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

"No one lives long enough to learn everything they need to learn starting from scratch. To be successful, we absolutely, positively have to find people who have already paid the price to learn the things that we need to learn to achieve our goals."

-- Brian Tracy, Author

"Faith is taking the first step even when you don't see the staircase."

-- Martin Luther King, Jr., civil rights leader

"Only a man who knows what it is like to be defeated can reach down to the bottom of his soul and come up with the extra ounce of power it takes to win when the match is even."

-- Muhammad Ali, boxer

"Move out of your comfort zone. You can only grow if you are willing to feel awkward and uncomfortable when you try something new."

-- Brian Tracy, Author

You are intelligent people. **You have your own thoughts and opinions** and you are quite able to make judgements about what you see and hear. Am I right?

We therefore want your help. Over the last few years, our business has grown and developed and that has been fine. As with any business that is growing and developing, there are stresses and strains. There are things that go right and others that go wrong. We have our list of things we want to be able to offer and improvements we think we need to make. But, what do you think? What do we do well? **What do we need to improve? You will have your own thoughts about that and we need to know them.**

Over the next few weeks and months we will be putting out some simple questionnaires where you can tell us exactly what you think about what we do. Don't be too subtle. **It is important that we know what you think.**

Hopefully we will get some gold stars but I am sure that there will be some that make uncomfortable reading. That does not matter. You have thoughts. We just need to know what they are. It's important.

You will find the first questionnaire included with this newsletter. Whether you are an existing client or "not yet", please let us have your response. **Every one will be a help to us** and if you are suggesting improvements, then hopefully you will see them appearing over the coming months.

Are we brave or foolish? The truth is - we are in business and our business is our clients. Your opinion matters. If we ignore what you think, we will have no business.

So, what business are you in? Most of us are selling goods and/or services to customers. We are all the same. Virtually all businesses are fundamentally doing the same thing. So, look at what we do and consider whether you should copy us and apply similar tactics in your own situation, however uncomfortable.

I think we are neither brave nor foolish. But, as so often is the case, we break new ground!

Last month we said **farewell** to our longest serving member of staff. **Mairi** joined us from The Royal Bank of Scotland just days after we started trading in 2001. They tried to steal her back but I think she probably made the right decision to stay with us. 12 years later, married to a regular source of nice jewellery and with a young son, Hamish, and now only working part time, she has moved on. She has joined the family business of Sheila Fleet Jewellery. She is, after all married to Martin Fleet. This will be an exciting development for her, crossing the line from practice to industry. However, have we taught her enough to be able to work alongside her husband? Now, that's tricky. Anyway, we wish her well (and lots of nice jewellery).

More news this week about the unregulated accounting sector. We are regulated and monitored in all we do by our professional bodies, and we have to pay handsomely for the privilege. That includes the supervision of our compliance with the Money Laundering Regulations.

We have heard that HMRC are in the process of contacting all those who are not regulated in this way. **This is part of HMRC's supervisory role of monitoring unregulated accountants**. These will be **accountants who hold no recognised qualification** and therefore have no-one else looking over their shoulders to ensure that they have all the appropriate procedures in place or Professional Indemnity Insurance in case they get things wrong.

The present contacts from HMRC will be with all those accountants who have had to register with HMRC to fulfil their statutory obligations. We do not know the extent of the contacts at this stage but it appears to start with an enquiry phone call, and presumably this would be followed, if necessary, by physical record inspections. I think we are happy to be paying our own professional bodies. **Don't think we would want HMRC nosing around our files or our clients' records**.

So, the weather is improving and the days are getting noticeably longer. I had my first sail in 3 years (and my first capsize!). Getting cold and wet is such fun. Bit like business really. Next race!

Don't forget the questionnaire!

Director loan accounts: New rules

The proposals in the Budget seek to counter avoidance of the charge on overdrawn directors loan accounts. Because the charge is triggered where the loan account is overdrawn at the year end and not repaid within 9 months, the rules target repayments just before the 9 month time limit where the loan is then taken out again, i.e. serial loans. Initially it appeared that this could affect situations where dividends are declared to reduce or clear the account.

Under the new proposed rules, advances after the year end can be matched with loan repayments leaving balances still chargeable.

