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CHARTERED ACCOUNTANTS

Journal

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Managing & developing people

The third and final article in the series.

I cannot think of a business where their people are not their most valuable asset. We invest time and money in training them technically, but how much do we invest in the way they use that knowledge? How do we check their performance?

When we think of a professional like a doctor, what makes him a 'good' doctor? I suggest that medical knowledge is taken for granted and that what counts is what my parents would call 'bedside manner'. Likewise with a teacher, it's not subject knowledge which is crucial but their ability to communicate in an engaging way.

In my experience 'the people issues' are the most common, and often corrosive, problem that a business faces. Whilst the issues come in many different shapes and sizes, as a stark illustration just think about the long running feud between Tony Blair as PM and Gordon Brown, his Chancellor. All the time and energy expended, and what better use that might have been put to!

In almost every sphere we promote good practitioners (teachers, professionals and business people) but it does not always follow that they will naturally make good leaders or managers. Much of the problem is not about lacking technical knowledge or professional competence but about the 'softer skills' – not only like Blair and Brown, but in myriad other less dramatic everyday ways.

In the first article in the Autumn Newsletter, I talked of using coaching to improve business effectiveness, and it is a crucial tool in developing people too. I favour 'observational coaching', watching people going about their everyday business holding meetings with clients, bidding for new business, selling, or just how people organise their time and priorities.

Some of the questions we should be asking ourselves:

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- Do we formally assess our people every year, review performance (the 'how' as well as the 'what'!), and agree what is needed for the coming year and any development needs?
- Are our people working together or against each other?
- Do we ever 'get on the other side of the desk' – see us as our clients do; are we just doing things to suit us?
- Do we plan and have aims and outcomes for our meetings?
- How many of us reflect after a meeting and honestly ask ourselves could things have gone better, and how we might handle it better?
- Are we doing the urgent tasks or the important tasks?

None of us is perfect; we all have strengths and weaknesses. The objective of coaching is to help people understand themselves and to work with them to improve.

Developing people is not about telling them what to do or how to do it, but rather helping them to grow in awareness, be reflective and to challenge the 'way we always do it'.

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JWPCreers
Selby Office
20-24 Park Street
Selby
North Yorks YO8 4PW
Tel: (01757) 703731
Fax: (01757) 210358

York Office
Foss Place
Foss Islands Road
York YO31 7UJ
Tel: (01904) 624155
Fax: (01904) 612347

Email: info@jwpcreers.co.uk
Website: www.jwpcreers.co.uk

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This newsletter is for general information only and is not intended to be advice to any specific person. You are recommended to seek competent professional advice before taking or refraining from taking any action on the basis of the contents of this publication. The newsletter represents our understanding of law and HM Revenue & Customs practice as at January 2011.

A reduced sense of relief?

You could be affected by the Government's latest plans to reduce the amount of tax relief available to individuals on contributions to pension schemes. The plans were announced in mid-October and are designed to replace the special annual allowance charge rules from 6 April 2011. The necessary legislation will form part of this year's Finance Bill.

From 6 April 2011, the annual allowance will be reduced from £255,000 per tax year to £50,000. It will remain at this level until at least 2015/16, after which the Government will 'consider options for indexing the level'. Several other changes are proposed:

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- The rate of the annual allowance charge will move from the current flat 40% to a variable rate, pitched at a level equal to the average rate of tax relief given on the excess contribution. The rate will, therefore, normally be between 40% and 50%.
- A new basis will apply for valuing the increase in benefits if you are an active member of a defined benefits scheme. This will incorporate an adjustment for inflation (as measured by the consumer prices index), but will potentially result in a higher value being placed on significant increases in pension rights.
- A new three-year 'carry forward' of unused annual allowances will be introduced from 2011/12. Initially you will be able to carry forward unused annual allowances from 2008/09, 2009/10 and 2010/11, provided you were a member of any registered pension scheme during the relevant tax year.

  The exercise will assume that a £50,000 annual allowance applied for those years (rather than the actual figure) and use a notional carry forward calculation if total contributions exceeded £50,000 during a tax year.
- From 2012/13, the lifetime allowance will be cut from £1.8 million to £1.5 million, although new transitional reliefs will limit the impact of this change.

For contributions made after 13 October 2010 there are complex rules based on the end date of each pension arrangement's pension input period. If you have made contributions since that date, or are planning to make contributions before the end of the tax year, the best course of action is to seek our advice.

Did you know that all employers have to file in-year PAYE forms online from 6 April 2011? These are all forms P46 for new employees, including P46(Pen) used when a new pension starts, and P46(Expat) used when an employee is seconded to work in the UK. In addition, parts 1 and 3 of the form P45 must be submitted to HMRC online. Employers with 50 or more employees already have to file these forms online. If you fail to file PAYE forms online when required to do so, you could be charged a penalty of up to £3,000.

