

# tlp - news

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

[www.thelongpartnership.co.uk](http://www.thelongpartnership.co.uk)

## **L**et'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.

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## **Quotes**

**"The astute business owner understands that the purpose of a sale is to generate a customer. The lousy business owner thinks that the purpose of a customer is to generate a sale. One lasts much longer and has much more fun than the other."**

**Dan Kennedy**

**"The critical ingredient is getting off your butt and doing something. It's as simple as that. A lot of people have ideas, but there are few who decide to do something about them now. Not tomorrow. Not next week. But today. The true entrepreneur is a doer, not a dreamer."**

**Nolan Bushnell**

**"Business opportunities are like buses, there's always another one coming."**

**Richard Branson**

**D**o you take time out from the daily grind to develop your own skills and to consider where you are going? Consider this expression which we quoted recently.

**"He was too busy chopping wood to sharpen his Axe."**

Does this apply to you? Are you so busy "doing" to consider if you will be allowed to continue "doing" in the future? What changes do you need to plan for in order to take account of developments in your sector of the market or the economy generally?

If you look back to how your sector has developed over the last 10, 20 or 30 years, you will see how it has evolved. It will continue to evolve. Some businesses have flourished while others have not and many have disappeared. This applies to shops, farms, builders, manufacturers and others. We can all point to businesses that have disappeared.

So what made the difference? Could it be that the dinosaurs in your sector, the old established ones that refused to embrace new ideas and to change, are the ones that eventually lost ground to the new breed of people willing to embrace the new challenges of the evolving and ever changing markets.

The way to make sure you do not become a dinosaur (and extinct!) is to face up to the inevitable changes, embrace the culture and to plan your business accordingly. How many of you now have a website? Is this not an example of how you have started to embrace the changes and challenges that the internet has brought. What else do you need to do?

Are your competitors tooling up, either themselves or their businesses to move stealthily into more of your market while you work harder to try to keep up but inevitably fall behind. Are you a hunter or the hunted?

When you are busy "doing" how can you find the time to develop your own skills or to plan

your business. I travel a lot. Every week I am driving or sitting on one boat or another. Some weeks I am also travelling on planes and trains (never buses!). It is time that I cannot do "ordinary" work and so I listen to CDs, write newsletters and plan. What "dead" time do you have that you could use more profitably? How long each day do you spend in your car? Do you have a CD player? Are there training courses on CD for your sector or just on business generally? If you would like some ideas, let me know.

It is also true that you need time in your life to step out of that fast flowing stream that is your business, to sit on the bank and take stock and plan and just consider. These are times when the constant chatter from your brain can go quiet and give you the opportunity to really assess what you want, what challenges you need or want to face and to give you space to develop your strategies.

The next few years are going to be tough. You need to be on top of new developments so that you maximise your profits by keeping ahead of the competition and being more efficient, more effective and differentiating yourself from other similar businesses.

But remember, do not restrict yourself to just looking at your sector. There is a great deal to be learnt from looking at other sectors, so be alert to how different businesses operate and then apply appropriate strategies in your business. If you only apply the methods and strategies used by all your competitors, you end up with a "me too" business, and your results will be the same as your competitors and you want to do better than that. In our business, we apply strategies that we see in a variety of business sectors and both in this country and beyond. Be open to new ideas. Just one could transform your business.

When you are "doing" in your business, do you delegate enough? If you only did the things in your business that only you can do, how much time would that free up to enable you to develop, train, plan or just chase new business. So, ask yourself today, what is it that only I can do. Then stop doing everything else.

Give us a call to discuss these thoughts further.

## HMRC Reviews Business Record Check Plans

In 2012, HMRC plans to spot check the paperwork of 20,000 companies - not 50,000 as published in the original consultation - and potentially fine those with sub-standard records up to £3,000.

During its pilot scheme around 44% of businesses visited had issues with their record-keeping, with around 12% of the total having serious inadequacies. Would you be one of these?

However, the department announced just before Christmas it will review the scheme to address complaints about inadequate consultation. But HMRC will press ahead with a limited number of BRC pilots in the meantime.

“The purpose of the review is to consider the overall aims of BRCs, examine whether the current approach is the best way of achieving the policy objectives and identify what changes are needed to ensure that the objectives are achieved.”

John Walker, national chairman of the Federation of Small Businesses said: “Despite the worsening economy, HMRC is launching this scheme regardless of the consequences.”