However, where the repayment of the loan takes the form of a payment which is taxable (to income tax) on the borrower, the new restrictions do not apply, and the repayment will be effective, as before, against the overdrawn loan balance. This would therefore include a dividend declared after the year end but within 9 months of the year end as well as bonus payments which are taxable.

Most small companies that we deal with will therefore not be troubled by the new proposals provided they continue to reduce their overdrawn directors' accounts at the year end by declaring dividends within 9 months of the year end. So, business as usual.

Where, however, you want to make a cash payment to clear a loan account (possibly supported by 3rd party short term borrowings), please speak to us about the implications and how to organise it.

Unfurnished Letting - Scrapping of "renewals "

From April 2013, the only relief available to residential landlords will be the wear and tear allowance, and this can only be claimed for fully furnished properties, so landlords of unfurnished residential accommodation will not be able to claim any relief at all for replacing such items as cookers, fridges, dishwashers, etc.

Tax complexity undermines business growth

I was reading an article contributed to Accountingweb by Andy White, a tax partner with accountancy firm Carter Backer Winter and it struck a chord. This is therefore a précis of Andy White's article mixed with some of our own observations and other contributors' comments.

Pensions

In 2006, the then Labour government introduced "pension simplification" to sweep away a myriad of confusing and conflicting legislation. But then we had the proposals to restrict tax relief for higher rate taxpayers, and then anti-forestalling, followed by fixed protection and auto-enrolment and flexible drawdown.

So, at a time when the government should be encouraging people to invest in pensions to mitigate the huge drain on the state caused by increased life expectancy it is overlaying complexity upon complexity, making pension provision a most unattractive proposition.

Auto-enrolment is yet another burden for small business and a major additional cost for hard pressed businesses. Is the answer to delay all expansion, pay rises and ensure everyone is self employed? And they wonder why the economy is not growing.

And worst of all, there is a significant danger of employees facing significant tax liabilities simply by becoming inadvertently enrolled in a pension scheme they have no desire to join.

IHT

In the 2011 Budget, the Chancellor announced a new Inheritance Tax (IHT) relief for those leaving at least 10% of their net estate to charity. In those cases, the IHT rate would be reduced from 40% to 36% but what started as a simple proposal has translated itself into reams of legislation and the accountancy fees incurred in calculation of the new relief are likely to exceed the value of the relief in many cases.

Gift Aid

In the 2012 Budget we had the now infamous announcement to cap income tax reliefs to the greater of £50,000 or 25% of income. Originally, of course, that proposal included reliefs for charitable giving and the government somehow allowed an impression to be created that they viewed all philanthropists as tax avoiders.

But apart from the PR disaster, where was the joined-up thinking? Does the government want to encourage charitable giving or not? Look at the IHT proposals and the answer is clearly "yes". So why limit the income tax relief?

Reducing the burden on business

The Chancellor often promotes himself to be the champion of the businessman, reducing corporate tax rates to among the lowest of the developed economies. Every new policy, we are told, is designed to attract businesses to the UK, to provide growth and employment.

Yet what right-minded businessman would want to come to a country that ties its citizens in red tape, and whose government is so paranoid about tax avoidance that every new section of tax law seems to be accompanied by countless schedules of anti-avoidance legislation?

Look at capital allowances

In 2008, the government introduced the "annual investment allowance". From the original figure of £50,000 pa, the figure was increased to £100,000, then slashed to £25,000 and now it has been increased by a factor of 10 to £250,000 and the rules that govern the calculation of the allowance are a veritable minefield that even accountants struggle to understand.

Gordon Brown had several ridiculous ideas, including the zero Corporation Tax rate (despite being warned that businesses would not look a gift horse in the mouth). The recent fiasco over the AIA rates going up and down, with absurdly complex transitional rules, shows that the current chancellor can sadly make decisions that are just as flawed.

Surely this indicates a lack of coherent thinking or real understanding of what small business and ordinary taxpayers are experiencing. Complexity and regulation.

RTI

RTI must have been designed as an inducement to pay cash wages and bypass the whole record system. Have they just made it too complicated for Joe plumbers wife to understand? The other option is you can choose to be self employed or set up a company and pay dividends so that you avoid NIC. HMRC's answer is to beef up the IR35 teams to stop inappropriate reclassification of "employees". So, make it complex, then bring in complex arrangements to attempt to force compliance and counter avoidance that they themselves have encouraged in the first place.

