



Construction matters

a construction newsletter from **pkffpm accountants**



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2020 and Beyond



We are pleased to welcome you to this month's Construction Matters and to extend warm wishes for the forthcoming festive season.

In this issue, with the end of the year approaching, we reflect on some of the difficulties businesses have

experienced over the last ten years and the opportunities and challenges that lie ahead as a new decade dawns.

Our series on family business issues continues with a look at implementing a framework to manage conflict. Following on from last month's article on off-

payroll tax reforms, we delve a little deeper into the factors to consider when determining whether a sub-contractor is an employee or self-employed.

Finally, with the festive season in mind, we list some of the tax deductions you may be able to claim when providing gifts to your

employees.

As usual if you have questions or concerns about any of the issues raised, our team will be happy to provide further information. Contact us on (028) 3026 1010.

New Decade, New Opportunities...

As we approach the end of another year, it is worth pausing to reflect on how this decade's deep recession, banking crisis and harsh trading conditions contributed to the demise of many long-established family businesses.

The construction industry was significantly affected with companies such as David Patton & Sons in Ballymena, P Clarke & Sons in Fermanagh and, more recently, Dixons Contractors and Blackbourne Mechanical, closing their doors for the last time. These businesses, who had traded for generations, played a vital part in the local economy supporting many jobs directly as well as indirectly through their supply chain. The closures have had a significant impact on local communities as well as damaging suppliers and sub-contractors who were affected by non-payment.



Although construction experienced an upturn in market conditions in the middle of the decade, the current situation is very challenging due to Brexit uncertainty, the non-functioning NI Executive, imminent elections in the UK and upcoming elections in Rol, developments in the US

and geopolitical concerns in other jurisdictions, including Hong Kong and Syria.

However, as we face into the new decade, it is important to appreciate that the current circumstances are a starting point, not a destination. The next 10 years will bring exciting opportunities, both at home and in export markets.

Encouragingly, more construction companies now use credit insurance to protect against geopolitical and other trade risks. A typical policy provides cover of up to 90% in the case of an insolvency or default, giving Sales Directors the comfort of knowing that their new accounts are protected while Finance Directors can access support from the insurer's collection division if required.

MANAGING CONFLICT

in a

FAMILY BUSINESS

 There are many reasons why conflict arises in a family business - tensions in family relationships, feelings of resentment or entitlement, fear of change, reluctance to share information, financial disagreements, giving people responsibilities and jobs based on family blood rather than sustainability or ability to do the job, conflict between family members who want to invest in the business and those who want to take a dividend, personality clashes, to name but a few.

Left unresolved, these tensions can have a damaging impact on decision making, planning and profitability. However, in our experience, if the family looks after the business, the business will look after the family through generations.

Preventing conflict

One way to minimise the chances of conflict arising is to establish a formal Family Agreement or Family Council to oversee strategy for the business, develop a shared understanding of core business values and agree rules to govern family interactions with the business. These values and rules should be documented in a formal Family Agreement or Constitution. While this can be time consuming initially, businesses generally find that it helps them to manage more effectively and provides a framework to reconcile the family's expectations with the commercial goals of the business.

More often than not when conflict arises, communication issues are the root of the problem. Consequently, improving communication is another important area to focus on. All family partnerships and limited companies should have a Partnership or Shareholder Agreement.

Communication should be a two-way process that involves both sending and receiving information. Most of us are good at the 'sending' part - we're happy to put our point of view across - but we're often less good at 'receiving'. Encouraging strong internal communication is key to the success

of most businesses, especially family businesses. In addition, we recommend that all family members working in the business have employment contracts with defined responsibilities and related remuneration rewards. Employment/management should always be separated from ownership.

Formal vs informal communication

Families often meet informally at social gatherings, family parties, and funerals and it's not unusual for business conversations to take place at these events. Miscommunication can happen when a conversation is remembered and reported differently by the various participants. This is one reason why formal meetings are minuted. As family businesses grow and more people become involved, the need for formal communication increases but informal communication will always remain part of the picture.