Priti Patel, the Conservative MP for Witham, said: “This is the persecution of small businesses at a time when they are already facing a very, very hard time. The attitude of HMRC to small businesses is frankly disgraceful when they are blatantly doing deals with large firms which have allowed them to escape millions of pounds in tax liabilities. It seems as though HMRC sees small businesses as low-lying fruit to meet their targets. That kind of persecution is outrageous.”

The Revenue have said that “It is not the purpose of Business Record Checks to find additional tax during the visit,” but to “improve record-keeping among SME customers” and help small business owners complete more accurate tax returns at year-end.

Who do you believe?

## VAT Online Filing - Mandatory in 2012

HMRC has issued an alert to VAT-registered businesses across the UK about important changes that come into effect next spring.

From 1 April 2012, all VAT-registered businesses must send their VAT returns online and pay their VAT electronically. Currently, only newly-registered businesses and those with turnover of more than £100,000 have to file and pay their VAT online.

The new rules will cover VAT returns filed for **accounting periods beginning on or after 1 April 2012**.

HMRC advises that if you are not already filing your VAT online, switching now makes sense. This will avoid a last minute rush, and also provide access to the benefits which online filing provides and which HMRC lists as follows:

- an automatic acknowledgement that your return has been received;
- a handy arithmetic checker to help make sure you've done your sums correctly; and
- an email alert to remind you when your next online return is due (as, after April, HMRC will stop sending out paper returns to businesses which are now required to file online).

To file your VAT return online, you need to register for HMRC's VAT Online Service – visit [www.online.hmrc.gov.uk](http://www.online.hmrc.gov.uk) and click “Register” under the “New user” section. Then follow the instructions.

Affected businesses will also need to set up their preferred electronic payment method. Visit [www.hmrc.gov.uk/payinghmrc/vat.htm](http://www.hmrc.gov.uk/payinghmrc/vat.htm) for more information on the various options.

*We can file your returns for you online, just get in touch.*

## VAT - You can now pay by faster payments

From 16 December 2011, HMRC is able to accept payments made using the Faster Payments Service. This allows you to make faster electronic payments, typically via internet or telephone banking, enabling them to be processed on the same or next day.

However, when you file a VAT return online, the HMRC website generates an on screen acknowledgement to confirm receipt, but the message currently given by this response says:

**‘Please note: HMRC does not operate the Faster Payments Service (FPS), which is offered by some banks. Electronic payments will normally take three bank working days to reach the HMRC account.’**

**HMRC does now accept Faster Payments.** We understand that the message in the HMRC website confirmation response will be amended as soon as possible.

## 31 January, tax returns and the NEW cost of being late.

The new interest and penalty rules will affect returns for 2010/11 and all future tax years. These penalties also apply to partnership and trust returns.

The tax return deadlines remain unchanged – 31 October for paper and 31 January for online returns. The deadline for paying any tax due also remains the same at 31 January.

The new penalties for late self assessment returns are:

- **An initial £100 fixed penalty, which will now apply even if there is no tax to pay, or if the tax due is paid on time.**
- **After 3 months, additional daily penalties of £10 per day, up to a maximum of £900.**
- **After 6 months, a further penalty of 5% of the tax due or £300, whichever is greater.**

After 12 months, another 5% or £300 charge, whichever is greater. In serious cases, the penalty after 12 months can be up to 100% of the tax due.

The new penalties for paying late are 5% of the tax unpaid at:

- 30 days;
- 6 months; and
- 12 months.

Interest will also be charged on top of these penalties.

## Hmm!

“Just learn from this Edward. **There's no shame in you being an accountant.** Don't ever run yourself down as far as that's concerned.” - **Lord Sugar on Apprentice** candidate Edward Hunter, who had trained with one of the Big Four accountancy firms.

## Employees and holidays – Did you know?

Source: The following is an extract of material taken from the Peninsula-uk.com website.

### Annual Leave

All employees are entitled to annual leave. Full time workers have a statutory entitlement of at least 5.6 weeks' paid annual leave which is capped at 28 days for someone working five or more days a week. An employer may offer more than this. Part-time workers are entitled to the same level of holiday pro rata (so 5.6 times their usual working week, e.g. 22.4 days for someone working four days a week).

An employer can specify when holidays should be taken and whether Bank Holidays are included in the entitlement.

