

# tlp - news

February 2014

The monthly newsletter of The Long Partnership and A A Mackenzie & Co.

[www.thelongpartnership.co.uk](http://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

**"Learning is a treasure that will follow its owner everywhere."**

-- Proverb

**"He who is not courageous enough to take risks will accomplish nothing in life."**

-- Muhammad Ali, World Heavyweight Boxing Champion

**"Put your hand on a hot stove for a minute, and it seems like an hour. Sit with a pretty girl for an hour, and it seems like a minute. That's relativity."**

-- Albert Einstein, physicist

**"Any person who selects a goal in life which can be fully achieved, has already defined his own limitations."**

-- Cavett Robert

**"Failure is the opportunity to begin again, more intelligently."**

-- Henry Ford, Founder of the Ford Motor Company

I was driving between Tain and Inverness and I heard something that has fundamentally changed my thinking about business and the meaning of the term "entrepreneur". If I am right, then there are a lot less "entrepreneurs" than before but it is all about the definition of that word. You may or may not agree. However, I thought it was the clearest and simplest explanation I have yet heard and it really struck a chord.

I was told recently that you should spend 15 minutes everyday reading something to either improve your technical knowledge or your mind. I spend several hours every week driving and so I listen to that amount of material on CDs. It's a bit like going back to college one half day every week. Surely I must have learnt something useful by now but you may think differently.

Anyway, I was listening to a well known *American* business coach and the question was:

**"Are you an entrepreneur or a civilian?"**

Now, civilians come in different shapes and sizes because you can be a civilian and still running a business. Let me distil the explanation down to some basics.

Entrepreneurs hate boredom. They are wired for change and for the thrill of business. They are risk takers. They probably don't watch much television except to keep up with the news. They are wired for the challenge and if they get bored in their business, they stop paying so much attention to it, start overlooking things and get sloppy. They stop asking themselves important questions like "where is the next trend to capitalise upon" or "the next opportunity" or "how can I improve my business" i.e. bottom line. When they get bored, they go into the mode of just putting out fires and that hurts them and their business.

In contrast, civilians are wired for security, not thrill. They may be excellent employees putting real effort into their work and taking real responsibility but at the end of the day they are fulfilling a role that someone else has defined for them.

If they are self employed they may work long and hard to provide a steady income for them and their families. They typically have a more active social life and have achieved their desired work life balance. There may be the occasional strategic adjustment to the business, but no desire for risk and being ready to take that leap in the dark to try to capitalise on every opportunity that may or may not be out there. This is a life choice and it largely depends on how you are wired.

Needless to say that most **civilians do not understand entrepreneurs** and use language like "get a life", "you must be a work-a-holic", "slow down or you'll give yourself a heart attack" or "you need to work smarter not harder."

**The entrepreneur knows that you have to work hard and smart** and that there is a price to be paid to achieve any worthwhile goal. There are also the rewards that go with the successful achievement of that worthwhile goal.

It is these real entrepreneurs that need to be nurtured and supported, not criticised. It is these people that will create the real growth in jobs and prosperity and they need all the encouragement that they can get. However, this is often not the case, especially from such as HMRC.

So, what are you, entrepreneur or civilian? There is nothing wrong with either choice. They are just different and we need both and in the right proportions. They have different wants and desires and you need to treat them differently.

It's just like the difference between men and women. Equal but different and you need both in every business. I heard recently that without his wife's help and encouragement as he started out, Henry Ford would not have been any sort of success. It's not just the different knowledge or experiences but they are wired differently and so we complement each other.

Speaking of men and women, a number of our staff are presently in training and sitting exams which will take many years to complete. **Congratulations** to all of the following on passing the next stage of their professional exams:

**Lana Ross (Inverness)**

**Michelle Grant (Inverness)**

**Lisa Mackintosh (Dingwall)**

**Ben Roper (Thurso)**

# **PAYE final submission for the year**

## **<< end-of-year tasks >>**

Here is a summary from the HMRC website. If you use commercial software such as Sage some of the processes may be different.

You must make sure that you submit your final Full Payment Submission (FPS) and/or Employer Payment Summary (EPS) for the final pay period in the tax year. HMRC uses the information that you send to make sure that you and your employees have paid the right amounts of tax, National Insurance contributions and student loan deductions for the tax year. The information is also used in the calculation of entitlement to state benefits, tax credits and pensions.

