

# tlp - news

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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

**"If you want to leave your footprints on the sands of time, be sure you're wearing work shoes."**

-- Author Unknown

**"No matter how bad someone has it, there are others who have it worse. Remembering that makes life a lot easier and allows you to take pleasure in the blessings you have been given."**

-- Lou Holtz

**"I don't know what your destiny will be, but one thing I know: The only ones among you who will be really happy are those who sought and found out how to serve."**

-- Albert Schweitzer,  
Humanitarian

**"The starting point of all achievement is desire. Keep this constantly in mind. Weak desires bring weak results, just as a small fire makes a small amount of heat."**

-- Napoleon Hill, author

**K**atie, you're wonderful! Before I have a divorce on my hands, let me explain.

If you are in business, you know the amount of well meaning **red tape** that we all have to endure. Despite what government says, it never gets any less and then they wonder why people are reluctant to go into business, or if they do, many find themselves frustrated by the amount of regulation, and sell up.

**Recycling!** I have no problem with recycling. I am at the local amenity site with my recycling every Sunday. I am happy to do my bit. But what do you do in a business like ours?

Our bins contain more items of personal consumption than business papers - all our confidential waste has always been shredded. So, we have relatively small amounts of non confidential waste from our various offices. We are not supposed to put this material in local amenity sites even though it is largely the sort of waste you would produce at home like crisp packets and sweetie papers.

And then Katie came along. We have used the **confidential shredding** facility provided by **Northern Recycling** for the last few years. The quantity of confidential waste we had to remove was just too great to consider putting through our own shredders. We are talking hundreds of bags.

We now have an annoying problem that was taking up time and causing us stress. Yes, even us, who do not do stress. And such a small thing.

So, **we rang Katie** at Northern Recycling. **Next thing we know** we had properly labelled bins sitting outside our offices, locked bins for accumulating confidential waste inside and timetables for collection of the waste. Not only that but they take away all our old cardboard from deliveries.

Wonderful. No stress, no hassle. What more could you want. Problem solved. Great!

Unfortunately they cannot help with our Kirkwall office... yet!

So, being the types that like to share our experiences, we have included a flyer from Northern Recycling. **Give Katie (Calder) a ring and say that we sent you!**

This has been a very interesting experience for us. We like to think that when we get involved with new clients that we are able to bring clarity to the issues and practical solutions to the problems that they are experiencing. We are providing the benefit of our technical knowledge and experience. We like to feel that we take the stress out of the lives of our clients and let them get on with running their businesses and doing what they do best, making profits (although we can help with that as well). They come in to us stressed and leave stress free. We are the "**Chartered Stress Relievers**".

So, this time the shoe was on the other foot and we were on the receiving end of the stress relief, and it felt good.

**Give Katie a ring** and see if she can soothe your furrowed brow and take some of the stress and hassle out of your business life.

Talking about relaxation, I was in one of my favourite spots recently. I was working but it meant that I had to drive out to Tongue and then on to Melness. I then travelled down to Inverness. That is a truly beautiful part of Scotland and if you haven't been up that way, I would recommend a visit. If you live in that part of the world, I am jealous.

It is only an hours drive from Thurso but the trees, rivers, beaches and island views are just stunning, but watch out for the free range cows on the road in Melness.

For people like me who spend so much time in one office or another, being able to work as an accountant in places like that is a real joy whether it be driving to Melness or going out to one of the islands. It is something that most accountants cannot understand. "You mean to say that you actually get on a boat to go and see clients?" This was a real question. "Of course I do, its great!"

## McLaren Racing Ltd– £32M fine

McLaren, the Formula One motor racing team, was found guilty by The World Motor Sport Council of spying on Ferrari, a rival Formula One team, and had imposed a £32m penalty for breach of the racing code. The key issue was whether the penalty had been incurred 'wholly and exclusively' for the purpose of McLaren's trade which in turn depended on whether cheating was part of its trade. The First Tier Tribunal, had allowed McLaren's appeal against HMRC's decision not to allow the deduction of the penalty. However, it then went before the Upper Tier Tribunal.

