

# tlp - news

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The monthly newsletter of The Long Partnership - [www.thelongpartnership.co.uk](http://www.thelongpartnership.co.uk)

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### Quotes

"No one lives long enough to learn everything they need to learn starting from scratch. To be successful, we absolutely, positively have to find people who have already paid the price to learn the things that we need to learn to achieve our goals."

-- Brian Tracy, Author

"Small opportunities are often the beginning of great enterprises."

-- Demosthenes, statesman

"A true leader has the confidence to stand alone, the courage to make tough decisions, and the compassion to listen to the needs of others. He does not set out to be a leader, but becomes one by the quality of his actions and the integrity of his intent."

-- Anonymous

"Sometimes the best helping hand you can get is a good, firm push."

-- Joann Thomas

"The difference in winning and losing is most often... not quitting."

-- Walt Disney, Animator, Film Producer

**S**nooping or law enforcement? I did not hear this question at the CIOT Tax Conference in Cambridge, but there were a lot of thoughtful delegates. Let me explain.

Now, you know that Osborne has announced the end of the tax return because HMRC (now known popularly as H M Roller Coaster) will be gathering information electronically from your employer, bank etc. This is apparently all driven by the need to collate up to date information for the new Universal Credit. This was also the reason for RTI. HM Roller Coaster needs up to date information on everyone.

By 2020 we will all have online tax accounts where we will be able to see what information they have already gathered on each of us, what tax is due and potentially make payments on account during the tax year. What about those of you, who do not use computers? There are plenty of you out there! HMRC have automatic information exchange arrangements with over 90 other countries so be warned if you have not declared any overseas bank accounts.

In addition, apparently UK banks are an important source of information for HMRC, filing suspicious activity reports on you and me. HMRC also monitor rent deposit schemes and claims for Housing Benefit to see who is renting out property that may not be declared on a tax return. And, by the way, do you remember the last mortgage application you made. What income did you declare on that mortgage application?

Apparently HMRC have well developed systems to gather income details from a multitude of different sources. The aim is to help them identify sources of income you thought they would not find or which you may (accidentally) have misreported. Be warned. Get legal and stay that way.

I was talking to some other delegates about this at the conference and apparently one of the commonest "mistakes" couples make arises when they let out jointly owned

property. One spouse, typically the man (but not always), has a reasonably well paid job and so they declare all the income on the woman's tax return even though the property is jointly owned.

Apparently HM Roller Coaster do quite well when they find these arrangements. There is underpaid tax for the man, also attracting interest and penalties. For the woman, she is possibly out of time to get back all the tax she has actually overpaid. This is an "ouch" scenario. This does not apply to holiday lets, just long lets. Does it apply to you? If so, you have our number.

So, as we go into a new era of tax assessment, collection and enforcement, what are your thoughts? Is this snooping or legitimate law enforcement?

Even to me, this new tax world seems a bit scary. How will we know HM Roller Coaster have received the right information and processed it correctly? If they get it wrong, will most taxpayers actually notice? Who will check? For you, the answer is quite straightforward. Our role is to make sure the right income and profits get reported according to the tax rules currently put in place by our elected representatives, and the right amount of tax paid on those profits.

So, don't waste your energy trying to diddle HM Roller Coaster. You have limited energy, so use it constructively. That way you don't need to keep wondering when a letter might arrive from "you know who" about "you know what".

In this brave new tax world, apparently rising numbers of accountants are seeking help for mental health problems and stress, according to chartered accountants charity CABA. You have to be tough to run a business.

It is hardly surprising considering the shifting sands on which we build our businesses. However, if everything is either a test, a lesson or a challenge, surely it is a test of who is up for, and able to cope with, the challenge. We are!

So, what do you think of this new tax world? Beware, there be monsters!

**By the way, this month we have a lot of budget stuff for you. Get in touch if you find anything that might affect you adversely.**

You have our number!

## Umbrella Companies

The government will be reviewing the growing use of overarching contracts of employment that allow temporary workers and their employers to benefit from tax relief for home to work travel not generally available to everyone else.

