

tlp - news

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

Let's Get Real or **L**et'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!

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Quotes

"Surviving a failure gives you more self-confidence. Failures are great learning tools... but they must be kept to a minimum."

Jeffrey Immelt

"In the business world, everyone is paid in two coins: cash and experience. Take the experience first; the cash will come later."

Harold Geneen

"It is not the strongest of the species that survive, nor the most intelligent, but the one most responsive to change."

Charles Darwin

Just before I sat down to write this piece I was selecting the quotes to go in the panel below. I always find it hard to select appropriate quotes as I find myself reading far more than I can use. I particularly like the middle quote "Take the experience first".

When you first start out you think you know all there is to know and as you get older you appreciate just how little you knew back then. If you had known back then what you know now, how would that have influenced the direction of your life. We would all hope that it would have made us more successful, being better able to profit from the opportunities laid before us and to spot the traps and pitfalls before they caught us out. However, if we had known then what we know now, would it have dampened our youthful enthusiasm for the challenge and made us more cautious, therefore achieving far less than we have.

On that same theme, I am reminded of a saying - "You cannot put an old head on young shoulders." I find this to be so true but I think that there is a shortcut. It is learning at a young age that you do not know everything and that others have invented the wheel already and if you want to build a car, you need to learn from the guy who built the wheel, take what he knows and move the whole concept forward. No point exhausting your energies to achieve exactly what he did.

That means going out of your comfort zone. Some years ago, I listened to an argument put forward at a talk, I forget where. The question was - "Where are most opportunities to be found, inside your comfort zone or outside?" I am assuming that you will agree with me that most opportunities are outside of your comfort zone. That being the case, the next question is "Where do you need to go to stand the best chance of succeeding?" The answer has to be "outside of your comfort zone".

You must learn from others' experience, decide your chosen direction and go where you need to go, however uncomfortable that may be. Youthful enthusiasm helps.

Now, look at our business. We could be just like any other firm of accountants. We do accounts, tax returns, give financial advice, just like any other firm of accountants. But, we chose to move out of our comfort zone. We developed our own approach. We learned from people in unrelated fields and in other countries how to approach business differently. We stopped doing things the same way as most other accountants. We chose to be different, to draw a distinction between ourselves and the rest of the market, to differentiate ourselves from everyone else. We chose to open new offices, and that is definitely outside of anyone's comfort zone. Funny thing is, as we do all these things, it all becomes comfortable. So where do we now have to go to find the opportunities?

So, what makes us different? Too many things to list here but if you want some tangible evidence, you are holding it! Produced every month in-house, we currently have a circulation of around 1200. Not bad for a small firm but where will this and the other initiatives that differentiate us, be leading..... to opportunities!

There is more evidence almost daily of developing renewable energy in our backyard. This part of the world is going to change and I do not think there is any doubt about that. We want to be involved. Yes, we can do the accounts, tax etc, but the interesting stuff is in the development, the project planning and financial projections. We live in Excel and have produced some "rather impressive financial projections" if I do say so myself and we are currently working on more complex templates that we can apply to almost any renewable project. Being who we are and doing things the way we do, we have developed these templates ourselves i.e. no-one has paid us to do them. We have positioned ourselves to take advantage of developing opportunities in the new market. We have set out our stall so that we will be ready when you are. We are ready, just give us a call. You want a 20 year cash flow and projected accounts in how many hours, no problem.

So, where are you going? To find opportunities? I hope so. Lets do it together.

Reclaiming VAT on fuel costs

The basic options for recovering VAT on motor expenses are:

1. VAT Scale Charge

Claim all the VAT back on road fuel and pay the motoring scale charge which is based on the CO2 emissions of the car and not the actual amount of private usage.

A separate scale charge is required for each car used by the business and the only way around this is to have no fuel provided private motoring for that car. You can avoid the scale charge if the car driver repays business in full for the fuel they use for private motoring but the payment they make are inclusive of VAT which must be accounted for on your VAT return.

Using the VAT scale charge is simple and liable to be more favourable for higher mileages where a significant amount of VAT can be reclaimed on the fuel purchase.

2. Mileage Records

You can record all of your mileage in a log showing the business mileage and the total mileage and then reclaim the proportion of the VAT relating to the business mileage. You must be quite disciplined in your approach to these records which can be administratively quite burdensome, but this system has the advantage of being accurate if operated correctly.

