tlp - news

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The monthly newsletter of The Long Partnership and A A Mackenzie & Co.

www.thelongpartnership.co.uk

Get in touch!

We like to provide you with information and strategies on current business and tax issues.

However, in these few short paragraphs we can only give you a summary or outline - a brief guide.

Many of these are introductions to otherwise quite complex issues and, if you are in any doubt, you should contact us so that we can advise on your own particular circumstances.

Quotes

"We must develop and maintain the capacity to forgive. He who is devoid of the power to forgive is devoid of the power to love. "
-- Martin Luther King Jr., Civil Rights Activist

"Gardens are not made by sitting in the shade."
-- Rudyard Kipling, author

"In times like these, it helps to recall that there have always been times like these."
-- Paul Harvey, broadcaster

"Wisdom doesn't automatically come with old age. Nothing does - except wrinkles. It's true some wines improve with age. But only if the grapes were good in the first place."
-- Abigail Van Buren, Advice Columnist

"The secret of business, especially these days, is to focus relentlessly on your unfair advantage - the thing you do that others don't."
-- John Rollwagen, executive

Selling is arguably the most important skill that anyone in any business needs to learn, understand and put into practice.

What business are you in? I am sure that I have asked you this question before. It does not matter what product or service you provide, I would argue that all of us are firstly and most importantly salespeople. So, we may be accountants but first and foremost I would argue that we are in sales.

Over the years it has been apparent that many accountants consider that selling is something that professionals should not do openly. Something to be whispered about behind closed doors.

But can accountants sell? Is it possible to turn an accountant into a salesperson or is selling a skill based on personality, or a ‘tendency’ to be sales-orientated. Are accountants just not cut out for that sort of thing.

On the contrary, I believe that accountants can make good salespeople because of, rather than in spite of, their accountancy skills (and general nature). If they truly understand business, then they understand the importance of selling. No point knowing everything there is to know about tax if neither you nor your accountant can sell the products or services to generate the profits that will result in the tax. Accountants that do not embrace the importance of selling, are denying a fundamental truth of business. Everybody must sell!

I think that accountants might even be better than many traditional salespeople. This is because they are better able to plan and follow through without getting too cocky or pushy. They are generally logical, well organised and follow the plan that they have laid out for themselves. They plan their sales campaign and then work to plan. Clear, organised and focused.

The question that must then be addressed is how should you market and sell - and how should we do the same. We are all in business, so there is no difference.

Not all accountants have that lust for sales, but many will understand the need for any business to market itself and to sell its services. Many accountants will thoroughly enjoy that part of the business which, after all, is arguably more important than bookkeeping, tax and the rest. At this point, I am prepared to have many accountants disagree with me.

I have heard it said that clients view a salesman as out to get their money and “having an agenda” whereas accountants are different. I think that is probably right but there is another fundamental difference. The accountant, whether us or someone else, has to fulfil your expectations based upon the service that you have been sold. They will be held personally accountable by you for any shortcomings. On the other hand, most salespeople make the sale and then pass the fulfilment on to another department. There is not the same personal accountability.

On a lighter note, I was reading about current fashion for accountants. It is a fascinating topic. Suit or no suit? Should I wear a tie? Red tie for fun and excitement or blue for trust. The psychology is mind-blowing. Should we “power dress” - dark suit, white shirt and bright colourful tie? Don’t think that would fit when I climb aboard a fishing boat or walk through a farm.

Fashion is one thing but practicality is also important. I have worn rubber boots with a suit.

But here’s a question. When you come in to see us, do you prefer or even expect to see a suit and tie or the female equivalent? Would you view us differently if we wore jeans and T shirts. The advice would be the same but would you be comfortable following the advice if we wore jeans?

I suppose the answer is that we know, or think we know, our clients. We like to think that we know what you expect and, out of respect for you, will dress accordingly.

A suit is probably essential in the office but possibly not when we are out and about. Just depends on the circumstances. So, the art is to dress for the occasion - suit or jeans.

Does this sound like your accountant?

"Today I work around 17 suits. All bespoke. They may not be suits as you think of them though, for as well as the grey pinstripe, I have a couple of corduroy, a couple of moleskin, some linen, some tweed and a burgundy one."