### **Do not send forms P35 or P14 for 2013-14 tax year.**

At the end of the tax year, submit your final FPS and/or EPS for the pay period as normal - on or before the date you pay your employees.

#### **1) Identify your final submission**

This could either be your final FPS or, if you have not paid anyone in the final period, an EPS. It must be the "final submission" so be careful if you have weekly and monthly payrolls.

#### **2) Indicate your final submission**

On your last FPS or EPS for the year you must also indicate it is your 'Final submission for the tax year' and answer the end-of-year questions and declaration.

#### **3) Send your final submission as normal**

The same time limits apply to final submissions as they do for normal submissions. So, you should send your final submission on or before the date of your last employee payment in the tax year (or by 19 April if you are sending an EPS).

There are a number of special rules covering such things as:

- **If the final submission was sent early**
- **If you omitted the final submission indicator**
- **New employers claiming NICs holiday relief**
- **If your scheme has ceased**
- **If you made no payments in the final pay period**

**Give us a call if you need help!**

# **Experiences from the 2014 "tax season"**

Ever wondered what accountants talk about in February? The "tax season" is quite intense and so once the pressure is off, we like to unwind and share our experiences. However, here are some of the more interesting highlights.

## **Record numbers of tax returns filed on time.**

More than 10.03 million returns were received by midnight on 31 January, compared to 9.61 million in 2012/13, and the Revenue received its highest ever number of online returns. It seems that paper is losing its popularity.

Between 4-5pm on 31 January was the busiest period for filers, with more than 45,000 returns being processed in that hour. Over half a million returns were filed on the last day (including mine! Must speak to my accountant about that).

Citibank, the Revenue's bank, experienced issues on the 31 January due to the high volume of people wanting to pay their taxes. Some payments being made electronically were incorrectly returned due to the system not coping with demand.

According to an HMRC spokesperson, the busiest day of the banking year saw billions being sent to the Revenue electronically during a very short time window.

A spokesman for HMRC said "At times a small number of faster payments were not coming through from our bankers as fast as we would like but payments were coming through. If because the system was so busy people were unable to make payments on the 31 deadline, we will not charge them interest on this."

Other issues that practitioners experienced included spammers sending emails purporting to be HMRC in a bid to extort personal information and money out of unsuspecting taxpayers. Having received one myself, I can vouch the authentic look of the email. All the links bar one were to the HMRC website. It was the one that did not point to the HMRC website that would catch people out.

## **Fraudulent tax returns submitted**

It seems the agent's Government Gateway login details were compromised at the end of January with the result that some tax returns were filed online by fraudsters. The tax returns declared a modest level of income and produced a tax refund of just under £3,000. HMRC has stopped the repayments and is investigating. We are aware of a number of accountants whose clients have been affected in this way. So far, we have not heard of any of our clients being affected.

## **Fraudulent VAT returns submitted**

Some agents (not us!) have been targeted by a sophisticated email "phishing" scam which resulted in fraudulent VAT returns being submitted. In this scam, the agent's computer system is infiltrated and log in details are gathered. Fake returns are then generated and submitted in order to obtain tax repayments.

According to HMRC 'There is evidence that a number of agents were targeted by a sophisticated email "phishing" scam. The fraud involved identity theft via malicious software (mainly disguised in 'phishing' emails) sent to some tax agents. It was designed to extract the secure login details of customer accounts to enable the fraudsters to submit bogus VAT repayment claims.

## **What you need to do**

Make sure that your anti-virus, anti-spyware and firewall software is fully up to date. You should then carry out a full computer scan using your software to make sure your computer is clear of computer viruses.

Please also review who has access to the computer or network. You should make sure confidential data such as your password and credentials are secure and not shared with others.

We strongly recommend that you change the passwords you use for all government transactions or services, at least once every three months.

And remember that HMRC will never send you an email about your tax affairs, so if you receive one that purports to be from HMRC, it is a scam, don't open it and delete it immediately. If you are due to get a tax refund we will have told you and the payment will be in hand. **If you have any concerns, contact us.**

## Family company share transfers

**Getting ready to retire?** Time to transfer your shares to the family? Could there be tax issues?

It is common to see shares being transferred from parent to son or daughter. It is natural and very common. Very often, the son or daughter will already be an employee of the company.

