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 you on your own particular circumstances.

Quotes

"As long as you're going to be thinking anyway, think big."

-- Donald Trump, Real Estate Magnate

"Nothing is more expensive than a missed opportunity."

-- H. Jackson Brown, Author

"You gain strength, courage, and confidence by every experience in which you really stop to look fear in the face. You are able to say to yourself, "I have lived through this horror. I can take the next thing that comes along." . . . You must do the thing you think you cannot do."

-- Eleanor Roosevelt, Former First Lady

"Create a definite plan for carrying out your desire and begin at once, whether you're ready or not, to put this plan into action."

-- Napoleon Hill, Motivational Writer

This time of year for me is marked by the Grand National, the Boat Race and the Budget. I very rarely watch the Grand National and this year was no exception.

The Boat Race was curious but not very exciting. I caught it on iPlayer after the event. I have always supported Oxford even though I have no connection with the town. I think it was because when I was growing up, Oxford were the underdogs and had not won a race for many years. I visit Cambridge annually for the CIOT Tax conference and recently have also been in Oxford. Of the two, I probably prefer Cambridge but maybe it is just familiarity. However, it does not stop me supporting Oxford on the day.

There would seem to be no logic or reason for this and so I must just attribute it to conditioning in my early years. It also makes me wonder what other opinions and prejudices were instilled into me at the same time and which might be affecting my judgement even today. I would like to think that I am now my own person and not controlled by any opinions and prejudices of other people such as my parents but inevitably, there will be some aspects of anyone's character, however small that are attributable to the views of their parents. The question is, do you recognise any such opinions and prejudices which you picked up at an early age which might be affecting the way you act and think today? Are they positive or negative? Have you become more like your own father or your own mother as you get older. This can be quite a scary thought because as you grow up you were quite critical of your parents, so who has changed, you or them? I once heard it said by a man that, when he was 16, his father knew nothing but by the time he was 35, his father seemed to have learnt an awful lot.

The Budget seemed like a bit of a non-event on the day. However, as time goes by, some of the throwaway remarks have been fleshed out and some aspects of the budget proposals are starting to cause concern. In particular, I would point to the proposals for HMRC to be given powers to access taxpayers bank accounts and withdraw tax that is overdue for payment. Now, on the face of it, this does not seem like an unreasonable situation. If the tax has been properly calculated and appropriate requests have been made for payment, but no payment is forthcoming even though there is money in the bank, why should not HMRC, on behalf of us all, go out and get it.

The first problem here is that the proposals include both tax and tax credits and so, potentially, it could impact on some relatively low income families who might already be in financial distress but yet have a small pot of money in the bank which might already be earmarked for essential purchases. What about the rights of other creditors?

The second problem relates to whether the tax liability has been correctly calculated, is properly due, and is not subject to any dispute. I realise that any funds taken in error will be refunded but HMRC may have taken funds not properly due from a taxpayer who could not afford to pay them.

Finally, I would highlight the issue of safeguards and who is to authorise the withdrawal of funds from taxpayers personal bank account. Ultimately it will be a computer that undertakes the transaction and how can we be sure that all the appropriate processes have been put in place to safeguard taxpayers generally from such actions. HMRC have had computer errors on a big scale before.

One question that has not been answered is how HMRC will get details of taxpayers various bank accounts but presumably this will rely on assistance from banks who for the most part are part owned by the Government and therefore obliged to be compliant.

I can see a lot of people moving their bank accounts to foreign jurisdictions in order to safeguard their finances should HMRC come knocking at the door.

I think this is a worrying development but we will have to wait and see the details in due course.

Can HMRC raid your bank account?

There are presently proposals in the pipeline to give HMRC the power to collect unpaid **tax and tax credits** by going directly to your bank account and extracting the necessary funds. It is not proposed that this will be the norm and it will only be applied where taxpayers are reluctant for one reason or another to pay over the tax that is properly due.

In his Budget speech in March, the Chancellor promised, "We will give HMRC modern powers to collect debts from bank accounts of people who can afford to pay but have repeatedly refused to, like most other Western countries."

"The direct recovery of debts will focus on debtors who owe at least £1,000 and have been contacted multiple times by HMRC to pay. A minimum aggregate balance of £5,000 will be left across all accounts, including ISAs, after the debt is recovered."

