BulleyDavey

Chartered Certified Accountants and Chartered Tax Advisers

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Newsletter

Peterborough office celebrates long-term service

Congratulations go to James Arnott who this year celebrates 40 years with Bulley Davey's insolvency team.

James joined Bulley Davey in 1976 and became a manager of the firm in 1981. Now a Senior Manager, James has built up forty years' experience in managing a wide variety of corporate and personal insolvency cases.

Having trained with Bulley Davey and qualified as a Chartered Certified Accountant in 1988, James remains at the forefront of the insolvency team providing advice to individuals and businesses.

James comments: "Over the last 40 years I have seen the business grow rapidly but the nature and values of the business remain the same. When I first joined the insolvency department I was quick to learn that it is a challenging role with no two days being the same. I have always taken an interest in the human side of the business and care about the outcome often trying to find a balance between fair but realistic advice".

Mike Gregson, Bulley Davey Director adds: "James has been a mainstay of the department for many years now and the 'go to' man with anything out of the ordinary. With his wealth of experience across the whole spectrum of insolvency and restructuring situations, if James hasn't come across it previously, it has probably never happened before!

Thanks to James for all his work over the years and here's looking forward to a few more years yet".

We also congratulate Mandy Davanna of the Oundle office and Steven Brown of the Peterborough office who have both recently celebrated an amazing 30 years with the firm.

James Arnott pictured (left) of the Insolvency team pictured with Bulley Davey Director, Michael Gregson.

Exam Success

At Bulley Davey we are committed to investing in the development of our people across our network of offices and we are delighted to announce the most recent exam successes.

Congratulations go to Preena Mistry, of our Peterborough office, on passing her final exams to become an affiliate of the Association of Chartered Certified Accountants. And further congratulations to Jamie Issitt, of our Spalding office, who has completed his qualification with the Association of Accounting Technicians.

Pensions auto enrolment and directors

It has taken a long time to sort out but after several years of lobbying by professional accountancy bodies and others, the government has provided a sensible set of rules on the question of whether directors are required to be enrolled into an employer provided pension auto enrolment scheme. The latest development has been the issue of legislation to provide the company with the ability to opt to exclude directors from auto enrolment. This will provide comfort for many employers; particularly small employers who have yet to go through the auto enrolment process.

Prior to the latest change, directors could be removed from the requirement to be auto enrolled if they did not have a written or implied contract of employment. Many directors of small companies do not have written contracts but it is difficult to be definitive as to whether an implied contract exists.

If there are only directors in the company and it is not clear whether they have contracts of employment, there are two alternatives to choose if the company wants to minimise its auto enrolment duties:

Alternative A

The company could conclude there are no implied contracts of employment. There is no requirement for the company to have an auto enrolment pension scheme as there are no workers.

Although there are no auto enrolment duties the company should confirm with The Pension Regulator that the company has no workers using the following link goo.gl/vPyag8. This will ensure the Pension Regulator (TPR) will stop issuing reminder letters (and threatening penalties) about the auto enrolment duties of the company.

Alternative B

If there might be contracts of employment, the new exception could be used. The company can choose to have an auto enrolment scheme and enrol the directors but is not required to. If it chooses not to have an auto enrolment scheme, the company would need to complete a 'declaration of compliance' after the date the company was required to have set up an auto enrolment scheme (the staging date) has passed. The declaration would show the directors as workers but that they had not been auto enrolled due to the exception.

What if the company has employees as well as directors?

If the company has employees, it will have a duty to set up an auto enrolment scheme. If the company concludes that neither director has a contract of employment, the directors are not enrolled as they are not workers. If the company concludes the directors have contracts of employment, the company can decide to not enrol them by applying the exception.

Take care

Employers need to take care if they advise TPR that they have no workers or no-one to enrol and then take on an employee in the future. If the staging date has passed, auto enrolment duties may apply for that new worker from the date of their employment.

