tlp - news

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

www.thelongpartnership.co.uk

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Quotes

"Christmas is not a time nor a season, but a state of mind. To cherish peace and goodwill, to be plenteous in mercy, is to have the real spirit of Christmas."

Calvin Coolidge

"Happy, happy Christmas, that can win us back to the delusions of our childhood days, recall to the old man the pleasures of his youth, and transport the traveller back to his own fireside and quiet home!"

Charles Dickens

"Christmas gift suggestions: To your enemy, forgiveness. To an opponent, tolerance. To a friend, your heart. To a customer, service. To all, charity. To every child, a good example. To yourself, respect."

Oren Arnold

4 years ago, we produced our first newsletter. What a lot has happened in the last four years. Little did we think, back then, that we would have achieved so much and travelled so far, in terms of developing our business. We let our horse gallop, applying only a light rein and look where it has taken us.

So, how did we achieve this and more importantly, why? The why is quite simple, why not? There is always the basic requirement of any business which is to house and feed its proprietors. After that it depends on your motivation and drive. I recently exchanged emails with another accountant with a similar business and outlook to ourselves. He was asking if the whole accountancy profession needed to change its methods and stop working such ridiculous hours. I think he had forgotten that not all accountants work as hard as he does or ourselves. In any business sector you will find some people who work hard while others do not. The degree of effort will not necessarily equate to the success of the business but you have to respect those that put in the effort and try.

If you try you may fail, but if you do not even try, then you cannot succeed.

Nevertheless, he works long and frequently antisocial hours, as we do. Anyone who has received emails from me late at night or in the early hours of the morning will testify to that. So, what is my take on all this? What about "Work Life Balance".

People often talk about "Work Life Balance" as if it was a process. It is not. It is the end result of the myriad of decisions you make about what you want to do in your life and how you want to live. It is the result. It is the result of all your choices. There is no process.

Everything has a price. It does not matter whether it is a car, your house, lunch. You look at the price and you decide if what you want at that moment, is worth the price. If you want a better car, are you prepared to give up other things, e.g. holidays, because you cannot manage it all.

If you want a full family life, you cannot devote so much time to your business. If you want a successful business, it is likely that you will have to sacrifice home life, hobbies, etc. You look at the price on the label and decide if you are prepared to pay that price. We looked at the price on the label of a growing business and decided that it was worth the price.

So, what drives you? Are you just trying to survive in the present economic climate or are you trying for something more?

I was told some time ago that all business is a game. At the time I could not see the logic in this argument. A business, whatever it may be and no matter its size, is a serious matter. How can it be a game? You stake so much, you battle away day after day, often with little or no reward for your efforts. How can it be a game?

However, as time goes on I can see the logic of taking this attitude to business. In any game, you make decisions, you work to get a win, but sometimes you lose. If you lose, does that stop you playing again? What about the lottery? When you lose, do you refuse to buy another ticket ever again. Of course not. You get over the disappointment and move on. Remember that the most important word in business is "next".

So, as time goes by, my approach to business becomes more like a game. High stakes, but a game nonetheless. Win some, lose some. Get over it, move on, next.

Just to emphasise the stakes in this game of accountancy (or any business), one of the top 40 accountancy firms in the UK has just gone bust. You know there are two sorts of people that should never go bust, accountants and lawyers. Nevertheless they are running businesses and it can still go wrong.

Once you start to grow your business and rely more and more on other people, there are a whole new set of problems, opportunities and risks. Once you enter that game, anything is possible. Great success or great failure or somewhere in between. Game on!

e-Bay trader jailed for evading £420,000 VAT.

A 40 year old man has been jailed for 20 months for attempting to evade more than £420,000 of VAT due on electrical goods sold on eBay after an investigation by HMRC.

His home was raided by HMRC officers in June 2011, HMRC said. Evidence uncovered proved that from 1 September 2007 the man used a VAT registration number to obtain zero-rated goods from suppliers within the EU and then sold them on through another online company, failing to declare and pay the tax to HMRC.

The man pleaded guilty to twelve counts of fraud.

