

tlp - news

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The monthly newsletter of The Long Partnership — www.thelongpartnership.co.uk

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Quotes

"In the absence of clearly-defined goals, we become strangely loyal to performing daily trivia until ultimately we become enslaved by it."

-- Robert Heinlein

"Do not wait; the time will never be "just right." Start where you stand, and work with whatever tools you may have at your command, and better tools will be found as you go along."

-- Napoleon Hill, Writer

This month we have included a lot of material about the government's tax policies. Over the next few months we are going to see significant changes being proposed both in service delivery, as they try and cut costs and also in ways to collect more taxes. It's going to be a rough ride for everyone so hang on tight.

One concern that you may share with us is just how much this government is really in tune with small business. Larger businesses have their own issues but we are concerned about the people like you that we deal with daily and whose fortunes are closely aligned with our own.

A major concern must be some of the rhetoric coming from government about tax evasion and avoidance. I think that most government ministers must have a background of being taxed on PAYE because they seem to have little concept of the grey areas in the tax system and the need for small business to minimise (legally!) their outgoings and particularly in times like these. Tax is an overhead like any other, especially when you are watching cash flow and, like any other overhead needs to be kept to a (legal) minimum.

If you have dealt with us for a while you will have heard us say that neither you or we make up the rules so we play the game according to someone else's rules. We do not knowingly break any rules and neither should you but it must be everyone's right to arrange their affairs in such a way that they retain as much of their hard earned profits as possible within the rules.

The big problem is knowing what the rules actually are and this is the reason why so much tax law is established in the courts as HMRC and tax payers, or their representatives, battle it out to determine what the rules actually mean. When HMRC lose these battles, which is often the case, because the rules as passed by Parliament were ill thought out and vague, they usually seek to change the rules, and so the system creaks on from case to case.

In the recent case of J D Wetherspoon which went against the Revenue, we discover that we can now claim tax allowances on toilet cubicles. Who said tax was boring?

On another subject, farming and farmers seem to be in the spotlight at the moment. Prices have been good and so profits and tax are back on the agenda. Although there are fewer farmers and certainly fewer young farmers these days, it still remains a vital part of the mix in our local economy and our own client base. We have a very varied mix of clients and that is good because we transfer experiences between industries, often applying lessons learned in one industry to clients in another.

Just like our clients our own people are a mix as well. At the top we have a city boy and a farmer's daughter. Our staff come from varied backgrounds with links to the land, sea and public service. Educationally we are all different with graduates and non graduates, qualified and non qualified. Our origins are as varied as our backgrounds with people who grew up in places as far apart as London and Orkney, but we are now all here working together for your benefit, a vast array of different experiences and strengths at your disposal.

On the back page are some tax tips for you. There will be more next month. We have just come back from another Chartered Institute of Taxation Conference with copious notes of things we can do to help our clients to (legally) keep their taxes to a (legal) minimum. More on that next month.

Now there are some rumours going around that these conferences are a bit of a jolly and that they are just an excuse to eat and drink and enjoy ourselves. I can confirm that this is indeed the case but then we are accountants and a bit sad at that. I don't suppose many of you would swap and go to a tax conference in our place. But seriously, the lectures and the exchange of experiences with fellow practitioners over dinner of indeed the Pool Table is a vital part of the service we deliver. The tax system can be so vague at times that we need to hear other practitioners' experiences and interpretations. Never a dull moment in the tax world! Wouldn't you agree?

PAYE Tax Demands

Those more likely to receive demands are people with more than one source of earnings or pension and employees who receive benefits such as company cars. It is therefore important for businesses to understand the situation and work with HMRC to try and rectify any situation relating to one of their employees.

The problem has arisen in part due to HMRC having various computerised systems that could not collate the information into one central record. This has led to incorrect PAYE coding notices resulting in the underpayments of tax, or in some case overpayments.

If you are one of those who does receive a demand there is little to do to avoid payment if it is correct. Firstly, as a business, you will need to consider if you have supplied all the relevant information to HMRC and within the correct time limits to enable them to assess your tax liability and issue correct notices of coding.

If you have done this then you may be able to claim that HMRC have made an "official error" in not using the appropriate information that had been supplied to them in a timely fashion.

Extra Statutory Concession A19, until recently a little known 'loop hole', entitles you to request HMRC to remit 100% of the tax debt if you can prove they have failed to use information provided in an appropriate and timely fashion.