The change in the rules which is expected to take effect from April 2016, will change the rules for travel and subsistence relief for workers engaged through an employment intermediary such as an umbrella or personal service company and under the direct supervision direction and control of the end-user.

## Changes to ISAs

For 2105/16 the limit for investment is £15,240. In addition the spouse or civil partner of a deceased saver will receive an additional allowance equal to the deceased ISA savings so that the balance of their ISA savings can be transferred to the spouse or civil partner. It is anticipated that this will only include cash savings.

The government is introducing more flexibility and will permit withdrawal and replacement of funds within the same tax year without affecting the annual investment limit.

## Help to Buy ISA

This is designed to help first time buyers. The new ISA accounts will be available from Autumn 2015. For every £200 that a saver invests, the government will pay a bonus of £50. The funds can actually be withdrawn at any time for any purpose but the bonus will only be available for a home purchase. The maximum bonus is £3000.

The bonus is limited to one per person, not one per home so if you are buying a home with someone else, you can each get a bonus of £3000.

**We anticipate that these accounts will become very popular in our patch.**

**It basically means that a couple can get £6000 tax free from the government towards their first home.**

**That's £6000 less for parents to have to find! Not bad.**

## Social Investment Tax Relief (SITR)

This was a new relief introduced in 2014 to encourage individuals to invest in small social enterprises. The relief is a 30% income tax deduction for the amount invested and the way it works is similar to The Enterprise Investment Scheme (EIS) except that it also includes loans.

A social enterprise is a business that trades partly or wholly for social purposes. They can be seen in many sectors including retail, catering, manufacturing, management services, Fairtrade products, printing and design, recycling, translation, IT etc. Examples include village shops and post offices, library facilities or leisure facilities set up and run by the local community in order to preserve the facilities in their local area.

### Investor Tax Reliefs

- Income tax deduction of 30% of amount invested limited to £1M per investor per tax year.
- Equity investments attract share loss relief
- Exempt from Capital Gains Tax on disposal
- Holdover relief available for gains invested in social investments.
- Investment must be held for at least 3 years.

### Who can invest?

- Individuals
- The individual or associates must not be an employee, partner, trustee or remunerated director of the enterprise or subsidiary.
- Investor must not control the enterprise or subsidiaries or hold more than 30% of share and loan capital or possess more than 30% of the voting rights..

### The Investment

- Invested before 5 April 2019.
- Cannot also claim EIS, SEIS or CITR.
- Equity or loan. Loans must be unsecured.
- Return must be limited to a commercial rate.
- All investments must be approved in advance by HMRC similar to EIS investments.

### Who can accept the investments?

- Community Interest Companies
- A community benefit society
- A charity for tax purposes.
- An accredited social impact contractor.

### The Social Enterprise:

- must not be a subsidiary or under the control of a company.
- Must be (or about to be) carrying on a qualifying trade and the investment must be used for the purpose of that trade within 2 years.
- The trade is conducted on a commercial basis with a view to the realisation of profit and is not an excluded trade (e.g. land dealing, banking, property development, electricity generation.)

### Other Points

- Investments in the form of loans can be recycled but as the loan must be held for 3 years, the new loan must be provided by 5 April 2019, so recycling opportunities are limited.
- Taxpayers are better off with a SITR investment than making a donation under Gift Aid.

### Budget - Proposed Changes

Subject to State Aid clearance being received a number of changes are being proposed.

The current limit for investments by an individual of £275000 over a 3 year period will be replaced by a new annual investment limit of £5million with an overall limit of £15 million on total investments.

Certain activities previously excluded from the scheme will now be permitted while

others will be excluded for future investments. Certain small agricultural and horticultural projects that will not be eligible for direct payments under the CAP reforms will now qualify. These will include land holdings below 3 hectares.

On the other hand, it is proposed to exclude the following from benefiting under EIS, SEIS or Social Investment Tax Relief. These include subsidised energy generation activities undertaken by community groups involving anaerobic digesters, hydroelectric power and contracts for difference.

