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

"Difficulties in life are intended to make us better not bitter."

-- Dan Reeves, Football Coach

"Getting peoples interest isn't easy, and it is getting harder. They are over-supplied, over-connected, over-communicated with and over whelmed. Please don't expect it to be easy, and don't waste your time looking for some way to make it easy."

Dan Kennedy

"Choice, not chance, determines human destiny."

Robert W. Ellis

"You do not have a future. You only have now."

Asara Lovejoy

**"If you do what you've always done,
you'll get what you've always gotten."**

Tony Robbins

Do you read everything that is sent to you? The answer is almost certainly a resounding "No!". Neither do I. I read about 20% of the content of about 10% of the technical emails that I receive. I probably read a bit more of the journals and newsletters I receive in the post. There are not enough hours in the day to read everything. **That is why we keep our newsletter so short.**

But, I often have a trawl about when I am looking for inspiration for our own newsletter. I did this again this month and I learnt a very important lesson. **Old dog. New tricks**.

If you do or see or receive something regularly you tend to pigeon hole it. It either becomes a must read of "that's boring, I'll stick it on the heap for later" and we all know where that heap is heading.

As I write this it is just before 7AM and I am on yet another ferry. Knowing that I needed something to do on the ferry, I grabbed a few newsletters from the "boring" heap and put them in my brief case. I thought I "might" get a little inspiration from them and could then dump them when I got to my destination. So, what's the lesson I hear you asking.

Well, these newsletters don't seem to be boring any more. Have they changed? Have I? Not that much.

The answer is that I had made a judgement about the first couple of issues and then judged every other one in the same way and so failed to look on them positively any more. When I opened the envelope and saw what was inside, I made a judgement there and then, even before I took them out of the envelope.

My question to you is this. Are there people, places, newsletters or books that you have made a judgement about, possibly even years ago and still judge them based on that "old" assessment?

You cannot cross a river twice. If you try, the water you crossed before has moved on and so have you. You are that little bit older and since that first crossing you will have changed in whatever small way. So, you are not the same person and are crossing different water.

So, when I went back to these newsletters, I will have been changed and the content has inevitably moved on. It was not boring. In fact it was very interesting and highly relevant to our business. I even found an article about marketing for accountants. It said that **accountants are boring and the marketing for accountants is boring, glossy and boring.** Our newsletter is not glossy. Is it boring? Hmm. Something for us to think about, because boring does not get read. Boring does not sell.

So, do you have a preconceived notion about accountants, lawyers, newsletters? Do other people have preconceived notions about you? How can we (that includes you) challenge these preconceived ideas and re-engage with even more people with whom we might want to do some business.

We all have something that would be useful to others and help them solve their own problems. But if they have preconceived ideas, they may not give us (and that includes you) a chance. Let's see if we can challenge these ideas and be interesting. **Most accountants and lawyers are boring and have a boring message**. How do we change this and open more doors? We are working on it.

It is conference season again. 48 hours discussing a 3 letter word ending in "x". I always take great delight in telling people I am off for a long weekend and when they inevitably ask, "anywhere nice?" I say a **tax conference**. They invariably **wince at the thought**.

Quite funny really. For me it is a weekend of Guinness and pool, meeting up with old friends and exchanging experiences. Yes, I know we go to lectures as well but they are only half of it. We get really well fed (most of the time) and I usually put on a few pounds. I have come to look forward to the events because they are not boring for me. But, just think what preconceived notion others (you?) have about tax conferences.

Have I made my point? Next!

Purchase of own shares

It is not unusual to find more than one generation of a family involved in a company. There comes a time when the older generation wants to bow out, but they need to take some value with them to support them during their retirement. It may be that none of the parties involved has funds outside of the company and so any transactions inevitably result in the withdrawal of cash from the company and the possible tax consequences of such an action.

It is generally more efficient, if it can be achieved, for the company itself to buy back the shares, which are then immediately cancelled, leaving the other shareholders shares intact. This will minimise the amount of tax paid by everyone.