3. Charge a Mileage Allowance

You pay a mileage allowance and claim back the VAT on the element relating to road fuel. Generally speaking we would recommend a mileage allowance of 40 pence per mile for the first 10,000 miles and of this, you can assume that 10 pence relates to fuel and you can apply the VAT fraction to the fuel element which currently would give you a VAT claim of 1.67 pence per mile. You will need to have appropriate expense claim forms (which we can supply) and you'll also need to have sufficient VAT receipts to backup the claim for VAT recovered.

4. Don't reclaim any Vat on Road Fuel

VAT - here are some useful reminders.

Toolkits

The VAT man is introducing new toolkits aimed at businesses and their agents which are designed to identify the common areas where errors are made. These toolkits are available on the HMRC website. There are three new toolkits covering input tax, partial exemption and output tax. Toolkits are aimed at general accounting practices (like us) and the accounts departments of small and medium-sized businesses (that's you), so that if you are in business, they could be a useful source of free information. While the use of the toolkits is voluntary, if the business has used them it would show that "reasonable care" had been taken in compiling your VAT return and this could reduce any possible penalty should something go wrong.

Reclaiming VAT on your home business - Sole Trader

If an expense has been incurred solely for the business, e.g. business phone line, then you can reclaim all the VAT. In other situations you can reclaim a reasonable proportion of the VAT on the expense and this might include where one room of the house is used for the business or you have a shared business/personal telephone line.

Reclaiming VAT on your home business - Limited Company

Where you work through a limited company and are based at home then you will be able to reclaim VAT on any equipment that the company purchases. The VAT on building work and decorations is more problematic because it is specifically blocked by the VAT legislation. However, by concession, the VAT man may allow the recovery of VAT in certain circumstances and this applies where a domestic room or rooms are put to business use. The VAT man may agree to an apportionment using an objective test of the extent to which the room is put to business use. This will also apply to extensions, garage conversions or even a shed in the garden provided it has a genuine business use and the purchases and decorations are appropriate.

Selling Services to the EU

Where you are in business and selling services to an EU country, the rules that have applied since January 2010 are broadly as follows:

1. Your customer is in business

The services are treated as supplied where customer belongs, i.e. UK VAT does not apply. You would not charge VAT on the supply but the invoice should contain your customers VAT number and a narrative such as "reverse charge service" or "this supply is subject to reverse charge". Your customer will account for VAT on your behalf on their own VAT return in their own country – this is known as the reverse charge. You will also need to complete an EC sales list showing the VAT number of your customer and the value of the supply. Supplies relating to land and short term transport hire (30 days for vehicles and 90 days for vessels) are more complex and you should get in touch if you need any guidance in this area.

2. Your customer is not in business

The place of supply is where you belong and you charge UK VAT as normal.

Exempt supplies

Exempt supplies are subject to special rules and if you only make exempt supplies, i.e. outside of the VAT regime, you cannot register for VAT and cannot recover any input tax on the costs of making those supplies. If you make both Vatable and exempt supplies you can register for VAT but in general you are unable to reclaim the VAT on expenses incurred in making to your exempt supplies.

Exempt supplies include most supplies of land, second-hand residential properties, insurance, education, health, betting, finance, postal services, professional subscriptions, sports competitions and some charity fundraising and cultural activities.

The full VAT can be reclaimed where the VAT to be reclaimed on purchases in making exempt supplies is less than £625 per month or 50% of the total VAT being reclaimed on all supplies.

Problems can arise where, due to economic circumstances, a business starts making exempt supplies. For example, a building contractor is forced to rent out new houses he cannot sell. If this is short-term then it is unlikely to be a problem but if the situation persists then it may be that the building contractor may have to repay all the VAT incurred on the cost of construction of the rented house.

Have you considered forming a VAT group?

A VAT group is where you have more than one company in a group structure and you apply for a single VAT registration for the group. This will result in a new VAT number being issued and so you may need to reprint your stationery. Each company in the group is jointly and severally liable for the VAT debts of the VAT group so in a liquidation of one of the company's, the VAT man can pursue the debt from any other company in the group.

The rules on partial exemption will also apply across the group and so the de minimus limits will be applied to the group as a whole rather than to each individual company. This could result in VAT on exempt supplies which would otherwise have been recoverable within the single company, not being recoverable within the group because the group has exceeded the de minimus limit.