Worthless shares may still have value

Do not despair if you find yourself in possession of worthless shares – there is tax relief available to you.

Negligible value claim

You can submit a negligible value claim if the company has not been wound up. This creates a deemed capital loss in your hands, equal to the amount you paid for the shares.

You can set this loss against gains arising in either of the two tax years ending before the year of the claim, if the shares were worthless at that date. But if you currently pay capital gains tax (CGT) at 28% the loss will be worth more in this year than in an earlier year, when CGT was just 18%.

This negligible value claim can apply to quoted or unquoted shares. However, when the company is dissolved you are deemed to have disposed of your shares, so the negligible value claim is unnecessary.

Income tax loss claim

Once you have established a capital loss, you could claim to have that loss set against your income for the current or previous tax year. However, this share loss relief claim has the following pre-conditions:

- The shares must be issued by an unquoted trading company or under the Enterprise Investment Scheme (EIS); and
- You must have subscribed for the shares, or acquired them from your subscriber spouse or civil partner.

HM Revenue & Customs (HMRC) previously refused claims where unquoted shares were subscribed for in joint names or by a nominee, but not if the shares were EIS shares. From 11 October 2010, HMRC decided to accept claims for share loss relief relating to unquoted shares from joint or nominee subscribers.

If you made a claim for share loss relief in 2009/10 or 2010/11, which was rejected on these grounds, you can ask HMRC to reconsider it. Any such claims that are under enquiry will be reconsidered in light of this new practice. The deadline for submitting claims relating to a share loss arising in 2009/10 is 31 January 2012.

Before you launch a new claim for share loss relief, talk it through with us, as there are a number of other factors that could scupper such a loss claim.

Did you know that, if you are VAT registered, you can now reclaim VAT incurred on business expenses incurred in other EU countries? You complete your claim in English on the HM Revenue & Customs (HMRC) website, and HMRC forward it to the relevant country. The minimum annual claim per country is €50. Claims for VAT incurred in 2010 must be submitted by 30 September 2011, but the deadline for refunds of VAT incurred in 2009 has been pushed back to 31 March 2011. Your refund will be paid directly into your business bank account, but you could suffer high bank charges on the conversion of euros to pounds sterling.

New rules for new parents

The new additional statutory paternity pay (ASPP) and leave is available for parents of babies due or matched for adoption on or after 3 April 2011. The aim is to allow both parents to share the 39 weeks of paid maternity or adoption leave, and the 13 weeks of unpaid leave which can be claimed by the new mother or the primary adopter.

The old statutory paternity pay is renamed 'ordinary statutory paternity pay' (OSPP). This can be paid for one or two weeks within 56 days of the birth or adoption placement.

The new ASPP can only be paid between the time a child is 20 to 52 weeks old, and the mother has returned to work. The additional paternity leave can last for up to 26 weeks, but the paid part of that leave (ASPP) may only extend up to 19 weeks. The ASPP is the surplus statutory maternity pay (SMP) the mother has not taken, or the equivalent statutory adoption pay (SAP). But the mother must have taken at least two weeks off work after the birth, or have at least two weeks of SMP remaining for ASPP to be paid. Special rules apply if the mother or the child dies.

For both OSPP and ASPP the employee must:

- Give the employer at least eight weeks' notice of the date the leave is to begin;
- Be employed for at least 26 continuous weeks up to the 15th week before the child is due or matched for adoption; and
- Have average weekly earnings of at least the national insurance lower earnings limit (£102 a week for 2011/12).

HM Revenue & Customs has produced standard forms to claim the ASPP in the case of births (SC7), UK adoptions (SC8), and overseas adoptions (SC9). These claim forms include declarations for the mother or primary adopter to sign.

The ASPP is paid at the lower of 90% of the employee's average weekly earnings and a flat rate (£128.73 a week in 2011/12). It is subject to national insurance, just like normal pay. Employers can reclaim 92% of the ASPP, or 104.5% of the ASPP if the employer's annual class 1 NIC liability (employers and employees) is no more than £45,000.

The immigration cap still fits

Despite the Government's pre-Christmas setback in the High Court, where it was held that the temporary cap on non-EU migrants was unlawful on procedural grounds, the permanent cap to be imposed by an Act of Parliament in April is back on the cards.

Since the Government lost only on a technicality – its failure properly to consult Parliament – the measure was reintroduced within a week of the ruling. As workers from the EU are exempt, the cap falls on non-EU workers, many of whom – research scientists and medical professionals, to name but two categories – are badly needed by the health service and cutting-edge businesses. The temporary cap limits entries of skilled workers from outside the EU under Tiers 1 and 2 of the current points-based system.

