

tlp - news

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

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Quotes

When defeat comes, accept it as a signal that your plans are not sound, rebuild those plans, and set sail once more toward your coveted goal.

Napoleon Hill

You don't have to be great to start, but you have to start to be great.

Zig Ziglar

Twenty years from now you will be more disappointed by the things you didn't do than by the ones you did do. So throw off the bowlines. Sail away from the safe harbor. Catch the trade winds in your sails. Explore. Dream. Discover.

Mark Twain

I think that 2012 could be an interesting year. Let me explain what I mean.

We are seeing a real division in business development. Irrespective of anything in the media, we see many traditional businesses really struggling. We see them fighting for orders, struggling with suppliers and finding it hard to get paid because their customers are also struggling. When the cash flow gets difficult, we see them frustrated with their banks. Will this change anytime soon? Who knows, but I doubt it. So, this is likely to be the way it is going to be for while. When it does start to get better, will we see a rise in inflation, possibly like we saw (those of us a bit long in the tooth) back in the late 70s and 80s. Remember when mortgage interest was at 17%. It was my first mortgage!

But, you still have to keep a roof over your head and food on the table so you have to make the best of the situation.

We are also seeing some businesses that are doing really very well but typically these are a different breed, taking opportunities when they find them and moving into somewhat unconventional businesses or unfamiliar markets. They have adopted different business models and stopped being "me too" businesses. Now, this approach is not for everyone but if you can differentiate your business and you can move into a niche that has fewer competitors, perhaps because it is "different", then you should be able to give yourself a competitive advantage.

The problem, however, is that if you already have an established business with significant numbers of employees, it is going to be difficult to realign your business. You are like a super tanker at sea, difficult to stop in its tracks and steering requires careful planning and consideration.

The degree of flexibility required to take advantage of fleeting opportunities is typically found in small businesses that can adapt and change direction quickly.

However, we are still seeing some businesses

that are struggling but refuse to make any concessions to the present economy.

I remember my neighbour many years ago. He was Asian and had a small family. He also had 3 jobs. He had a day job, a part time weekend job and drove taxis in the evening. He was family focused. He was focused on what his wife and children needed and he was single minded in making sure he provided it. Now, he was not well off. We are talking here about a small terraced house in Southall in London. It did not matter to him, he had to do it and he accepted this. I suppose he saw it as his duty to his family. By the way, his wife worked as well.

Now, apply this to any business. You have a duty to your family, your staff and your customers. So why do you close for lunch? Why do you only open at 9am? Why do you close at 5pm? Why do you not work at weekends? You may have your reasons and that is fine, but the business down the road is growing and pinching your customers.

I recently came across several taxi firms that do not start in the morning until 8.30 or 9. We typically use taxis between 8 and 9 in the morning and so cannot understand why they would not want our business. If they are doing as well as they want, then that is fine, but somehow I doubt that and I imagine that they talk about how poor business is and that they cannot grow because there is too much competition. Hmm!

Hard work and intelligent business has to be the way forward for all of us. Why do it, I hear you ask. Most important, you have to live and earn a crust. Second, there is the motivation that drives any of us to build a business above just giving ourselves a job. For most people who choose to build a business I do not believe it is the money. That is just one aspect, but I do not believe it is the real goal for most people. Profits and money are a measure of commercial success, but it is the underlying success (however you care to measure it) that each of us craves. Leaving our mark on the page of life for our children and grandchildren (none yet) to read. Developing our skills and experience to the best we are able and, at the end of the day, looking back at what we have built, hopefully with some pride.

Charities

Corporation Tax Returns

It is unusual but it can happen. Charities can be asked to submit a Corporation Tax Return. What are the consequences if this happens to your charity?

A charity that completes a company tax return must send a copy of its annual accounts with the return. Most company accounts and all computations need to be filed electronically in iXBRL format.

If a charity prepares accounts under the Companies Act it must file accounts and computations in this format. Unincorporated charities which need to submit a Corporation Tax Return can submit their accounts in pdf format.

There are transitional arrangements whereby smaller incorporated charities (turnover < £6.5m) can also submit accounts in pdf format. So, that should take care of most charities that we will see.