Employees start building up annual leave entitlement from the first day of employment and are paid at their normal rate for holiday leave. Employees also are entitled to payment for accrued statutory holiday when they leave your employment.

Employees also continue to be entitled to holiday leave throughout their ordinary and additional maternity leave and paternity and adoption leave.

You can specify in the contract that the holiday entitlement is inclusive of the standard public and Bank Holidays and it is wise to specify which ones are included.

### Bank Holidays

The statutory entitlement to annual leave is **inclusive** of any Public and Bank Holidays taken as paid leave, so each day employees take off as paid leave for any reason will come off this entitlement. If you wish you can specify if some or all public holidays are included.

**Remember** bank holidays are not a statutory entitlement, but check your contracts of employment.

### Carry Over of Annual Leave

On commencement of employment, an employee begins to build up or accrue holiday entitlement. The minimum statutory entitlement must be taken during the leave year. However it is up to the employer whether any untaken days above the minimum statutory entitlement may be carried over into the next leave year.

There is no statutory obligation on an employer to allow an employee to carry leave over to the following year. Leave may only be carried over if the employer gives the employee permission or if it is stated in the employment contract and/or staff handbook.

### Refusing Holidays

As an employer you have the right to refuse all or part of an employee's holiday request as long as you act in accordance with your contract. Also, unless your contract says otherwise, you not only have the right to set down when holidays cannot be taken but you have the option to dictate when holiday must be taken.

It is useful to make sure that all holiday requests are completed on a form. This makes it clear that it is a request that requires approval, not a demand. An employer can also tell his or her entire workforce that there are periods of the year when holidays will not be approved or only a limited number of people can be away.

### HMRC investigates footballers' Perks

You may be thinking that these footballers get paid too much anyway and deserve no sympathy. However, is this not just a symptom of the HMRC's dash for cash and looking for soft targets. At the other end of the spectrum they are pursuing scrap metal dealers. So, who is going to be next, accountants or lawyers?

HMRC is targeting premier league footballers over unclaimed perks they allegedly receive from their clubs. The High Net Worth Unit has sent questionnaires to leading clubs asking for information on the benefits provided to their employees, such as travel and entertainment expenses, company cars, health insurance and childcare. Information provided to HMRC will then be checked against footballers' individual tax returns to examine any unpaid tax or national insurance.

HMRC has already conducted a number of investigations into football clubs including Rangers Football Club and Spurs' boss Harry Redknapp.

### The Sales Prevention Dept.

This is the story of two supermarkets and to protect their anonymity lets just call them Tesco and Co-Op.

I was on my way into Inverness and stopped in the Co-Op to buy some essentials for lunches, etc. The shop did not have everything I wanted but you make allowances for the smaller shops (No, I did not say which one). Other than that, everything went well until I came to pay at the checkout. The checkout operator was wearing ill fitting casual clothes under an ill fitting "corporate outer" that was not fixed in front. The belly hung out only covered by a large T-shirt. I think I have seen better dressed people on the streets in Edinburgh and Glasgow. Anyway, no eye contact, not even a grunt in recognition. However, they did manage to shout up the shop to another employee stacking shelves a good 5 metres away to wind them up about something or other. Am I painting a bad shopping experience?

Same day, finished work and was heading up the road. Stopped at a Tesco. Now, I have often enough held out Tesco as an example of well trained and courteous staff. So, I was a little taken aback by what followed.

I went to the checkout. The shop was quiet as it was nearly 10pm and closing time (that's a clue by the way). The checkout operator was having a conversation with "security". My messages were processed without a break in the conversation. I was even thinking that I would need to interrupt them in order to pay for my shopping.

So, what is my take on these two shopping disasters. They are disasters for those shops because I and others, will be reluctant to use either of these shops again. I do not blame the operators. I blame the managers. Attitudes come from the top so either the management of these branches exude ambivalence towards their customers, that incidentally pay their wages or they fail to supervise their staff effectively.

Could it be that the managers of each of these shops is struggling to meet targets and are blaming the economy, competition, etc for the lack of growth. I wonder.

## Tax tips and tricks....

### The 2012 Budget

The date of this year's budget has been announced as Wednesday 21 March.