The company must be an unquoted trading company and the purchase must be for the benefit of the company's trade. "Benefit" might include the retirement of a controlling shareholder/director wishing to make way for new management, or alternatively, buying out a disinterested or aggrieved shareholder. The outgoing shareholder must sell all or virtually all of their shareholding, must be UK residents and have held the shares for at least 5 years. There are a lot more detailed rules and, if you are interested, you should come and speak to us.

The payment from the company can be treated in two different ways, either as a capital purchase of shares or as a distribution i.e. dividend. For most people the capital route is best because most will only pay 10% capital gains tax on the profit from the share sale.

In a family company, it is important to ensure that immediately after the purchase, the seller, their spouse and minor children taken together, have less than 30% of the ordinary share capital and loans within the company.

HMRC offer an advance clearance procedure which we have used on a number of occasions, so that any transaction involving the purchase of own shares by a company can be approved in advance.

Simplified accounting - beginning with your 2014 tax return

The government has been keen for a while to simplify the calculation and reporting of profits, particularly for the smallest businesses. One of the reasons for this is the introduction of the new Universal Credit benefit system and the need to the self employed to be able to report their profits monthly without the need for professional assistance. There are 2 elements to the new rules.

1. Cash-based accounting for businesses below the VAT threshold.

The profit is calculated generally on the difference between business cash in and business cash out. There are a number of disadvantages such as a limit on the deduction for interest paid and not being able to set off trading losses against other income. It will therefore be useful for the smallest businesses and primarily sole traders, with no employees. However, it can be applied to partnerships and more sophisticated businesses within the turnover threshold, although it is unlikely to be so beneficial.

Generally your turnover must be below the VAT threshold, currently £79,000. If the Universal Credit is being claimed, you can enter the simplified cash basis for accounting with a turnover up to twice the VAT threshold i.e. £158,000. Once turnover exceeds this figure, you must return to the normal accruals basis for accounting.

Individuals with more than one business must aggregate cash receipts of each business carried on in a tax year and where someone is a sole trader and also has interests in a partnership, these may also need to be aggregated.

Businesses not permitted to use the cash include:

- companies and LLPs
- businesses with a herd basis election
- businesses using farmers averaging
- certain specific excluded trades, but this is unlikely to affect many people.

2. Fixed rates deductions for business expenses.

These will be available for almost any business to use, and you can pick and choose which ones suit your circumstances.

Business mileage for cars and motorcycles (and vans) - The rate is 45p for the first 10,000 miles and 25p thereafter, taking all vehicles into account. You don't get 10,000 miles per vehicle.

Business use of home - This monthly deduction depends on the number of hours worked at home and ranges from £10 for 25 hours per month and rise to £26 when the number of hours is over 100 per month. Not generous.

Add back adjustment for the private use of business premises (e.g. hotels and guest houses where the proprietors live on the premises). It is based on the number of occupants starting at £350 per month for a single occupant, £500 per month for 2 occupants and £650 per month for 3 or more occupants.

Strictly, these flat rate adjustments cannot be used by partnerships where one of the partners is a company but is likely that they will be able to be used as indicative rates provided that they appear reasonable and are not improperly exploited.

Universal Credit

This is the new state benefit system that will replace the following existing benefits:

- income-based jobseeker's allowance
- income-based employment and support allowance
- income support
- working tax credit
- child tax credit
- Housing Benefit

Roll out of the new system commenced in April 2013 and will take 4 years.

The main features of the new benefits are as follows:

- it must be claimed online at www.gov.uk/universalcredit
- in a household where both claim universal credit they will receive one monthly payment into one account
- the claimant must accept and fulfil a claimant commitment that sets out their responsibilities and the consequences of not meeting them.

- The unemployed who are able to work must make looking for a job their full-time focus
- Those already working to their full potential will still have to fulfil a claimant commitment but this will not ask them to carry out any jobseeking activities.

Where someone claims to be self-employed an assessment will be made as to whether they are "gainfully self-employed", taking into account such factors as whether the activities are undertaken for financial gain, the hours worked each week, incoming work in the pipeline and the level of marketing and advertising undertaken by the proprietor.

There will be an assumption made that the minimum income earned by anyone in gainful self-employment is equivalent to the expected number of hours worked per week times the national minimum wage less notional income tax and national insurance. So, even if you have made no profit, you are attributed with a basic income.