To form a VAT group, companies must be under common control and this usually means owning greater than 50% of the shares.

The advantage of a VAT group is the simplified administration as supplies between group companies do not carry VAT and only one VAT return is required for the whole group. It is also possible for a holding company that makes no taxable supplies and therefore can't register for VAT on its own, to become part of a VAT group and thereby recover VAT on its overhead expenses.

If you would like to find out more about VAT groups and whether they would be applicable in your particular situation, please get in touch.

Dividends - Get the details right or you could miss the real benefits

HMRC are increasingly contending that dividends are in reality earnings for tax purposes (salary sacrifice) and to persuade them otherwise needs proof that a set procedure for the declaration of dividends has been followed.

1. The dividend must be legal

Even if the bank account is in credit the company needs to have sufficient retained profits to cover the dividend at the date of payment. Check the reserves figure in your balance sheet. Any dividend paid in excess of this is 'ultra vires' and, in effect, 'illegal' and there will be tax consequences.

The financial status of the company therefore needs to be considered each time a payment is made. Full accounts are not required for the calculation of an interim dividend. Accounts of the detail that enables '*a reasonable judgement to be made as to the amount of the distributable profits*' at the date of payment are acceptable.

If the company goes into liquidation and it is found that a dividend has been paid 'illegally' then the directors will be expected to repay the amount withdrawn and HMRC will actively pursue this route if as is often the case, they are the largest unsecured creditor.

2. Proper declaration of dividend

Directors can authorise payment of interim dividends but final dividends need to be approved by ordinary resolution confirmed by a simple majority of shareholders and following CA 2006 this can now all be done in writing, i.e. no meetings are required.

Therefore a standard text should be used confirming due consideration of accounts and authorisation of the dividend (whether interim or final) which is signed and dated by a director.

Dividend payment date

Dividends are treated as paid on the date that the enforceable debt is created. Where there is no such debt, the date of payment is used. Therefore the relevant date for an interim dividend is the actual date of payment because a resolution is not needed to confirm payment and such a dividend can be varied or rescinded.

Note that HMRC also consider the date of payment of interim dividends to be the date of entry in the company's books, i.e. credited to the directors loan account.

A final dividend becomes an enforceable debt when approved by resolution and therefore the relevant date is the date of declaration unless a later date is specified.

4. Dividend vouchers

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

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.

Let me tell you a story of four restaurants. They are all in Glasgow so don't try and work out where else they might be (and none are on a ferry!).

Restaurant 1 - Chinese restaurant, open late at night, very friendly, good service, obviously using fresh ingredients. Frequented by the Chinese community, which is usually a good sign. Menus and decor a bit shabby.

Restaurant 2 - Thai restaurant, busy with good service and excellent food. Very relaxed atmosphere but after the main course forgot about us and did not ask for deserts, more drinks, etc.

Restaurant 3 - Mixed Eastern Cuisine with excellent food and good service but the restaurant was not busy, for whatever reason and so not as relaxed and we got back to our hotel early. It was Sunday so they can be forgiven for being quiet.

Restaurant 4 - European cuisine, slow service, poor attitude towards customers and lacking choice. Poor table allocation as we were placed near the door and service computer when better tables were available close by and empty. For the most part, the food was good but there was little attention to details.

Which one(s) would we go back to? Number 4 is a definite "No". A restaurant needs good customer friendly staff. Here, we could see them making gestures to each other about customers.

Number "1" will, I imagine be our choice for late night dining. Good food modestly priced, nicely delivered by genuinely warm people. Decor and menus did not seem to matter.

The other two, we would go to again. Neither of them delivered the winning shot but they both had something and we would give them a second chance because we felt that we liked the people and places and that counted to us.

If you want to know the restaurants so that you can judge for yourself, send us an email and I will give you the names and addresses.

Tax Tips and Tricks

Non Resident? Possibly not after April 2011.

A revised version of HMRC6 was published by HMRC on 29 December 2010 and this includes various changes to the Revenues interpretation of the law following recent cases in the courts.

This new version should be used from now on (though HMRC say that the old version can be used to determine liabilities until 5 April 2011).

