

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

"Anyone who has never made a mistake has never tried anything new."

– Albert Einstein,
physicist

"The less secure a man is, the more likely he is to have extreme prejudices."

– Clint Eastwood, actor,
director

"The ideals that have lighted my way, and time after time have given me new courage to face life cheerfully, have been kindness, beauty and truth."

– Albert Einstein,
physicist

If you run your own business then you know the stresses and frustrations that go with it. You understand the sleepless nights, the discussions with the bank, dealing with HMRC, cash flow and the rest. But, despite all of that, would you change anything? You went into business for one of a variety of reasons. It could be that you were seeking financial freedom and wealth. Other people do it for the freedom from having a "Boss". Whatever your motivation, there will have been something that made you choose that path and you now choose to stay on that path. We all have that choice to make.

We made a choice 10 years ago and apart from the odd days when we threaten to go and do something less stressful, would not choose any other way of life. Would you? We sink or swim by our own efforts. We build, we suffer setbacks, we take opportunities, and we build again. That's the way we go. And, we have a lot of laughs along the way.

By the time you read this we will have started to integrate Graeme M Fraser & Co properly into our existing business. We are concentrating our operations in new offices in Inverness and moving everything from Dingwall and Nairn to that office. The new office is Robertson House in Shore Street, which itself has strong Orkney connections. Elgin will continue unchanged.

We will then be building our business from 4 centres in Elgin, Inverness, Thurso and Kirkwall. But who knows what opportunities might present themselves next.

Over the next few weeks we will transfer all the client records to our own well developed and sophisticated systems. For example, we utilise specialist software for the preparation of Charity accounts. Companies House and OSCR are now much more active in scrutinising accounts submitted to them and will reject accounts that do not comply. Using this software minimises the risk of embarrassing rejections.

Also, our tax software is sophisticated and powerful which makes it easier for us to ensure your compliance with HMRC, particularly in these times when penalties are becoming harsh, providing a better and more consistent service to all our clients. It should also be much more expensive but we were able to do a deal because of our new size and so, per client, it is much the same.

We have also just renegotiated our practice wide Fee Protection Policy that covers all our clients in the event that they suffer any form of HMRC investigation. Again, our increased client numbers means that the total cost is high but "per client" is very much cheaper than any of you could buy and it is included as part of our normal fee!

So, it's going to be an interesting year for us. And how about you? What plans do you have? What opportunities are there for you to build your business? You can choose survival strategies or you can choose to develop and grow. Times of economic upheaval will be testing for everyone but they are also times of great opportunity. You choose. We have.

And finally, what do you make of banks just now. We all need them but it appears that they think that they do not need us. I have recently come across a number of instances of people who could not open a bank account. They did not want an overdraft, just an account from which to run their small business. The banks refused. Not just one, but all of them.

Having grown up in a time when banks were pleased to sign up every new customer, this seems to be a very strange state of affairs and especially when you consider the public money used to ensure these banks' survival.

Payback time gents, our small businesses need you so step up to the mark. You are charging the rest of us a pretty penny for your services. Give something back and help the economy from which you profit and that pays your wages. There are some new banks in the market. Maybe we need a few more of them. Then we will see who really understand business.

What do you think?

VAT golf judgment swings against HMRC

HM Revenue & Customs has lost a tax tribunal case over whether VAT is chargeable on the fees paid by non-members to use the course at golf clubs.

Supplies to members of a golf club have been exempt from VAT since 1990, but HMRC has always taken the view that 'green fees' payable by non-members should be subject to VAT at the standard rate.

However, the First Tier Tax Tribunal judgment in the case of Bridport & West Dorset Golf Club has ruled against HMRC.

It said that the provision of facilities to play should have the same VAT treatment irrespective of whether the person playing paid an annual membership subscription or was a visitor to the club paying a 'one off' green fee.

As a result, the charges made to both full and temporary members are exempt from VAT.

HMRC has 56 days to appeal against the decision to the Upper Tribunal.