Many leading businesses, organisations (like the Confederation of British Industry) and immigration lawyers warned that the cap could leave British businesses at a significant competitive disadvantage. To allay these concerns, the Home Secretary announced in November that intra-company transfers, i.e. secondments to the UK within a multinational group of companies, would be largely exempt if the job to which the employee was coming paid more than £40,000 (as opposed to the current £24,000 minimum). Businesses will have to find ways to adapt the permanent rules so that they can hire according to their needs.

Faced with the new lower levels of permitted non-EU workers, employers may have to fill gaps in the interim by recruiting on a short-term contracts people who may not be the most appropriate appointee.

There is always a silver lining. For highly skilled UK freelancers and umbrella contractors (freelancers working through a so-called umbrella company, which employs freelancers and concludes contracts on their behalf with employers, while taking care of all their tax and paperwork), the cap may present new work opportunities. They could find themselves in demand for short-term contracts where their particular skills fit the bill, in preference to hires of UK and EU permanent staff who may not be able to provide the precise experience required.

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Associated companies: it's not all relative

Change is coming in April 2011 that could lower the tax rate for many small companies.

Companies controlled by the same people together with their close relatives are classed as 'associated' companies for corporation tax (CT) purposes. This prevents large companies taking advantage of the small profits rate of CT (currently 21%) by splitting up into smaller entities. The upper profits limit for the small profits rate is divided by the number of associated companies; for example, a company with no associates pays 21% tax on profits up to £300,000, but a company with one associate pays tax at 21% on profits up to £150,000.

For periods ending before 1 April 2011, companies owned separately by spouses or civil partners are automatically classed as associated companies, even if there is no commercial relationship between the two companies. For periods ending on or after 1 April 2011, the companies controlled by spouses and civil partners will not be associated unless there is 'substantial commercial interdependence' between those companies. It is this change that could reduce the tax rate for many small companies.

'Substantial commercial interdependence' includes situations where one company is financially dependent on the other, where they have customers in common or they share the same management, employees, premises or equipment. The commercial links between the companies must be significant before they will be treated as associated.

Agency Workers Directive still on course

The Government has announced that it will be making no changes to the Agency Workers Regulations, which will come into force on 1 October 2011.

The Regulations give effect to the European Agency Workers Directive (AWD), and were laid before Parliament in January 2010 after agreement had been reached between the Confederation of British Industry and the Trades Union Congress.

The AWD requires that temporary workers hired through an agency have basic conditions (e.g. pay and working time) that are at least equivalent to those that apply to workers doing the same job and who were directly hired by the employer. Although in principle the AWD requires this to be effective from the day a temporary worker is hired, subject to agreement by social partners each member state can impose a reasonable qualifying period.

On this basis, the Labour Government obtained the agreement of business and unions to a qualifying period of 12 weeks, during which a worker could be hired before the Regulations apply. Following consultation, the coalition Government has concluded that any changes it might wish to make to ease the burden on business would not be worth the risk of jeopardising this 12-week period. The Government will instead spend the time available in developing guidelines to help employers comply with their new obligations.

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KEY TAX DATES

Every month

1 Annual corporation tax due for companies with year ending nine months and a day previously, e.g. tax due 1 January 2011 for year ending 31 March 2010.

14 Quarterly instalment of corporation tax due for large companies (depending on accounting year end).

19 Pay PAYE/NIC and CIS deductions for period ending 5th of the month if not paying electronically. Submit CIS contractors' monthly return.

22 PAYE/NIC and CIS deductions paid electronically should have cleared into HMRC bank account.

30/31 Submit CT600 for year ending 12 months previously. Last day to amend CT600 for year ending 24 months previously.

File accounts with Companies House for private companies with year ending nine months previously and for public companies with year ending six months previously.

If the due date for payment falls on a weekend or bank holiday, payment must be made by the previous working day.

January 2011

31 Submit 2009/10 self-assessment return online (up to £100 penalty if late).

Pay balance of 2009/10 income tax and CGT plus first payment on account for 2010/11.

February 2011

2 Submit forms P46 (car) for quarter to 5 January 2011.

28 Last day to pay 2009/10 tax to avoid automatic 5% surcharge (unless late payment agreed with HMRC).

March 2011

31 Last few days (up to Tuesday 5 April) to use any CGT and IHT annual allowances and exemptions and to invest in an ISA in 2010/11.

April 2011

1 Corporation tax rates reduced to 27% (main rate) and 20% (small companies).

6 First day of the tax year. Basic personal allowance increases to £7,475 but basic rate threshold goes down to £35,000. National insurance rates go up by 1%.

Requirement to use registered pension scheme funds to buy an annuity is abolished.

New rules for pension contributions start, including annual £50,000 allowance.

ISA limit becomes £10,680 of which up to £5,340 can be in cash.

14 Due date for CT61 return and payment for quarter to 31 March 2011.

20 Interest accrues on employers' unpaid PAYE and NIC for 2010/11 (23rd if paying electronically).

30 IHT due on lifetime transfers between 6 April and 30 September 2010.