As well as potential Capital Gains Tax and Inheritance Tax issues to consider in making the gift, there could also be Income Tax and National Insurance implications as well.

Employment income includes general earnings such as salary, wages or gratuities, benefits in kind, and share-related earnings. For NIC purposes, 'earnings' includes any remuneration or profit derived from an employment.

So, what is the point here?

Well, you see, the acquisition of shares by an employee in the employer company can give rise to income tax, particularly if acquired at less than market value, e.g. as a gift from a parent.

For family companies in particular, it is necessary to consider whether shares are received by reason of the recipient's employment with the company, as opposed to being because of the relationship between the family members.

You need to be able to show that the gift is not being made because the recipient holds the employment or as a reward for services provided in the employment. You need to be able to clearly demonstrate that it is made for personal reasons. A gift does not count as earnings if it is made on personal grounds, or as a mark of personal esteem or appreciation.

*The rules say that* an opportunity to acquire shares is to be regarded as by reason of the employment unless the person by whom the opportunity is made available is an individual, and it is in the normal course of domestic, family or personal relationships.

This would apply if a parent, on reaching retirement, hands over all the shares in his family company to his son and daughter simply because they are his children, even if they are both also employees of the family company.

However, it is possible for the employment, rather than the family relationship, to be the reason for the gift, and where that is the case the shares will potentially be taxable. For example, if the father was distributing shares to employees generally and the terms under which the son or daughter received their allocation were similar in character. The parent needs to be seen to be more generous than that to avoid trouble.

Factors to consider:

- Is there a history of shares in the company passing down the generations?
- Is the son or daughter receiving remuneration from the company at a commercial rate?
- Is the parent transferring shares only to the son or daughter, or are they transferring shares to other (non-family) employees as well?

**As always, if you are not sure how this might affect you, come and speak to us.**

## CITB Levy deductions – change in practice wef 6/4/14

The CITB is an industrial training board responsible for promoting vocational training in the construction industry. It is empowered, by statute, to impose a levy on employers or contractors. Many contractors deduct this from the 'Gross amount of payment' shown on a contractors monthly return.

HMRC have now reviewed the practice and concluded that it can no longer be supported as it is not a part of the current or past CIS legislation.

This change also has implications for VAT. Contractors will need to be aware that the value of the subcontractor's supply for VAT purposes will not be reduced by CITB Levy deductions in the future.

## The Sales Prevention Department

This is where we share our experiences of poor customer service leading to poor business performance and lost sales. These are businesses who blame the recession but should be looking much closer to home.

Let's talk restaurants. Why spend money in a restaurant? I would argue that it is for the whole experience. It should be pleasant surroundings, nice food and a good service. I am just back from Aberdeen.

1st: Thai restaurant in Union Street - arrived late and so asked if they had a table for two, on taking our seats we were told that the kitchen was shutting in 15 minutes. We left.

2nd: Tandoori - similarly advised that kitchen would be closing shortly but no particular rush. However, as we finished our meal we were told that the door to the toilets was about to be locked and, as they took away the last dishes the bill arrived within seconds. Nice food but don't think we'll be going back.

3rd: Pub/restaurant outside Aberdeen - good service, attentive staff and relaxed atmosphere. Good "pub" food but lacked something, perhaps flavour.

4th: Cafe - went for a walk on Sunday to a well known local amenity. Former restaurant replaced by a cafe operated by two young girls without supervision serving anaemic toasties and paninis only hot in parts. One girl chewed gum (mouth open) while speaking to customers, many of whom were foreign. The management at this cafe should be disciplined for lack of supervision and training and the poor service being metered out to visitors.

5th: Italian in Union Square shopping centre - good food and friendly attentive staff. Very enjoyable lunch ... until our waiter came back to our table and breathed fags all over us. Bad experience not to be repeated.

Except for No. 3 our experiences arose from a deficiency in management. The staff were running the restaurants their way. The owners/managers should have been ensuring that our experience made us want to come back again and again.

**Is it really that hard?**

## The peedie bits ...

### Company car changes

An employee is able to reduce their tax liability on a car benefit if that employee makes a payment for the private use of the car. However, with effect from 6 April 2014, any cash payment must be made before the end of the tax year in which the private use was undertaken. Hitherto, it was possible to make a payment for private use to reduce a taxable car benefit after the end of the tax year but for 2014/15 onwards, this will no longer be possible.