One concern must be that HMRC might make a mistake and withdraw funds from the wrong bank account leaving the taxpayer with insufficient funds for their daily needs. Another concern is that they may proceed to withdraw the wrong funds from the taxpayers account and also still proceed where the matter is disputed.

Patrick Steven for the CIOT commented "However many safeguards there are on the ability simply to take money from somebody's bank account, it does rely on the authority having worked out how much money should correctly be taken from it in the first place."

The detailed proposals on this measure have not yet emerged from HMRC and given the political and media heat they generated, more work may be required in Whitehall before they are ready for public consumption.

Given that HMRC are not preferential creditors, should other creditors be given similar powers to get debts paid? It could also mean that HMRC will be given a preference ahead of other creditors of that business. In any event, the funds will probably already have been moved, out of sight.

VAT - Highlights and Misconceptions

I recently attended a lecture at The Institute of Taxation Spring Residential Conference in Cambridge given by Malcolm Greenbaum of Greenbaum Training and Consultancy. It was so good that I thought I would share an abbreviated version with you.

Buy to let costs—input tax claim possible?

A basic principle of VAT is that input tax cannot be reclaimed on costs that are directly related to exempt supplies. Rental income from a residential property is always exempt from VAT, so if a landlord with such income also has taxable business income and is VAT registered, he is partially exempt where VAT is concerned.

In relation to input tax on exempt supplies, there is a window of opportunity with the partial exemption de minimus rules. The VAT on expenses relating to your exempt supplies e.g. rental income can be reclaimed in full if the exempt input tax is less than £625 per month on average and the value or exempt supplies is no more than 50% of the value of all suppliers.

E-books and e-magazines

Since 1973, when VAT was introduced, printed matter on paper has been zero rated. With changes in technology and the growing volume of e-books, the tax system has failed to keep pace with technology and these electronic products are standard rated even though the content is identical to the paper version. That' VAT for you.

Therefore, in order to achieve the same profit margin for identical content in an electronic format, you need to charge a higher price to take account of the VAT.

Output tax can be reduced on the sale of an asset if input tax was apportioned to non-business or private purposes.

If an asset is bought with mixed business and private use, input tax apportionment is usually made when the item is purchased, i.e. only part of the VAT is reclaimed. However output tax is only chargeable on the same percentage of the sale proceeds on a disposal. Therefore, if only 60% of the input tax is claimed on buying the van used partly for non business purposes, then output tax is only charged on 60% of the sale proceeds. If you accidentally charge VAT on the whole sale proceeds then strictly this is not all reclaimable by the purchaser and HMRC may disallow their claim.

Cash Accounting Scheme—exceptions to tax point rules

The cash accounting scheme is a useful cash flow tool for a small business with annual sales of less than £1.35 million excluding VAT. However, the cash accounting scheme does not apply in 2 main situations:

1. sales invoices raised in advance of the sale taking place.
2. sales invoices where payment is due from the customer more than 6 months after the invoice date.

Capital Goods Scheme

The scheme is broadly operative when expenditure of £250,000 net of VAT is incurred on buying, constructing, altering or refurbishing a commercial building. To the extent that you may be making exempt supplies in the period of the purchase, that part of the input tax is not reclaimable. Input VAT needs to be adjusted at any time in the next 10 years if the percentage of exempt supplies changes.

If you do not opt to tax the building and you sell it within 10 years (but when it is more than 3 years old) the sale is an exempt supply. This means that for the balance of the 10 year period the supplies are treated as wholly exempt and under the capital goods scheme, as the percentage of exempt supplies has changed, input tax previously claimed is now repayable albeit reduced in proportion to the number of whole years remaining the 10 year period. It is easy to overlook this adjustment on sale (and expensive).

Option to Tax

An option to tax is only effective for land and commercial buildings. You do not need to own the building but you opt to tax your interest in the building, which could be a lease or other temporary interest. An option to tax by the landlord does not confer any option on the tenant who can choose whether to opt or not.

Up front deposit paid to Landlord

Deposits paid to the landlord of commercial property are often expressed as a number of months' rent. They are in practice however a security deposit against any damage done by the tenant and which have not been rectified by the end of the lease. As such they are in fact outside the scope of VAT as no services are provided in return for this deposit. An actual advance payment of rent is different and, if the landlord has opted to tax these must have VAT added to them.

