tlp - news

November 2012

The monthly newsletter of The Long Partnership

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.

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Quotes

"Successful people form the habit of doing what failures don't like to do. They like the results they get by doing what they don't necessarily enjoy. "

-- Earl Nightingale, Motivational Speaker

"Courage is like a muscle. We strengthen it with use."

-- Ruth Gordon, actress

"When I thought I couldn't go on, I forced myself to keep going. My success is based on persistence, not luck. "

-- Estee Lauder, entrepreneur

"We all have dreams. But in order to make dreams come into reality, it takes an awful lot of determination, dedication, self-discipline, and effort."

-- Jesse Owens, Olympic Athlete

As I sit down to write this, I have mixed emotions. We recently heard of the death of **Jimmie McKie,** a long standing employee of Graeme M Fraser. **You could not help but to like Jimmie**. He was technically very good and had a quiet, gentle manner and never seemed to get flustered about anything. We did our best to try to persuade him to come and work for us last year, but his heart was set on returning to running his own practice. He had been in a partnership many years ago and obviously the want was still inside him. Jimmie was one of those people who needed someone with him who was a good organiser because, as anyone who saw Jimmie's room in Dingwall will testify, he was not the tidiest accountant. Just think what he could have done if he had come with us. Still, that was not to be and that is now two of the Graeme Fraser stalwarts from Dingwall who are no longer with us, Ian Henderson having died last year.

On the other hand, **life goes on** and The Long Partnership, TLP to our friends, continues to develop. We are already looking ahead to the Spring to see the new shoots of business growth start to appear, but not without first planting some seeds and nurturing them. Marketing, website development and lots more are all on the agenda. As we build our own business, we feel better able to help and advise any of you, who want to do the same. Experience always counts.

On top of that we have some **new faces in Inverness**. Lauren MacIsaac has been working at Saffreys and Charlotte Ventura was with Stuart & Stuart in Munlochy. Lauren has strong links with Uist and speaks Gaelic. Charlotte's name gives her origins away. The name is Italian but that was a couple of generations ago. They will be joining Lana who is Russian, Andrew from Evanton and Michelle who originally comes from Nairn. It will be an interesting melting pot of cultures. Mix that with an Orcadian and an Englishman and see what you get.

It is quite an exciting time to be an accountant. Well, accountants think it is exciting. There are further changes to the **audit criteria** that mean that still more small companies will not need to get their accounts audited. On top of that, there are rumours of a change in the turnover thresholds for Charities which could rise to £1,000,000 from their current £500,000, removing the need for many small charities to have an audit.

For those of you involved with gaming machines there is the changeover from VAT to **Machine Gaming Duty.**

For the employers out there we are now staring into the abyss that is **RTI**. Are you ready for RTI? If not we can help. We have the software and the experience.

Universal Tax Credits are fast approaching but the disaster waiting to happen must surely be the **tax on child benefit** - can you really believe that this could put your marginal tax rate up to over 70%. Give it a year or two until they realise what they have done and change it all again.

But I am sure that George Osbourne knows what he is doing... Sometimes. If he does not, I am sure he will have some highly paid Civil Servants to keep him right (ish).

HMRC continue to wreak havoc amongst the business community. The latest tactic that we came across was HMRC giving traders a choice - agree to pay all their tax arrears within 6 months or they would start recovery action. When the traders cannot keep up the unrealistic payment schedule, HMRC then pursue them because they have broken the agreement. So, they blackmail the trader into an unreasonable and unsustainable repayment schedule and then penalise them for breaking the agreement. Nice eh!

Remember, this is your government doing this.

So, when they come out with that phrase "we are all in it together", you will realise that this is just politicking and in reality, we all have to hang on as best we can and weather the storm because there is no-one going to help us. You just have to chart your course and hope to find a safe anchorage on the other side. Then we will see who made it safely. Let us help you chart your course and come home safely and profitably.