VAT

Consultation is continuing on the options for implementing the VAT cost sharing exemption into UK legislation, but is not there yet. This could be used by organisations such as charities, universities and housing associations wanting to make efficiency savings by working together to achieve economies of scale without having to charge VAT.

Extra Care Accommodation

If you are a charity providing “extra care accommodation” you may be interested in HMRC Brief 47/11. This relates to the VAT liability of the construction and first sale of dwellings linked to a separate provision of care.

HMRC defines extra care accommodation as self contained flats, houses, bungalows or maisonettes that are sold or let with the option for the occupant to purchase varying degrees of care to suit their needs as and when they arise. It does not include accommodation of a type typically provided by an institution.

These are therefore now accepted as dwellings and zero rated.

The “VAT” Page

On Line filing – compulsory from next month

From 1 April 2012 ALL remaining VAT registered businesses will have to file their VAT returns online and pay electronically. Are you ready? We have been busy registering businesses to file online and where they cannot file themselves, making provision to file on their behalf. **Give us a ring** if we can help.

This “chore” is making a lot of people re-examine the VAT threshold and consider whether they really want to be VAT registered. Do you have “dormant” or nearly so, registrations that you were maintaining just in case? We have de-registered all of ours and suggest that you do the same. Remember there will be penalties for late returns.

The new **deregistration threshold** will be **£77,000** from 1 April 2012.

The registration threshold, calculated on a rolling 12 month total, is the value of taxable supplies (not supplies that are exempt or outside the scope of VAT) made by a person, at which he or she is required to be registered for VAT. It is obligatory. If you exceed the limit in one month, you must register in the next month and you will actually be registered from the start of the third month.

Example:

Turnover exceeded for 12 months to 31 March 2012

You must submit your application for registration by 30 April 2012

You will be registered from 1 May 2012

There are other rules but this is the basic position. If you are **trading at around the £77,000 then you need to monitor your turnover promptly every month**, and remember it is your total sales, not money received.

Below the threshold, you can choose to register. Where you make business-to-business supplies it will probably be worthwhile registering because you will reduce your overheads by the VAT you can reclaim. If you supply direct to the public who are price sensitive, it will probably not be worth registering as it will reduce your profit because you will have to find the VAT out of your selling price.

Exempt supplies include services such as education, finance, health and so on. Such income is not counted for VAT registration purposes. A business having only exempt income cannot register for VAT because it is not making taxable supplies. There are ways around this that will enable you to reclaim some VAT so come and speak to us .

VAT is very expensive if you get it wrong! From 1 April 2010, new penalty legislation applies to people who are late in notifying their liability to register and the rates depend on whether the failure was careless or deliberate.

In some cases, a business that registers late can go back to customers and ask them for the VAT. However, this needs to be managed carefully, so as not to give the impression of a badly run business.

For many businesses, the threshold creates a real hurdle. This is particularly the case with retail businesses providing services, such as hairdressers, painters and decorators, etc. Once their turnover jumps from just-under to just-over the threshold, there is a potential loss of profit of £10,000 or more in a year.

On the continent the thresholds tend to be lower. Because of the artificial barrier to business brought about by the registration threshold, would it be better for all businesses to be VAT registered? I will leave you to ponder that one, but presumably it is the administrative burden on HMRC that prevents this from happening.

VAT registration thresholds

- the taxable turnover threshold, which determines whether a person must be registered for VAT, is currently £73,000 (£77,000 from 1 April).
- the taxable turnover threshold which determines whether a person may apply for deregistration is currently £71,000 (£75,000 from 1 April).
- the registration and deregistration threshold for relevant acquisitions from other EU Member States is currently £73,000.

The simplified reporting requirement (three line accounts) for the income tax self-assessment return is aligned with the VAT registration threshold. Also, watch out for changes in fuel scale charges after April.

Furnished Holiday Letting - IHT Business property relief

A Case recently decided has confirmed that IHT Business Property Relief should be available for FHL accommodation.

In this case a cottage was let as holiday accommodation. Although members of the family also occupied the cottage for three weeks during the holiday season, they paid rent just the same.