The Upper Tier Tribunal overturned the decision. Although obtaining information on competitors was part of McLaren's trade, cheating was not. The tribunal accepted that the penalty was paid to allow McLaren to remain in the world championship and therefore to preserve its trade but the main reason for the penalty was the satisfaction of a legal obligation arising as a result of activities which were not in the course of McLaren's trade.

The decision may be relevant to any business liable to a fine imposed by a professional or trade body. It suggests that a breach of the rules imposed by such a body is intrinsically outside the trade, so that any resulting penalty is not deductible.

## Thick-skinned accountant wanted

I used to work with an accountant who was described by a "former" client as having a skin as thick as a rhinoceros. Don't think they could do this job.

Apparently, Michael O'Leary, boss of Ryanair, has advertised for a "bright, ambitious, qualified accountant" to assist him with duties including treasury and portfolio management, investment analysis, tax and "proactive management and reporting of various operations".

It has got to be one of the hardest, but perhaps most interesting jobs in accountancy.

## HMRC Say "Terminal illness is not a reasonable excuse

This story was published on Accountingweb and resulted in a considerable amount of feedback from practitioners. The feedback was very varied with some supporting the actions of HMRC while others were scathing of the HMRC approach. What do you think?

A man collapsed in July 2011 and was diagnosed as having a brain tumour. He managed to complete and file his 2011 tax return including calculating his own tax liability but failed to pay his tax of £2320.68.

He said that his illness prevented him from paying the tax by the due date of 31 January 2012 and he was issued with penalties for late payment. Although his condition was diagnosed as terminal, he was still living in 2014 at the time that his appeal was heard by the First Tier Tax Tribunal.

HMRC said that it was and remains compassionate to his personal circumstances. However, to have a reasonable excuse for paying tax late, an individual must show that he or she has taken action to correct the breach of an obligation as soon as possible. The Revenue argued that he had not done this.

After filing the tax return HMRC argued that he or someone acting on his behalf, was able, and should have paid the tax.

It appears that the man's business had gone into sharp decline after he was diagnosed and he was then living on benefits. He was not professionally represented, presumably because he could not afford an accountant, and so his wife undertook this role.

In its ruling, the first tier tribunal accepted that he had been unable to work because of his illness and did not have the means to pay his outstanding tax. But it was not clear to them why he failed to arrange a payment plan with HMRC.

"There would appear to be no reason why either he or his appointed representative, his wife, could not have contacted HMRC to arrange a method of paying the outstanding tax over a suitable period of time," tribunal judge Michael Connell said.

What is my take on this story? Firstly, many accountants would have stepped in to help for nothing. We know how difficult dealing with HMRC can be and I do not think there would be many accountants who would not have done something to try to help.

Secondly, I would have to agree that on a strict interpretation, the taxpayer or his wife should have either made payment or at least have contacted HMRC for a time to pay arrangement.

However, **how on earth did this case ever get to a tribunal?** What was the cost to the taxpayer of enforcing penalties probably amounting to a few hundred pounds, against a guy dying from a brain tumour? We deal with HMRC regularly and while we come across real human beings, I am sure all accountants have come across the ones who seem to have a grudge against anyone not on PAYE and for whatever reason, cannot or who, in their opinion, will not pay their taxes.

This guy was dying! He was on benefits. Surely such things as terminal illness of a taxpayer or a close relative should be an automatic reasonable excuse. In a recent case, the death of the accountant was judged to be reasonable excuse, but obviously staring at your own death with all the implications of an advancing brain tumour, is not.

One feedback said "Just highlights to me how ruthless HMRC have become."

On a slightly different note another contributor said "I think this was a very harsh decision but remember that for those of us on PAYE, tax comes before everything."

And another "In an era where Max Clifford is allowed out of prison to attend a funeral on compassionate grounds, HMRC are not prepared to cancel a penalty on compassionate grounds."

Presumably, if he had been represented from the outset, he possibly would have done things differently but what would you have done if you did not have professional help, you had been informed of a grade 4 brain tumour and that you only had 6-12 months to live?

