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The Newsletter of Lubbock Fine Winter 2010



We have two new associates for Christmas

"There are points in a successful professional career when talent is demonstrated and promotion is awarded. This is where both Andy Noton and Neil Williams find themselves.

It is a pleasure to announce their promotion to associates of Lubbock Fine and we look forward to the continued contribution they both make to the firm's wellbeing," said managing partner, Geoff Goodyear.

Andrew Noton

Andrew Noton joined us as an ACA trainee in 2000 following the completion of an accountancy and finance degree at Warwick University. With an excellent exam record throughout, his studies culminated in a third place prize nationally in the notoriously difficult case study exam in July 2003.

Promoted to an assistant manager in 2004 and then a manager in 2007, Andrew works within the assurance department acting for a wide range of commercial clients based both in the UK and internationally. His clients operate in a large range of sectors, including property, manufacturing, distribution, and oil and gas: the main common factor among them being a global flavour, whether they are based abroad or have international connections in their business. Working for these

clients frequently involves trips abroad to places such as Lebanon, Russia, Ukraine and the Czech Republic. Andrew explains, "Lubbock Fine gave me a taste for working abroad early in my career by sending me to Kiev on an assignment, shortly after joining in 2000, and I've been to lucky to experience many different countries and cultures ever since."

Although based within the audit department, Andrew's work is not limited to the audit of a company's financial statements; he also provides a wide range of services, including overseeing of the accounting function of certain clients whether this work is carried out by the client or Lubbock Fine.

"I enjoy working closely with my clients to understand their businesses and offering a wider range of advice than just pure accounting or audit issues," Andrew clarified. "By working to really understand my clients' businesses, I can provide solutions that are tailored specifically to their needs. The wide variety of work and businesses I have been exposed to throughout my time at Lubbock Fine has enabled me to become a general business adviser to my clients."

Andrew is also heavily involved in the recruitment and mentoring of the trainees as they join and develop within the firm over the course of their training contracts. "Accountancy is a service industry where the quality of the product delivered to the client is dependent on the team members providing the work. It is therefore vital that we recruit the right people as trainees and support them with the necessary advice and guidance to enable them to reach their full potential."

In November 2009, Andrew married Hazel and they live in Bow, East London in a converted match factory, overlooking the Olympic stadium. Hazel works as a policy officer for the Law Society.

Andrew's leisure time is spent playing football (being a key member of Lubbock Fine's seven-a-side team), along with taking holidays to far flung destinations in Africa, the Middle East and the Far East.

Neil Williams

Neil Williams joined the firm straight from school as our first ever AAT trainee in what was then the internal jobs department (IJD). Under the wing of partner Jeff Gitter and the head of IJD, Angela O'Mahony, it wasn't long before Neil's talents were identified.

"When I left school, I really had little idea of what I wanted to do for a living, although I knew I was good at maths and enjoyed working with figures," said Neil. "I had lots of interviews but Lubbock Fine really stood out because of the training opportunity. I needed to be earning money but still felt I'd like to continue studying and the job seemed to offer the best of both worlds. It was a bit of a stab in the dark but I'm really glad I made the decision to join."

After passing the foundation level of the AAT, Neil soon transferred onto the ACA graduate training programme, qualifying as a chartered accountant in May 2002. He moved swiftly through the ranks and was promoted to manager at the start of 2007.

Flying across all of the firm's partners, Neil has been an audit senior, a supervisor, an assistant manager and most recently an audit manager within the firm's UK audit group. This has provided him with broad ranging experience across a great many of the firm's audit clients in all sectors, with an emphasis on TV production, property investment and development and international holding companies. Utilising IT systems both internally and in client companies, Neil has also built a formidable expertise in this area. Although it doesn't form the bulk of his work, his propensity for all things technical means that he's been involved in advising clients on their computer systems and software. "I've worked with a number of clients to improve their existing systems and, in the case of start-up clients, I've created systems for them from the ground up to include accounting and bookkeeping, management



Neil Williams

reporting, financial reporting and regulations. Once the systems are in, I can then train their staff to use the software which means huge cost savings for them in the long run. It's something I really enjoy and has wide applications for both my clients and for the firm." Neil is also involved in the IT training of Lubbock Fine staff with a focus on Sage Line 50 and Excel.

"I'm looking forward to progressing onward and upward, the future is bright," said Neil. "Not only have the friendships and professional partnerships I've formed here been a major part of my life but I'm lucky enough to really enjoy working with my clients too."