The calculation of self-employed earnings will be based on cash receipts less permitted expenses in the relevant assessment period, but also deducting income tax, National Insurance and pension contributions paid in the period.

Monthly claims for Universal Credit can be made up to any day in the month. A household's assessment period will start on the date it makes its Universal Credit claim and the assessment period will end on the same day in the following month. The assessment periods are therefore not based on calendar months.

Some modification is made to the flat rate expenses. For example, where the fixed rates are claimed for the use of a car the 10,000 miles per annum limit for the 45p rate is reduced to 833 miles per month.

Universal Credit - how will DWP obtain information

For employees this information will be obtained from the RTI submissions made by employers. Where someone is self-employed, they must self-report income less expenditure for each assessment period of one month within 7 days before and 14 days after the end of each period. The figures to be reported will be based on cash accounting. Now you know why they were so keen on RTI and the cash basis for small business accounting.

The GAAR

This is the new general anti-abuse regulation that is included in this year's Finance act. It gives HMRC the ability to challenge any arrangements which breach certain criteria set out in the act.

The Act says "Tax arrangements are abusive if they are arrangements, the entering into or carrying out of which cannot reasonably be regarded as a reasonable course of action in relation to the relevant tax provisions, having regard to all the relevant circumstances." This has become known as the "double reasonableness test". Therefore, if the result of some tax planning is only achieved by the use of one or more contrived or abnormal steps, HMRC can challenge it.

The climate remains extremely hostile to all forms of tax planning, even when this is perfectly legal. Large companies can therefore find themselves in a situation where they have correctly calculated the amount of tax due, according to the rules made by Parliament, but are chastised in public for underpaying tax. The impact of this is also likely to be felt at our end of the commercial spectrum in the attitudes of HMRC personnel. We are therefore likely to see the GAAR principles applied widely and especially in countering any arrangements that, in their opinion, are uncommercial or contrived.

National Insurance - £2000 employment allowance

This will be an allowance available to all businesses and charities to offset against their employer Class I National Insurance contributions from April 2014 and will be claimed as part of the normal payroll process through RTI. It will therefore reduce the employers National Insurance bill.

The measure is intended to reduce the cost of taking on new staff for the smallest businesses. This will mean that, on current rates, a business will be able to employ one worker on a salary of £22400 and pay no Employers National Insurance, or alternatively four employees working full-time on the adult national minimum wage.

Disincorporation relief

This will only be of interest to very small companies.

Certain qualifying business assets (property and goodwill) will be able to be transferred from the company to shareholders without an immediate tax charge.

These assets, must have a value of less than £100,000 at the time of transfer. The shareholders take over the assets at the same value as they were held in the company and so will be liable for tax on the whole gain on a subsequent disposal.

As this is a distribution from the company, there may be an income tax charge which could make the whole process potentially quite expensive.

Statutory residence test

With effect from 6 April, 2013, the statutory definition of tax residence for individuals has been introduced. This will also provide for a tax year to be split into a UK part and overseas part in certain circumstances and contains new rules for the taxation of certain income and gains arising during the period of temporary non-residence.

The new rules apply tests for automatic overseas residence, automatic UK residents and when neither of these apply, consideration of sufficient ties and a series of criteria to be applied in establishing whether someone is resident in the UK for a particular tax year.

Merchant Acquirers

Merchant acquirers have been added as a category to the definition of data holders for tax purposes. This will allow HMRC to issue a notice to merchant acquirers requiring them to provide data.

The data that can be requested will include information about credit and debit cards sales made by retailers as well as:

retailers name
address
VAT number
bank account details

The information provided will be used to cross check against VAT registrations and business income declared on tax returns.

The peedie bits ...

IHT and spouses not domiciled in the UK

If you are from the UK but your spouse or civil partner came originally from overseas, you were at a disadvantage for IHT purposes. Generally, transfers between husbands and wives were free of IHT but, if your spouse retained their overseas domicile, the lifetime limit for transfers was £50,000. This is now being changed so that the limit is now linked to the IHT nil rate band, which is currently £325,000.

