

tlp - news

July 2010

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.

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Quotes

"Do not fear going forward slowly; fear only to stand still."

-- Chinese Proverb

"Trouble is only opportunity in work clothes."

-- Henry Kaiser,
Industrialist

"You are not beaten until you admit it."

-- George Patton,
General

I need a lesson in time management. In my diary, on the first day of every month there is an entry that says "Newsletter" and every month there is something else that needs to get done first. Now, those of you who are either very organised or do not have much else to do, or both, may think that I am disorganised and lack discipline. Could be an element of truth in that (I am not admitting anything) but it is also true that we have certain priorities and unfortunately our newsletter is rarely at the top of the list.

However, this month we got our comeuppance. By the time we were ready to prepare the July newsletter, our printer had gone on holiday, without permission! There are two lessons here. Firstly, you should have a plan for the next month, week and day and stick to it. I rarely start any day without a prepared list of things I want to achieve. I have a good old fashioned notebook that sits next to my laptop in which I write my list for the coming day(s). It is also the place that I keep track of everything I need to do in the next week or so. It is as important as the laptop on my desk and complements it perfectly.

Secondly, why do we outsource our printing? Our newsletter is not fancy. It is black and white (see for yourself) and is just a printed sheet of A3 paper folded in half. We have printers and staff that can do this so why use anyone else. The reason is quite straightforward. This is what he does. He is geared up for this, he has the equipment and the time. If anything goes wrong, HE fixes it, not us. We know how much it will cost and our own staff can get on with their own, more profitable work.

That leads me onto "profits". What is wrong with profit? Whether you go to work for a wage or run a business, what you derive from your effort is profit. Nothing wrong with that. And yet when there is any discussion about private companies running parts of the present public sector, the idea that someone will make

a profit out of providing education, health care and the like, seems to be a cardinal sin.

I like to think that we provide help and support for our clients to get them through the endless official maze of regulations and also to establish and run profitable businesses, because that is where they take their living. But we do it for profit!

I frequently meet with people who focus on the fact that they do not want to pay tax and have a mindset that says that they must avoid making profits so that they do not pay tax. Get real!

If you have no profits, you have no money in the bank and ultimately you have no business. You MUST make profits and the inevitable consequence of that is that you will pay some tax. But you will have the house, the car and the rest. The car might be a Fiesta or a Focus (I am in our 1.8 Diesel today) rather than a Porsche but it's better than a bike or having to get the bus.

I would rather talk to people about how to create or increase profits than avoiding tax. Once you have a profitable business, then let us sit down to plan how to minimise the tax. Remember, you pay no tax if your business fails.

On another but similar tack, let me pass on something I came across recently. Something to think about.

The difference between success and failure is not hard work or having the right product. These are important. The difference is that successful people make a habit of doing the things that less successful people are not prepared to do. They don't like doing them either but they do them to achieve their purpose.

Successful people focus on their purpose and will do things they do not like doing to achieve that purpose. Less successful people focus on systems and methods that they enjoy and are content to accept whatever results they may achieve however poor. Think about it.

Anyway, this month we have taken the extra time given to us by our printer to give you some of our considered insights into the Emergency Budget. There is bound to be plenty more to come.

Alan, Helen and the teams in Kirkwall, Thurso & Inverness.

GAAR !

No, this isn't our reaction to the emergency budget.

GAAR stands for "General Anti-avoidance Rule". In other words a rule that says that if HMRC don't like what you are doing, it is tax evasion. That is maybe putting it a little bluntly but it has some very serious consequences and will need some clear control over how it is used.

In Chancellor George Osborne's first budget, papers revealed the government's intention to examine whether there is a case for developing a GAAR -which was last debated and rejected by the Labour government in 1999 over concerns how such a rule would be implemented.

It could be argued that such a rule is only necessary when the underlying tax legislation is poorly drafted leading people to find ways to ease the tax burden otherwise imposed from high end tax avoidance right down to you and me and talking about such strategies as incorporation and income splitting to reduce tax leakage from our bank accounts. We are only required to pay our share according to the rules laid down by Parliament. If those rules do not achieve what they want, is that our fault? I think not, but what if there was a GAAR.