Neil met his girlfriend Colette Davis when she was a trainee at Lubbock Fine. They now live together in the home they bought a couple of years ago. In his limited spare time, Neil plays football and enjoys a game a golf. ●



Andrew Noton

Tax News

Car allowances paid to employees – NICs refund opportunity

If you're an employer, there's an opportunity for you to consider making a claim for a refund of National Insurance Contributions (NICs). This arises following the recent case of **HMRC v Total People Limited**.

Who can claim?

If in the last six years an employer has paid a car allowance to employees for using vehicles for private use, and they have paid an additional mileage allowance of less than 40p per business mile, there may be a case for a refund of NICs.

In essence the First-tier Tribunal was considering whether the car allowances represented "actual" earnings, which were subject to NICs, or "deemed" earnings, which escaped NICs. The Tribunal concluded they fell into the latter category.

In order to be entitled for a refund, the following conditions should be present:

- the employer pays a mileage allowance for business travel at a rate of less than 40p per mile
- in addition, the employee is paid a car allowance (usually paid monthly) for using their own car
- there is no direct link between the amount of the car allowance and the employee's salary
- records are maintained in order to support the claim that the employee undertakes business mileage in their car (i.e. this doesn't apply to pure "perk" cars)

For example, if you pay the employee a car allowance of, say, £500 per month towards the cost of owning and running a car that they need for their employment duties, and you reimburse their actual running costs at, say, 12p per mile in relation to the 10,000 business miles they undertake in a year, there may be NIC refunds of £358 for the employer and £308 for the employee per year. If you then consider that the employer may have had the same arrangement with five employees going back six years, a refund claim could easily run into the £000s for what may be a relatively modest sized business.

HMRC has announced its intention to appeal the decision, so the issue is likely to run for some time. In the meantime, we would recommend that employers review their affairs and file protective claims as soon as possible where the appropriate circumstances for a claim exist. ●

VAT increase

The much publicised increase to the main rate of VAT from 17.5% to 20% takes effect on 4 January 2011.

If you are currently on the flat rate VAT scheme, the percentage that you use will change from 4 January 2011 and you will need to pay over VAT on the new rate from that date. If you would like to discuss this and how best to implement the change, please speak to your usual Lubbock Fine contact. ●

Impending deadline for the use of sole corporate directors in the UK

As a result of legislation contained within the Companies Act 2006, the abolition of the use of sole corporate directors came into force in the UK on 30 September 2010.

After this date, companies without a 'natural person' acting as a director will be in default and subject to fines from Companies House.

In addition, companies with a 'natural person' acting as a company secretary but with only a corporate director will also be in default.

If you would like to discuss how this deadline might affect your company, please speak to your Lubbock Fine contact partner. ●

Capital Gains Tax

Entrepreneurs' Relief – where are we now?

In the Coalition Government's first Budget on 22 June 2010 there was a significant increase in capital gains taxes for higher rate taxpayers, increasing the rate from 18% to 28%. This was widely predicted before the Budget.

To soften the blow of the CGT increase, the Coalition also announced an increase in the level of capital gains that can qualify for Entrepreneurs' Relief (ER) from £2m to £5m, which is taxed at 10%.

We therefore currently have three CGT rates - 18% for basic rate taxpayers, 28% for higher rate taxpayers, except that the first £5m of gains qualifying for ER are taxed at 10%, regardless of whether the taxpayer is a basic rate or higher rate taxpayer.

Business Assets

Since April 1998 the UK tax regime has had a differential in CGT rates for "business" assets and "non-business" assets which, broadly speaking, has seen gains on business assets taxed at around 10%, with gains on non business assets taxed much higher. This is a result of government policy to encourage entrepreneurial behaviour, which should benefit UK Plc as a whole.

The way tax relief to encourage business gains has been applied has changed over the years.

Who gets Entrepreneurs' Relief?

In order for a capital gain to qualify for ER, the core concept is straightforward: ER provides for "a lower rate of tax in respect of qualifying business disposals". Sounds simple enough doesn't it? The problem is, however, that there are entire books devoted solely to the subject of ER so, although it's a bit of a cliché in the modern (complex) tax world in which we all live, "the devil is in the detail".

In order to determine if ER is available, it is necessary to analyse:

- who is selling it – proprietor/director/employee
- what asset is being sold – shares, interest in a business, the business itself
- how long the asset has been owned – must be at least 12 months
- the activities of the underlying enterprise – must be a trade with no significant investment activities.

Where can a claim for ER go wrong?