The rules relating to the benefit for company vans have been similarly amended.

### Car Benefit Percentages

The appropriate percentages for petrol-engined car benefits are being increased by 2% for 2016/17 onwards. For example, the 5% starting rate in 2015/16 becomes 7% in the following tax year. This continues all the way through the rate bands.

With effect from 6 April 2016, the 3% diesel supplement is being abolished so that diesel-engine cars will be taxed on the same basis as petrol cars.

### CGT - Negligible Value claims

If you have a Capital Gain arising on something you have actually sold, there may be a way to mitigate the tax due. Do you also have capital assets, such as failed investments that are now worthless but which you still own? If you make a negligible value claim, you could use the resulting loss to offset your other capital gain without having to make another disposal.

Such a claim can also be made to crystallise a loss on shares in a qualifying company where the loss can be set off against your income rather than being restricted to being set off against only other capital gains. This might arise where you subscribed for shares in an unquoted trading company which then failed. You may have lost your money but you can at least get some tax relief on that loss. It does not work if you bought the shares from somebody else.

The crystallisation of the loss using a negligible value claim means that you can determine the year in which the loss arises so that it matches up with a period when you have the most income. Additionally you do not need to wait until the company is struck off to be able to claim relief for the loss you have suffered.

### Let Property - no more Renewals

The renewals basis was effectively scrapped by HMRC.

So, what about a landlord who installs free standing kitchen equipment in an unfurnished let property. Can they get any tax relief? The answer seems to be a cautious yes.

Relief is available for any expenditure to replace any "implement, utensil or article." HMRC have not to date explicitly said this excludes free standing equipment in unfurnished lets.

However, this rule is specifically excluded from furnished lets. However, if you replace a fitted kitchen, it is a repair to the property and so tax relief is available.

### Keep on the right side VAT

Most of you will be aware that you must submit your VAT returns by one month and 7 calendar days after the quarter end. So, this is the 7th day of the second month after the period end even if this is on a weekend. The system will record the exact date of submission.

But, what about the payment? Unless made by Faster Payment the electronic payment must be received by HMRC by the last working day before the due date if this falls on a weekend or bank holiday. Under Faster Payment some banks will accommodate weekend and bank holiday transactions. However, be aware that Faster Payments can go wrong and sometimes they are not as fast as you might expect. There can also be limits on the amount of the payment. You therefore end up making multiple payments on the same day to HMRC, but as none of them agree to the VAT Return submitted, the payments are not automatically matched to that return and you might receive a surcharge notice. These can usually be reversed on appeal but it is still annoying.

There can also sometimes be a cut off time for faster payment transactions and we have come across reports of a cut off as early as 16.45 so do not expect to be able to make a faster payment in the evening of the last day and be sure that it will be received by HMRC on time.

Direct debit is a clean and efficient way of ensuring your VAT is paid on time and you get an extra few days before HMRC take the funds from your account. If cash flow is an issue, you can always cancel the direct debit and set it up again for the next quarter.

If you file a return late or are late with a payment, you will be issued with a surcharge liability notice. If you are late again, there is an increasing scale of surcharges that are applied up to a maximum of 15 % of the VAT due so that a business experiencing cash flow problems can find itself being heavily penalised and this just makes the whole thing worse. If at all possible, arrange alternative short term finance for your VAT. There are a number of companies offering this service. You do not need to go to your bank especially if they are not being supportive anyway.

The default surcharge system is due to be changed, probably in 2017, when a new penalty system will be introduced which will impose separate penalties for late returns and late payments.

Lack of funds is not considered by HMRC to be a "reasonable excuse" for non payment but a case in 1992 was won by the taxpayer when he appealed against a surcharge on the grounds that a major supplier had paid him late leading to him paying his VAT late. So, it is not clear cut and given the right circumstances there could be grounds to argue over a late payment surcharge.

If you submit a return late and have a direct debit arrangement, watch out because HMRC will take the payment 3 days after the return is submitted if the return is submitted after the due date. So, if your return is one day late, say on the 8th, your payment will also be one day late. HMRC lost that one as well because they could have collected the direct debit on the correct day but their software had an anomaly and they took the payment late.