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

"It matters not what a person is born, but (whom) they choose to be."

J. K. Rowling, author

"Reading furnishes the mind only with materials of knowledge; it is thinking that makes what we read ours."

John Locke, philosopher

"Patience, persistence and perspiration make an unbeatable combination for success."

Napoleon Hill, author

"Anything's possible. You can be told you have a 90% chance or a 50% chance or a 1% chance, but you have to believe, and you have to fight."

Lance Armstrong, cyclist

Accountants, they are not all the same, you know. Every one of them has had different training and experiences. They all have their own strengths and weaknesses.

We have now assimilated two other accountancy practices into our own. Given that basically we all do the same thing, it is surprising just how diverse the internal procedures can be.

It is just the same with any other business. Whatever business you are in, your nearest competitor may be providing the same goods or services in a very different way, albeit that the customers may not be aware of the "back office" processes. The customer only sees the end result. The part they see is therefore very important. I like to think of this as marketing.

90% of what you do, your customer neither understands nor cares about. The last 10% which may seem insignificant to you, is 100% of what your customer sees and so is very important to them.

Now, I can hear some of you saying that we do not get that 10% right all of the time. Just like you, we run a business, employ people and are indeed only human ourselves. Everyone who runs a business and, in particular, employs people will be the same. We all drop a ball now and again. But, it is not that you dropped it that matters, but it is how you pick it up again that counts. No cover-ups, no excuses. You dropped it, you pick it up, now move on. Next!

I like to think that one of the things that marks us out is our attitudes to business. We are all in the same boat, have the same problems, have to deal with the same banks, HMRC, etc. So, we share our experiences so that you can also benefit from them. We are all on the same road, so let's share the journey and get there together. No-one can run a business without some sort of sharing or mentoring. Everyone needs a hand over the occasional hurdle. That's what we are here to do, give you a hand as you journey along the road of business, whether that be a business motorway or a quieter business road, or somewhere in between.

One of the hurdles that has become part of our everyday workload is dealing with HMRC on behalf of clients. We are now on first name terms with HMRC Debt Management in Edinburgh.

Now, these are people who seem to be enjoying their work too much. I do sometimes wonder what they have been told about those evil business owners refusing to pay their taxes that are needed to pay the wages of HMRC staff.

HMRC must be, at least in part, responsible for the depth of the present recession.

Businesses that want to pay their taxes are being prevented by HMRC themselves, who seem to see themselves as some sort of avenging angels.

These are businesses that either have a temporary cash flow problem or just need time to re-engineer their businesses to put themselves back into profits. HMRC neither seem to understand or care. As a result they set about the destruction of that source of future jobs and taxation.

Some of these businesses have not received the sort of advice from their accountant that we would have expected. **Did they look for "cheap" instead of "good" accountancy support?** For some, no amount of advice would have helped but in many cases, the right advice and support would have made a real difference.

And finally, speaking about accountants, the profession finished first in a **survey of untidy desks** with 64% in a recent survey of 2000 employees; lawyers followed closely behind with 61%. A parallel survey which swabbed 300 messy desks found traces of common bacteria such as **bacillus and staphylococcus** and raised concerns for workers' health. Certainly saw some messy desks recently.

So, what sort of accountant do you want? Well organised and in control or disorderly without systems? The answer to that question could cost you a lot of money, but not necessarily in accountancy fees.

Our offices are clean tidy and well organised.

1st Restaurants

An investigations into 531 restaurants has identified substantial potential unpaid tax. In addition, a new taskforce will specifically focus on fast food outlets in Scotland thought to be mis-declaring their sales.

The 45 cases brought to a conclusion so far have yielded £634,050 in tax penalties, with 22 more cases being considered for criminal or civil prosecution for fraud.

Scotland was the most heavily targeted area, with 222 restaurants investigated.

At the launch of the restaurant crackdown in May, HMRC Director General of Enforcement and Compliance, Mike Eland commented: "These task forces are a new approach which use HMRC's resources to identify and tackle rule-breakers and evaders swiftly and effectively.

Only those who choose to break the rules, or deliberately evade the tax they should be paying, will be targeted. Honest businesses have absolutely nothing to worry about." Yeah right!