"Each suit has two preferred shirts and each shirt two preferred ties. Presently I am being Mod with the shirts and ties and have gone pretty much all button down, tab or pin collar with two ties,"

That's not any of us, by the way. It was a quote taken from a post on Accountingweb. Yes, that accountant does actually exist, but I do not think he works in the North of Scotland.

I used to work with an accountant who had a different suit for each day of the week and he drank wine with dinner every night. As a trainee at the time this seemed pretty impressive. Then again they did not have any children and I expect that their lives changed dramatically over the next few years.

Hearts FC: Next!

The club called in administrators after it could not pay an HMRC debt. They had debts of £25m, £10m of which was due to parent company UBIG. The remainder is held by Ukio Bankas, which has also officially been declared bankrupt. Bit of a mess really. HMRC were owed a fraction of the total debt. Hearts announced on its official website that BDO had been appointed.

BDO is urging fans to come to the club's rescue (again) by buying season tickets. If enough tickets are sold the club will be able to survive the next four months.

So you buy a season ticket for a club that may shortly no longer exist or, exists and is playing in a lower league perhaps, or in the same league but with reduced playing strength. Hmm!

Already, 14 administrative staff were made redundant and four players are also facing redundancy.

Do you know your alphabet (shares)?

It has become increasingly common for employees in a company to participate in the equity, giving them not only a stake in the future growth of the business but the opportunity to extract funds from the company by way of dividend.

Alphabet shares have had a chequered history. At one time they were seen as a tax efficient and easy way to pass on different benefits to those involved in a company while reducing the National Insurance burden. In extreme cases, there would be as many classes of shares as directors and key staff. That is why they were known as alphabet shares. "A" shares, "B" shares, etc. They may or may not have had the same benefits in terms of ranking for dividend or voting rights but it gave the company the opportunity to declare different rates of dividend for each class of share.

This was seen by some as enabling them to pay differential rates of tax efficient "salary". In such cases, dividends were being paid in place of remuneration and were a reward for the work contribution from each shareholder. The benefit derived from the arrangements would otherwise be treated as employment income subject to PAYE. You can see why HMRC did not and still does not like these and are likely to look carefully at any such arrangements.

Alphabet shares then went out of fashion but they seem to be making a come back. However they need to be used in the right situation and be structured correctly. If it is done properly, you can make different payments according to who holds that class of share. At the end of the day, the arrangements need to have a commercial basis.

Dividend waivers

This is typically where you have one class of share and declare a dividend. However, one shareholder does not want their dividend. The dividend waiver procedures can be cumbersome. In addition there must be sufficient profits or reserves to cover the whole dividend, waived or not. In such circumstances, you might find the use of alphabet shares more efficient. However, if you only have one class of share, you will need to amend your Articles of Association to create the new classes of share.

Partly-paid shares - the new idea.

This is a little used but potentially a genuine commercial alternative to the use of alphabet shares. A new share is issued to the employee but none, or only a part of the share price is paid. The remainder of the purchase price is left outstanding and is only payable when "called" by the company.

Employees carry commercial risk in respect of the uncalled amounts which can vary between shareholders. The shareholders therefore have different levels of risk and exposure which can justify different levels of dividend.

Dividends are also paid according to the amount paid up on each share.

I think that we will see more use being made of partly paid shares in the future. That is until HMRC decide to target them as well. The lesson here is the same as before. There needs to be a good clear commercial reason for the chosen structure. You may want to save the tax or NIC but is it commercially justified?

Using Alphabet Shares

In the recent case of *P A Holdings Ltd*, the company decided to enter into complex arrangements involving offshore companies whereby cash bonuses were re-routed so they were paid as dividends. HMRC took the view that dividends were emoluments from employment and therefore subject to PAYE. HMRC won in court. Does this mean that alphabet shares are "dead"? Not at all!

HMRC have stated that they will not attack alphabet share structures where there is no contrived arrangement to avoid tax or National Insurance. This is a little absurd because most private companies make the decision whether to take money out as dividends or salary purely on tax considerations. Alphabet shares merely add flexibility to the profit extraction conundrum. In small companies the arrangements tend to be less complex and the "planning" much less contrived or sophisticated. It is likely that HMRC will leave you alone. HMRC will also be comfortable where the alphabet shares are issued to the founder or controlling shareholders of the company to reflect their differing roles within the business.

So, they have their place but consider using partly paid shares as an alternative.