However be warned, HMRC's spokesmen have stated this week that they will vigorously challenge any claims under ESC A19 and will only concede to those that meet the full requirement of the concession.

It would appear that a battle lies ahead for many taxpayers who innocently believed they had already paid their "dues" to the taxman via the PAYE system.

Many businesses feel that this will not be the end of problems facing HMRC or the tax paying public with the potential for future revelations very much a possibility!

What about current government tax policy

Tax Simplification

Tax legislation has become far too complicated and it needs to be simplified. The Office of Tax Simplification is a step in the right direction and John Whiting, who has been appointed to head it up, is a good choice. After all, like us, he is a member of the CIOT.

The government's new £900m plan to tackle evasion and avoidance to recover a projected £7bn a year by 2015.

Every government says they're going to tackle avoidance, but they should be tackling evasion which is illegal rather than avoidance which is just clever tax management. Whether there is an additional £7bn a year to be found, who knows, but the proof of the pudding will be in the eating.

HMRC resources

Cuts in expenditure at HMRC along with other departments mean that HMRC which is already stretched could encounter difficulties with the extra burdens being placed upon them. The root problem is that successive governments have created a tax system that is too complicated. It has become illogical, overly complex and in many situations, downright unfair.

Evasion or Avoidance?

Evasion and avoidance are two entirely different things: One is legal and one is not. The last government said there was 'acceptable avoidance' and 'unacceptable avoidance' and then used this idea of 'unacceptable avoidance' to treat avoidance and evasion as if they were one and the same, but they're not.

Acceptable avoidance is just good housekeeping. After all, the government is not seeking donations like a charity, so you should not be made to feel guilty that you are not paying them taxes that you do not, in law, need to, which is just volunteering to pay tax that is not due.

However, there are massive cuts going on, people in the public sector are losing their jobs, VAT is going up, etc. Evasion is one person unlawfully not paying their taxes so everyone else has to pay more to fill the gap. However, is the scale of the problem really that bad? We all see government (central, local and agencies) waste and people being paid to do jobs that while nice to have, are not actually essential in the current climate. Government is currently on a diet and that has to be good.

Do we know how many people do "a bit on the side"? But I would ask, do we know how many small traders incur expenses and don't declare them because they loose/don't get an invoice/receipt? What about the number of people who have false starts in their business and incur large losses, but then simply write it off as a bad memory and can't/don't want to do anything about the losses. There are endless possibilities, including businesses who at their owners expense will freely provide services to people in the community which should be done and paid for by local government!

If I drive at 69mph on a motorway I do so because, other than for safety factors, I wish to act within the law and avoid the subsequent consequences of falling foul of the law. In doing so I am not acting surreptitiously to deprive the government of the opportunity to fine me and therefore evade a speeding fine. To think in this way undermines my presumption of innocence and cannot be a legitimate thought for a civil servant acting within the civil service code.

The benefit of using a motorway speed limit analogy is that the motorway speed limit is clear and well known; if only the tax system could be more concise and clearer; rather than a deliberately created grey area open to complications and varied interpretations.

Can you tell me what a "fair share" is please Danny?

Government aims for a fivefold increase in the number of criminal prosecutions against tax evasion, to crackdown on offshore evasion with the creation of a dedicated team of investigators, a tougher stance to be taken on **evasion and avoidance** by those liable for the 50% tax band, and more registration checks to stop people claiming tax repayments when they are not due.

"There are some people who seem to believe that not paying their **fair share of tax** is a lifestyle choice that is socially acceptable," Danny Alexander told the Liberal Democrat party conference in Liverpool recently.

"Just like the benefit cheat, they take resources from those who need them most. Tax **avoidance and evasion** are unacceptable in the best of times but in today's circumstances it is morally indefensible. We will be ruthless with those often wealthy people and businesses who think they can treat paying tax as an optional extra."

The government said its new measures could help to recover £7bn a year by 2015 in taxes lost through avoidance, evasion and fraud. HMRC will be given extra resources to create a dedicated team of tax investigators to focus on offshore tax havens and online tax evasion, with a target of increasing the number of prosecutions for tax evasion to five times the current figure. Private debt collectors will also be brought in to recoup tax debts.

However, according to John Whiting, tax policy director of the Chartered Institute of Taxation (CIOT and one of the good guys), all "right minded" tax advisers should welcome the increased emphasis on tackling tax **evasion**. "Tax evasion is not a victimless crime. Cheating the Revenue robs the Exchequer of the money the government needs to fund public services which makes us all suffer," he said.

