FiNELINES.
Advice that adds up

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A BUDGET FOR BUSINESS?

By Clare Munro

Given the political dramas following last month's Budget it's hard to know whether we can expect all the proposals to be enacted as announced. However, assuming that they stand, with the staging of changes over several years, and the need to build in changes announced last year, it remains a challenge to assess the impact on our clients.

Corporation tax

Take the corporation tax rate changes. Last year the proposal was to reduce corporation tax to 19% from 1 April 2017 and to 18% from April 2020. In the Budget the Chancellor announced that the 2020 reduction will be to 17%, giving the UK the lowest corporation tax rate in the G20 (although not the lowest in the EU – Latvia and Lithuania have 15% and Ireland 12.5%).

Dividends

Lower rates will help companies to reinvest, but the true picture on taxation of corporate earnings, needs to factor in the changes to taxation of dividends which took effect from 6 April 2016. Out goes the tax credit system which, until 5 April 2016, meant that basic rate taxpayers had no further liability on dividend income; in come new higher tax rates on dividend income. It's hard to generalise but anyone receiving dividends in excess of the £5,000 dividend allowance can expect to suffer more tax in 2016/17 than they have in recent years. It will particularly hit those with relatively modest dividends and total incomes below the higher rate threshold, who, until 6 April 2016, had been able to extract dividends from their companies without a personal tax charge.

Loss usage

Greater flexibility for loss usage should prove useful for some of our clients, allowing the company to use brought forward losses against all income streams rather than being limited to offset against profits of the same trade. This measure is restricted to losses incurred on or after 1 April 2017, so it will be at least two years before companies benefit. We live in an age where companies frequently have more than one activity, or have activities whose nature develops with changing technology. This measure should help to avoid arguments with HMRC about the subtle differences between aspects of a trade in order to prove that current profits come from the same trade as that which generated the historic losses.

Profit shifting

At the large multinational end of the corporate scale, the government is continuing to implement changes to prevent profit shifting from the UK. Measures will include a cap on interest deductions at 30% of UK earnings where the net UK interest expense exceeds £2m and restrictions on deductions for outbound royalty payments for use of intellectual property.

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Incentives for investment

These include the changes to capital gains tax. With effect from 6 April 2016 the higher rate of capital gains tax has been reduced from 28% to 20% and for basic rate taxpayers from 18% to 10%. In fact, this may only benefit a limited set of taxpayers. **Residential property is specifically excluded** from the advantageous rates so these gains will continue to be taxed at existing rates. Entrepreneurs with 5%+ shareholdings or interests in trading businesses should be eligible for the 10% entrepreneurs' rate in any event. Most in line to benefit would seem to be external investors with shares and securities.

Entrepreneurs relief

In addition to the new general CGT rates, a new £10m entrepreneurs' relief allowance will be made available to 'long term' investors in unlisted companies. The minimum holding period of three years and requirement for the investment to be in 'newly issued shares' indicates an element of overlap with the current EIS schemes which already give a CGT exemption in similar circumstances. Perhaps this will fill the gap for investment in a company undertaking non-EIS qualifying activities such as leasing or property development.

Finally, we welcome the government's U-turns in relation to availability of entrepreneurs' relief for companies in partnerships and joint ventures so as to focus on avoidance and prevent the collateral damage to commercial structures.

Overall, the March 2016 Budget sets out a road map towards lower business taxes for UK-based businesses over the coming years, albeit that much of the sweet stuff will not be with us until next year or beyond. Accepting that mistakes have been made and, where anti-avoidance has been imposed too harshly, back tracking, is refreshing and, once the identified tax plans are consolidated, the business community should have increased certainty going forward.

BUY-TO-LET LANDLORDS – PREPARING FOR A HARSHER TAX CLIMATE

By Bridget Martin

The impact of the changes announced in last summer's Budget is beginning to filter through as property investors and their accountants come to terms with the unexpected and highly complex proposals. For some landlords the impact is severe enough to push them into a loss-making position. There is already talk of landlords being forced to sell.

To re-cap, two fundamental changes were announced:

The first is the scrapping of the wear-and-tear allowance with effect from 6 April 2016. It has been replaced with relief for the actual costs of replacing furnishings in the year the costs are incurred.