Early next year HMRC will launch a campaign targeting people who use online marketplaces to buy and sell goods as a trade or business and who fail to pay the tax owed.

HMRC said it has already begun the process of gathering evidence for the campaign. Chris Martin, HMRC's assistant director of criminal investigation said in a statement: "Allnutt thought that by trading online he could avoid paying his taxes, but he has discovered that isn't the case. Our successful investigation and today's sentencing send a clear message to others involved in such crime that our investigators will identify and pursue you.

"Tax fraud costs millions of pounds in lost revenue in the UK each year, money that could be used to fund vital public services."

Mhairi Urquhart, senior lawyer in the CPS Central Fraud Group said: "Gregory Allnutt knew he was liable to pay VAT when he set up as a retailer of nutritional products. He soon worked out that he could make a lot more money selling electrical goods through eBay, and despite knowing that he was still liable to pay VAT when he did this, he instead pocketed £429,337 that was due to HMRC.

So, if you are trading or thinking of trading on the internet, you may get a knock at the door sometime soon.

Companies - Pre Year End Tax Planning.

Although we deal with companies with year ends throughout the calendar, most are either December or March year ends. We therefore thought it would be good idea to remind you of some simple tax planning ideas to consider before your company year end.

We outline below some of the areas where advance planning may produce tax savings. For further advice please do not hesitate to contact us.

Advancing expenditure

Expenditure incurred before the company's accounts year end may reduce the current year's tax liability.

In situations where expenditure is planned for early in the next accounting year the decision to bring forward this expenditure by just a few weeks can advance the related tax relief by a full 12 months.

Examples of the type of expenditure to consider bringing forward include:

- building repairs and redecorating
- advertising and marketing campaigns
- redundancy and closure costs.

Note that payments into company pension schemes are only allowable for tax purposes when the payments are actually made before the year end.

Capital allowances

Consideration should also be given to the timing of capital expenditure on which capital allowances are available to obtain the optimum reliefs.

Advancing capital expenditure into the current period means you get the capital allowances a year earlier. Also, remember that the limit of Initial Allowances that can be claimed each year is going down from 1 April next year from of £100,000 to £25,000. There are some tax traps around this change so speak to us if this could affect you.

Trading losses

Companies incurring tax losses have three main options to consider in utilising these losses:

- they can be set against any other income (for example bank interest) or capital gains arising in the current year
- they can be carried forward and set against trading profits arising in future years
- they can generally be carried back for up to one year and set against total profits

Remember that the present high level of Initial Allowance on capital expenditure can be used to create or enhance a trading loss that you can use to get back tax paid in the previous year.

Extracting profits

Directors/shareholders of family companies may wish to consider extracting profits in the form of dividends rather than as increased salaries or bonus payments. A low salary plus dividend remuneration strategy is very common in small trading companies (I get paid £589.00 per month and next April I expect to get a pay rise!)

This can lead to substantial savings in national insurance contributions. Note, however, that company profits extracted as a dividend remain chargeable to corporation tax, currently 20%.

Dividends

From the company's point of view timing of payment is not critical, but from the individual shareholder's perspective, timing can be an important issue. If the shareholder is a higher/additional rate taxpayer, a dividend payment which is delayed until after the tax year ending on 5 April may give the shareholder an extra year to pay any further tax due but check the rate of tax applicable. It may be preferable to be taxed at Basic Rate in the current year, than pay more tax in a years time because of higher rates. The deferral of tax liabilities on the shareholder will be dependent on a number of factors. Please contact us for detailed advice.

Loans to directors and shareholders

If a 'close' company (broadly, one controlled by its directors or by five or fewer shareholders) makes a loan to a shareholder, this can give rise to a tax liability for the company.

If the loan is not settled within nine months of the end of the accounting period, the company is required to make a payment equal to 25% of the loan to HMRC. The money is not repaid to the company until nine months after the end of the accounting period in which the loan is repaid by the shareholder.

A loan to a director may also give rise to a tax liability for the director on the benefit of a loan provided at less than the market rate of interest.

