

tlp - news

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The monthly newsletter of The Long Partnership and Graeme M Fraser & Co.

www.thelongpartnership.co.uk

Let's Get Real or Let's Not Play.

We want you to succeed. We know our products and services have helped clients' success in the past. Our intent is always to find a solution that exactly meets your needs. This helps to ensure a good fit between what we do and what you need. If there is a good fit, let's work together.

Call us right now!

Quotes

"The real voyage of discovery consists not in seeking new landscapes, but in having new eyes."

Marcel Proust, Author

"Only through curiosity can we discover opportunities, and only through gambling can we take advantage of them."

**Clarence Birdseye,
Entrepreneur**

"Even if you are on the right track, you will get run over if you just sit there."

Will Rogers, Humorist

What has 2011 been like for you? Has it been a good year or not. Do you feel that you have managed to exploit the opportunities while avoiding the pot holes in the road. Maybe the best of your year is yet to come.

We certainly have seasons, and the pattern of our work varies throughout the year, as does cash flow. Just like anyone in business, we must manage the competing demands of looking after clients on the one hand, and looking after business on the other. No different than anyone else. And, just like everyone else, when you get busy, there is the temptation to neglect the "business" to ensure that clients or customers are looked after. But, it has to be a balancing act. At the end of the day, they are equally important. The one cannot exist without the other and so you can only neglect one or the other for a short time. Otherwise you will either have no business or no clients, and you cannot have the one without the other. Try it sometime.

The trick is to match resources with demand. Your own time is a limited resource and must be managed effectively. If you do not have time to do all the things you need to do, then you must restrict your efforts to those tasks that only you can do. If someone else can do that job, they should do it. They may do it better than you anyway. You delegate jobs to other people but you never delegate the business. You must always be in control of that, and you delegate control of your business at your peril, unless you plan to take a back seat and let someone else run it, and cruise for a while!

When delegating tasks or roles in your business to other people, you should have ways of monitoring trends and measuring performance. You must actually use these so that you can spot if anything is going wrong, long before it impacts seriously on the performance of the business. Otherwise you will find yourself at the point where extreme corrective measures are required and you are limiting the damage.

You must also manage financial and material resources. and you cannot do this if you are not managing your business. If you have systems to manage these efficiently, you will have more time and you can devote more attention to looking after clients and customers.

You need systems and if your systems do not deliver what you want from them, then you have to devote time and money to getting them right. If you had an extra hour every day, what extra profit could you generate. So, what is the cost of bad systems? You may not have to write a cheque to "Poor Systems Limited", but it is just the same.

Let me give you an example. What is important about bookkeeping? A. The understanding that you get about your business, the management information the books provide. They should answer the questions you have in your head about your business.

If you do all your own books, you see absolutely everything that you have taken in or spent. But, if you fill your whole time doing the books, you do not have time to make purchases more efficient or maximise on sales, or supervise your staff to get them working efficiently. But, get someone else to do the time consuming part and present you with the right reports and not only will you have the understanding of the business, but you will have the time to capitalise upon the knowledge that you have gained. Books are essential to a proper understanding of your business. You should not do them just for the accountant or the tax man. They are your essential management tool and you should be taking as much care with them as any other asset of the business.

The same applies to stock management systems, time management systems, people management systems and of course cash flow management systems. If these are running efficiently, you will have a better business and be able to manage it more effectively. That should mean that you can react to those unexpected opportunities that pop up from time to time and, most importantly, maximise your profits.

If you want to speak about this in more detail just give us a call.

Resurfacing farm drive – capital or revenue?

In a recent case, a farm partnership appealed against an HMRC amendment to the partnership tax return made which increased the partnership profit on the basis that it related to expenditure, which was capital in nature and therefore not allowable as a deduction in the accounts. i.e. the resurfacing of the farm road.

HMRC's view was that concreting the surface of the road was to provide an entirely new and better surface than before. However, the tribunal accepted that it should be considered a renewal because the new surface of the drive had been laid over the old tarmac surface, filling potholes and creating a hard-core base over the original stone and that nothing new had been added to the drive. As such, it was a repair to an existing asset.