This is very unfortunate and will cut off a possible source of funding for community groups developing community turbines, and particularly at a time when commercial funding for such projects is so difficult. Lets hope they do not get state aid clearance.

## **So What is the Substantial Shareholding Exemption**

### **... and how can you use it.**

You can get exemption from Corporation Tax where a company sells a substantial shareholding in another company, provided that certain conditions are met.

The exemption is available where a qualifying investing company which has held a substantial shareholding throughout a 12 month period in a qualifying investee company disposes of the shares.

A substantial shareholding is only 10% or more of the ordinary share capital of the investee company. There is an additional condition that the shares must entitle the holder to at least 10% of the profits.

The investing company must either be a sole trading company or a member of a trading group both prior to and after the disposal. So, after selling the shares, the seller company must be a trading company or trading group member. The exemption will not work if a non trading holding company sells its only subsidiary unless the holding company is liquidated immediately after the sale.

The company being sold must be a trading company or the holding company of a trading group and must have been for a 12 month period.

In a simple case this exemption might be quite easy to obtain but in others, where assets to be sold with the subsidiary are scattered around other group companies or in individual ownership, some planning may be necessary to get the best advantage from the exemption.

This could also be used to sell assets otherwise liable to a significant capital gain, through a tax free disposal of a company. However, don't try this at home! Come and speak to us about your objectives and proposed plans and let us help you to structure the deal correctly.

If you think you could use this exemption or just want to discuss possibilities, get in touch.

## **Changes to CGT Reliefs on Incorporation**

The government has withdrawn two very useful reliefs that we have used in countless incorporations over the last few years.

Firstly, goodwill transferred on incorporation of your own sole trader or partnership business will no longer qualify for Entrepreneurs' Relief. It used to be that the goodwill was sold to your own company and after deducting the Annual Exemption, you paid tax at 10%. You then had a pot of taxed money to take out of the company effectively tax free.

Secondly, for businesses established after April 2002, tax relief for amortisation of goodwill transferred to the company on incorporation of your own business will no longer be available. Tax relief for goodwill for older businesses was never available anyway.

These measures remove one of the advantages of incorporation but it is still a worthwhile strategy particularly if you can take a spouse or civil partner in to your company as a shareholder and get the benefit of two basic rate bands.

## **Basic Payment Scheme For Farmers**

The introduction of the new CAP regime means that Single Farm Payments (SFP) are replaced by the Basic Payment Scheme (BPS) from 1 January 2015.

The definition of "Active Farmer" and the list of "negative activities" could mean that a farmer qualifying for SFP might not qualify for BPS.

The claim deadline is 15 May each year. When re-registering from SFP, farmers will need to ensure that they qualify as an active farmer and structure their business accordingly.

One excluded activity is "real estate services" and there is concern that this might cause a problem where a farm business includes significant letting income of former farm cottages or otherwise.

In these circumstances, it may be better to move this source of income into a separate business.

The scheme also excludes permanent sports and recreation grounds and care will be needed where a farm is used for horses, providing gallops or other "recreational" facilities.

One potential impact of losing "Active Farmer" status may be on the future availability of Business Property Relief (BPR) for Inheritance Tax.

## **Farm Profit Averaging**

Osborne has announced the intention to increase the number of years for averaging from 2 to 5. The government is to consult on the detailed design and implementation of the measure with a view to introducing it from 6 April 2016.

Given that each of those 5 years could already have been averaged with the year before or year after and possibly both, this measure is unlikely to have much impact.

## **Class 2 NIC**

The weekly payment often collected monthly or quarterly is to be phased out. Class 4 NIC which is calculated as a percentage of trading profits is to be amended.

# The peedie bits ...

## Choosing your main residence

If you have more than one house that you use as a residence, you can elect which one is to be treated as your main residence and therefore attract the Principal Private Residence relief from Capital Gains Tax.

If you have made this election and you buy another property, the original election is terminated and you have to make it again.

Have you made this election? Do you want to make this election? Have you bought additional properties?

Come along and speak to us.

