caused so many problems in the late 1990s.

The fact is that leading up to the transfer, HMRC has been tidying up its records, - including National Insurance numbers. Where employers have been using incorrect National Insurance numbers, notifications of the correct number will be issued to them on form P46-ST(one for each affected employee) and the individuals will be notified on form P217.

HMRC accepts that if an employer receives a large number of such notifications (which will be on paper) all at once it may take some time to process them all, but simply asks that employers do so as soon as they are able and in any event by the end of the current tax year.

Losses on Share Subscriptions

If you have a company that has been sold at a loss, has been struck off or liquidated or has become of negligible value than you need to speak to us about the possibility of getting some tax back. The loss that you have incurred can be set off against any other income. This can be very valuable where you have had a business that has failed and you are now in employment or have a new business that is profitable. Give us a call if you think this applies to you. Better safe than poor!

Overseas Britons - Big Tax Bills

New guidelines have been issued by HMRC in connection with anyone seeking to establish non-resident status in the UK. In future, anyone wanting to take advantage of this is likely to find that they are required to indicate their intention when applying for non-resident status and whether their lifestyles indicate that they have truly left the UK. Anyone wishing to establish non-resident status is therefore going to find it more difficult and, if this affects you, you should speak to us without delay.

Debt collection via payroll

A clause is in the 2009 Finance Bill will give HMRC the power to collect tax and National Insurance contributions of up to £2000 by a restriction PAYE codes of employees.

Currently, HMRC may recover income tax and capital gains tax through an employee's PAYE code by agreement with the individual.

The proposed legislation will not require taxpayers consent although there will be a right of appeal against the coding notice. Interest will still apply but the tax debt will be treated as paid on the first day of the tax year over which it is to be collected so the employee will effectively obtain an average of six months interest-free credit from HMRC.