VAT Flat Rate Scheme – Associated Businesses

The flat rate scheme cannot be used by any business that is 'associated' with another business. It avoids the obvious planning opportunities by cross charging. If a business already in the scheme becomes 'associated' with another business at any time in the future, then it must withdraw from the scheme at the time the association is formed.

Businesses are Associated if:

- one business is under the dominant influence of another.
- they are closely bound by financial, economic and organisational links.
- one company has the right to give directions to the other.
- if in practice your company habitually complies with the directions of another. The test here is a test of the commercial reality rather than of the legal form.

If a husband and wife are separately VAT-registered in different types of business, they will not be 'associated'. This applies even if they share premises, as long as the costs are charged at a market rate between the two entities.

Tax and Children

Children are expensive and the Government provides a range of financial support for parents and guardians, along with a variety of reliefs and exemptions to offset that cost.

Benefits

Child Tax Credit (CTC) is a social security benefit that is paid to parents and guardians of children under 16 or in full time education whose income is low enough to qualify. The usual test to be applied is that the child is living with the claimant(s).

Working tax credit (WTC) is paid to people on low incomes who satisfy certain age requirements and who work more than a certain number of hours a week. It also has a childcare element, which provides claimants with help to cover the costs of registered or approved childcare. The childcare element can help with 70 per cent of eligible childcare costs (which are those paid to a registered or approved childcare provider) up to a maximum of £175 a week for one child and £300 a week for two or more children. Therefore, it is possible to get up to £122 per week for one child and £210 per week for two or more children.

Child benefit is paid tax-free to anyone bringing up a child or young person until they reach 16. Child benefit is payable for a whole extra year for a child born on 1 September than one born the day before on 31 August – so if you exercised restraint, it could now pay dividends. Someone entitled to child benefit for a child or young person who is not their own, may also be entitled to guardian's allowance for them if both of the parents have died, payable at the weekly rate of £14.75.

Existing Child Trust Funds will continue but are being replaced by Junior ISAs which will be available for UK resident children (under 18s) who do not have a Child Trust Fund account. Junior ISAs will be tax-relieved and will have many features in common with existing ISA products. They will be available as a cash or stocks and shares product.

National Savings Children's Bonus Bonds allow parents to invest for a child's future in their own name, with no tax to pay on the interest or bonuses. The minimum investment is £25 and the maximum is £3,000 per issue, per child.

Gifts to children

Rules exist that prevent parents and guardians handing over large sums of money to their children in an attempt to avoid paying tax on it themselves. It is not possible to simply switch money from a personal savings account to one opened in a child's name to avoid paying tax on the interest.

Money given to a child under the age of 18 will be treated by HMRC as belonging to the parent and be taxed on the parent unless the annual interest on all savings accounts is not more than £100 per parent, per child, per tax year. If the child's income is less than the personal allowance (£7,475 for 2011–12), do not forget to claim back any tax paid on interest or otherwise, by completing HMRC form R85.

IHT Planning

It is possible to give away up to £3,000 (cash or assets) a year with no IHT implications. Therefore, give a child £3,000 now, and you can save him £1,200 (£3,000 × 40%) on a future IHT tax charge. This means that a married couple could give away £6,000 free of IHT every year.

You can lend money interest-free without having to account for IHT on the interest you give up. This exemption means you could, for example, help your children buy their first home. No limits exist, but the money has to be returned to your estate on your death.

Parents can give up to £5,000 to every child when they marry. Grandparents can give up to £2,500, and anyone else can give up to £1,000. Gifts can be made in cash or goods.

Any number of gifts worth up to £250 each can be made without affecting any other allowance. However, you can't give the same person more than one such gift in any tax year, but if the gift is over £250, it will be counted towards the £3000 annual exemption.

When deciding what to do with your estate, consider skipping a generation and leaving it to your grandchildren rather than your children. Youngsters have far longer to live than their parents before they have to worry about IHT issues.

DIY House Builder - Recent Cases

1. Taxpayer lost

The taxpayers built a farmhouse on their farm, subject to the planning conditions that:

“The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture ...

“The proposed development shall always remain ancillary to the existing agricultural use of the site and shall not be sold, leased nor otherwise disposed of separately from, the remainder of the premises.”

The only other buildings on the farm were farm sheds and a mobile home.