So let's all be honest, even though I am an accountant (allegedly) and if I was given 6 - 12 months to live, and had lost my business, was undertaking chemo, what would be at the front of my mind. HMRC got a penalty of £300 upheld at tribunal. At what cost to the taxpayer? **This was a case that HMRC should never have allowed to happen.**

## More help for "Kitchen Table" Start-Ups

The enterprise minister Matthew Hancock is set to launch the new Home Business initiative as part of the Government's drive to encourage more "kitchen table" start-ups.

The legislation is being introduced in response to research undertaken by the Department of Business, Industry and Skills (BIS) and Enterprise Nation, which found that there are some 2.9m home businesses and that they contribute £300bn to the UK economy each year.

The initiative will mean that entrepreneurs will no longer be required to file for planning permission to run a home-based business or to pay business rates and the Government will bring in a new tenancy agreement making it easier to run firms from rented accommodation.

I imagine that part of this rates concession is to address the present situation where virtually no business run from home has planning permission or registers for business rates. It sounds good but in reality it will not impact on most home businesses. There may be some larger operation who will benefit, e.g. a dentist operating a surgery from rooms in his own home.

The Federation of Small Businesses welcomed the changes, but noted that one in five of its members reported that tenancy clauses were a barrier to running a business from home. This will not help with that problem.

## British Business Needs to Embrace Risk

It was reported recently in the Times that Simon Collins, the UK chairman of **KPMG**, says that the UK has to defy risk if it wants to break-away from the "new normal" of low growth.

Risk is a fundamental and inseparable part of any business for various reasons including market uncertainty, economic uncertainty and business owners own inexperience, especially in a fast moving/ rapidly expanding business.

He comments that the recession has created an environment focused on avoiding risk. Just look at our banking friends. However, if you really want to establish a good successful business, you need to embrace risk, although this does not mean acting recklessly. Risk can be minimized, never eliminated.

The future prosperity of the country depends on its ability to take risks and encourage entrepreneurship.

## Expats to Lose Personal Allowance

George Osborne is preparing a tax raid on expats who rent out their homes in Britain by stripping them of the right to use their personal allowance.

Expats drawing a government pension are also likely to be hit by the proposal, which could cut a couple's income by up to £4,000 a year.

Accountants have warned that Britons could be forced to return from retirement overseas if the plans go ahead. At present, EU nationals and British expats are entitled to offset income earned in the UK against the £10,000 personal allowance.

The change could affect up to 400,000 people and raise the exchequer an extra £400m a year

## Teachers, Nurses, Police enter Higher Tax Rate

Apparently, a quarter of teachers and a third of police officers are now paying the 40p higher rate of income tax. Over the past decade more than 1.6m people have been pulled into the higher rate of tax, hitting people earning over £41,865 a year.

The figures reveal that more than 100,000 primary and secondary school teachers, 70,000 police officers and around 72,000 nurses are now paying the higher tax rate.

The figures, are expected to increase pressure on "Call me Dave" Cameron to pledge to raise the threshold in the Conservative manifesto next year.

## 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.

Did anyone else pick up on the comments by **Boris Johnson** recently on the question of **what further devolved powers should be given to Scotland in the event of a "no" vote**. I was reading a paper this week and really could not quite believe what I was reading. As I understood the reports, Boris, who is being tipped in some quarters as a candidate to succeed "Call me Dave" Cameron, has said that **England should not grant Scotland any further tax raising powers if we vote "no"** in the coming vote. I thought this was a discussion between partners, but it read like a small child asking for sweeties.

Now, Boris obviously has hidden talents or maybe the reports of an affair were just stories to boost a masculine image. Anyway, this guy has made quite an impact as London Mayor and has built up a certain reputation and a loyal band of supporters, albeit that I imagine they are primarily in the South of England. His role as London major could be his springboard back into the Tories front bench.

Anyway, if you were trying to persuade "**those rebellious Scots**" to stay in the Union, would you say, ahead of the vote, that you were going to clip their wings and not give them anything else from the Westminster box of toys.

It does seem to be a very strange thing to say. You want people to feel that they are part of a partnership, and that the wishes of all the people will be accommodated. Unfortunately it read that, if the rebellion is defeated, the victor will have the right to set the rules moving forward.

If you were in a business partnership where you did not feel that your own thoughts, feelings and ambitions were being taken into account, would you not want to go your own way and determine your own destiny. I did!