We can, of course, help you to decide what is appropriate for your circumstances.

Poor service levels at HMRC could mean you have paid the wrong amount of tax

In May 2016, the National Audit Office (NAO) published a report into the quality of HMRC service for personal taxpayers. The report highlighted serious shortcomings in the service which could have meant some taxpayers paying the wrong amount of tax.

In 2010, HMRC set out on a plan to reduce costs with a main focus on reducing the annual running costs of personal tax operations by £193m. As part of its charter, HMRC pledges to provide taxpayers with a helpful, efficient and effective service with an obligation to provide an acceptable standard of service. The NAO looked at whether HMRC managed to maintain this level of service whilst implementing their cost cutting changes.

The report found that up to 2013/14 HMRC succeeded in reducing costs by £111m but also maintained or improved their customer service performance. HMRC began introducing new digital services from 2011/12 and expected that this would reduce demand for contact with taxpayers so personal tax staff were cut by a quarter in 2014/15. But the fall in demand did not happen and HMRC did not have contingency plans to deal with the high levels of customer service requests.

To try and improve the service on the tax helpline, back-office staff were moved to call centres. These back-office staff had been maintaining PAYE tax records and investigating outstanding discrepancies in these records. The reduction in staff dealing with these reviews meant that the cases of outstanding discrepancies nearly doubled from 2.4m in March 2014 to 4.6m in March 2015. The NAO report highlighted that 3.2m of these were high priority cases which therefore meant there was a risk that these taxpayers would have paid the wrong amount of tax. The end result was that HMRC had to recruit 2,400 additional staff in the autumn of 2015.

HMRC are introducing more digital services in the next few years but the NAO report states that HMRC have learnt from their experiences of the past.

If we do not currently manage your personal tax affairs and you have had problems dealing with HMRC or believe that your tax may have been calculated incorrectly then please do not hesitate to get in touch.

Cyber security for businesses

Businesses have a one in four chance in a 12 month period of being affected by an information technology security breach according to a government survey.

The survey found that many of the breaches are a consequence of the internet. The most common breaches are viruses, spyware or malware (68%), and breaches involving impersonation of the organisation (32%). However businesses are improving productivity and getting more efficient by using digital technologies and the survey reveals that UK consumers are the biggest internet shoppers in Europe.

While many businesses saw cyber security as important, many have not fully understood how their business is at risk and what action to take.

Bulley Davey, in conjunction with NatWest, will be running a breakfast briefing on how best to safeguard your business against cyber crime on Tuesday 11th October. Special guest speaker Rebecca Tinsley of the Central Intelligence Bureau, Cambridgeshire Constabulary will be joining us. For further information and details on how to book your place please visit the news and events section of the Bulley Davey website.

Help for small businesses

Guidance aimed at small businesses is provided in a publication 'Small businesses: What you need to know about cyber security' goo.gl/48p1AU. It recommends three steps a businesses can take to tackle cyber security:

- getting the basics right
- adopting a risk management approach
- adopting Cyber Essentials.

Cyber security: the basics

There are a number of simple actions and behaviours that can be followed including:

- downloading software and app updates as soon as they appear on devices and computers
- using strong passwords
- delete suspicious emails
- using anti-virus software and
- training staff.

Links to further advice are provided in the small business publication. It is important for staff to appreciate the importance of security and the government offers free online training courses at nationalarchives.gov.uk/sme

Managing risk

The small business guide suggests a risk management approach to cyber security with four steps:

Understanding the risks - consider what is at stake if the business suffers a breach: money and IT equipment, information (from customer details to trade secrets), and even the reputation of the business. Think also about who poses the risk – it could be malicious hackers, but it may be accidental security failures by employees.

Planning - ask questions such as: what information assets are critical to the business and what risks could they be exposed to? How could the business continue to operate if systems were attacked?

Implementing - this involves putting in place security controls to protect the equipment, information and IT systems, and explaining responsibilities and best practice to staff.