So, you want to be a company

For many years we used to be able to tell you the level of profits above which you would save tax as a company and below which you would not. That has now largely changed and virtually everyone would save some tax or NIC by incorporating. But that does not mean to say that this is what you should do in practice. There is a lot more to it than the tax savings. Apart from anything else, if you do not operate correctly with your company, you could end up paying more tax, NIC and certainly penalties.

So, good sound advice is needed and don't just rush off and buy the cheapest limited company and start to count the tax saved. It does not work like that.

Benefits

- Reduction in tax and NIC - if structured correctly.
- Limited liability - this used to be the main reason for incorporation because, should a company fail, the liability of the shareholder is limited subject to any guarantees granted to banks and others. However, we are seeing the rise in unlimited companies. No limited liability but you get the tax savings and don't need to file accounts at Companies House for everyone to see. However, the word 'Limited' may provide enhanced status.
- Different categories of shares – Alphabet shares. You can reward each class of shares differently and having first decided who will hold that class.
- IHT Planning - on death the company continues to exist as a separate legal entity.
- Easier to sell on shares than a myriad of property and other assets.
- Borrowing from the company is easier.
- Tax free employee benefits and incentives.
- Director can charge the company rent for business premises.
- On transfer of your business to the company you can cash in your overlap relief.

But beware of the traps:

- The date of transfer of the business can be very important.
- Cars should rarely be owned by the company because of the benefit in kind rules.
- The company might need an audit if turnover exceeds £6.5m.
- Don't transfer shares within 2 years of incorporation – it could affect your IHT position (BPR).
- IR 35 for 'knowledge based' businesses .
- The method of transfer of your business to the company is crucial.
- Valuation of goodwill - always a tricky subject and liable to attack by HMRC.

But also consider:

- Are you right for a company? You need to be disciplined in your approach. You cannot treat the company's money like your own.
- A SSAS pension has advantages over SIPPS. Business owners can have a SIPP but, unless they are controlling directors they cannot have a SSAS. Speak to your IFA.
- There are various types of company to fit your circumstances. A CIC, for example, would suit a sports club but not a normal trading company.

Consideration is needed as to the method of transfer of business. There are different strategies and reliefs that can be used to minimise the tax consequences. It seems a funny thing to do but in many instances you do not want to use all the available tax saving reliefs. This is because on the transfer to the company you can potentially create a pot of cash in the company to draw on at any time. It will have been taxed already but only at 10%. How? You need to come and speak to us and we can see if this is relevant for your own particular circumstances but, in broad terms you may be able to claim Entrepreneurs' relief on the sale of the business to your company.

"Snitch" Line

The snitch line as it has been called is the HMRC tax evasion hotline and it has received 72,000 anonymous tip-offs over the last year. The hot-line is for anyone to be able to inform HMRC of suspected cases of tax evasion. Far be it for me to suggest that a good proportion of these calls could be grudge calls and not really about tax evasion at all. Does this suggest that HMRC's own intelligence and systems are not working? Hence the need to stoop to this.

HMRC have not disclosed how many of the calls led to successful investigations into tax evasion, but it is likely to be extremely low. In a recent report The National Audit Office was stated as saying that it had identified the tax evasion hotline as the least cost-effective method of detecting tax evaders yielding just twice the amount of money it costs to operate it.

It is likely that a large number of calls are unsubstantiated, too petit or small to concern HMRC, or simply made out of mischief or envy.

This subject was discussed on Accountingweb and one contributor added the following:

"I read somewhere that about half the calls to the snitch line are made by divorcees / ex partners and ex business partners. The Vicky Pryces of the world who want to 'stitch up' their ex, and are driven by malice as opposed to any sensible suspicion of tax evasion. Separating the wheat from the chaff must be half of HMRC's problem. But there also seems to be a preference to go after what we might call the soft targets. We see HMRC PAYE investigations where the letter of the law is sought to be applied to squeeze extra £'s out of basically compliant business owners, because the fact they are basically compliant makes them easy to track down, investigate, and squeeze. Much easier than trying to find those who stay out of the system altogether, operating only in the shadows." How very true.

Another contributor suggested the use of licensed bounty hunters who would get aid on commission. What about that for an idea. Would you know if you had a part time bounty hunter actually working for you?

Can I ask you a few “simple” questions?

Q1 Do you have a company pension scheme?

Are you making the most of pensions as a highly tax efficient way of rewarding and retaining key staff? Have you considered using one of the “other” types of pension schemes to give you more control and flexibility and allow you and your staff to build up even bigger nest-eggs?