The second, and more significant, reform is the restriction of finance costs on residential properties to the basic rate of income tax. This will be introduced gradually over four years from 6 April 2017 and will take full effect from 2020. You will note that we have referred to 'finance costs' and not mortgage interest as the new rules include interest on loans to buy, for example, furnishings or assets used in the property business and fees incurred when taking out or repaying mortgages or loans.

The new rules will work so that landlords will no longer be able to deduct all of their finance costs from their property income to arrive at their property profits. They will instead receive a basic rate reduction from their income tax liability for their finance costs. Effectively, relief at top rates (possibly up to 60% where the landlord's income falls in the £100,000-£120,000 bracket) is replaced with a tax reduction equivalent to 20% of the finance cost.

As a result of these changes, all higher and additional rate tax paying landlords, owning properties on which there is a large mortgage, will pay substantially more tax. However, the impact goes much wider than that. Some current basic-rate taxpayers will also be hit, because the change will increase their gross income, pushing them into the higher rate tax bracket - see our example on page 3. It's even possible that landlords who are currently in a tax loss position will become higher or additional rate taxpayers.

The effect is that landlords will be taxed on gross income rather than the real profits which will result in some landlords' tax exceeding 100% of their profits.

Other issues and anomalies will be created where there are thresholds built into the tax system: for example, as a result of the overall increase in taxable income in the absence of relief for finance costs:

- Basic rate (or even non) taxpayers could be pushed into the higher rate bracket
- Incomes may exceed the £50,000 Child Benefit threshold resulting in some or all of this benefit being withdrawn
- Loss of ability to contribute to pensions from 6 April 2016, when the annual pension allowance, currently £40,000, will decrease by £1 for every £2 of income above £150,000 reducing to a maximum gross contribution of £10,000 once total income reaches £210,000.

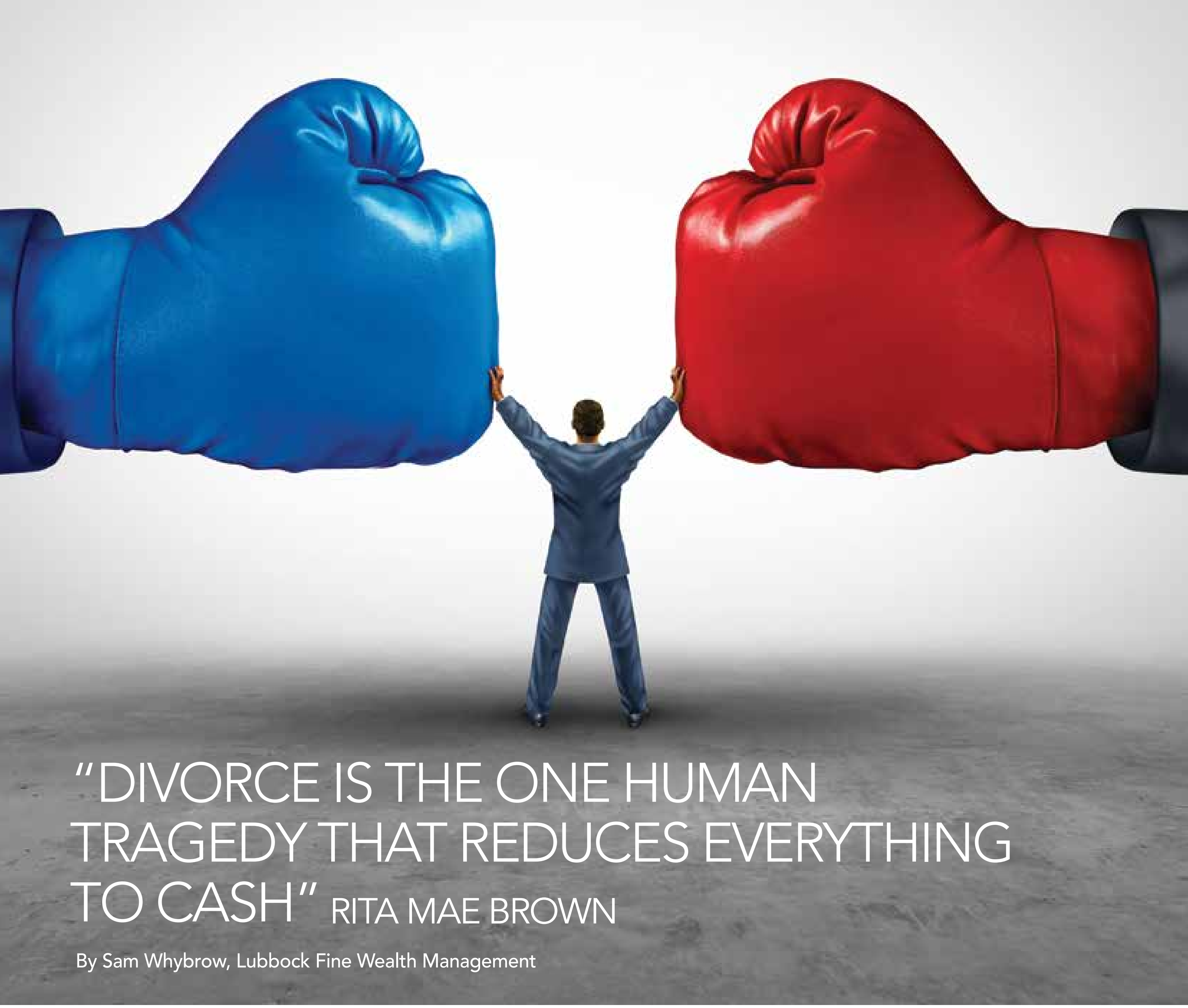
There is some good news. Companies are not affected by the changes, nor are non-investment businesses such as developers or dealers in property, commercial property lets and furnished holiday lets.