Renewables and Tax

Domestic Micro Generation

No Income or Capital Gains Tax will be due in respect of micro-generation systems installed by individuals at or near their home provided that you intend that the amount of electricity generated does not significantly exceed the electricity consumed at those premises. The exemption is therefore aimed at domestic micro generation which are primarily intended to match your own home consumption needs. What is significant in terms of the excess? This is not actually defined but **20% seems to be the guide**, but in some circumstances, less could be applied by HMRC. So, if you put in a generator primarily to generate cash, it is probably taxable.

Business

Generation as a business is always going to be taxable but you will be able to claim capital allowances against the taxable income to offset your capital cost.

Wind turbines will qualify for the AIA (now £25,000 pa) and WDA (now 18%) pa. Solar panels only attract 8% and have other special rules.

VAT

If you are VAT registered then here is a useful summary that we obtained recently at a presentation given by a "Renewable" manager at Baker Tilly.

ROC Buyout - Standard Rate

ROC Recycle - Outside the scope of VAT.

Generation FIT - Outside the scope of VAT.

Export FIT - normally standard rated.

LEC - Standard rated.

Embedded benefits (EB) - non Vatable.

FIT Exclusions

Companies in receipt of FITs are excluded from claiming Enhanced Capital Allowances. These are the allowances that can be claimed on certain energy efficient or generation equipment. However, you can still get AIA and WDA.

There are also restrictions on being able to attract inward investment through the EIS Scheme. However, for micro-generators, this is unlikely to be an issue.

The New Residency Rules

There seems to be a consensus that the new rules which come in from 5 April 2013 are far from perfect, but compared to what exists at present, are a major improvement. Here is the potted version of the new rules.

Step 1 - You will "Automatically" be an overseas Resident if:

- You are present in the UK for fewer than 16 days
- You are present in the UK for fewer than 46 days and were not resident in any of the preceding 3 tax years
- You work full time overseas, the number of UK workdays in the UK is fewer than 21 and you are present in the UK for fewer than 91 days in the tax year.

Step 2 - If you are not automatically an overseas residents then you will "Automatically" be a UK resident if:

- You are present in the UK for 183 days
- You are present for 91 days or more and your home is in the UK
- You work full time in the UK

Step 3 - If you are not "Automatically" resident anywhere, then you must look at your "ties".

There are 4 ties including:

1. family ties
2. accommodation ties
3. work ties
4. 90 days in the UK tie

Arrivers in the UK will not be resident here if:

- They spend less than 46 days in the UK
- They have 3 or fewer ties and spend between 46 and 90 days in the UK
- They have 2 or fewer ties and spend between 91 and 120 days in the UK
- They have one tie and spend between 121 and 182 days in the UK
- If they spend 183 days or more in the UK they will be resident

Leavers from the UK will not be residence here if:

- They spend less than 16 days in the UK
- They have 3 or fewer ties and spend between 16 and 45 days in the UK
- They have 2 or fewer ties and spend between 46 and 90 days in the UK
- They have one or fewer ties and spend between 91 and 120 days in the UK
- They have no ties and spend between 121 and 182 days in the UK
- If they spend 183 days or more in the UK, they will be resident.

New Audit Tests for Companies and LLPs

The new audit tests apply to accounts for financial years ending on or after 1 October 2012. In future, small companies will be entitled to audit exemption if they meet the general small company criteria for accounts exemptions. The additional audit criteria has been discontinued.

The qualifying conditions for small company status, are met by a company in a year if it satisfies two or more of the following requirements:

Turnover	**£6.5M**
Balance Sheet total (Gross Assets)	**£3.26M**
Average Employees	**50**

The turnover threshold is adjusted prorata where it is not a 12 month period. The number of employees means the average number of persons employed by the company in the year.

A company qualifies as small in relation to its first financial year if the qualifying conditions are met in that year.

In order to qualify as small in any financial year (other than its first) it must meet the qualifying conditions but once it has been "small" for a year, it can be "not small" for a year provided that in the next year after that, it is "small" again. That means that a company can exceed the limits in one year and still not need an audit.

RTI - Missing National Insurance Numbers

RTI will be mandatory for all employers apart from those covered by very limited exceptions. The exceptions are for care and support employers who employ carers to provide services to disabled or elderly persons in their own home and also employers with religious objections to using computers. **There is no escape for the rest of you.**

RTI will be introduced universally from 6 April 2013 but it is already in use by a number of employers on a voluntary basis. We would remind you that it is important to check your payroll records for completeness. A common problem is missing or incorrect national insurance numbers. After the first submission under RTI, any errors or omissions will cause rejections or other difficulties.