Reviewing - implementing routines to review and test the effectiveness of controls in the business.

Cyber Essentials scheme

To help businesses protect themselves from common internet based threats, the government has developed 'Cyber Essentials'. It has two functions - to provide a clear statement of the basic controls all organisations should implement and to provide the Assurance Framework. The Assurance Framework offers a mechanism for organisations to demonstrate to customers, and others, that they have taken these essential precautions.

The government recommends that all businesses operating online, selling goods and services online, or storing customer details and personal data, should aim to adopt Cyber Essentials as a minimum. The government already mandates this for many of its suppliers.

More details about the Assurance Framework can be found at cyberstreetwise.com/cyberessentials.

Capital gains have become attractive again - unless you have the wrong type of gain

From 6 April 2016, CGT rates have fallen from 18% to 10% for gains taxed at the basic rate and from 28% to 20% for higher rate gains. The tax rate will also reduce to 20% for chargeable gains of trustees and personal representatives. The new lower rates apply to most chargeable gains including shares and other financial assets but does not include gains which arise on residential properties. So, the availability of the CGT exemption for the main residence becomes even more important.

The amount of the chargeable gain is after the deduction of reliefs, losses and the annual exempt amount which is £11,100 for 2016/17.

The rate of CGT payable on gains depends on the level of the individual's taxable income and gains for the tax year. Where part of an individual's income tax basic rate band is unused and they have gains from residential properties, they can use the unused basic rate band in the most beneficial way to reduce their CGT charge. The individual can chose which chargeable gains are taxed at the lower rate of CGT, up to the unused amount. For these purposes, the unused amount is reduced by the amount of any gains that are taxed at the 10% rate under Entrepreneurs' Relief or Investors' Relief.

Investors' Relief was introduced for unlisted trading company shares issued to individuals on or after 17 March 2016 where the individual has no connection with the company. This new relief applies a 10% rate of tax to gains accruing the subsequent disposal of these shares as long as they have been held for three years from 6 April 2016.

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Brexit and tax

The EU referendum result will, of course, have significant long term economic consequences for the UK and many areas of law will need to be adapted to the new era. What are the possible tax consequences of the UK ceasing to be a member of the EU?

The main point to note is that many areas of taxation such as personal and corporate tax rates have been matters upon which the UK has been free to decide without reference to the EU. However, the prospect of exit from the EU may indirectly affect the rates set due to the perceived financial effects of Brexit by politicians. The likelihood is that such issues will be addressed in the Autumn Statement in November/December.

Business reliefs such as R&D tax credits for SMEs have constraints placed upon them due to EU State Aid rules and so, post Brexit, there will be freedom to amend these reliefs.

VAT may be the area of greatest change. It is a central principle of the EU that the harmonisation of VAT is essential to the achievement of a single market. In theory, the UK could decide to abolish VAT and replace it with a sales tax on goods and services. This is extremely unlikely. However, it is likely that UK VAT law will become independent of EU law. UK legislation currently enacts EU law – the Value Added Tax Act 1994 being the main source. This legislation could be amended post Brexit to apply different rates to goods and services without constraint from the EU.

A likely inevitable VAT consequence of Brexit will be changes to how businesses export and import goods to and from EU businesses. For example, when a UK business buys goods from EU businesses it makes an 'acquisition'. The transaction does not result in any VAT being payable unless the UK business makes exempt supplies. Post Brexit, the transaction is likely to be treated as an 'import'. Import VAT would be paid to HMRC at the time of importation. This would be reclaimed by the business on the next VAT return (unless the business makes exempt supplies), so the effect will be a cash flow issue compared to the current position.

How extensive the changes will be will depend on the negotiations to exit the EU and the system adopted for trade between the UK and the EU. We will continue to inform you of significant developments that may affect you and your business and help you manage the opportunities and threats that may arise in the next few years.