Now that '**avoidance**' is a dirty word, what we need is a new word or phrase that means 'paying the correct amount of tax'. Perhaps we already have such a word in common usage i.e. 'planning'. But you don't even have to use "planning". Just use "legal". So it's "yes HMRC, I have paid the legal amount of tax due".

Let's take this a stage further. Nick Clegg is clamping down on tax payers who pay the **legal** amount of tax. He is also clamping down on those that "evade" tax. My calculations seem to indicate that he will be clamping down on everybody, including himself. Go for it Nick!!!!!!!!!!!!

I fear that Nick Clegg's comments will find favour with the 'average' person on the street but genuine tax planning should not be frowned upon. Many of the tax breaks are available to encourage certain behaviours, such as entrepreneurial spirit or using green cars, for example.

An accountant's role is to make clients aware of the tax breaks available and assist their clients in making the most of them. There is nothing morally wrong with that.

We are the oil in the system, and high grade oil at that!

NICs holiday scheme for new businesses launched

A new National Insurance Contributions (NICs) holiday scheme to encourage new business start-ups in key UK regions was launched in September. It offers substantial reductions in **employer NICs** for new businesses in those parts of the UK most reliant on public sector employment.

Under the three-year scheme, eligible businesses will be able to take a 'holiday' for each of the first 10 employees they hire in their first year of business. Each holiday will last for the first 52 weeks the employee is in post (providing these weeks fall within the three-year holiday period).

New businesses who take advantage of the scheme will be able to save up to £50,000 in **employer NICs** – £5,000 per employee, up to a maximum of 10 new employees.

The scheme is open to new businesses set up on or after 22 June 2010, and will run until 5 September 2013.

Launching the scheme, Exchequer Secretary to the Treasury, David Gauke, said:

"We need to rebalance our economy, which has become over reliant on public spending and jobs provided by the public sector. The NICs holiday for new businesses, in addition to cuts in corporation tax, will help provide a valuable boost to start up businesses, and help foster the private sector led recovery that will drive growth in the UK over the coming years."

To find out if they are eligible for the holiday, and for further information on the scheme, new businesses should visit

www.businesslink.gov.uk/nicsholiday

Most kinds of new business will be eligible for the holiday, provided they employ staff and meet certain criteria, which is set out on the above website.

Most employees will be within the scope of the proposed scheme, with some limited exceptions, e.g. employees engaged through Managed Service Companies.

The Sales Prevention Department

This is the tale of four local restaurants but I'm not going to tell you how local and which of our offices they are near.

This is a story about attention to detail, monitoring staff habits and delivering a good customer experience by doing what the customers want or not doing something that will deter repeat business.

The first two are very nice hotels not that far from each other and not inexpensive. The restaurants have good reputations. In the first the kitchen staff every day can be seen standing in the street at the front of the hotel smoking. My thought is that they are then going back inside to prepare my meal and I find that distasteful. We only venture in their occasionally and because of this it is never our first choice.

In the second hotel, between courses the waitress had obviously been outside for a quick one and then served our large table of non-smokers. We'll not be going back there again for a while. If you run a hotel or guest house do you let your staff do this?

Hotel number three in our local hall of shame was one that we had not been to in a very long time. We dropped in for lunch and were pleasantly surprised by the service and food, thinking this would be a good place to return. But the management had other ideas and as we left the restaurant and passing the door to the kitchen, we almost collided with the chef outside smoking and got a lung full. Sorry guys but we'll not be back anytime soon.

Just to show that this is not entirely about bashing smokers, our last example relates to cleanliness. On visiting hotel four for a meal, the table cloth had obviously had something spilt. We moved table (yes, for us it was that bad) and pointed it out to the waitress, who gave it a quick brush and sat the next guests at the same table. Obviously, neither of us was worth a fresh table cloth. Will we return? Is this a sign of what goes on in the kitchen?

I wonder if any of these establishments agonise about how they can improve their profitability. Our advice - pay more attention to your customers unspoken wants and the tills will ring to the sound of profits.

Go out of your way to improve the customer experience. It's cheaper than keeping advertising for new ones.

Tax tips and tricks

Claiming capital allowances on building work

Under existing rules it is possible to claim allowances on the cost of machinery, the cost of plant (an item that has a function within the business but is neither machinery nor part of the building) and also on the cost of installation of either plant or machinery. This can include building alterations which form part of the cost of installation or are required for the item of plant or machinery to function.