A failure to obtain ER in relation to a sale of what is fundamentally a trading business is usually attributed to poor planning. Some of the common pitfalls for the unwary follow, although this list is by no means exhaustive:

- You don't claim it! ER must be claimed, there is no automatic entitlement.
- Length of ownership – make sure that the person selling the asset has owned the asset for at least 12 months.
- The wrong person selling the asset – we have seen cases where business owners have gifted assets to their spouse shortly before a sale to a third party. Whilst spousal gifts are still good planning in certain instances, this can result in the loss of ER, which can be expensive if the donee generates a capital gain in excess of their CGT annual exemption or available losses.
- Seller severing relationship with business before sale – if the seller is completely exiting the business on a sale, they will typically terminate all employments and directorships with the business as part of the commercial deal for the sale. If this is done before the sale of the shares completes, ER may be lost.
- Activities of the enterprise in the 12 months prior to the sale – it is relatively easy to taint an otherwise ER "compliant" trading business by diversifying into investment activities in order to generate an increased commercial return on accumulated profits. There is only a 12 month look-back at the activities from the date of the disposal, so it may be possible to restructure the company's activities to remove investment assets if there is a risk that the company or group will not qualify.
- Shares and voting rights – when considering a disposal of shares in a company, the seller must hold at least 5% of the ordinary shares in the company and hold at least 5% of the voting rights in the company.

In summary, ER is a valuable relief that can significantly reduce the tax burden on a sale of assets. Care is needed to plot a route through the ER legislation to make sure that the ultimate reward for years of blood, sweat and tears is not unwittingly passed to the Treasury in avoidable taxes.

If you'd like to know more about ER, please speak to your contact partner. ●



Client Profile

The Death Penalty Project



Parvais Jabbar and Saul Lehrfreund, directors of The Death Penalty Project.

20 years ago there were hundreds of prisoners languishing on Jamaica's death row. Today there is just a handful. This is due in no small part to the work of Lubbock Fine client, and niche non-governmental organisation (NGO), The Death Penalty Project at Simons Muirhead & Burton Solicitors (SMB).

"We're very proud to be associated with The Death Penalty Project," said Lubbock Fine partner, Lee Facey. "The work that they do, their highly professional, enthusiastic approach and significant achievements are much to be admired."

Based in Soho, The Project works to promote and protect the human rights of those facing the death penalty. Although operating in all jurisdictions where the death penalty remains an enforceable punishment, its actions are concentrated in those countries that retain the Judicial Committee of the Privy Council in London and in other Commonwealth countries, principally the Caribbean, Africa and South East Asia.

Amongst other activities, the Privy Council performs judicial functions through a committee comprising senior judges. It was formerly a final court of appeal for the entire British Empire and continues to hear appeals from British Overseas Territories, Sovereign Base Areas, Crown Dependencies and some Commonwealth countries, particularly in the English speaking Caribbean.

Executive directors Saul Lehrfreund MBE and Parvais Jabbar have run The Death Penalty Project since its inception (the firm was doing death row cases pro bono on an ad hoc basis for many years before). It began in earnest in 1992 when Lehrfreund joined SMB to work specifically on death row cases with the late Bernard Simons. Jabbar joined shortly afterwards, and over the coming years, The Project gathered momentum, providing free legal representation to anyone under sentence of death who requested help.

During the mid 1990s, funding came mainly from SMB and some small EU grants. This was back in the pre-email, pre-Skype era when overseas communication was a great deal more complex, time consuming and expensive. By 2000, whilst the work had expanded and the role had spread into many more countries and jurisdictions, funding was becoming increasingly important as budgets increased hugely. Notwithstanding that scores of barristers and doctors worked with the project pro bono, there was a need to diversify the funding base.

Because of this and the need to create a more formal legal identity, in 2006, The Death Penalty Project Limited was formed with its sister charity, The Death Penalty Project Charitable Trust. "Through those entities, we've become more viable to a hugely diverse set of funders from English charitable foundations to the Foreign Office, the UN and the EU," said Saul Lehrfreund. He explained, "The Death Penalty Project also continues to receive generous support from SMB. Without the firm, it would be impossible to survive."

"The more formal set up of The Project and diversified funding sources created the need for more sophisticated financial systems and reporting," says Lee Facey of Lubbock Fine.