Dilapidations Payments on exiting property

No VAT is due on dilapidation payments because there is no sale of goods or services from the landlord to the tenant in this situation. The payment is outside the scope of VAT as it represents a claim for damages by the landlord against the tenant. The landlord is not obliged to spend any of the money on the property.

Scope of Self Storage Supplies

The rules changed with effect from the 1 October, 2012. From that date all storage provided by any business became standard rated. Any storage used by a tenant is therefore standard rated. This could affect a farmer who lets out surplus buildings and who previously charged no VAT. If the buildings are used for storage then VAT applies.

This can also have an impact where a business is just below the VAT threshold on its normal trading activity. Rents received may previously have been exempt and not included in the calculation of turnover. If the rents relate to property used for storage, this is now a taxable supply and included in the turnover and could mean that the trader is now liable to be VAT registered. Late registration issues?

Deliberate Overpayments and Output Tax

In a recent case, it was established that where the customer deliberately overpaid the purchase price (in this case a car park ticket machine that did not give change) output tax was only due from the supplier on the actual charge and the surplus change was outside the scope of VAT. However, it is likely that the customer would reclaim VAT on the actual amount paid and so HMRC would be out of pocket.

Gifts of Goods and Services

Gifts of goods costing more than £50 are treated as supplied for VAT purposes. The output VAT is based on the cost of the goods to the business and so effectively cancelling the VAT claimed when the goods were purchased.

Gifts of samples are outside the scope of VAT. It does not matter how many samples are given to the same recipient but the samples must not be the same specification as products ordinarily sold to customers. i.e. you cannot disguise a normal supply as a sample.

Gifts of services are outside the scope of VAT in all cases. They are not considered to be business supplies and as a result any related input VAT should be disallowed.

Remember that consideration for VAT purposes is not necessarily cash and any sort of barter arrangement could result in VAT becoming due. The 2 sides of the transaction need to be dealt with separately and the VAT of each looked at independently.

Reclaiming VAT suffered in other member states

If you make a business purchase from an EU country it is likely that VAT will not have been charged. However, if you have suffered VAT in another member state, there is a mechanism in the UK whereby you can reclaim the VAT suffered without recourse to the other member states tax system.

The claim is made through your online VAT service on HMRC's website. The minimum new claim is EUR50. Remember that the conditions affecting the tax recovery are based on the laws of the member state where the refund is sought.

VAT and Jointly Owned Properties

Where a property is jointly owned this will effectively be a partnership for VAT purposes and the income will be treated separately from any sole income. If a sole trader is also the joint owner property, the sole trader's VAT registration will not be applicable to any of the rental income even though half of the rent is entered onto the sole trader's tax return.

The Sales Prevention Department

This is where we share stories with you either of poor service or, sometimes, where an organisation's message is undermined by their actions.

I have probably shared with you in the past stories of police cars speeding through villages or travelling up the A9 from Evanton to Latheron at speeds approaching 80 miles an hour. I realise that they are only human, but that defence doesn't help the rest of us and, in their case, it seriously undermines the message that they are trying to get across. I have another such story for you.

8:30 AM on 23 April between the Tore Roundabout and Kessock Bridge on the section of dual carriageway where there are signs for cars to remain in the left-hand lane and lorries in the outside lane as they approach the roadworks on the bridge. Many of you will be familiar with this section of road and the fact that, when it is quiet, the restrictions are excessively long. However, we all come across cars travelling slowly in the inside lane and, when it is quiet, most of us will overtake. I do!

On this particular morning, a lone female driver in a Fiat Panda who is unfamiliar with these roads and had just driven over 100 miles already that morning overtook a slower vehicle before reaching the bridge and was pulled over after the bridge by a police car and formally charged!!

When asked why they had not pulled over the white transit van in front who she was following, they declined comment. They did however say that ordinarily they did not stop overtaking traffic because it's too busy and there were too many of them. It had just been that the road was quieter on that morning and so they decided to stop her.

Now, we all accept that there needs to be some policing on the roads but the application of the legal process in this way and their comments afterwards do not make me very supportive of their aims. They may have been doing their job but on the whole, I would say, they need a bit of re-training before being allowed to work with the public. Thoughts?

The peedie bits ...