HMRC will now regard an individual as UK resident if:

1. he spends 183 days a year in the UK (days still determined by the “midnight” rule); or
2. where days are less than 183, residence is determined by reference to criteria such as family ties, social ties, business ties and property ties. The 91-day test here seems to have been removed.

The determining factor for those claiming non-residence status will now be “the purpose and pattern of your presence and your connections to the UK including the location of your family, your property and your work-life”.

Actual numbers of days can't be completely ignored as HMRC concede that “how often and how long you are here” is a relevant issue, but there now seems to be no definite “line in the sand” as there was before with the 91-day test.

This must be worrying for those who make sure that visits back to the UK average out at just under 90 days a year. If such individuals have family in the UK, or own and use property in the UK or who do a lot of business in the UK, the new HMRC6 suggests that such people might be UK resident from 6 April 2011.

In terms of leaving the UK, the 91-day averaging test is now only mentioned under the full-time work abroad route.

This suggests that (unless an individual is now leaving for employment reasons), keeping UK days below the 91-day averaging limit will not necessarily guarantee non-UK residence in HMRC's eyes.

To be considered as non resident you must now make a definite break with the UK in terms of the pattern of your life. Simply passing the 91 day return visits test won't be enough.

Expenses don't count towards minimum wage

From 1 January 2011, travelling and subsistence expenses will not count when calculating national minimum wage (NMW) pay.

The Department for Business, Innovation and Skills and HMRC are also aware that a number of travel schemes and umbrella business models are being marketed to claim to continue to provide savings for the employer and be compliant with the NMW from 1 January. But they do not believe that they work, so be careful if anyone suggests a “cunning plan”.

Pay Rise for Shareholder / Directors

If you are a director and currently earn £476 per month (like us) then at 5 April you will be getting a pay rise.

Your new rate should be **£589 per month.**

Changes to Informal Liquidations

ESC C16 was first introduced in 1985 and provided a simple and straightforward way for companies to be struck off, with the company assets being returned to the shareholders. Under this concession, CGT rather than income tax is payable and the costs of an expensive liquidation are avoided. Where the CGT entrepreneurs' relief is available, the tax cost of such a dissolution will often be significantly lower than it would have been if income tax was payable.

Unfortunately, there is a company law problem. If a company returns share capital without going through the process of a formal winding up, this is technically an unauthorised distribution and such assets can therefore be recovered by the Crown under the doctrine of bona vacantia.

The Treasury has agreed that they would not pursue their right to receive any unauthorised distribution provided that the amount returned to the shareholders by way of share capital was not more than £4,000. The ESC is being withdrawn to be replaced by actual legislation and so the £4000 is likely to be much more strictly applied in future. This could limit the usefulness of the informal liquidation process and make company dissolutions more expensive.

End of year CGT planning - Things to Consider

CGT can be at 10%, 18% or 28%, and so it is vital that all possible means of reducing the CGT rate are fully explored.

The annual exemption

A married couple or civil partners have the use of two annual exemptions. This can be worth as much as £5,656 per annum to them (£10,100 x 2 @ 28%) if used correctly.

It is therefore even more important to consider creating disposals by 5 April 2011 following spouse or civil partner transfers which are essentially free of tax. If you have gain laden investments, Bed & Breakfasting is possible, with the spouse/civil partner making the repurchase.

Pay Pension Contributions / Charitable Donations

For chargeable gains arising from 23 June 2010 the rate of CGT is 28% if and to the extent that the total of income plus gains exceeds the basic rate band of £37,400 for 2010/11.

The rate of CGT can effectively be reduced by paying pension contributions and/or making gift aid donations by 5 April 2011, taking your total income and gains below the higher rate threshold.

Creating a business asset for entrepreneurs' relief

Ensure that where possible you make a profit on a business asset which qualifies for CGT entrepreneurs' relief. Then, you will only pay CGT at a rate of 10% instead of 18% or 28%.

If the plan is to sell a property which is not the main residence, there will be CGT to pay – probably at 28%. Consider, if realistic, letting the property for at least the 12 months up to the sale date, with the lettings coming within the furnished holiday lettings regime. That qualifies the owner for entrepreneurs' relief with CGT reduced to only 10%, despite the fact that for most of the time the property was perhaps let on a long-term basis or empty. The only requirement for the property to qualify for Entrepreneur relief is by reference to usage in at least the last 12 months' of ownership. That could save you a packet!