This proposal is reckoned to affect hundreds of thousands of property investors and amateur landlords. It was announced as a measure to even up the position between owner occupiers and landlords, but the effect on the rental market remains to be seen.

Example: Ben – private landlord

	2016/17	2020/21
Net rental income after losses b/f and before finance charges	128,000	128,000
Less: Finance charges		
- Current position	(85,000)	-
- Restriction 2020/21	-	-
	43,000	**128,000**
Less personal allowance	(11,000)	-
Taxable income	**32,000**	**128,000**
Tax at 20%	6,400	6,400
Tax at 40%		38,400
Less: finance costs restricted to basic rate relief (£85,000 @ 20%)		(17,000)
Total tax due	**£6,400**	**£27,800**
Net disposal income	**£36,600**	**£15,200**
Tax increase percentage		**434%**

Ultimately there is no single solution to minimise or eliminate the effect of these changes because each set of circumstances is different. We are, however, able to model your own position to help you understand the implications, as well as comparing this to an alternative option of using a company going forward and flexing the variables such as interest rates for anyone considering refinancing now. So, if you would like us to produce a bespoke model or to discuss how these changes will affect you please speak to your contact partner or to Bridget Martin, Clare Munro or Phil Moss in our tax team on 020 7490 7766. bridgetmartin@lubbockfine.co.uk, claremunro@lubbockfine.co.uk, philmoss@lubbockfine.co.uk.



"DIVORCE IS THE ONE HUMAN TRAGEDY THAT REDUCES EVERYTHING TO CASH" RITA MAE BROWN

By Sam Whybrow, Lubbock Fine Wealth Management

Sam Whybrow

Very few business owners or their customers will have considered the potential effect of divorce on a family business.

Rather like having children, as a business owner you will have gone into labour, given birth, nurtured and at some point be thinking about letting it go to start a new life. Human nature is such that we remember the highs and try to forget the lows. After all, who wants to dwell on painful experiences?

As financial planners we ensure our business owner clients protect:

- current and future profits
- business shareholdings
- themselves from unwanted business partners
- outstanding loans generated by a key person
- their own and their family's standard of living/way of life

The main reasons for this are to provide peace of mind so that in the event of illness or death:

- the business is financially secure
- the partners/directors' financial share in the business is protected

- the business owner can recuperate and would not need to return to work too quickly
- customers are reassured that the business could successfully continue
- the family's wealth, standard of living and future is financially secure

But few business owners or their customers will have considered the potential effect of divorce on a business.