The building alteration must remain identifiable as a separate structure from the building. This follows a recent case which has been going through the courts involving J D Wetherspoon. An example of the sort of expenditure that can be included within the claim for capital allowances is the cost of bricks, mortar and tiles and the labouring putting these together to form a toilet cubicle. The cubicle must easily be identified separately from the rest of the building. Other examples include raised flooring or steps leading up to items of equipment as well as splash back tiles surrounding sinks.

If you think that you may be able to claim on such expenditure at any time in the last four years, get in touch with us and we can discuss it further.

Penalty concession scrapped

There has been a long-standing concession that allows businesses to submit certain tax returns late without incurring a penalty. This allowed you to submit corporation tax returns, employers PAYE returns and contractors deduction returns up to 7 days late without penalty.

This concession is being scrapped with effect from 1 April 2011, so it will be important to ensure that these returns are submitted in good time from now on.

Just for good measure, many of the penalties now being imposed by HMRC have been revised and can now be anything from annoying to downright painful.

Reprieve for holiday properties

The special tax treatment for those who own property that they rent out for holiday accommodation has been rescued by the coalition. It was due to end in April, but will now continue in its current form until April next year at which time it will be amended. Not only are there income tax breaks but individuals can claim entrepreneurs relief on any capital gains they make on a sale of property. This can reduce the tax rates to just 10%. There is a possibility that further amendments could be announced to take effect from April next year but this should be known well in advance of the final implementation date.

Tax investigation time limits

New rules have recently been introduced which mean that the taxman's general right to go back up to 20 years to collect tax underpaid has been removed. He can now only go back six years and even then he has to show that you have not taken "reasonable care", otherwise he is limited to going back 4 years.

The concept of "reasonable care" is very important in these cases and a key factor in countering his arguments is to show that you have kept good records, because the taxman accepts this as indicative of someone who takes care.

..... and your choice of accountant?

Tax Rate Planning Bonds anyone?

There is a lot of talk at the present time about the new 50% and 60% rates of income tax. It looks as though these higher rates will be with us for a little while but, by the nature of these things, rates will fall again at sometime in the future. You can shelter your investment income from these higher rates of tax by the use of such investment vehicles as investment bonds.

There is no tax relief on the initial investment but you can receive 5% of your original investment each year as a tax-free payment and you only pay tax on the profit that the bond makes when you cash it in. You choose when to cash in and you can therefore choose to cash it in in a low tax rate year. Even then, you only pay tax on the difference between the basic and higher rates.

You can take the tax-free 5% however you like, e.g. annually, monthly etc. The 5% is cumulative so that if you do not take anything in one year, you can take 10% in the following year, and so on. However, you must be careful, because if the bond doesn't generate 5% profits each year to replenish what you have withdrawn, taking that amount means you're eating into the capital originally invested but, if this happens, you can reduce the amount taken.

You decide when to surrender the bond, and so when tax will have to be paid on the profit. You could wait up to 20 years for the tax rates to drop again and, in the meantime, continue to draw up to 5% of the investment tax-free each year.

If you are interested in exploring this and other ways of avoiding higher rate tax by the use of investments, you can either speak to your IFA or we can introduce you to an IFA who can advise on specific investments and various alternative forms of investment that you could also consider.

It's not tax but the Omnibus Equality Act is here.

It is advisable to start reviewing your policies and procedures so you are prepared when the legislation is introduced on October 1. The government recently announced that the core provisions of the Equality Act 2010 will come into force next month in Britain (the act does not extend to Northern Ireland). Other provisions will come into force at different times to allow organisations affected by the new laws to prepare for them.

This new act replaces previous legislation (such as the Race Relations Act 1976 and the Disability Discrimination Act 1995) and aims to simplify them and ensure consistency. The Equality Act 2010 covers the same characteristics that are protected by existing anti-discrimination legislation such as age, disability, race, religion, sex, sexual orientation, gender reassignment, marriage and civil partnership and pregnancy and maternity (these are known as the "protected characteristics" or PCs). It also extends some protection to groups that are not currently covered, and also strengthens some particular aspects of discrimination law.

Many of the fundamental principles of discrimination legislation will be largely unaffected, but some will change. For example, employees will be able to complain of harassment even if it is not directed at them as long as they can demonstrate that it creates an offensive environment.