If the loan is written off, this is treated as a dividend paid to the director. It is not a dividend but that is how it is taxed. So, if the company cannot pay a proper dividend because it has negative reserves, consider a loan to a director, subsequently written off after an appropriate period of time (Note: HMRC may have a view on this).

Rates of tax

For the 2011 financial year:

- If annual taxable profits do not exceed £300,000, they are charged at the small profits rate of 20%.
- If the profits exceed £1,500,000, the full rate of 26% applies to all profits.
- Profits in excess of £300,000 but lower than £1,500,000 are taxed at 27.5%.

If your company profits fall in this marginal band, any tax reliefs will be at 27.5% so consider contributions to your company pension scheme, advancing capital expenditure to attract initial allowances and bringing forward revenue expenditure such as repairs.

Self assessment

Under the self assessment regime most companies must pay their tax liabilities nine months and one day after the year end.

Corporation Tax returns must be submitted within twelve months after the year end. In cases of delay or inaccuracies interest and penalties will be charged.

Capital Gains

Companies are chargeable to Corporation Tax on their capital gains less allowable capital losses.

In order to counteract the effects of inflation inherent in the calculation of a capital gain, an indexation allowance is given. However the allowance is not allowed to increase or create a capital loss.

Planning of disposals

Consideration should be given to the timing of any chargeable disposals to ensure advantage is taken where possible of minimising the tax liability at small profits rate rather than full rate. This could be achieved depending on circumstances by accelerating or delaying sales. The availability of losses or the feasibility of rollover relief (see below) should also be considered.

Purchase of new assets

It may be possible to avoid a capital gain being charged to tax if the sale proceeds are reinvested in a replacement asset.

The replacement asset must be acquired in the four year period beginning one year before the disposal and only certain trading tangible assets qualify for relief.

Health Warning

Always remember you are in business to make profits to support you, your family and your employees and suppliers. You have a duty to make the best profits available and you should not jeopardise that by inappropriate tax planning.

"Don't let the tax tail wag the commercial dog!"

How we can help - contact us and let us know what you want**.**

The Sales Prevention Dept.

It never ceases to amaze me how much material I find for this column. Every month, I wonder what I can possibly observe that might be of interest.

If you run a retail business or indeed any business which is dependent on dealing with the public, then this is for you.

Have you thought of employing a mystery shopper to buy from your shop and pass on their experiences to you? Now, if you run a shop and employ staff, I imagine that you are happy enough with how your staff deal with customers. Is this based upon when you are present, and they know you are present and can hear them? Mystery shopper! Get the truth about what your customers really experience, good or bad. You can apply this to physical shops and internet shops. It is all the same.

Let me explain what prompted this. I was in a shop. Don't try to guess which one because it was off our normal patch. I was buying a gift bag, nothing very expensive. I found a very nice stationery shop of the old style with a good variety of stuff for sale and appeared not to be part of a chain.

After browsing around the shop, which had many things that interested me, I went to pay for my current purchase. Young girl on till, nearly 5pm.

As I counted my money out to give her the exact coinage, her fingers were drumming on the counter. To me this is as bad as a shop assistant chewing gum. It changed my whole perception of that shop.

The shops immediately next to this one were national names selling similar items. I chose to enter the shop that looked as if it was a small local business. We all like to support local businesses if we can, right?

Now, given that mine was a small purchase and I did not want to spend long checking out various suppliers, and given that I had not previously been into any of these three shops before, which one should I have entered. **The shop made a sale but did they acquire a loyal customer who would automatically buy from them again?**

Tax tips and tricks....

Self Employed Company Directors

In certain circumstances, company directors can be treated as self employed and therefore not subject to PAYE on their income. This has always been easy for accountants and lawyers who act as company directors and are merely continuing their "Day job" in the context of that company. They merely invoice the company in exactly the same way they would do to their other clients.

However, in limited circumstances it is also possible for others to benefit from this tax treatment. The director is treated as having two roles within the company, one dealing with director's duties, e.g. attending board meetings, ensuring compliance with filing at Companies House, HMRC, etc. The other role is in connection with carrying out the company's trade.