Here are the thoughts of some leading solicitors.

Timothy Lucas, Bolt Burdon

"One way that business owners had to protect their shares in private companies was always to use a nominee shareholder. The nominee would be the legal owner of the shares but would hold them on trust for the beneficial owner. The nominee would then have to deal with the shares as the beneficiary required. This arrangement had the benefit of being off the public record. Recent changes in the law aimed at increasing transparency have made this approach more difficult, and so some business owners may need to reconsider the way their shares are legally and/or beneficially owned.

It is not uncommon in divorce proceedings for the spouse of a company shareholder to argue that he/she is entitled to some interest in the shareholder's shares. It is often undesirable for any shares to actually be transferred to the spouse.

One approach is for the parties is to agree that the shareholder retains ownership of the shares but pays a percentage of any dividend payments and/or the proceeds of any sale of the shares to the spouse.

Such terms require very careful negotiation by the parties to protect (amongst other things) any future shares acquired by the shareholder."

Magnus Mill, Alexiou Fisher Philipps

"There are two key steps that all business owners should consider: a pre or post-nuptial agreement, and a shareholder's agreement that includes provision for a business partner getting divorced. While pre-nuptial agreements are not yet automatically binding, the law is moving in that direction and, if done properly, are likely to be taken into account on any divorce."

A pre/post-nuptial agreement can provide for how parties' finances should be dealt with upon separation. I have seen unfortunate cases where parties have spent a small fortune on arguing the value of business assets held in one or both of their names, and that's before they've even started arguing how that asset should be treated on division. It is essential though, if such an agreement is going to hold water, that all proper steps are taken, including separate independent legal advice, full financial disclosure, and the agreement not being unreasonable (for which legal advice may be required).

A shareholders' agreement between business partners can also help to protect one of the partners from the fall-out that could happen if the other partner finds himself getting a divorce – for example giving the remaining partner(s) first call on the purchase of any shares, not unlike provisions one might see for bankruptcy events.

Ultimately, no two businesses or marriages are exactly the same, but in all cases advanced planning and documentation can go a long way to protect assets in the event of a relationship breakdown. I always strongly recommend that partners (both in business and marriage) sit down and agree amicably what a fair outcome would be in the event of a problem – and then get a lawyer to set out that agreement in a binding way. Fingers crossed that the agreement is never needed, but they'll be glad it's in that bottom drawer if disaster strikes."

Jane McDonagh, Simons Muirhead & Burton

"During divorce, the Court will routinely require businesses and their assets to be valued as part of the process.

This can be an extremely complex, contentious and specialist exercise. Often the business is considered to be 'the goose that lays the golden egg'; clearly then it should usually remain intact if possible, and the court would look to compensate the other spouse with a larger share of the other assets and/or maintenance.

Forward planning is key. A pre-nuptial or post-nuptial agreement ring-fencing the business can be extremely useful in limiting claims against it. Third party interests in the business may also help on divorce. If the business is jointly owned with other shareholders or partners then the court is less likely to take steps which would damage the interests of the other shareholders or partners."

Summary

It is important to recognise that divorce affects other business owners as well as family and friends. Think ahead and protect your business.

If you wish to discuss this article in further detail, please speak to your contact partner or to Sam Whybrow on 020 7490 7766 or at samwhybrow@lfwm.co.uk

UK CORPORATE TRANSPARENCY AND PSC REGISTERS

New transparency and reporting rules for companies came into effect on 6th April 2016. From that date, most UK companies and LLPs will need to identify and record the people who control or own them. This "register of people with significant control" will be known as a "PSC register".

From 30th June 2016, the information will also need to be filed on the public register at Companies House as part of a new annual "confirmation statement" taking the place of the annual return.

The rules are aimed at achieving transparency of individuals controlling companies who might have been previously hidden by opaque corporate or trust structures. Business owners and their advisers will need to be aware of the new regime as they may be subject to their own disclosure obligations and sanctions for non-compliance.