2nd Scrap dealers

Another taskforce will be devoted to tackling evasion among scrap metal dealers in Scotland.

The rising price of copper during 2011 has fuelled a spate of rail cable thefts, causing widespread disruption for travellers and calls for greater regulation of the scrap metal industry.

HMRC seem to have singled out Scottish scrap metal dealers for scrutiny. There is no indication why this should be but they have clearly identified Scottish scrap dealers as being at high risk of avoiding tax.

David Gauke, the Exchequer Secretary, said that the taskforces are a direct result of the government's £917m investment to tackle tax evasion, avoidance and fraud, which aims to raise an additional £7bn each year by 2014/15.

The five new HMRC teams so far are part of the 12 planned for 2011/12, and more will follow next year.

Tutors and coaches are next in the sights of HMRC

Private tutors and coaches have until 6 January 2012 to register for the "Tax Catch-up Plan". They will then have until 31 March 2012 to come forward and tell HMRC about their outstanding tax for the years up to 5 April 2010, and pay what they owe.

Do you do some private teaching out of hours?

The "TCP" is for people providing private lessons, regardless of whether they have a teaching qualification. It is aimed at those who profit from tuition and coaching, on which the correct tax has not been paid because they have not told HMRC about it.

Those who come forward by the deadline are likely to receive the best possible terms for paying the tax owed. If they have to pay a penalty, it is unlikely to be more than 20% of the unpaid tax.

HMRC are using various intelligence sources to identify and then target those who do not take advantage of this opportunity to declare their full income.

When will HMRC turn their attention to freelance bookkeepers, accountants, lawyers, and others? It's only a matter of time.

Tax Relief for living in the South of France

In a recently reported case, a freelance journalist and author decided to write a book entitled 'A Year on a Pontoon'. He claimed a deduction for expenses of £10,000 incurred in moving a boat to southern France so that he could live there for a year.

HMRC rejected the claim on the basis that the expenditure had not been wholly and exclusively incurred for the purpose of his profession. On the face of it, this argument seems quite reasonable as why should anyone get tax relief for taking their boat to France to live.

However, HMRC has initially lost the argument because there was a duality of purpose, personal and business. The legislation provides that where an expense is incurred for a dual purpose, a deduction may be permitted for any identifiable proportion of the expense which is incurred wholly and exclusively for the purposes of the trade.

So, if you have a boat that you want to take off to somewhere nice and write a book about it, maybe you can get tax relief as well.

End for payouts by dissolved companies? - Striking off

Currently, a business may be struck off the register of companies at Companies House without the need for a formal liquidation, provided certain conditions are met and procedures are followed. This can provide a low cost and relatively straightforward means of dissolving a company without appointing a liquidator. This is probably the most common way of dissolving small companies that, for whatever reason, are no longer required.

The **bona vacantia** rules take effect if you apply to have your company struck off at Companies House. Any assets remaining in the company at that moment become Crown property. This includes trade or other debtors, bank balances and any debts due by the directors to the company.

However, until now, this was not applied as long as the capital and reserves in the company were £4000 or less. So, you could safely leave small balances on the balance sheet at striking off. That will no longer apply.

The Treasury Solicitor's office has withdrawn guidelines designed to allow share capital of up to £4,000 to be paid out to shareholders prior to the company being struck off, and so not to be treated as the property of the crown under the *bona vacantia* or ownerless property rules.

Following the change, companies can still be struck off without appointing a liquidator, but they must first reduce their share capital to ensure the balance of available funds in the company is paid to the shareholders, rather than to the crown.

An easier method of reducing a private company's share capital was introduced in the Companies Act 2006. So, if you think you may be affected by this change, come and speak to us.

Checking your tax code online - new facility from HMRC

HMRC have launched a facility to allow taxpayers to view their PAYE coding notices digitally. To be able to use the new offering, it is necessary to first register for the Revenue's web services and enrol for the self assessment online service.

Only notices issued on or after 11 October 2011 or the date you registered for the service online, if later, will be available. In due course, taxpayers will be able to see coding notices issued on or after 11 October 2011 for the current, previous and next tax year.