Under RTI, where there is a PAYE scheme in existence, every payment will have to be reported even if less than the lower earnings limit and even if no PAYE is due. In these circumstances the acquisition of a national insurance number was less important and may not have been done in practice. That will now change.

Missing NINOs

Missing national insurance numbers can be obtained by completing **form CA6855** which can be downloaded from the HMRC website. We would recommend that you examine all your employee records to ensure that you have all the necessary information including national insurance numbers, dates of birth and a complete current address to avoid any difficulties when the new scheme goes live. Given the enormity of the change, the first few submissions after 5 April next year could produce chaos for many employers.

Under RTI, employers will have to tell HMRC about pay, income tax, national insurance contributions and certain other details, before making payments to the employee, by sending HMRC an electronic message called the Full Payment Submission (FPS). The FPS includes not only details of payments and deductions but also personal and demographic details about the employee, e.g. name, date of birth, gender, address, etc. In certain circumstances you may also need to provide the passport number, partner's name, hours worked, etc.

RTI headaches

The big issue under RTI will be the requirement to provide information in the FPS **before** any payment to the employee. Difficulties will arise where variable amounts are paid at the end of shift or on a daily basis, based on the hours worked or piece rates, e.g. bar workers or farm labourers.

Another issue will be **payments to directors**. Under RTI the type of payment (whether it is earnings, an advance or a loan, dividend or something else) will need to be determined at the time of payment so that "salary" can be properly reported under RTI. It will no longer be possible to designate these payments in arrears.

The keys to Success with RTI

The key to a successful RTI experience will therefore be to get the following basics right:

1. Plan in advance and make sure your basic employee information is correct - check your NINOs.

2. Get everything up to date and keep it that way, especially directors.

Help?

If you need help with RTI, get in touch. We can either advise you on what you need to do or we can also do your payroll and make all the RTI submissions for you.

Autumn Statement

The Chancellor will deliver his autumn statement at 12:30 PM on **5 December 2012**.

The Autumn statement is likely to contain some tax announcements and information and it is also expected that draft legislation for the 2013 finance bill will be published around the same time.

The Sales Prevention Department

We rested this column for a few months so that you would not think that all we do is to gripe and moan. However, we felt that there was too much to keep it to ourselves any longer.

We were recently persuaded to re-visit a restaurant where we had a very bad experience. This time, it was very good and I have to say that while the food was good, the difference was most noticeable in the waiting staff. Polite, efficient and attentive. If you serve food, I would recommend you take as much trouble over your staff as the food. It is the thing that lets most restaurants down. We will be watching.

What about banks? Don't get me started on that one as we do not have enough room in this column. All I would say is that between banks and HMRC, I wonder how we have any businesses left. Enough said!

Let's talk Indian Restaurants. Three of us went to, what we have been told is probably the best Indian Restaurant in town. Been there before and the food is good. This time the food was fine. The table was in a draft, we should have asked to move so that was our fault. The music was too loud, we could have asked them to turn it down.

However, the real crime was later. We were still finishing. I know we were last but we only arrived quite late. The music was switched off and the waiting staff seemed to vanish, reappearing a short time later with coats on, standing near the door. It was not that late! The rest of the meal had been "OK" but then we were made to feel unwelcome and unwanted.

Could they tell we were accountants. Did they suspect we were tax inspectors. I am not suggesting anything about Indian Restaurants and tax or VAT.

Anyway, the upshot of this is that when we were looking for somewhere to eat less than a week later, **we went to another Indian Restaurant.** Where will we go next time? It could be a while before we give the first restaurant another chance. It has been known, but we would need to see or hear something good to make us feel that it was worthwhile.

Tips and Tricks .....

HMRC tax calculator for employees

This is available at hmrc.gov.uk/calcs-tools/index.shtml

The tax calculator estimates the income tax and NIC you can expect to pay on your earnings from employment. It also has a pie chart that shows how the government spends the money collected from you.