HMRC Scams

We regularly receive e-mails from clients who have received an e-mail purporting to be from HMRC and advising them of a tax refund due to them.

These e-mails are invariably scams and should be ignored.

HMRC never send dedication to the tax refund by e-mail and asked people to disclose personal or payment information.

Payments to HMRC - End of the 7 Day Grace Period

HMRC announced the end of this concession which applied to filing accounts, CIS and employer returns.

From 1 April 2011 company tax returns for accounting periods ending after 31 March 2010 must be filed online. P35s and P14s are already online so the concession was no longer required. The concession was introduced to take into account possible delays in postal services.

The Plumbers Tax Amnesty can be used by Anyone.

HMRC recently announced that plumbers would be able to come clean about previously undisclosed income. HMRC have information from various sources concerning the plumbers and will no doubt be knocking on the doors of recalcitrants in due course.

However, it appears that the documentation that can be used by plumbers to declare previously undisclosed income, is also designed to be used by other taxpayers. The HMRC publication "Plumbers Tax Safe Plan: your guide to making a disclosure" is a substantial document which on page 9 poses the question "what if I'm not a plumber but I want to get up to date with my tax?"

The forms in the booklet have been designed with plumbers in mind but if a non-plumber finds that the forms cover everything that they need to tell HMRC, they can use them exactly as if they were plumbers but they need to disclose their actual trade or profession.

HMRC do not promise the identical deal to plumbers but you can expect very similar terms. This probably means that the non plumber should make his disclosure on the basis that the plumbers terms apply to him, pay the appropriate penalty and wait to see if HMRC challenges the disclosure.

Pay PAYE early and get a Penalty!

If you are organised and pay your PAYE before the fifth of the following month then be prepared to receive a penalty notice. It appears that the HMRC computer cannot cope with early payments and allocates them to the previous month.

When the computer thinks that it has not received a PAYE payment for the subsequent month, it will obey its prime directive and churn out a threatening letter.

The recommendation is therefore that PAYE payments should not be made until after fifth of the following month.

New Late VAT Penalties Not so bad!

There are to be changes to the penalty regime for late filing of VAT returns and also for late payment of VAT, although no dates have yet been fixed for these changes to be implemented. The new penalties for late filing are expected to be similar to the current VAT default surcharge regime but there will be similar penalties for late payments. The penalties for late returns will start at £100 for the second late return, rising by £100 for every return filed late. Returns more than six months late attract a further penalty of 5% of the tax due with a further similar penalty at 12 months.

Late payments of VAT will attract a penalty which will be 2% of the tax due, for the second late payment, rising to 3% for the fourth late payment and 4% for the fifth or subsequent payment in a penalty period.

Over the last few years we have seen a number of taxpayers who are incurring the maximum surcharge liability of 15% of the tax due and so the new regime would, at first sight, seem to be less harsh.

More PAYE coding Problems the Pensioners

Taxpayers who started receiving the state pension in 2010/11 have not had the new pension included in their PAYE codes. This is the latest in a succession of problems with coding notices issued by HMRC's National Insurance and PAYE Service computer.

Where the state pension has been omitted from the 2010/11 code, it will not have been taxed and those affected will have underpaid. The underpayment will be shown on the tax calculation forms for that year which HMRC should send out sometime in 2011/12. HMRC are not prepared to write off these underpayments but HMRC has said that it is prepared to allow taxpayers to pay over up to three years by adjusting the PAYE codes in subsequent years.

2010/11 PAYE Reconciliations - HMRC Calculations for Employees

HMRC will be starting this year's reconciliations in July so be prepared for unexpected demands for tax. HMRC will be sending out details of tax overpayments from July and then from December will start to send out demands for underpayments.

Underpayments will be able to be included in your notice of coding for 2012/13.

HMRC targets VAT defaulters, private tutors and e-marketplaces

New campaigns targeting VAT defaulters, private tutors and e-marketplaces will be launched by HM Revenue & Customs over the next year.