OTS

We at TLP like the establishment of the OTS. It was also welcomed by the CIOT.

It has been clear for a long time that the UK tax system needed to be streamlined and simplified. The OTS (**Office of Tax Simplification**) has been set up to look at this issue. You just have to look at our progressive tax rates that start at 20%, go up to 40%, then 60%, back to 40% and then back to 50%. Whoever thought this up should be sacked. They were, now someone has to sort out the many anomalies and inconsistencies they left behind them. We spend much of our time guiding clients through the present tax maze. So, is tax simplification a good thing.

We say Yes! Lets talk about building businesses and not tip toeing through the tax minefield.

Office of Tax Simplification

The Office of Tax Simplification was launched this week, headed by Michael Jack, who retired from Parliament this year, with John Whiting, tax policy director of the CIOT as director. The CIOT will release Whiting for one day a week and he will be assisted by seconded staff from HMRC and the Treasury, and there will be consultative committees set up to help. There is no doubt that if this is to be done, John Whiting is the man to do it - despite his background with PWC, he has his feet on the ground. The new Office has initially been given two projects to work on - a review of tax reliefs and also of small business taxation.

On the small business side, the Office said it would "*Make recommendations on how to simplify the tax system, ease administration and reduce uncertainty for small businesses, examining evidence and identifying the areas of the tax system that cause the most day-to-day complexity and uncertainty for small businesses; recommending priority areas for simplification; and considering the impact of any simplification in these areas on different business sectors, including large business.*"

The Office has been given until Budget 2011 to start making suggestions.

In the longer term, this new office should have some significant and far reaching influences on us all, hopefully for the better.

Tax review can even out the playing field for small business

Recently Published by Michael Woolley of CIOT

The Chartered Institute of Taxation (CIOT) has welcomed today's news that one of the first tasks of the Office of Tax Simplification (OTS) will be a review of small business taxation.

This will include the controversial IR35 legislation on the tax treatment of contractors.

Andrew Hubbard, immediate past president of the CIOT, has been calling for a review in this area. He commented:

"The Chartered Institute of Taxation has long argued that there is a real need to simplify the taxation of the smallest businesses. Too often we have seen sticking plaster applied to problems when what is needed is a thoroughgoing review. A more carefully planned and integrated approach would not only aid tax compliance in the small business sector but also allow small businesses to make commercial decisions that are not distorted by hasty and ephemeral changes in tax policy."

"We would like to see an increase in certainty, simplicity and stability of the tax system emerge from the review."

"The tax regime for small firms has been bumpy and confusing for too long. I hope the OTS will be able to even out the playing field."

Welcoming the inclusion of IR35 in the review, Colin Ben-Nathan, Chairman of the CIOT's Employment Taxes Sub-Committee, added:

"In a modern, flexible labour market, workers and engagers should be free to form the contractual relationships they choose, without having their arrangements second-guessed because the tax consequences of their choice differ from those of another possible arrangement."

"Rather than the tax system being used as an override to determine a worker's status as an employee, we think their status should be based on their legal position in employment law and that the tax and NICs liability should flow from this."

Recent blog posts we spotted on tax simplification:

"The biggest "simplification" is already underway - and could be speeded up. Raising the personal allowance to £10,000 will take an estimated 2 million straight out of tax. The lower limit for NI needs to be brought in line with it, so that 2 million lower paid workers & pensioners are no longer the concern of HMRC."

"The road to simplification is strewn with the dead bodies of former chancellors. It's a nice idea, but any simplification will produce winners a losers and the fact is the whinging of the losers is always louder than the cheers of the winners. Talking about simplification sounds good but the reality would only cost votes. I am sure that Sir Humphrey would have some wise words on this subject."

What do you think?

Tax on white van man quadruples

The amount of tax paid by drivers of company vans has quadrupled in just two years. HM Revenue & Customs clawed £40m in tax from drivers of company vans in 2008/09, compared with just £10m in 2006/7.

This follows changes to the rules for the taxation of personal use of company vans introduced in April 2007.