So what steps should you be taking now?

Broadly, there are five new PSC conditions relating to individuals which are:

1. Does an individual, directly or indirectly, hold more than 25% of the shares?
2. Does an individual, directly or indirectly, hold more than 25% of the voting rights?
3. Does an individual, directly or indirectly, hold the right to appoint or remove the majority of the board?
4. Does an individual hold the right to exercise, or is actually exercising, significant influence or control over the company?
5. Does an individual hold the right to exercise, or is actually exercising, significant influence or control over a trust or firm which would satisfy one of the first four conditions if it were an individual?

In order to be a PSC, only one of these criteria need to be satisfied.

To determine whether any individuals fall within the five new PSC conditions, company officers should first review their company's register of members and articles of association to identify blocks of shareholding over 25% and identify, or try to identify, direct or indirect voting rights over 25%. The company's articles of association should also be checked to establish whether anyone has the right to appoint or remove the majority of the board.

A company will need to consider whether anyone who does not meet the first three conditions could have significant influence or control over the way the company is run, irrespective of any formal role.

Determining who exercises significant influence and control is a little more difficult and may require a judgment call. Examples given by the draft guidance include having absolute decision rights or absolute veto rights over decisions related to the running of the business but "veto rights in relation to certain fundamental matters for the purposes of protecting minority interests" are unlikely, on their own, to trigger disclosure.

If you have concerns regarding the confidentiality of details that might become public under the PSC regime or if you would like to discuss more complex arrangements where judgment will need to be exercised as to whether or not the PSC disclosure requirements are likely to be triggered, please speak to your contact partner.

GUEST WRITER

STOCK MARKET WOES – THE LIGHT AT THE END OF THE TUNNEL

By Paul Pickford and Tom Cross of Investec Wealth and Investment

The start of 2016 saw global stock markets panic over events in China.

Until August 2015, we'd had several years of reasonably low volatility in markets which had perhaps lulled investors into a false sense of security. Despite the negative publicity, a stock market portfolio remains a good, solid investment, though future gains are likely to be harder won.

So, these days, China sneezes, we catch a cold. Why is it that events in China create this volatility in world markets?

The tone was set for equity markets as the Chinese stock market opened on January 4th. In response to consistent falls (since June), over the New Year, the Chinese authorities had introduced a "circuit-breaker" to prevent daily falls of more than 7%. Investors, increasingly fed up with such interventions, took this as an invitation to test the system, and soon after lunch they were free to head home as the market hit its limit and was closed for the day. Still, this was better than what happened a few days later on 7th of January, when the market stayed open for all of 29 minutes before hitting its limit. The authorities duly acquiesced and abandoned their initiative.

And so it was that China became the first in a succession of dominoes to fall during January, with no equity markets escaping the carnage and commodities accelerating their downward move from 2015. US markets suffered their worst start to a year since the 1920s. So what is behind all this?

There are two main reasons for the current malaise. The first is the persistent lack of growth momentum in the global economy. This is particularly notable in commodity-exposed emerging markets owing to China making a transition from an investment-led to a consumer oriented model, a transition that is proving to be more tricky and long drawn out than planned. Investors are adjusting to lower growth in China, but this should be healthier and more sustainable. Following some policy mistakes last year, the onus is very much on the Chinese government to prove its competence.

The second major influence is tighter monetary policy in the US. Financial assets have struggled to make sustainable progress since the Federal Reserve ended its Quantitative Easing programme in late 2014, and now it has also delivered the first rise in interest rates since June 2006 with the possibility of more to come – indeed, the Fed's own members were suggesting as many as four increases over the course of the next twelve months. Low US interest rates have meant that dollar investors have consistently sought higher returns in other regions, thus exporting dollar liquidity to even the most obscure regions of the world. That liquidity has now started to head home, undermining asset prices and growth prospects everywhere. It is hard to believe that the Fed will press on with its policy in light of such turbulence.