VAT errors - Example of how the 4 year cap applies, unfairly.

The taxpayer business claimed a repayment of VAT, which it had overpaid in error. HMRC refused the claim on the basis the tax related to accounting periods outside the four-year time limit in which repayment claims could be made.

The taxpayer appealed.

The overpayment came to light when the taxpayer discovered in 2010 that a problem with its accounting software meant input tax on invoices processed in the last quarter of each year, but paid later, were not included in the VAT return and so VAT not reclaimed.

This resulted in an overpayment of VAT in the first return of the first quarter of the new year. The error, which had been going on since 2000, was identified by neither the taxpayer's advisers nor HMRC, which had made two separate VAT inspections.

The First-tier Tribunal said it did not have the power to extend the four-year time limit and so the taxpayer's appeal was dismissed.

The advantage of the four-year cap is that the Revenue cannot adjust underpayments beyond the time. However it does not seem fair to this taxpayer. You cannot say that because one taxpayer benefits from the cap, that it is alright for another to lose out. You would not expect to see such injustice permitted in other areas of the law.

The argument, put forward by the taxpayer, that a VAT officer should have identified an error, was ignored. This error was so basic, it is hard to understand how two Revenue officials managed to miss it. Maybe they could not see this particular wood because they were blindly following their brief to inspect the trees.

Don't think a taxpayer would get off with that sort of excuse.

How many companies? What Tax Rate? *Wick* letters!

The Rate of Corporation Tax depends on how many companies you have that are "Associated."

HMRC has recently updated its Small Profits Rate and Marginal Relief Toolkit. It reflects the new rules for determining how many companies are associated following recent revisions to the rules.

Wick letters were so called because they originated from the tax office in Wick. This must surely be about its only claim to fame! The Wick letters highlighted that the definition of an associated company includes those companies under the control of business partners, and therefore that there should be attributed to the partner all companies owned by their fellow partners. This caused a lot of problems where someone had invested in a film partnership that could include hundreds, if not thousands of partners, where the investor knew nothing about their co-partners and their businesses.

The new wording has a dramatic impact on the logic that one applies to determine which companies are associated for these purposes. The process if therefore:

- First, determine the companies which are under the control of the same person or persons (without any of their associates).
- Second, determine if those companies have 'substantial commercial interdependence'.'

These can be tricky issues and so, if you have interests in more than one company, it is probably best to come and speak to us about the impact of "Associated Companies" and the effect of the recent changes.

The Sales Prevention Dept.

Our business operates over a wide geographical area. Our offices are many miles and "hours of travelling" apart. Our clients are even further afield stretching from Shetland to the Middle East and beyond. So, we spend a lot of time travelling. Over the course of two weeks in November, I will have been on 3 different ferries, including 7 boat trips and one plane, stepped onto 2 islands. You cannot help but notice things.

Yes, my favourite ferry again, sorry.

I have always wondered at the different amount I am charged in the cafeteria for basically the same order each time I travel. I put it down to the frequent changes in personnel and lack of adequate training. Last week however, was a real lesson in how not to earn any profits.

Picture this. Cafeteria, early morning, I need a cup of tea. Other travellers wanting breakfast. No-one around. I do not know whether the other passengers ever got any breakfast because I got fed up with waiting for a member of staff and left with my tea. What was I to do. I could have left it sitting by the till to be thrown away. I could have left coins on the till (if I had known what they were going to charge me that day). Yes, I stole a cup of tea!

Sometimes when you are looking at profit, you dive in to complex stuff about margins, portion control and the like and forget the basics:

1. Remember to collect the cash,
2. Get the prices right - every 1p undercharged is a 1p off your profits.

It is basic stuff.

... and then this morning I went to pay and the credit card machine was "playing up again". The queue was building up behind me so I paid cash. Luckily I had enough. This is not a small company. It operates multi million pound pieces of equipment. If they cannot install and run an efficient credit card machine, I wonder what their engine room, that I have never seen, actually looks like. The credit card machine is the equipment I see in operation and maybe they have skimped on this , perhaps to save money.

Engines? Get my point?