**Good old Boris!**

# The peedie bits ...

## Relocation Expenses

An individual relocating his main residence due to the needs of his employment can receive tax-free removal expenses from his employer of up to £8,000 per move, provided the expenses consist of reimbursements from his employer in respect of removal costs; or costs directly incurred by the employer. If your employer does not agree to reimburse you, you get no tax allowance for the costs.

Relocation for this purpose includes the situation where an employee moves in any of the following circumstances:

- to take up a new employment
- as a result of a change in duties within the organisation
- because the location of the current employment changes

The relocation has to be necessitated by the old residence not being within a reasonable daily commute of the workplace. The new residence must be within commuting distance.

There is a list published by HMRC of what expenses can and cannot qualify for this relief.

## NISA—The New ISAs

With effect from 1 July 2014 all ISAs become New ISAs (NISAs) and this applies to existing accounts as well as to those opened on or after 1 July 2014.

The annual investment limit rises to £15,000.

In addition, an individual is allowed to split the amount which he invests in a NISA in any proportion which he chooses (up to the new maximum) and so, you are able to put the full £15,000 into a Cash NISA or alternatively the same amount into a Stocks and Shares NISA (or any combination of the two). The previous restriction that only 50% of the overall ISA limit could be saved in cash will no longer apply.

Also, temporary cash holdings in a Stocks and Shares NISA will not be subject to the flat rate tax charge of 20% on any interest arising.

However, savers can only pay into a maximum of one Cash NISA and one Stocks and Shares NISA in any tax year.

## When Should you Incorporate?

This is not a straightforward question because there are a number of factors to be taken into account and the ability to reduce your tax is just one of these considerations.

The other considerations are your preference (limited company accounts must be filed at Companies House although you can become an unlimited company and avoid this), treatment of cars, professional fees, tax payment dates, the effects on state pension, and sideways loss relief particular in the early years of the trade.

In absolute terms, it is possible to save tax by incorporating if your profits exceed £5885 but in reality it is hardly worth the hassle to get the tax savings unless your profit is at least £30,000. The time when there are big savings to be made is when you are a higher rate taxpayer and suffering tax at 40% which in the current tax year starts at £41,865

## Do you have a Second Home?

If you have a second home, then it is possible to nominate either property as your principal private residence as long as you actually use each as a residence.

The house that has been nominated as your principal private residence can then qualify as exempt from capital gains tax. As long as a house has been nominated as your personal private residence at some time you will get capital gains tax relief for the last 18 months of ownership.

One strategy that you can consider is to nominate your second or holiday home as your principal private residence for one week in order to ensure that you get the 18 months exemption on an eventual sale.

This does not mean to say that you have to be living in the house for that week but you do need to have records to show that you stayed in the house regularly during your period of ownership.

The time limit for making the nomination is 2 years from when the second house began to be used as a residence. It is therefore not necessarily the date of purchase but it could be the date on your first visit, or when you stopped renting it out and started using it for your own purposes.

As always, if you think this might apply to you, you must take professional advice in order to ensure that the facts of your particular case are appropriate.

## Website creation costs

HMRC have recently updated their guidance on the treatment of website costs. According to the new guidance, in order to identify the correct tax treatment, the exact nature of the website costs needs to be examined.

Infrastructure and application costs including the domain name as well as design and content development are normally treated as capital to the extent that an enduring asset is created. A good indication is whether the future revenues arising because of the site are expected to be greater than the cost of the site itself.

Therefore, a website that will directly generate sales subscriptions, advertising or other income will normally be regarded as creating an injury asset and consideration should be given to treating the costs development, design and publishing website as capital expenditure.

Expenditure on the initial research and planning prior to deciding to proceed with developments is normally treated as revenue expenditure and deductible in your profit and loss account. This will also apply to cost of maintaining or updating website e.g. for price changes.

## Charities - Tax Relief for Investors

The 2014 Finance Bill contains a new social investment tax relief. This is an EIS style tax relief for individuals investing in certain types of social enterprise.

The principal attraction of the new tax relief will be a deduction from personal income tax liabilities at the rate of 30% of the amount invested.

This is a new relief and we will have to see how useful it becomes.