Can you make your pension work for you?

Self Invested Personal Pensions (SIPP) have become very popular. These schemes allow you to invest in a wider range of assets, which may include the premises occupied by your business. You can even use them to invest in your own business by using your pensions funds to purchase commercial premises which you can rent from your pension scheme. Don’t forget that the rent that you pay will be additional payments into your pension. So, if you rent at the moment, consider talking to your IFA about perhaps consolidating your existing pensions into a SIPP and buying your office or factory.

Q2 Have you told your employees to check if they are entitled to any of the flat rate deductions?

Many of these are published by HMRC and do not need to be substantiated.

Full details are available on the HMRC website. The tax savings are not that big but “every little helps” and your employees will appreciate you taking the trouble.

Even if there is nothing in the published lists from HMRC, there are often arrangements negotiated for particular trades or professions particularly if uniforms or special clothing are requited to be worn while working.

Here are a few examples of fixed rate deductions:

Joiners £140
Stone masons £120
Food workers £60
Nurses £100
Plumbers £120
Seamen £140

Also, have you advised then to claim professional subs? HMRC publish a list of approved professional bodies but generally a membership of your trade or professional body will be allowed.

Q3 Have you looked into paying PAYE quarterly?

It may be possible to cut your costs and improve your cash flow by paying your PAYE and National Insurance quarterly instead of monthly?

This is possible if your average monthly PAYE and NIC payments are less than £1,500. You do not have to pay quarterly but it is nice to be able to choose whether to pay monthly or quarterly, depending on your circumstances.

Q4 Are you sure that you are staying on the right side of the minimum wage law?

The minimum wage is currently £6.19 (£6.31 from 1/10/13) an hour for people aged 21 and over. For those aged 18-20 the minimum wage is £4.98 (£5.03 from 1/10/13) an hour. And for 16 and 17 year olds it is £3.68 (£3.72 from 1/10/13). You don’t want to get this one wrong!

Remember - if you have your own company, you are also an employee.

Q5 Do your employees use cars in their daily work?

Company cars: If you provide company cars, have you checked in the last year whether you and your employees could be better off by changing your company car and petrol policy? The last few years have seen dramatic changes to the way company cars are taxed. Inevitably, the tax on most types of cars is now higher – especially for cars with high CO^2 emissions. So this could be an area well worth looking at again.

Use own car: If your employees use their own cars for company business, do you know how the mileage rules affect them and the business? Employers are able to pay employees up to 45p per business mile tax free, dropping to 25p per business mile after 10,000 business miles for using their cars on business journeys. Where employees receive less than these limits for business journeys in their own cars they can claim the difference as a deduction against their wages and reduce their tax bill.

Company vans: Have you planned for the rules for employees taking home company vans? Unrestricted private use will generate a benefit in kind chargeable to tax of £3,000 per annum, with an additional £564 chargeable if fuel is also provided. Carefully documented procedures restricting private use could avoid this tax. Remember that the definition of ‘van’ may include pick-up trucks and some “trucks” can be taxed as cars!

Q6 Have you looked into tax free payment you can make to your employees?

These are not deductions but tax free payments that you can make to your staff.

Working at home: If your employees work from home, are you using the rules so that you can reimburse them tax free? It is possible for you to pay £4 per week (£18 per month) tax-free without the employee providing any evidence that they have spent money, and larger amounts if they provide evidence of spending.

Tax free lending: Normally low interest loans to employees result in a benefit in kind, i.e. tax payable on the interest saved. However, did you know that you can lend your employees up to £5,000 interest free and there is no tax charge as a benefit in kind? This is commonly to help defray the cost of commuting but can be for any purpose e.g. a new car or home improvement. The limit will be £10,000 after 5 April 2014.

Working away: Do you pay your employees a tax free Personal Incidental Expenses Allowance when working away of £5 per day (£10 if overseas)? Some of the expenses which employees incur when away on business are private, e.g. the cost of private telephone calls, newspapers and laundry. However, there is a tax rule which gives relief where the employer meets these personal expenses and pays or reimburses no more than £5 in UK or £10 overseas.

Q7 Have you asked the Inland Revenue for P11D dispensations to reduce the paperwork relating to expense payments to employees?

By agreeing a dispensation with the Revenue in advance of making the payment, you do not have to report it on a P11D.