The following services were provided to the holidaymakers who stayed at the cottage:

- Use of a television and telephone.
- The property was cleaned before each letting and the garden was attended to.
- The property was fully furnished and heated. The hot water was turned on before visitors arrived and the kitchen was fully equipped.
- A cleaner/caretaker inspected the property regularly and bought cleaning materials for the cottage. Repairs were made as required.
- Clean bedclothes were arranged through a laundry service.

Specific reference was made to the fact that the property had been advertised as holiday accommodation at rents that were higher than long term lets.

The tribunal considered the following issues:

- did the operation of the holiday cottage constitute a 'business'; and
- if it did, was the business one which consisted of the holding of an investment?

The First-tier Tribunal accepted that the property had been run as a business for more than the two years before the deceased's death. On the second point, the judge concluded that 'an intelligent businessman would not regard the ownership of a holiday letting property as an investment as such, and would regard it as involving far too active an operation for it to come under that heading'. BPR was allowed.

Electricians - they are coming to get you!

50000 electricians around the country will shortly be receiving letters from HMRC warning them to pay any undisclosed taxes.

The opportunity to come forward voluntarily expires on **15 May 2012**. Once they come forward, they have until 14 August 2012 to make their disclosure and arrange for payment. If they make a full disclosure, most face a penalty rate of only 10 per cent, with a maximum of 20 per cent.

After 15 May, using information pulled together from different data sources, HMRC will investigate those who have failed to come forward. Substantial penalties or even criminal prosecution could follow.

If you take part in this campaign and tell HMRC about any income that you haven't previously disclosed:

- you may only have to pay for a maximum of six tax years.
- you can tell HMRC how much penalty you should pay
- you may be able to pay what you owe by instalments

The information will have been gathered from various sources including registrations in your name with trade bodies and various suppliers.

If you want to make use of this partial amnesty, come and speak to us.

Gifts of Assets by Relatives - Who pays the tax?

When property is gifted from, say parent to child and CGT would be due, HMRC can collect the tax from the donee if it remains unpaid by the donor for 12 months. A recent case came to light in which the father died unexpectedly just after gifting 3 flats to his daughter.

HMRC made enquiries after the solicitors acting for the estate notified them of all gifts in the 7 years before death. Otherwise it would not have come to light.

She had to pay!

Fast Food Outlets & VAT

HMRC have set up task forces and are targeting fast food outlets (amongst many others - not accountants, yet). What are some of the key issues for VAT in this sector that HMRC will be looking for?

1. Most cold food items sold as take away, such as sandwiches are zero rated. Hot food or "eat in" should be standard rated. There is therefore an incentive to the business to hit the cold food button on the till. HMRC will compare the ratio of zero to standard rated sales to ensure it is consistent with the style and layout of the premises and the customers they observe during their visit or on other occasions. How long have they been sitting in a car outside watching your customers?

2. HMRC can use its powers to attend at the trading premises and ask the proprietor to open the till to establish the overall level of sales being achieved by the business on a typical day. By looking at the till analysis for that day, they can also determine the mix of sales, e.g. zero and standard rated. This strategy is designed to combat the situation where sales are omitted from the accounts, but to avoid showing a low gross margin, some purchases are also omitted. It fixes the sales figure in a way that is difficult to argue.

3. Daily cash expenses should not be deducted from takings because this can cause output tax to be understated. There is no problem paying cash expenses from the till provided a receipt is obtained and true sales properly recorded.

4. Till rolls, cash reconciliation sheets and other supporting records should be retained to support any HMRC challenge. Missing records can lead to large HMRC assessments because you have nothing with which to argue.

5. Monitor the level of "no sales" on your till records. Also, pay attention to the time the till was cashed up or Z slip produced. Even if you do not, HMRC will and it may not be you that is the problem, but a member of staff. But, it will be you that suffers the consequences.

Tax tips and tricks....

Farms and Active Husbandry

“Active” is an important word when considering qualification for IHT reliefs (Business Property Relief and Agricultural Property Relief) and it may also become important for Single Farm Payments as well. Ordinarily this is not a problem. There are few “real” farmers who cannot show that they are active in the business, and more.