HMRC denied DIY housebuilder's relief, on the ground that:

“the separate use, or disposal of the new farmhouse was prohibited by the term of any covenant, statutory planning consent or similar provision”.

There was no other dwelling on the farm (the mobile home was removed when the house was completed) and none of the other structures constituted a building as far as they were concerned. The Tribunal held that the planning condition in this case prevented disposal of the farmhouse separately from the rest of the farm and that was enough for the farmhouse to fail the relevant test. VAT could therefore not be reclaimed on the farmhouse construction.

2. Taxpayer wins.

The taxpayer's parents owned land, part of which was used for a holiday business. The son was given part of that land on which to build the house which was the subject of DIY claim. HMRC denied DIY housebuilder's relief, on the ground that:

“the separate use, or disposal of the dwelling was prohibited by the term of any covenant, statutory planning consent or similar provision”.

The holiday business consisted of the short-term letting of chalets. The parents lived by the chalets and managed the business but said they needed help. The taxpayer's wife started to take bookings for the business when she moved into the new house. This accorded with the planning condition in question, which required:

“that the house ... shall be occupied only by persons engaged in the management or operation of the business together with family members”.

HMRC took the view that this condition prohibited “separate use” of the house, since the house could not be used separately from the business.

The Tribunal noted that the planning condition restricted occupancy of the house only and not its use or disposal and so the appeal was allowed.

The Tribunal held that the restriction relating to his new house “was an occupational restriction which did not affect the use of the property”.

The Lessons from these cases

If you intend to build a new house under the DIY Housebuilder's Scheme take great care if there is a restriction on separate disposal of the house from the neighbouring buildings or land, whether imposed by the local planning authority or otherwise. As always, take advice. If in doubt, take advice before you build the house.

Charitable Giving - The 2% Gift Aid supplement

The 2% Gift Aid supplement for charities, which was introduced in order to soften the blow caused by the basic rate reduction from 22% to 20% on 6 April 2008, came to an end on 5 April 2011. This means that net donations will in future be less beneficial to their charity recipients. So give more?

Reduced rate of IHT

A reduced rate of IHT will apply where 10% or more of a deceased person's net estate (ie. after deducting any IHT exemptions and reliefs together with the nil rate band) is left to one or more charities. In these circumstances, the rate of IHT applicable to the chargeable estate will be reduced from 40% to 36%. This new rate will apply to deaths occurring on or after 6 April 2012.

VAT Crackdown

HMRC will be sending letters informing businesses how to register for VAT and pay what they owe. The new campaign focuses on individuals and businesses trading above the VAT threshold of £73,000 turnover but who have not registered for VAT. More than 40,000 letters will be sent out over the next few weeks.

Under the terms of the VAT Initiative, those who have not registered to pay VAT can come forward any time **up to 30 September** to tell HMRC that they want to take part.

If they make a full disclosure, most face a low penalty rate of 10 per cent on VAT that has been paid late.

They will also be invited to disclose any other tax arrears. Where they have to pay a penalty on undeclared tax other than VAT, this will be lower than the customary penalty of up to 100 per cent charged to those who fall outside the opportunity.

After 30 September, using information pulled together from different sources, HMRC will investigate those who have failed to come forward and substantial penalties or even criminal prosecution could follow.

Mike Wells, HMRC's Director of Risk and Intelligence, said:

‘This is our fourth campaign, raising more than £500m from voluntary disclosures and a further £100m, so far, from follow-up activity. Our campaigns are designed to ensure tax is paid so that the money is available to spend on public services used by everyone.

The aim is to make it easy for individuals and businesses to contact us, make a full disclosure of their income and face a reduced penalty on any tax owed.’

To use the VAT Initiative you must:

- Register with HMRC by 30 September to ‘notify’ that you plan to make a voluntary VAT disclosure;
- Tell HMRC about VAT due and make arrangements to pay it, as well as any penalties due, by 31 December.

Ways to notify your intention to make a tax disclosure:

- Online by completing a notification form at <http://www.hmrc.gov.uk/ris/vat/>
- Ring HMRC on 0845 600 5217

A dedicated team is available to give information and advice.

Tax Tips and Tricks

Incorporation – A New Twist

With decreasing corporation tax rates and increasing personal tax and National Insurance rates, there are potentially significant tax savings to be made from incorporation.