It is targeted at people who pay tax through PAYE. You are not asked for any personal identity information although you may have to provide your date of birth if it affects the calculation. It does not store any of the information and HMRC cannot access the data.

The calculator is also available as a mobile phone app.

Charities - Small Donation Scheme

It is intended that the scheme will be introduced for donations made **from 6 April 2013** and will allow a charity or Community Amateur Sports Club to claim gift aid tax repayment on up to £5,000 of small donations. The small donation is one of £20 or less. So, if someone puts a £50 note in your collection, you cannot claim the tax back on it under this scheme.

The charity or CASC must have a 3 year track record of successful gift aid claims before it can claim under the small donation scheme and this will exclude all those charities which do not at present claim gift aid relief on donations.

It is hoped that the scheme will be simplified and broadened before it becomes effective and we may see something either in the Autumn Statement or in the 2013 budget.

Benefits in kind for farming spouses

There are many farms where the husband and wife are in partnership. However, there are other situations where one spouse is the trader and the other is simply paid a wage for work undertaken on the farm.

There is a potential problem where one spouse is paid a wage and perhaps a non-commercial four-wheel-drive vehicle is provided which does not come within the classification of a van.

The benefit in kind burden can be reduced where the commercial vehicle qualifies as a van. The clearest example of the problem is where a Land Rover Discovery or a Range Rover is being provided to a wife who is being paid a salary of say £5,000pa. The benefit in kind pushes the employment earnings above £8,500 and results in a high tax burden.

This additional tax is being picked up by HMRC during routine PAYE compliance checks. If the wife is taken on as a partner, the problem is dealt with simply by a private use apportionment. In these days when HMRC is seeking to recover tax (and penalties) from wherever it can find it, then this is becoming a significant problem.

Free Companies House App

The App is free of charge and allows you to search by company name and number to retrieve basic company details. It also provides statistics on the number of incorporations and dissolutions. The app is only currently available on Apple, but an android version is being developed.

"Employee owners" - New!!

The Government proposes that employers will be permitted to offer new types of employment contract to new employees, under which the employees will receive shares in the company in exchange for giving up certain employment rights.

The value of the shares issued will be between £2,000 and £50,000, and the shares will be **exempt from Capital Gains Tax** when the employee disposes of them.

The rights affected by the proposal are:

- The right not to be unfairly dismissed
- The right to request flexible working arrangements and training
- The right to receive redundancy settlement (including statutory redundancy rights)

The rights under unfair dismissal will remain available where the dismissal is discriminatory or "automatically unfair" dismissal such as dismissal for whistle blowing. It is not possible to remove discrimination rights as these are governed by EU law.

The proposals are intended to be implemented from April 2013 after a short period of consultation.

The scheme would allow a new type of employment contract to be drawn up. This would be optional for employers, and if taken up it might be offered alongside the normal contract of employment, although employers may want to move over to having all employees that are recruited after April 2013 on the new style contracts.

Employers will be able to offer the new contract to existing employees, but cannot force them to accept the new terms.

The consultation is available on the Business Innovation and Skills website at www.bis.gov.uk.

Once upon a time a Charity had 2 trading Subsidiaries.....

Both of the trading subsidiaries were loss making at that time. Odyssey (Tendercare) Ltd, claimed gift aid in respect of a donation of £358,279 which HMRC disputed because only £3,900 had been paid to the Charity and the rest was paid to the other trading subsidiary to subsidise its activities.

The charity claimed that as both trading companies were subsidiaries of the charity, it was effectively a single entity and the whole payment was in any event for the "benefit of the Charity" because the trading companies had been set up to provide the funding for the charity's activities.

The First-tier Tribunal ruled against the Charity finding that all 3 companies were separate legal entities and that Gift Aid Relief was only available for actual payments to the Charity and not just "for the benefit" of the charity.

Gift Aid is a valuable relief and it is widely used. In order to ensure the use of the relief the relevant conditions must be fulfilled and they were not in this case.

Not sure why they were claiming Gift Aid if the company was loss making but that is not the point here. If you want to obtain Gift Aid tax relief, make sure you do it right.