HMRC will use cutting-edge tools such as "web robot" software to search the internet and find targeted information about specified people and companies. Using the software, the department can pinpoint more accurately people who have failed to pay the right tax. The "web robot", used with the department's Connect computer system, also helps find people who are trading without telling HMRC.

The Connect computer alerts HMRC to previously invisible tax evasion by matching a vast amount of HMRC and third-party data, enabling a fast and focused response to tax evasion. It shines a light onto previously hidden relationships, uncovering anomalies between such elements as bank interest, property income and lifestyle indicators before homing in on unexplained inconsistencies.

Before designing and launching the campaigns, the department will seek input from interested parties.

HMRC announced last month that a campaign targeting VAT rule-breakers trading above the £73,000 turnover threshold but who have not registered for VAT will be launched in the summer.

Other campaigns that will be launched in 2011/12 will focus on:

- Those who provide private tuition and coaching. This addresses the risk posed by all professionals who, because of their field of expertise, are able to earn money from providing tuition and coaching - either as a main or a secondary income. It covers people providing private lessons, regardless of whether they have a teaching qualification, and could include, for example, fitness/dance/lifestyle coaches through to national curriculum subject tutors and others.
- E-marketplaces. This will cover those who are using e-marketplaces to buy and sell goods as a trade or business and who fail to pay the tax owed. People who only sell a few items and who are not traders are unlikely to be liable to tax and will not be targeted by this campaign.
- Trades. This will build on HMRC's plumbers' campaign and give an opportunity to another group of tradespeople to come forward and declare unpaid tax.

Thinking of Generating Your own Electricity?

Feed in Tariff (FIT) gives a minimum payment for each Kilowatt hour of electricity produced.

There are 2 elements. Generation Tariff relates to all electricity generated whether used by you or exported to the grid. Export Tariff is paid in addition to the generation tariff for any electricity sold back to the grid.

The tax issues for small scale power generation can be complex and may yet still change. Generally the income from FITS for small scale installations is tax free for individual households. Businesses are different and in general both tariffs are taxable but the method of taxation could depend upon whether you are actually in the business of electricity generation i.e. you have actual taxable trading income from the sale of electricity. The rules for capital allowances will change with expenditure after April 2012 being specifically designated to attract allowances at only 10% reducing to 8% per annum.

The VAT rate to be charged on equipment supplied for relevant charitable purposes or to a household will be 5%. Businesses will be charged 20%.

The Generation Tariff is specifically outside the scope of VAT, so if you use the Flat Rate Scheme, you do not need to include this income in your turnover to which you apply the percentage. The Export Tariff attracts VAT and will be included for Flat Rate calculations.

Electricity generation attracts business rates. While agricultural activities are exempt from rates, renewable energy production is not an agricultural activity. Small installations generating electricity for their own use will not be subject to rates but if you install significant capacity then you may need to consider rates.

An IR35 Case -ECR Consulting v HMRC - Taxpayer win!

Elaine Richardson, traded as ECR Consulting. She was an IT consultant. The case emphasises the importance of three important tests.

She picked up work through a number of agencies, but HMRC's case focused on two particular agencies. HMRC argued that the amount of work she undertook for each was enough to make her an employee, and that she should be taxed as one.

She won her case by showing that she satisfied three specific criteria.

Test1 - Substitution

The agency supplying her work could easily have supplied another IT contractor during the project. The company just wanted IT expertise, regardless of whether it was one person working on the project or different people. The company were simply asking for the agency to provide someone who understood the software systems and was able to do the work. They did not particularly care who the agency supplied as long as the person could do the work.

Test 2 – Contractual Relationship

The client used Richardson as a freelancer because there were times when it needed someone to do the work, but there were other times when there was no work needed. The client did not want a permanent and expensive employee.

Test 3 – The Business Responded to Changing Economic Conditions

She initially charged £600 per day for her work but sharply reduced her day rate to £350 for later work in response to the economic downturn. An employee would not agree to such a reduction in their "wages."

The judges conclusion:

"ECR is in business on its own account. Elaine produced to the Tribunal copy business cards and company stationary. ECR operates from a dedicated business area at her home. It has company domain and website. ECR advertises its services and is a member of the PCG. It has retained reserves and invested in development and has over the years taken on fixed price work for a variety of clients."