There are some significant advantages to be banked in the incorporation process itself and far more than we can cover in this short article. But, here are some points to consider.

Goodwill

In many cases (not all) you can sell the goodwill of your business to the new company at market value, qualify for Entrepreneurs' Relief and, after your CGT Annual Exemption, pay tax at 10%. You then have a pot of taxed money in the company that you can withdraw at any time and there is no more tax to pay. The price paid could be left on the directors' loan account being drawn down over the years from the company's future profit, reducing the amount taken out as dividends.

However, if you sell the business, the sale of goodwill by the company could lead to double taxation – 1st tax payable by company on profit on sale, 2nd – money taxed as it is withdrawn from the company.

Incorporation or Corporate Partner

Consider this.

1. If you set up a new company and take it into partnership, you can retain the goodwill and you can sell it later so you only pay tax once.
2. If the individual stands down as a partner at the same time as the corporate partner is brought in, he will crystallise tax on a cessation basis. If he maintains his partnership and has the flexibility to share profits with the corporate partner as he wants, there may be scope to plan when tax is paid in terms of individual versus corporate payment dates and calculations of income tax payments on account.
3. An additional benefit of having a corporate partner is the ability to pay corporation tax on profit share now, and pay income tax on drawings potentially at lower rates in later years by managing dividend flows or liquidating the company and claiming entrepreneurs' relief.
4. If the partnership is structured as an LLP, HMRC will invariably treat all partners (even those on a fixed share) as self-employed. This could be an alternative to a salary.
5. The new company should be treated as a trading company for capital gains tax and business property relief purposes, and therefore qualify for appropriate CGT and IHT reliefs.

Health warnings:

If a number of corporate partners are brought into a partnership, they are counted as associated companies for small company rate purposes. This can affect tax rates etc, depending on levels of profit.

There has to be a commercial justification to the company being a partner, e.g. bring in a long standing employee as a director/shareholder of the partner company.

Are there licences or registrations that cannot be transferred. Consider the legal and commercial considerations before attempting to achieve a tax saving in this way.

Entrepreneurs Relief

The lifetime limit for Entrepreneurs' Relief is now £10m.

As a result, an individual who qualifies for the relief should only pay CGT at a rate of 10% on the first £10 million of qualifying gains. Taking into account the increase in the highest rate of CGT to 28%, the relief which started in April 2008 as a welcome but modest £80,000 tax saving, is now potentially **worth £1.8m.**

A 10% tax rate has become an expectation but there are many steps to qualifying for the 10% rate. Here is a summary of some of the points. However, take advice if you think any of these may be relevant to you.

Plan early

Steps to obtain and preserve entrepreneurs' relief need to be taken at least one year before any sale. Realistically, this means as soon as possible.

Trading status

If shares in a company are to be sold, the trading status of the company must be preserved by avoiding investments building up within a trading company. You should consider transferring these investments out of the company.

Employment status

Assuming the company is trading, the next thing which can be done is to ensure that as many of those with 5% or more of the shares are employees of the company. Sometimes this will be commercially undesirable, but in many cases, particularly with family companies, it can make sense. There is no minimum amount of hours they must work.

Achieving the 5% threshold

In addition to making shareholders into employees, one can also try to ensure that employees hold at least 5% of the shares in order that the company is their 'personal company'. They may already have a holding of less than 5% which will not qualify, so giving them a few extra shares could be quite valuable to them.

Assets held outside the company

Sometimes assets used by the company will be owned personally by one or more of the shareholders. In principle these can qualify for Entrepreneurs' Relief under the associated disposal provisions. The key thing is that rent should not be charged, because this will restrict the relief. Payment for use of assets prior to 6 April 2008 is acceptable, but anything subsequent to that causes a loss of relief.

Deferred consideration

The traditional approach has been to issue loan notes, to defer the CGT disposal and hence the tax, until such time as the loan notes are redeemed. However, the individual seller will not now qualify for Entrepreneurs Relief unless they elect to dis-apply the share re-organisation provisions. You pay tax earlier but you get the relief.

Partnerships and sole traders

It is important to sell the 'whole or part' of a business to qualify. The mere sale of individual assets will not be good enough. Unless you are ceasing to trade, you must sell the farm, not just a field, if you see what I mean.