However, problems can arise on retirement or being admitted into a nursing home. It may be more difficult to prove that you have been active in the farm, especially if you sleep in the chair most of the day!

Contract farming agreements may also be scrutinised more carefully in future following a successful case won by HMRC in which the “farmer” has little involvement in farming, other than to agree the contract terms.

At the very least, your obituary should say that you were a farmer. It will help the argument with HMRC after you are gone.

Smartphones

Until now, HMRC have taken the view that these were not primarily phones and therefore did not qualify for the exemption from the Benefit in Kind rules. HMRC now accepts that smartphones satisfy the conditions to qualify as 'mobile phones'. This is because their primary purpose is to be a phone.

Satellite navigation devices, devices that are solely PDAs and tablets and laptop computers do not qualify. Generally, devices that use Voice Over Internet Protocol ("VOIP") systems to make and receive phone calls will not satisfy the primary purpose test.

If you provide Smartphones to your employees, treat these as mobile phones for 2011/12.

If you provided a smartphone in years back to 2007-08, you may wish to consider seeking repayment of the Class 1A National Insurance contributions (NICs) paid on the reported benefit. That of course assumes that you had not thought they were mobile phones all along.

Photo books and VAT

Businesses that make photo books based on digital photographs could be in line for a VAT rebate after a recent tribunal decision.

The first-tier tribunal ruled that most photo books produced by a company from customers' uploaded digital photos, were books and should therefore be zero-rated for VAT.

The tribunal decided that the majority of the items in question were books and dismissed HMRC's argument that the photo book was ancillary to a supply of services. Two items were found not to be books because they consisted of spiral binding and the pages had the quality and appearance of individual photographic prints.

So, if you use customer photos to create something that “look like books” these can be zero rated in future, If you have paid VAT on them to HMRC, you should now be able to reclaim it, and keep it!

Last Minute Tax Planning

Mop up any available AIA before the end of the tax year.

If your year ends early in the new tax year (or financial years for companies) you could lose out if they delay planned capital expenditure until after the 1 or 5 April. 30 April year ends will be worst affected. We can explain it in detail but if you can make the purchase before 5 April (1 April for companies) you are likely to benefit from higher Annual Investment Allowance in the current trading period. It does not affect the total allowances you will receive on that asset over its life but the boost to cash flow from enhanced capital allowances just now could be a welcome boost to your business as it will affect the tax payable later this year and into next year.

The big problem is that for expenditure incurred after 5 April (or 1 April for companies), the AIA limit is restricted to a proportion of the new £25000 limit that corresponds to the period from then to your year end. So, if you spend say £25000 on 30 April on a new piece of equipment, as this is only one month after the change, your AIA is restricted to 1/12th of the limit, i.e. £2083. And you thought you were going to get tax relief in that year of £25000. That is going to hit the cash flow.

Changing cars - Remember that the car benefit rules are tightening up considerably from 2012.

There is going to be a hike in the benefit charged on more fuel efficient cars from April. For example, a driver with a car emitting 120g/km will see his tax rise from 10% of list price to 15% of list price. This is a 50% increase! Most drivers of company cars will see a 1% of list price increase in their benefit in kind.

Drivers looking at changing a company car now should think carefully, balancing low emissions with a modest list price. Paying more for a car with low emissions may not benefit the driver as the benefit may still end up larger.

You could always go electric no benefits in kind.

Fuel costs and benefits in kind

The increases in the fuel scale benefit each year have not kept pace with fuel price inflation, so it is possible that you would be better off reverting to free fuel from their company, and accepting payment of the tax on the fuel benefit.

The scale benefit (currently £18,800) will be updated on Budget day, so that is a good time to consider what to do after 5 April.

Tax Credits - Income Disregard

The reduction in the income disregard for 2011/12 to £10000 (reducing the amount of increase in income which is ignored for a tax credit renewal) has potentially catastrophic results for some claimants.

If you are likely to have a substantial increase in income in 2011/12 over 2010/11 (possibly as a result of big capital allowance claims the year before) then this could affect your tax credit position and result in a large reclaim. If you think that this could affect you, it will be important to get the renewal filed as soon after 6 April as possible to stop debt increasing further.

Did you buy a new van in 2010/11, this could affect you.