If this is still a problem, the non-domiciled spouse can make a once and for all election to be treated as domiciled in the UK and while this solves the problem of inter spouse transfers, it can raise a number of other issues including the fact that any overseas assets become subject to UK IHT.

IHT and liabilities

Previously, a liability charged on a UK asset reduced the value of that asset for IHT purposes. This enabled certain people to reduce or eliminate the IHT charge on assets by taking out loans against assets liable to IHT but investing in exempt assets. Such liabilities can no longer be used to reduce the value of the UK charged asset.

This would stop someone from taking out a mortgage over a substantial residential property and using it to purchase a farm, exempt under agricultural property relief. It would also stop an overseas national (and therefore not domiciled in the UK) from taking out a mortgage on a substantial UK property and using the funds to buy assets overseas, not be subject to IHT.

Another useful trick that can no longer be used was where an aged taxpayer raised a mortgage on their main residence and used it to buy a portfolio of shares that would qualify for 100% business property relief after just 2 years, leaving the residential property possibly with no IHT liability because of the value of the mortgage.

New rules - director's loan accounts

Where a director's loan account is overdrawn at the year-end, the company has to pay a charge to HMRC calculated as 25% of the overdrawn balance. However, this is not payable if the balance is repaid within 9 months of year-end. HMRC have recognised that there are directors that repay the balance just before the nine-month limit, and then take out a new loan shortly afterwards.

In future, it will not be possible to use such "bed-and-breakfast" arrangements and any reduction in a loan account followed by an increase within 30 days will be matched such that the reduction does not count when calculating the charge on the overdrawn loan account. There is a further restriction where there is any arrangement to repay or replace the previous repayment of a loan. Repayments must therefore be genuine reductions in future.

However, these rules do not affect the repayment of loans through the declaration of a legal dividend or the payments of a bonus which will be subject to PAYE. It has been important for a long time that dividends are not backdated and are legally declared and properly documented. This will be even more important in the future because the HMRC spotlights are firmly upon overdrawn directors loan accounts.

Corporation Tax rates

The rate that applies to most small companies is 20%. The main rate in the current year is 23% and this will fall to 21% in April 2014 and 20% from April 2015. From that date, there will therefore only be a single Corporation Tax rate. The disadvantage of a single rate is that any increase in rates in the future will affect all companies universally and not just the largest companies.

Contributions towards capital expenditure on plant machinery

Where a business makes a contribution to capital expenditure by another business on plant machinery, allowances for the amount covered by the contribution are available to the contributor and not recipient, even though they will not own the equipment themselves.

Annual investment allowance

This increased from £25,000-£250,000 but only for 2 years and it is intended that it will return to £25,000 with effect from 1 January 2015. Only those businesses with a 31st December year-end will get to take full advantage of the measure since alternative accounting dates will require the allowance to be time apportioned according to specific rules that were introduced the last time the rate was changed. Speak to us if you think this might affect you, it's complicated.

Capital allowances on low emission vehicles

Cars with low carbon dioxide emissions and electrically propelled cars qualify for 100% first-year allowances and it has been announced that this is to be extended a further 3 years to 31 March, 2018. However, to qualify the car has to have a reduced emission rate of 75 g/km (95 g/km up to 2015).

Family pension plans

The tax exemption for employer contributions made to the scheme for an employees spouse or family member has now been restricted so that where such a payment is made as part of the employee's flexible remuneration package the contribution will give rise to tax and national insurance abilities on the employee and the employer, respectively.

Single tier state pension

The single tier state pension will begin after 5 April 2016, after which the state 2nd pension will close and from that date, the ability of members of a defined benefit pension scheme to contract out of the state 2nd pension will end and they and their employers will therefore no longer be entitled to pay lower NIC rates.

For employees, the single tier will make the state pension system fairer by ensuring that from 2016 - 17 onwards, everyone except the self-employed will pay the same rate of National Insurance and build up access to the same single tier state pension. This means that those who are contracted out in 2016 – 17 will contribute more in National Insurance but in return they will get more generous state pensions.

Don't forget that self assessment season is fast approaching so, if you haven't given us your tax information yet, avoid the rush and do it today!