It's rare to come across a family business where conflict never happens. Emotional factors are almost always part of the picture and disputes can spill over and damage family relationships. Many businesses bring in facilitators, independent directors or involve mediators in family meetings to help overcome this problem.



Tax Free Celebrations this Christmas

It's that time of year again. The tinsel is up, the songs are on and the Christmas Party menu is being finalised. So, when it comes to your taxes, what can your business claim for and where can you save?

'Trivial gifts'

Gifts to staff are classed as taxable benefits however there is an exemption for certain 'trivial' gifts where the cost of the gift is not more than £50 per employee. To qualify, the gift must not be in return for a salary sacrifice or in respect of work carried out. Although store vouchers are acceptable, the gift must not be cash or a voucher that can be exchanged for cash.

Other types of trivial benefits that are allowed include:

- Taking a group of employees out for a meal to celebrate a birthday
- Buying each employee a Christmas present
- Flowers on the birth of a new baby
- A summer party for employees

If the cost of the benefit is over £50, the whole amount is taxable, not just the excess over £50.

Non-trivial gifts

If the gift is not a trivial benefit, then the employee is taxed via a P11D form and the employer is liable to Class 1A National Insurance. The employer can elect to cover non-trivial gifts in a Pay As You Earn Settlement Agreement (PSA). This allows employers to make one annual payment to cover all the tax and National Insurance

due on minor, irregular or impracticable expenses or benefits for their employees.

Gifts that incorporate advertising

Where a gift incorporates a conspicuous advertisement for the business, it may be tax deductible. For example, a branded golf umbrella, mousemat or diary would be ok. However, if the gifts consist of food, drink, tobacco, or any voucher that can be exchanged for goods, it is not tax deductible.

Gifts of a company's own products

Where a company makes a gift of one of its own products, and the item is given away during the ordinary course of business, it may be tax deductible. For example, if the business is a chocolatier, it can gift chocolates to the general public for promotional purposes and obtain a tax deduction for the cost of the chocolates.

Close companies

Where an employer is a close company and provides a benefit to an individual who is a director or other office holder of the company, keep in mind that you can't receive trivial benefits worth more than £300 in a tax year if you're the director of a 'close' company.

Christmas Party

Whilst, there is no specific tax allowance for a 'Christmas Party', tax relief from HMRC can be claimed for an annual staff party where certain conditions are met. The annual staff party must not exceed £150 per head (including VAT) per year.



Are Sub-Contractors Really Employees?

When determining whether your sub-contractor is your employee or self-employed, HMRC will consider both your written contract and the actual dynamics of your working relationship.

There is no one test that will determine whether a subbie is your employee or works on a self-employed basis so you need to consider a number of factors to build a complete picture of the working relationship. These include:

- What control and direction does the contractor exert?
- What autonomy does the sub-contractor have?
- Can the sub-contractor send a substitution if unavailable?
- Is there a mutual obligation between contractor and sub-contractor?
- Who provides equipment to perform duties?
- Who bears the financial risk?
- What are the payment terms?
- Is there exclusivity built into the contract?



HMRC recently launched an updated Check Employment Status for Tax (CEST) tool to provide clarity on whether a worker should be classed as employed or self-employed and have said that they will stand by the CEST results provided the information put in is accurate and that the tool is used in accordance with their guidance. A previous version of this tool had been criticised for its inaccuracy and inability to weight the importance of each factor for all possible scenarios in different sectors.

PKF-FPM is urging clients to use caution when relying on CEST as the tool does not factor in a mutuality of obligation test which has been a deciding factor in a number of recent tribunal cases in the public sector. Our advice is to consider subbie relationships now and plan ahead to avoid future problems. For further information and/or assistance, please contact our tax team.

Contact Us..

For further information and/or advice on any of the matters discussed in this newsletter, please contact:

Feargal McCormack,
Lead Construction Partner

on (028) 3026 1010
or email f.mccormack@pkffpm.com.



Newry | Belfast | Dungannon |
Mallusk | Balbriggan | pkffpm.com