Parvais Jabbar further explains, "Because of this new set up, we have worked closely with Lubbock Fine to design and implement a financial reporting system, which provides us with the information to monitor and control our project costs and cash-flow on a timely basis. In addition, we are now able to produce detailed or summarised information to facilitate grant funding reporting requirements. Lubbock Fine understands our requirements having seen the organisation grow over a long period and it has provided us with a personable and highly professional service in designing a dedicated financial reporting system that perfectly meets our present needs."

The Death Penalty Project acts for anyone who requests assistance anywhere around the globe and has never worked in any jurisdiction where not invited. Over the years, it has ventured into many corners of the world, although it doesn't work in the US (on the grounds that the US has reasonable resources and the necessary legal expertise). Nor does it undertake any work in the Middle East, although this is a region where the death penalty is frequently applied, and somewhere that Lehrfreund and Jabbar wouldn't rule out if asked for assistance.

Alongside its activities representing individuals at risk of execution, The Project also provides expert support to local lawyers and human rights organisations in bringing legal challenges to the application of the death penalty, with notable successes in a variety of jurisdictions. As examples, in the Caribbean, the mandatory death penalty for murder has now been removed in nine countries, most recently in the Bahamas, with legislative measures to abolish the mandatory aspect of the death penalty being considered in Barbados and Guyana. These

developments have influenced other countries, particularly in Africa. In Kenya, the Supreme Court abolished the mandatory death penalty for murder in 2010. In August 2009, the President announced his decision to commute all death sentences imposed upon condemned prisoners to sentences of life imprisonment. This affected 4,000 Kenyan prisoners and is thought to be one of, if not the, largest commutation of death sentences anywhere in the world. No executions have been carried out in Kenya for 23 years. It is anticipated that the application and scope of the death penalty will be further restricted by removing the mandatory aspect for all capital crimes.



Godfrey Mutiso (right) with his local counsel, William Wameyo, during the hearing in Kenya which resulted in the abolition of the mandatory death penalty.

The Project's continuing commitment to providing free legal representation to men and women on death row in the Commonwealth Caribbean has been crucial in redressing many miscarriages of justice there, promoting minimum fair trial guarantees and establishing violations of domestic and international human rights.

As a direct result of The Project's work, more than 50 death row prisoners who failed to receive fair trials and were the victims of miscarriages of justice have had their convictions quashed; various violations of international human rights laws have been established in more than 40 complaints on behalf of death row prisoners in the Caribbean,

and the lives of hundreds of prisoners, who may otherwise have been executed, have been saved.

Parvais Jabbar commented, "Countries often justify the use of the death penalty with reference to their own cultural values, high crime rates and public support. In our experience, whilst one cannot ignore the rising number of murders in some of these countries, the lack of movement towards abolition stems from a lack of strong leadership and political will."

"And the argument that the death penalty is a greater deterrent than, for example, a long term of imprisonment is utterly spurious," added Saul Lehrfreund. "The deterrence justification for the retention of the death penalty has been scientifically disproved by criminologists for many decades."

In the early days of The Project, it was not unusual for a death row inmate to be held for 25 years leading up to execution. The death penalty was automatic in all cases of murder and there was no differentiation between, say, a murder with no aggravating features or the worst sort of sadistic killing. A secretive, mysterious and inaccessible mercy committee would then decide whether execution should be carried out or mercy granted.

Parvais Jabbar explains, "Except in the most extenuating of circumstances, clearly no murder should go unpunished but it's surely a guiding principle of a civilised society that people must be treated fairly rather than being held indefinitely, alternating between hope and despair." Lehrfreund adds, "In the majority of Caribbean countries the death penalty is now the maximum but not the only sentence. Death row prisoners are able to access international human rights tribunals which means that for them, everything that existed 25 years ago has changed. In most jurisdictions where we work, the scope and breadth of the death penalty have been dramatically restricted." This may result in Lehrfreund and Jabbar doing themselves out of a job, to which they respond, "And wouldn't that be a great result?"

If you would like to know more about the work and activities of The Death Penalty Project, please email info@deathpenaltyproject.org, take a look at www.deathpenaltyproject.org or call Saul Lehrfreund on 020 3206 2746 or Parvais Jabbar on 020 3206 2747. ●



Russell Bedford International Annual Conference

Lubbock Fine is a founder member of Russell Bedford International, a global network of independent firms of accountants, auditors, tax advisers and business consultants.



Conference delegates.

Its international conference brings together consultants from all over the world to share expertise and knowledge at an annual event. October 2010 was the first time that the Russell Bedford group met in Dublin. 155 delegates from 39 countries convened at the conference, which was hosted by Cooney Carey, one of Ireland's leading auditing, taxation, company secretarial and general business advisory firms and a member of Russell Bedford International.