And if you get it wrong?

Well the penalties are draconian and getting worse. Late PAYE payments? Incorrect operation of RTI? "Negligent" capital allowance claims? Failure to comply with auto-enrolment? Expect to be heavily penalised for all or any of these sins.

So welcome to the UK, Mr Foreign Businessman. Come and open a factory here and employ our workers. Not only will we charge you a premium of almost 14% for the privilege in the form of employers National Insurance, but we will wrap you in a cornucopia of red tape and penalise you to the hilt if you make the slightest mistake with our myriad of arcane rules.

Is that really the message we should be giving?

The Answer

Everyone says it is good to simplify the tax code, but it does not happen. So what are the real barriers? Politicians lack the real political will to address the problem. Could it be that any changes are likely to result in winners and losers and the analysis will be pored over endlessly by the media and the government could see yet more votes heading for UKIP? Why cannot we have principle rather than political expediency?

Most of the problems in the tax system comes from the high levels of NIC for employees. This is the main reason why people want to be self employed or set up companies and pay themselves dividends. Yet, there is no political will to address this very simple issue. Why not? After all, do that and you could wipe out complexity, redundant tax legislation and quite a few public employees, especially in HMRC.

This was one of the comments posted following the original article:

"It is clear that the idiots at the top do not have a clue what they are doing, do not understand what they have done. Their response to a problem is to create another one to keep us all busy before we fixed the last one."

TOGC for VAT

If you are considering taking over another business then you need to consider the COGC rules – **Transfer of a Going Concern**.

If you have a TOGC, you will not pay VAT on the purchase of the assets (including goodwill) - the proceeds will be outside the scope of VAT. It is important that the buyer does not incorrectly pay VAT where a TOGC applies because HMRC have the power to disallow the claim to get the VAT back.

If you do not have a TOGC, you must take into account the monthly taxable sales of the seller as if they were your own sales, in determining the point at which you might need to register for VAT. This will often mean that you need to VAT register and account for output tax from your first day of trading.

Resurfacing of caravan park: revenue expenditure

A partnership operated a caravan park. It claimed a deduction for the cost of resurfacing part of the park, replacing the previous grass surface with a hardcore surface. HMRC rejected the claim on the basis that the expenditure was capital.

However, the Tribunal allowed the partnership's appeal because work had not resulted in any improvement to the park. The new surface had less aesthetic appeal, was not suitable as a recreational area for children, and had generated customer complaints. **The expenditure should be treated as revenue, like a repair.**

CBI calls for tax clarity from government

The CBI says that the government's pro-enterprise drive, including cutting the Corporation Tax rate from 28% to 20% by 2015, is being muddied by its rhetoric on what companies pay.

On the one hand there is a drive to make the UK the most tax-competitive country. On the other hand, politicians are increasingly critical of business in Britain as somehow not paying their fair share in tax.

This is very confusing. The Government wants business to come to the UK but then puts up a flack barrage against international businesses.

The CBI also recommends:

- UK businesses should only engage in reasonable tax planning that is aligned with commercial and economic activity and does not lead to an abusive result
- UK businesses may respond to tax incentives and exemption
- UK businesses should interpret the relevant tax laws in a reasonable way consistent with a relationship of "co-operative compliance" with HMRC
- In international matters, UK businesses should follow the terms of the UK's Double Taxation Treaties and relevant OECD guidelines in dealing with such issues as transfer pricing and establishing taxable presence, and should engage constructively in international dialogue on the review of global tax rules and the need for any changes
- UK businesses should be open and transparent with HMRC about their tax affairs and provide all relevant information that is necessary for HMRC to review possible tax risks
- They should work collaboratively with HMRC to achieve early agreement on disputed issues and certainty on a real-time basis, wherever possible

In our view, there will always be mistrust where the public generally does not understand the system for taxing business and the media does not help. Government must avoid fanning the flames of ignorance.

Can I ask you a few “simple” questions?

Q1 Have you considered your trading status recently?

Have you considered recently (i.e. in the last 12 months) whether your business would be better off trading as a sole trader, partnership, limited company or limited liability partnership? If you are a sole trader, have you considered taking your spouse into partnership?

Q2 Are you sure that you are taking money out of your business in the most tax-efficient way?