Entertaining Workers and VAT

Input tax can be reclaimed on the costs of entertaining staff, unless the role of staff members is to act as host at an event for non-employees.

Entertaining of staff can be a key component of rewarding good work or loyalty. Input tax can therefore be claimed on the costs of office Christmas parties, staff outings and other social events provided to employees.

Input tax can also be claimed on subsistence expenses for self-employed workers (subcontractors etc.), even though they are not employees.

However, as a general rule VAT can only be reclaimed if the workers are employed by that VAT registered entity. Employees of other VAT registrations are not included, even if they are employees of a company in the same group. The costs must be recharged (with VAT) and the VAT reclaimed by their own company.

Changes to CGT Rollover Relief

The following changes affect CGT rollover relief, which is available to shelter gains on certain business assets.

1. Exclusion of intangible assets

No rollover relief will be available on the re-investment of proceeds in intangible fixed assets. This corrects a rewrite drafting anomaly, and parallels the treatment for companies introduced at the time that the intangibles legislation was introduced into corporation tax in 2002. Where claims for relief had been made prior to 19 March 2014, there will be a consequent adjustment to the carrying value for tax.

2. Extension to agricultural Basic Payment Subsidy

With effect from Royal Assent, entitlement to the new agricultural subsidy Basic Payment Scheme will become a qualifying asset for the purposes of CGT roll-over relief.

No EIS or SEIS for businesses in the energy sector

Changes will be made by the Finance Bill 2014 to prevent any company which benefits from Department of Energy & Climate Change (DECC) Renewable Obligations Certificates (ROCs) or Renewable Heat Incentive (RHI) schemes from also benefitting from tax supported venture capital schemes.

Companies will be excluded from both EIS and SEIS, and also from VCT schemes. The change will apply to shares issued on or Royal Assent for EIS and SEIS, and to money invested by a VCT on or after Royal Assent.

If this measure had been in place previously, it would have prevented many small privately owned wind turbine developments.

Dividend Waivers

These have always been something to use with care and especially in husband and wife companies. In a recent case 2 husbands had exercised waivers regularly over a number of years so that a higher proportion of dividends declared passed to their wives, and were taxed at lower rates.

Unsurprisingly, they lost and this will prove to be expensive for the taxpayers concerned.

£2000 Employment allowance

From 6 April 2014 this new allowance will provide relief for up to £2,000 from employer NIC. It will apply to all businesses and charities, irrespective of size.

Businesses need to claim the allowance by making the relevant tick on their payroll software. The allowance is not available to domestic employers or public bodies such as local authorities, and similar entities.

It does offer a choice to directors of OMBs to consider increasing their pay to the personal allowance at reduced NIC cost.

Prompt payment discounts—changes from 01/04/2015

Have you ever wondered why we charge 18% VAT when the rest of the country charges 20%? The reason is that because we give you a 10% prompt payment discount, we only need to charge VAT on the net fee after deducting the discount, whether you take it or not. That has been the way since VAT was introduced and many small businesses will have taken advantage of this. It is particularly attractive where you make supplies to non VAT registered people or businesses because it reduces their costs and makes your supplies more attractive.

That is all changing from 1 April 2015. The rules on the calculation of VAT where a prompt payment discount is offered by the supplier are to be reformed so that the VAT charged reflects the amount the customer pays for the supply. The change is necessary to align with EU rules, and will increase the VAT charged on the supply where the discount is not taken.

The change will apply from 1 April 2015, but there will be early implementation in the telecommunications, television and broadcast industry where there is no requirement to issue a tax invoice (domestic supplies) for which the measure will commence on 1 May 2014 to prevent loss of revenue.

Travel expenses

In a recent case a flying instructor lost his claim to deduct travel expenses. He had an office at home and gave flying lessons at two local airports.

It was held that he was not an itinerant worker for tax purpose but had places of business at his home and at the two airports where he taught and examined pilots. Although he could have taught at other airports, he had only done so on a single occasion and so he attended the two airports 'regularly and predictably' to carry out his business activities.

The cost of travel from his home was therefore treated like normal commuting and not allowed a deduction.

If you work at home and also at other locations on a regular and predictable pattern, you may be in the same boat.

This is a tricky area of tax and if you think this might affect you, get in touch to discuss your own particular circumstances.