Another fear of markets is that we are about to re-enact the sub-prime property crisis, only this time with the debt of highly leveraged oil exploration companies delivering the coup de grace. This seems highly unlikely. The significance of outstanding loans is far lower, much more transparent and the banks are better capitalised, so able to bear the pain. Also, much of the debt has been raised in bond markets and those bonds reside with investors, not on bank balance sheets. Yes, there will be losses experienced, but clearly not enough to upset the whole financial system.

Equities no longer offer unconditional value. Equity investors will be more reliant on earnings growth and dividends for returns rather than re-rating, and earnings growth is currently in short supply. Meanwhile with cash still yielding next to nothing and 10-year government bond yields generally well below 2% there is not much return from the safer elements of a balanced portfolio. Investors will have to consider assuming greater risk for higher returns although with more risk comes the promise of higher volatility.

There is some light at the end of this tunnel. In short, we expect the markets to settle down as the year progresses. Even with future gains looking likely to be harder won, the stock market remains, as ever, a good long- term prospect.

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Paul specialises in managing portfolios for high net worth individuals within a broad range of tax efficient structures. He is a Chartered Fellow of both the Institute of Chartered Accountants in England and Wales and the Chartered Institute of Securities and Investment.

TOM CROSS
Investment Manager

Tom has worked closely with Paul since August 2011. He is a Chartered Wealth Manager and member of the Chartered Institute of Securities and Investment.

LUBBOCK FINE NEWS

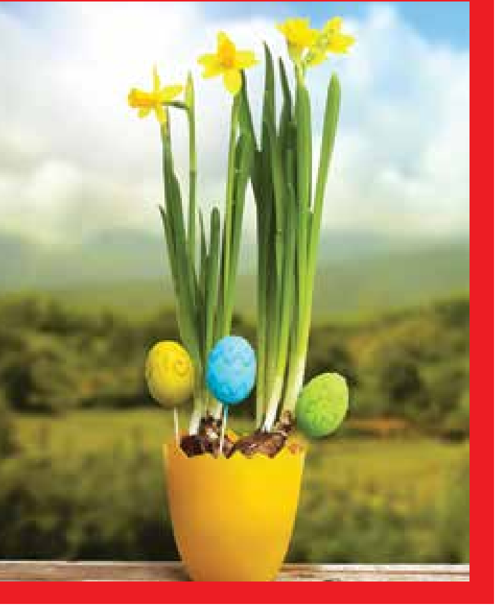
Enhanced tax services

Steven Pinhey has joined us as a director in our tax team. Primarily responsible for the development of our Tax Disputes and Resolution service offering, Steven has over twenty five years experience advising clients on all areas of HMRC enquiries and investigations - from routine aspect enquiries through to managing negotiated settlements on complex civil cases involving suspected tax fraud. He is an Associate of the Chartered Institute of Taxation and a Fellow of the Association of Taxation Technicians as well as a member of the ICAEW's Tax Investigations Practitioners Group. Please feel free to contact Steven on 020 7490 7766 or email stevenpinhey@lubbockfine.co.uk.

CHARITY FUNDRAISING

Fundraising efforts will continue throughout the year and have already included an Easter Egg decorating competition. This took the form of an attempt to replicate favourite Lubbock Fine characters where inspiration took entrants towards defined features such as 'the hair' or personality traits such as 'always with a wine glass in her hand' or even a reflection of their talents 'the one that does the splits'.

Six people volunteered themselves to be the face of the eggs but - we're sworn to secrecy!



RUN LIKE LIGHTNING

This year, the firm is raising money for Teach a Man to Fish, a charity with a mission to change the world through transforming education in developing countries.

On 1 May 2016, a group of seventeen hardy Lubbock Finers will run the twelve-hour Lightning Run relay race. Teams of 5 will run consecutive laps of 10k continuously for a twelve-hour period. We are entering 3 separate teams and then, as we have managed to find two people crazy enough to do it, we are also entering one team of two who will run the course alternately for twelve hours!

THE UGANDA TRAIL

As further punishment, on 5 June 2016, our HR manager Bryony Digby and Matthew Green, senior manager, will be taking to the Ugandan trail to run 26.2 miles to raise as much money as possible for our fantastic charity.

If anyone out there would like to sponsor us for these runs, please go to **www.justgiving.com/LF-LightningRun**

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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.