When was the last time you considered the most efficient way to take earnings from your company? If you are receiving a monthly salary of more than £640, is there a good reason? Many owner/directors now adopt a low salary plus dividend strategy and save both tax and National Insurance, but there are various considerations which need to be explored with a professional adviser.

Are you paying your spouse a tax efficient salary?

Have you made the most of your opportunities to save tax by investing in a personal pension?

Do you always time the payment of dividends and bonuses from your company so that they fall in the “right” tax year for you to make the most of your basic rate band and avoid paying higher rate tax?

Q3 Do you use these simple tax saving strategies?

For sole traders and partnerships, if your profits are rising, whether you are a new business or not, have you considered changing your year end. This can effectively reduce the effective rate of Income Tax because you pay the tax on one year’s profits out of the higher profits of the next trading year. There are other considerations but it is certainly worth looking at. Other advantages include better cash flow planning, help with means tested benefits such as Tax Credits, etc.

If your business has made losses, have you made sure that those losses are being used to reduce your current tax bills by as much as possible? There can be cash in losses!

Are you making the most of the tax benefits of buying equipment? If you are about to invest in a new car, computer or any other business equipment, have you considered the best time to buy them and the best way to pay for them?

Q4 How can you reduce the burden of VAT on sales?

If your sales are less than £1.35m a year, are you making VAT potentially much easier and cheaper for your business by making the most of the cash accounting scheme or the annual accounting scheme?

If your sales (excluding VAT) are less than £150,000, have you considered switching to the flat rate VAT accounting scheme? This can simplify your record keeping and depending on your business, you could find that that there is a net benefit to you i.e. you pay less VAT to the taxman. Remember that while you cannot generally claim input tax on overheads (because this is already taken into account in your “percentage”, you can still claim full input tax on larger purchases of equipment.

Have we made you curious? Just give us a call and we will be happy to discuss the implications of our questions in the context of your own specific circumstances.

Q5 Do you know how to get HMRC to pay for investments either in to your company or for your investment in another company?

Could your company benefit from an investment under SEIS? Do you know any family and friends who would like to invest in you? HMRC will pay most of the cost! SEIS (Seed Enterprise Investment Scheme) is a government incentive to help small businesses to get investment. As you would expect, there are plenty of regulations but a professional adviser will find their way through these very easily.

Your investor receives 50% tax back immediately so someone investing say £10,000 in your business gets £5,000 deducted from their current tax bill. If everything goes wrong and they don’t get their money back, they get tax relief on the other £5000 at their marginal rate of tax. If they have recently realised a capital gain, they also get to defer 50% of that gain because they invested in you. That all adds up to nearly all the investment being paid for by HMRC!

Q6 Are maximising tax relief on <u>all</u> your borrowing?

Have you considered whether there are any benefits from converting personal loans into partnership/business loans or vice versa?

Q7 Are you on the HMRC “hit list”?

If you run a company or a partnership and sell your personal services, knowledge or skills, have you taken appropriate steps to ensure that the IR35 rules won’t cost your business a fortune in additional tax?

If you run a one-man band business (not a limited company), have you made sure that there is absolutely no possibility of the Taxman charging you much more money by treating you as being employed by one or more of your best customers?

If you are not already registered for VAT, do you have a system for making sure that you are still entitled to stay non VAT registered?

Q8 Thinking about selling up or retiring?

Have you planned ahead and taken action to minimise your tax bills generally when you eventually come to sell up?

In particular, have you checked that your business is structured to take advantage of the 10% rate of Entrepreneurs’ Relief for Capital Gains Tax? What are the Income Tax consequences of your plans? Tip: There are rules about shareholdings for companies and periods of ownership generally. Also, if you have bought a lot of equipment on which you claimed Capital Allowances, will these allowances get clawed back? Not necessarily. Plan ahead and speak to an adviser well ahead of your planned date. Remember that you may not be able to correct it later.

Q9 Do you owe money to your company?

If you are the director of your own company, do you understand how the new rules relating to overdrawn Director’s Loan Accounts could impact on you and the company? If you have taken too much money out of your company and your account is overdrawn, there is a tax charge on the company. The new rules will make it harder to avoid this charge in future. However, did you know that it can still be done with dividends? Do you know the correct way to declare and pay dividends? That is important.