Tax Tips and Tricks

Employers NIC Holiday for new businesses

New businesses (started after 22 June 2010) that qualify for the regional NICs holiday may be able to obtain a deduction on earnings paid after 5 September 2010 of up to £5000. However, you must apply to HMRC and obtain confirmation that you can operate the NICs holiday before deducting the employers NICs due from your PAYE/NIC payments.

What happens if you have not yet applied to use the scheme? First you must apply to HMRC. If accepted you will need to complete forms E92 and E89 (Holiday End of Year Return) normally due at the same time as PAYE form P35. The over-paid employers NIC for 2010/11 will then be refunded.

There is no penalty for late filing the Holiday End of Year Return, so make sure you make the claim.

Benefits associated with charitable gifts

Charities (and community amateur sports clubs) can provide their donors with a modest level of benefits without affecting that person's eligibility to tax relief on the donation.

The value of the permitted benefit depends on the relative size of the donation. The maximum amount allowed was:

- donations of £100 or less, 25% of the amount of the gift;
- donations of more than £100 but not more than £1,000, £25; and
- donations of more than £1,000, 5% of the amount of the gift.

In addition, the total value of the benefits received by a donor in respect of all his gifts to that charity in any one year could not exceed £500. In relation to gifts made on or after 6 April 2011, the £500 limit has been increased to £2,500. Thus the cap now applies to charitable donations of more than £50,000 per annum. For corporate donors, the equivalent starting-point is the accounting period ended on or after 1 April 2011.

Could you give a small benefit (e.g. discounts and theatre ticket) to encourage more donors?

NEW PENALTY - Your 2011 Tax Return MUST be filed on time!

The new penalty regime for late tax returns will apply for the 2011 tax returns onwards. This could be very expensive.

Return not filed by	Penalty Due - These are cumulative	Min	Max
31 January 2012	Fixed penalty £100	£100	£100
3 months late	£10 per day until earlier of date return filed or 90 days	£10	£900
6 months late	Higher of 5% of tax per return and £300	£300	Tax related
12 months late with information withheld	Higher of 5% of tax per return and £300	£300	Tax Related
12 months late with deliberate withholding of information	Higher of 20% - 70% of tax per return and £300	£300	Tax Related
12 months late with deliberate and concealment withholding of information	Higher of 30% - 100% of tax per return and £300	£300	Tax Related

Remember that these penalties also apply to partnership returns but as there is no tax liability shown on a partnership return, the £300 limit is expected to apply to anyone who was a partner at any time during that year. This will be in addition to any penalty for filing your own return late.

VAT: Training services including printed course materials

Printed materials such as books and newspapers are generally zero rated for VAT. Many services such as training include printed course materials bundled into the price. In such cases the service provider may charge separately for the printed items to preserve the zero rating on those materials.

The law is being changed to ensure that such combinations services and present materials cannot be artificially divided.

New Class 2 NIC Collection Dates

For 2011/12 in future years statutory payment dates will be 31 January and 31 July. For the period 10 April 2011 to 8 October 2011 payment request will be issued in October 2011 payment due by 31 January 2012. For the period 9 October 2011 to 7 April 2012 the payment request will be issued in April 2012 and payments to by 31 July 2012.

For taxpayers who pay by monthly direct debit, the collection date of the direct debit will in future be four months in arrears rather than one month as is presently the case.

Filing CT Returns: Clubs and other Small Organisations

Ordinarily any organisation which is active or trading will not be considered dormant for Corporation Tax purposes and therefore will have to submit a corporation tax return together with tax computations and financial statements all in ixbrl format following the introduction of mandatory electronic filing from 1 April 2011.

However, certain organisations can now be treated as dormant by HMRC including:

Clubs or societies with a CT liability of less than £100.

Flat management companies set up to manage a block of flats with income under £1000 that is taxed at source.

The organisation must apply to HMRC to be able to take advantage of this concessionary exemption.