### Vat and Salary Sacrifice Schemes

For agreements entered into after 28 July 2011 VAT must be accounted for in accordance with the guidance in revenue and Customs brief 28/11. With effect from 1 January 2012 VAT will be due on amounts of salary foregone in return for taxable benefits. Therefore, if you forego salary in return for receiving Vatable goods or services, the business must account for the VAT on these.

### HMRC and Mortgage Lenders to Cross Check

A new scheme to combat mortgage application fraud was launched on 1 September 2011. A by product of this is a further source of information for HMRC to use in its risk assessment process.

The process has been developed as an important additional tool to help beat mortgage fraud. Where they have inadequate evidence of declared income and suspect fraud, mortgage lenders will send HMRC relevant details from mortgage application and HMRC will crosscheck the income details declared to lenders against information provided in income tax and employment returns.

Therefore HMRC is planning to use this information as part of its own risk assessment process and checking whether the information it has been given on application applicant's tax affairs.

Given that it is difficult to obtain mortgages at the present time, borrowers may be tempted to submit a number of applications to different potential lenders. The new crosscheck process raises the possibility that with each mortgage application there is the possibility of an HMRC enquiry commencing into that taxpayer's affairs. The more applications, the higher the risk.

### High priced low residual value pooled company cars

Do you have a clapped-out old banger in your company that you call a pooled car? A recent case, won by HMRC, highlights the pitfalls.

In this case, the company alleged that a car, which was the only company vehicle, was a pooled car on the grounds that the company records were kept at the directors home and this was properly occupied by the company.

The pooled car provisions are notoriously difficult to fall within and the treatments as a pooled car generally fails to stand up to HMRC scrutiny.

The taxpayer lost and had to pay a car benefit. In this case, the car was a 1997 Jaguar XJ sport with a list price of £38,879 when new, a purchase price of £14,000 and a present value of £250. The car benefit is calculated on the new price, producing a disproportionate income tax charge in relation to the value of the vehicle provided. It would have been better for the director to keep the car out of the company.

Anyone with a car with a high list price compared to current value and owned by a company should consider removing the car from the company to avoid potential income tax charges. This will produce a smaller tax charge.

### Husband and Wife Partnerships

These partnerships are not uncommon and sometimes can prove to be very successful. Where the partnership model is to be retained in preference to incorporation, it is useful to have a partnership agreement drawn up which is vague as to the split of profits. The agreement could therefore say "profits and losses shall be shared as the partners may from time to time determine and as witnessed by signed accounts". This should enable profits to be shared in such a way as to limit the amount of tax and NIC payable.

Partnership agreements are not very common with husband and wife partnerships and provided that both of them have signed the annual accounts, it should not be absolutely necessary. However, such an agreement could be useful if the allocation of profits was to be challenged in any way by HMRC. For example, if HMRC were to question the existence of a true partnership, the agreement would be further evidence of its existence.

Sometimes the admission to partnership of members of families is done primarily for tax reasons, to spread profits around a large number of individuals while leaving the conduct of the business more or less unaltered. It would be natural to expect partners to contribute to the business in proportion to their profit shares. If this is not the case, it is open to HMRC to challenge whether these family members are indeed partners in the business. Draft legislation was proposed but not enacted in 2009. Be warned.

### Sleeping Partners

The reference to sleeping partners here is to a partner who is entitled to a share of profit by virtue of contributing capital to a business but who plays no active part in the running of the business. Sleeping partners may not have his or her share of profits treated as earned income and such profits will not rank as relevant earnings for the purposes of calculating tax relief on pension contributions.

The sleeping partner is not liable to class 4 NIC on his or her share of profits as they are not immediately derived from the carrying on of trade profession or vocation.

So, if you are a partner in the business solely because you contributed capital to the venture, but play no active role in the management of the business, then you are not liable to class 4 NIC on your share of profit.

Could a spouse be a sleeping partner? Of course they can, in more ways than one!

### Limited Partnerships (Corporate Partner)

Limited partnerships have existed for many years and are different from limited liability partnerships or LLPs. A limited partnership must have one or more general partners who manage the firm's business together with one or more limited partners, whose liability is limited but who cannot participate in management.

The general partner can be a company and this is a way in which full limited liability can be achieved in a normal partnership structure. The directors of the company act as agents for the company and not as limited partners as this would prejudice their limited status.

This is a way of achieving a limited liability for all partners in a flexible partnership environment but unlike LLPs there is no requirement to file accounts at Companies House.