Lubbock Fine was well represented with a number of the firm's partners and their wives present at all or part of the full and extensive programme. Covering



(From left to right) Geoff Goodyear, chairman Russell Bedford International and managing partner Lubbock Fine, Conor Lenihan, TD, Minister for Science, Technology, Innovation and Natural Resources Ireland, Councillor Ruairi McGinley, Deputy Lord Mayor of Dublin and Anthony Carey of Cooney Carey.

Lubbock Fine on Twitter

We're tweeting our latest news and interesting tidbits so, if you'd like to be a follower, please log on. Just go to twitter.com/LubbockFine.



a broad spectrum of areas from working together to win public sector contracts and an update on international auditing standards, to making the most of media opportunities and using social media for effective business development, the programme proved extremely valuable and well attended. Amongst the guest speakers were Ireland's independent Senator David Norris and Professor Dennis J Snower of the Kiel Institute for the World Economy.

The very popular non-delegate programme included seeing the historical sights of Ireland and a 'taste of Ireland' at the Ballyknocken cookery school, with a hands-on cookery class where participants made



No trip to Dublin would be complete without a visit to the Guinness Storehouse.

their own delicious lunch. And no conference in Dublin would be complete without a visit to the amazing Guinness Storehouse which included an interactive tour, drinks and dinner. The conference concluded with a gala dinner and fantastic operatic entertainment followed by a live band and dancing at the very grand Trinity College Dining Hall. A touch of luck with the weather throughout the four days served to add to the overall success of the 2010 conference.

Ranked as one of the world's top accounting networks, Russell Bedford International is represented by some 460 partners, 5000 staff and 260 offices in more than 80 countries in Europe, the Americas, Middle East, Africa, Indian Sub-Continent and Asia-Pacific. ●

Imitation is the sincerest form of flattery

...but sometimes flattery can go too far.

Back in October, our marketing department was doing some updating to our website. As part of that exercise, they wanted to double check that we hadn't repeated text anywhere on our site because if the same text appears in more than one place, it can present particular problems with search engine optimisation and affect a company's position in the search rankings.

To run a check, we pasted a section of our text into Google and searched it. To our surprise, we found that a small firm of London accountants (who shall remain nameless) had virtually 'cloned' our website and changed our name to theirs in the appropriate places. Having said that, they'd done a bit of a sloppy job because some of the links referred to on our site were still on theirs, only there were no click-through links to anything at all. How lazy can you get?

We asked our solicitors to contact the firm concerned and suggest strongly to them that they took down their site and paid our costs. We're happy to report that they immediately 'fessed up', removed their site and paid our solicitor's bill.

Here's the health warning. If you have a website, you would be well advised to do similar checks from time to time to ensure that no one out there likes your site so much that they decide to copy it. ●



We're always delighted to feature good news about our clients. If you have something special that you'd like to shout about, please email marketing@lubbockfine.co.uk and we'll try to get your story into our next issue.

Lubbock Fine Away Day

September 2010 was when Lubbock Fine staff gathered for their annual team-building away day and this year it was an away day with a difference.

The day began with managing partner Geoff Goodyear's short briefing on events within Lubbock Fine since the last gathering, welcoming new staff and plans for the forthcoming year.

Course facilitators then took control and the tasks commenced bringing out steely eyed determination and a will to win. The various tasks were designed to take people out of their comfort zones whilst taking on responsibilities and activities that are not within the scope of their job descriptions. As usual, there were surprises all around with winners and losers emerging where least expected.

As the tasks came to an end and final scores were determined, the excitement built. Team 7, comprising partner Russell Rich with Claire Silver, Clara Zamarro, Daniel Corlett, Hasmukh Vara, Jenny Johnson, Neil Williams and Yen-Li Voon, was the overall winner and each member was awarded with a miniature gold trophy.

The day ended with drinks and canapés and a general view that whilst a lot of fun, it's always interesting to see how people react to working in different teams and in a new environment. ●

Lubbock Fine News

We'd like to congratulate a number of our staff on their various achievements.

First, many congratulations to Simon De Souza on qualifying by passing his Institute of Chartered Accountants in England and Wales (ICAEW) advanced stage exams.

James Darvill has passed the technician stage of his AAT in June this year. He is now qualified under the AAT.

In addition to those professional achievements, we're sure that everyone will join us in congratulating Geoff Cavanagh in our tax department who married Sarah on 20th August 2010. ●

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