Fees paid to them as a director are liable to PAYE tax and NIC but where it can be shown that they use professional skills for the benefit of the company, in the same way as an accountant or lawyer would do in the same situation, they can be paid for these under a separate contract on a self employed basis. The income is still taxable but not under PAYE.

Consider taking your spouse into partnership in the "professional" partnership through which you deliver professional skills to the company. You can then split the income from the company between you.

If you want to go a stage further, you could also argue that they are a sleeping partner and that they do not actually do any work and so should not be subject to NIC but that is maybe a step too far and liable to result in you having to justify the whole arrangement to HMRC and showing that the whole arrangement is not a sham.

Whichever way you chose to go you should have a contract drawn up both for the delivery of the self employed services and also the partnership with your spouse.

Rental Property Jointly owned by Spouses

Our article on the use of Form 17 last month prompted quite a few enquiries and raised a tax planning opportunity that may not be widely known. Form 17 allows you to reflect the underlying ownership of a property in the division of rental profits between you because otherwise they are shared 50:50.

However, there is a way that you can report all the rental income by a single espouse even though the property is jointly owned.

Think of it this way. The spouses jointly own the property. They jointly "sublet" it to one of them who then rents it to a tenant. The rent from the tenant less all the usual expenses is reported by the spouse operating the rental business.

The spouse operating the rental business should:

1. Collect the rents and ideally pay them into a bank account in their sole name,
2. Pay all the expenses relating to the property business,
3. Sign all contracts relating to the rental business which should be their sole name.

In other words they must be seen to be operating their own business and there must be clear evidence of this.

Is a Limited Liability Partnership for you?

From 6 April 2001, there has been a business vehicle in addition to companies, traditional partnerships and sole traders.

The key advantage of a LLP compared with a traditional partnership is that the members of the LLP (it is very important that they should not be called partners but members) are able to limit their personal liability if something goes wrong with the business, in much the same way as shareholders in a company have always been able to do. Of course, anyone lending money to the LLP such as a bank may still require personal guarantees from the members, as they frequently do with directors/shareholders in a company.

Where business owners have wanted to limit their personal liability in the past, they have normally set up companies and any profits made by those companies are subject to Corporation Tax. Dividends paid by the companies can then be taken as income of the shareholders. LLPs are taxed quite differently in that the profits, once allocated to the members, are treated as the personal income of the members as if they had run their business as a partnership.

LLPs must produce and file accounts with a similar level of detail to a similar sized limited company. The costs will therefore be similar.

Accounts must be filed at Companies House within 9 months of the year end.

The types of business that LLPs were originally designed for were professional partnerships such as lawyers, surveyors and accountants. In some of these cases, they have not been able to operate through limited companies because of restrictions from their professional associations. LLPs are more acceptable. They also allow some of these larger "partnership" more flexibility in administering themselves, e.g. adding and removing partners (like a partnership) but with limited liability (like a company). Existing partnerships can convert to an LLP by exactly the same process of incorporation and providing there are no changes in membership or in the way in which the partnership operates, there may well be no impact on the partnership's tax position.

However, other businesses are also using LLPs to great effect and they have become part of the tax planning armoury.

One or more LLPs can be used in the following situations:

Start ups: IT was not uncommon for businesses to start up as sole traders or partnerships so that early year tax losses could be used by the owners against income of previous years or other income in the same year. Losses in an LLP are attributed to the members and can be set off in the same way. So, you can benefit from limited liability and still get your tax relief for trading losses.

Joint Ventures: They are also being used when structuring joint ventures and particularly when one of the parties is a charity. They can also be used in conjunction with one or more limited companies (as one of the members, possibly owned by the other LLP members). Profits and losses can then be directed to best advantage either to the company for payment of dividends or to the members themselves.

Commercial property: Property can be held in an LLP where the members are the "landlord" and "tenant". With an appropriate Members Agreement the arrangement can be structured such that both are treated as carrying on a trade with all the advantages that brings to the landlord who is now trading rather than in receipt of rental income. This could have implications for Entrepreneurs Relief as receipt of a commercial rent denies ER.

If you want to explore using an LLP further, contact us.