Many small firms may not realise the changes actually affect them but in any event, this tax increase has had a huge impact on many small businesses, many of whom have been struggling with rising costs. Vans are an essential tool for many small traders who often economise on transport costs by using their business vans extensively for private use, so this tax rise has hit them hard. Under the old rules, for an employee making private use of a company van, the tax benefit in kind was £500, or £350 for vehicles more than four years old. Under changes introduced in 2007, the taxable benefits for all vans was increased to £3,000, plus an additional £500 of taxable benefit if fuel is also provided by the employers.

Those who use a van solely for work purposes, or whose private use is insignificant, will not be subject to any taxable benefit in kind but how many company vans can you see in any Tesco car park!

The Tax Inspector cometh! Inevitably.

HMRC is under pressure to keep topping up Treasury coffers but is sorely under resourced. Like death and taxes, investigations are a fact of life and they appear to be on the increase. It is one way in which the government is seeking to close the multi-billion tax gap arising from uncollected tax revenues.

These days an investigation will not rely upon a local inspectors knowledge of the business and its environment but more upon the Revenue's own risk assessment tools i.e. the Revenue computer.

The recent plethora of tax amnesties is the most cost effective way for HMRC to be seen to be chasing missing tax revenues. There are reports of new amnesties on the horizon for plumbers, builders and even accountants! Not lawyers?

Factors that can trigger an investigation:

- Inconsistent changes in margins.
- Irregular income patterns and partners' drawings not seeming commensurate with their duties.
- Personal bills e.g. home for business use, clothing, misuse of business credit card.
- Travel and subsistence e.g. business vehicle used for private purposes.
- Closing stock calculations.
- Information from overseas jurisdictions.
- Newspaper stories and website information.

Recent trends have been towards cash businesses including take-aways e.g. fish and chip shops with a gross profit percentage of less than 60%. Others reportedly coming up are farmers, auto repairers and car washes.

The investigations can now include all taxes together so that a review of VAT will include income and corporation tax and potentially employment law and so on. It's getting dangerous out there so our message is "keep it clean and let us help you make profits and put money in your bank account". In the words of a former client of mine from the Highlands, "Prince Charles needs his shilling", but that's alright if you are making good profits and banking them. We'll keep your tax down.

And if the worst comes to the worst.....

All our clients are covered at no extra cost by our practice wide fee protection policy that covers a wide variety of HMRC interventions and not just full enquiries.

It will not pay any tax or penalties that arise out of the investigation, but at least all our fees will be paid by someone else. So, if your records are clean and HMRC find nothing, you may have had some sleepless nights but at least your bank balance will be in tact.

As always, get in touch if you have any concerns.

The Sales Prevention Department

We see so many examples of people who actively discourage sales. We thought it would be a useful therapy for us to share some of our experiences with you. This is to be a regular column because we think we have enough examples to keep us going for at least a year.

I was recently travelling along the North of Scotland and, as is my wont, I thought it would be good to stop for a bite of lunch. Now, there are many small hotels and cafes in the North of Scotland along various roads and they all have their own character and generally are very good at what they do given the low volumes, etc.

This day we stopped at one hotel that in the past I had known quite well. I will not say why or how. We entered and at first it seemed quiet and unwelcoming. Maybe that was because we used the front door. An easy mistake to make. We eventually found the bar, only to find three miserable looking customers and music so loud you could not think. We made a discrete (ish) exit.

We then tried a cafe between Bettyhill and Thurso.

We went in and sat down. We were the only ones there but it was not large but that did not initially signify anything wrong.

We do not expect a grand menu and so the food that was on offer seemed very good.

However, the kitchen was only a short distance away and we had to listen while they discussed with a friend who had been drunk the night before and who was doing what with who, as well as the rest of the general local gossip. Amongst it all you could hear the sound of the microwave heating up our frozen food.

The crowning moment came when the visitor to the kitchen asked if they had been busy. The answer came back.... "very quiet".

My reaction, which I kept to myself was, I can quite understand why.