Tax tips and tricks....

Claiming back VAT without a tax invoice

Having a VAT invoice is the best and simplest way of supporting a claim for input tax recovery. However, **it is not essential that you have a tax invoice**. Sometime the supplier or shop will not give you one (try asking Debenhams for a VAT invoice).

The regulations allow alternative evidence to support a claim, although obviously the tax invoice is the best document.

HMRC issued a statement of practice (SP 7/2003) effective from 16 April 2003, regarding the circumstances in which input tax recovery is allowed in the absence of a valid VAT invoice. It reads:

'*A taxpayer is required, in addition to providing alternative evidence, to be able to answer satisfactorily most (or, in the case of supplies involving specified goods, all or nearly all) of the following questions:*

Is there alternative documentary evidence other than an invoice (e.g. supplier statement)?

Is there evidence of receipt of a taxable supply on which VAT has been charged?

Is there evidence of payment?

Is there evidence of how the goods/services have been consumed within the claimant's business or their onward supply?

How did the claimant know that the supplier existed?

How was the claimant's relationship with the supplier established?'

The more answers you are able to document, the safer will be your claim for input tax.

Avoiding the scale charge on car fuel

Suppose that in some VAT quarters, the output tax you pay through the scale charge exceeds the input tax you can claim on road fuel purchases.

You can avoid making the scale charge payment, as long as you do not claim any input tax on road fuel. The bad news is that the input tax exclusion would also apply to road fuel purchases for commercial vehicles as well as cars, not very helpful for a road haulage business, builders vans, etc.

However, you can look at the position in each and every VAT return period and if it is not in your favour you can not pay the scale charge provided you claim no VAT on road fuel in that quarter.

VAT Flat Rate Scheme- Rent

Even though rental income is exempt from VAT, you still include this income in your Flat Rate Scheme turnover when calculating the tax payable to HMRC.

The answer to this problem is to make sure that the income is that of a separate legal entity. For example, if you trade as a sole trader and use FRS, put the rental property in joint names with your spouse. Problem solved.

Property owned by married couples or civil partners – Form 17

Income from property held jointly by married couples and civil partners is treated as beneficially owned by the individuals in equal shares. Consequently they are taxable on the income equally.

This rule applies even if the individuals own the property in unequal shares unless you complete a form 17. This enables you to fix a different share on income for tax purposes.

Both of you must sign the form and it is only effective from the date of the second signature provided it is submitted to HMRC within 60 days. Each property can be treated separately.

Couples must be living together.

The share that a spouse or civil partner has in the income must be the same as their share in the property. Evidence of the unequal share in the property will be required by HMRC.

This is not a way to have income taxed on one particular spouse or partner, but a way to reflect the underlying reality in the ownership for tax purposes. So you have to actually change the ownership percentages.

The split of income produced by a valid declaration goes on running for all later years until one spouse or civil partner dies, the couple separate permanently or there is a change in the beneficial interest of either spouse or civil partner in either the property or the income it produces.

The couple cannot simply choose to end the split of income which results from a declaration; it goes on running until one of these events occurs.

Tax Relief and Goodwill - Incorporations

This tax relief applies to companies. Goodwill (and certain other intangible assets) acquired by a company from a third party or created by a company after 31 March 2002 can generate a tax deduction. This can be a useful source of tax relief against your profits from what is effectively a capital purchase. So, when your company buys another business the value of goodwill and other intangibles is very important.

Tax relief cannot be claimed on an asset in existence prior to 1 April 2002, e.g. where goodwill is acquired from a sole trader or partnership already trading at 31 March 2002.

Where, however, the business was started on or after 1 April 2002 and goodwill is created and subsequently sold on, the value attributable to goodwill will be tax deductible for a company even where it is acquired from a related party.

However, an asset which was a " pre FA 2002 asset" in the hands of the transferor will remain not deductable when it has been acquired from a related party.

In addition, a company is not able to claim roll-over relief in respect of a gain realised on the disposal of an intangible fixed asset to a related party.

On any incorporation, planning around the value of goodwill is very important. It has tax consequences to the old and new businesses but if done correctly, can produce a significant tax advantage for you.