## Built your own house?

If you have built your own house but there are delays in moving in, HMRC will still allow Principal Private Residence Relief for the period before you move in provided the pre-occupation period is less than a year and that at the end of the period you occupied the property as your main residence. HMRC will allow a longer period of up to 2 years where there are exceptional circumstances but it needs to be agreed in advance.

## Retiring or selling up?

If you are a sole trader and employ your wife in the business, you could lose out when it comes to selling up. Is the property owned jointly. If so, only the trader gets Entrepreneur's Relief. The spouse will not.

The answer is to take your spouse into partnership at least a year before the sale. In that way both of you will get the benefit of the Annual Exemption as well as Entrepreneurs' Relief which could potentially be worth thousands of pounds reducing the rate of CGT by either 8% or 18%.

## Dividend Waivers

It can sometimes happen that not all the members of a company want more dividends, perhaps because they have other income and will just get taxed at higher rates on their dividend. There are different ways to deal with this type of situation. You could have different classes of shares and declare different or no dividends for each class. This takes a bit of setting up and potentially a change to your Articles of Association.

A quick solution is for the higher rate shareholder to waive his or her right to the forthcoming dividend. This has to be done properly.

- The waiver has to be properly executed in writing,
- It must be done before the dividend is declared.
- The whole dividend ignoring the waiver must be legal i.e. the accumulated reserves of the company must be sufficient to cover the whole dividends.

Remember that if you waive a dividend in order to effectively remunerate somebody else, you run the risk of it being challenged by HMRC. You also need to be careful where waiving a dividend means a higher dividend for your spouse. This may also be challenged by HMRC and the enhanced dividend be taxed on you instead.

## VAR Registration Threshold

The threshold for 2015/16 will be £82,000. Remember it is a rolling 12 month total and not the turnover in your accounts.

## Pay interest on your director's loan

Where a director takes a low salary and the remainder of his profits in dividends, the starting rate of savings is available. From 5 April 2015 the savings rate on £5000 of interest is 0%. This means that the company can pay interest of up to £5000 and the company will get tax relief of £1000. You pay no tax.

The interest is paid net of basic rate tax and this has to be accounted to HMRC quarterly on form CT61. However, you reclaim this tax through your tax return. The saving will not be as great if the interest plus dividends puts you into higher rates of tax but otherwise it could be quite useful. The rate of interest on your loan can be from 10% to 15% but probably not any higher.

## Will AIA fall to £25000?

The limit for Annual Investment Allowance was due to fall from £500,000 to £25,000 at the end of the year. This does not affect the tax relief you receive over the life of an asset but it can give a useful cash flow boost initially. Osborne has flagged up that he wants to keep the limit higher but you have to vote for him. An announcement will then be made in the Autumn Statement.

## Van Benefit

The value of the benefit in kind charge for non- incidental private use of a van will rise to £3090. Zero emission vans will get a preferential rate of 20% of the full benefit but this will gradually rise so that in 2020/21 the benefit for zero emission vans will be the same as other vans.

## Personal Savings Allowance

From 6 April 2016 the first £1000 of savings income will be tax free for basic rate taxpayers. The allowance for higher rate taxpayers will be £500, and for additional rate taxpayers will be £nil.

As so many people will no longer pay tax on their savings, the automatic deduction of tax from interest will become redundant and will cease from 6 April 2016.

## IHT Reliefs—Changes on the way?

While there have been no announcements concerning Business Property Relief or Agricultural Property Relief, there was an expectation amongst delegates at the CIOT Tax Conference that the very generous reliefs currently available may be curbed by the incoming government.

I have to admit that these same discussions take place around the time of each general election, but given the possible state of Parliament after the election, it is a risk to be considered. It could be a good time to bring on the succession. Come and speak to us about the implications for various taxes.

## VAT and Prompt Payment Discounts

You should by now have amended your invoicing because the new rules became effective from 1 April 2015. From that date a supplier must account for VAT on the amount actually received. HMRC have published a sample invoice format—see Revenue & Customs Brief 49/2014.