Tax tips and tricks and other useful stuff

Volcanic ash and UK residence

HMRC has confirmed that disruption caused by the volcanic ash cloud and strike action by airline staff are "exceptional circumstances" for the purposes of counting the number of days an individual is present in the UK for UK tax residence purposes.

2012 - Cut back in AIA

From 2012 the Annual Investment Allowance will be reduced from £100,000 to £25,000 so that the purchase of large items of equipment e.g. tractors, will not have such an immediate affect on your tax liabilities.

It is likely that in 2012 we will see a cut back in the amount of new plant being purchased albeit that there may be a minor boom ahead of the changes. Sales opportunity here!

Income Splitting may be back on the HMRC agenda

In truth nothing has changed except the Revenue's appetite to take up the argument again. They lost the Arctic Systems case but that was only part of the story. There are circumstances when, if they had the appetite (and needed the money) HMRC could still attack certain income splitting arrangements.

To safeguard yourselves we would recommend the following:

- Company dividends should be paid to the shareholder so that separate cheques should be issued to each shareholder or separate online transfers to named recipients, even if they are paid into the same joint account.
- The shareholder must have unrestricted access to the destination bank account whether this is a sole account or a joint account.
- The dividend deposit should not be used to fund the liabilities of the other shareholder including tax bills, mortgages, or purchases of significant assets.
- Nonworking spouse dividends must be paid to them for their own use and not through the accounts of the working spouse.

New NMW rates from October

The new rates from October 2010 will be:

21 and over	£5.93 (formerly £5.80)
18 to 20	£4.92 (formerly £4.83)
16 to 17	£3.64 (formerly £3.57)

The adult minimum wage rate is extended to 21 year olds in October. There is also a new apprentice minimum wage of £2.50 where:

- The apprentice is under 19, or
- The apprentice is 19 or over but in the first year of the apprenticeship.

Zero rated caravans - now wider

The minimum size of caravan qualifying for zero rating for VAT has risen from 2.3 x 7 metres to 2.55 x 7 metres. This could affect the sale of a second hand caravan previously zero rated.

Charity Trustees - Fit and Proper?

The 2010 Finance Act introduced a new definition for tax purposes of charities and other organisations entitled to UK charity tax reliefs. The new definition includes a requirement to satisfy the "management condition". i.e. all its managers must be "fit and proper persons" to be managers of that organisation.

Where a manager is found not to be a fit and proper person, it could put the charity's tax status in jeopardy, although further HMRC guidance is available on this matter.

The big question is how do you know if your manager or management team are "fit and proper" and what evidence do you need to hold that the Trustees have looked into this in a professional manner.

Something to consider at your next trustees' meeting.

National Insurance increases from 5 April 2011

From 6 April 2011 the main rate of employees NIC will rise by 1% to 12% with the rate above the upper earnings limit rising to 2%.

The employers rate will rise to 13.8%. However, the threshold for paying employers contributions will rise from £110 to £131 per week.

The self employed will pay 9% and 2% Class 4 NIC.

NIC Regional Holiday

This will be available to any new business established after 22 June 2010. The scheme will exempt employers from up to £5000 of Class 1 NIC per employee for up to 10 employees taken on in the first year of the new business.

PAYE and employers

With the ever increasing complexity of PAYE and the penalties for late payment, it is tempting to take on staff on a self employed basis. HMRC know this and are likely to be more vigilant and will be challenging employment status more frequently in the future. Therefore you should:

- Review all self employed arrangements for temporary/seasonal and general staff.
- Ensure all the paperwork is in place for the self-employed arrangements and is robust in demonstrating self-employment status e.g. A contract for services with a substitution clause for the worker to provide someone to stand in if the self-employed worker is not available and this clause should be realistic given the circumstances).
- Reviewer physical arrangements between the employer and worker in the service contract i.e. who gives instructions, whether there is a master/servant relationship, etc.
- Review to provide equipment.
- Ensure the self-employed worker has adequate insurance in the self-employed capacity.

Probably the most important aspect of this is to talk to us if you have any concerns in this area.

Remember that our fee protection insurance will assist with the cost of any status challenges by HMRC.