

BARR ETTE

CHARTERED ACCOUNTANTS & CHARTERED TAX ADVISORS

Budget Newsletter: May 2009



On 22 April 2009, the Chancellor Alistair Darling delivered one of the most important Budgets in years against a backdrop of rising unemployment, increased government borrowing and possibly the worst recession since the Second World War. As usual, the timing of the changes need to be carefully watched – some have immediate effects whereas others are delayed to 2010 and beyond.

The main Budget proposals are:

- An increase in the headline rate of tax at 50% for those earning more than £150,000
- A reduction in personal allowances for those earning more than £100,000
- A reduction in higher rate tax relief on pension contributions
- Increases in ISA limits from October 2009 for those aged 50 or over and for everyone from April 2010
- An extension of the carry back of trading losses by a further year
- Short term increases in capital allowances on most plant and machinery
- Extension of the furnished holiday letting scheme to properties located in the EEA but the complete removal of the scheme from April 2010
- Publications of names of serious tax defaulters who have deliberately understated over £25,000 tax

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Personal tax

Allowances and tax rates 2009/10

The personal allowance in 2009/10 has been increased to £6,475. The basic rate will be £37,400. Individuals will therefore pay higher rate tax at 40% rather than 20% when their total income exceeds £43,875.

The 10% starting rate for savings income band at £2,440 is available only when the individual's total non savings income (broadly earnings, pensions, trading profits and property income) is below the starting rate limit.

Changes for 2010/11

From 6 April 2010, taxable income over £150,000 will be subject to an income tax rate of 50%. Where an individual's "adjusted net income" (defined broadly as all income after adjustment for pension payments, charitable giving and relief for losses) is above the income limit of £100,000, the personal allowance will be reduced by £1 for every £2 above the income limit until it is reduced to nil.

Dividends which fall into the income band above £150,000 will be taxed at the new 42.5% dividend additional rate.

The trust rate will also increase from 40% to 50% and the trust dividend rate from 32.5% to 42.5%.

Comment: The rise in income tax rates mean that salary sacrifice / gift aid may become even more important in reducing income. Extracting monies from companies as capital rather than income will also save tax.

National Insurance Contributions (NICs)

The NIC thresholds have been increased but the Class 1 and 4 contributions' rates have been held at their 2008/09 levels.

There is a proposal to increase the rates of national insurance from April 2011. An increase of 0.5% will apply to the employers', employees' and the self-employed NIC rates.

Comment: The increase in NIC rates will have cash flow and employment implications for employers.

Taxation of foreign dividends

Individuals with shareholdings of less than 10% in a non-UK resident company are generally entitled to a non-repayable tax credit of one-ninth of the distribution. From 22 April 2009, individuals with shareholdings in excess of 10% will also be eligible for the non-repayable tax credit. The country from which the dividend is paid must nonetheless have a double tax treaty with the UK that contains a non-discrimination clause.

Personal allowances for non-resident individuals

Legislation will be introduced in 2010 to withdraw individuals' entitlements to personal allowances and reliefs by virtue of being Commonwealth citizens. The vast majority of individuals will still benefit through other means, such as the provisions of a double tax treaty.

Remittance basis – minor amendments

With effect from 6 April 2008, individuals who are resident but not domiciled or not ordinarily resident in the UK could opt to use the remittance basis of taxation. Some minor changes will be made to the rules applying to remittance basis in Finance Bill 2009.

Furnished Holiday Lettings (FHL)

Up to now the FHL rules have applied to furnished holiday accommodation situated in the UK. These rules are generally more preferential as the FHL are treated as a trade for certain taxation purposes unlike general property rental businesses. Thus, claims may be available for loss relief, capital allowances, landlord's energy saving allowance, certain capital gains tax reliefs such as business asset rollover relief and entrepreneur's relief.

As the FHL rules only applied to UK FHL and not those situated in the European Economic Area (EEA), this discrimination may be incompatible with European law. The HM Revenue & Customs has decided to regard the FHL rules applying to holiday accommodation located elsewhere in the EEA. The FHL rules will however be repealed with effect from 2010/11. Until then claims for FHL in the EEA can be made within the normal time limits. In addition the HMRC have indicated that they will accept late claims and amendments until 31 July 2009. This will apply to personal tax returns for the year ending 5 April 2007 and corporation tax returns ending on or after 31 December 2006.

Comment: It may be worthwhile to consider claiming for FHL for properties in the EEA for tax returns which have already been submitted.

Corporate and business tax

Corporation tax rates

With effect from 1 April 2010, the main rate of corporation tax will be set at 28% for companies with profits of more than £1.5 million.

The small companies' rate which applies to companies with up to £300,000 of profits will remain at 21% from 1 April 2009. Marginal rates will apply for profits between £300,000 and £1.5 million at 29.75%.

Capital allowances

A new temporary rate of first year allowance (FYA) at 40% on plant and machinery is available for qualifying expenditure commencing 1 April 2009 for companies and 6 April 2009 for individuals and partnerships. The FYA will only apply to assets in the main capital allowance pool and not for integral features, cars, long life assets and assets for leasing.

The Annual Investment Allowance (AIA) on the first £50,000 spent on most plant and machinery remains unchanged.

Comment: The availability of the additional capital allowance will be attractive for large or plant intensive businesses that have already fully utilised the £50,000 AIA.

Extension of trading loss carry back

Against the backdrop of recession the Chancellor announced in his Pre-Budget Report that some relief will be given to businesses by allowing current losses to be carried back against profits of the previous three years resulting in tax repayments.

The proposed measure has been

confirmed to have effect on or after 22 April 2009 for company accounting periods ending in the period 24 November 2008 to 23 November 2010 and for the two years 6 April 2008 through to 5 April 2010 for unincorporated businesses. The additional relief is however capped to target the measure at smaller businesses. After unlimited carry back to the previous year, a maximum of £50,000 of the balance of unused losses is then available for carry back to the earlier two years.

Taxation of foreign dividends and profits

Foreign dividends are currently subject to UK corporation tax whereas UK dividends are exempt. This new measure will exempt foreign dividends received on or after 1 July 2009 from UK corporation tax and will be particularly important to UK holding companies with foreign subsidiaries or associated companies. Anti-avoidance provisions will apply to deny the exemption where one of a number of prescribed schemes has been entered into.

The other important measures in this package include a worldwide debt cap on interest and changes to the Controlled Foreign Companies provisions. A new post-transaction reporting system will replace the current Treasury Consent rules for transactions undertaken on or after 1 July 2009.

Comment: The government is currently attempting to increase the competitiveness of the corporate tax system to make the UK a more attractive investment location for multinational businesses.

Corporate intangible assets

The intangible asset regime introduced on 1 April 2002 only applies to companies. The Finance Bill 2009 will confirm that goodwill includes internally-generated goodwill and clarify whether this should be treated as created before or after 1 April 2002. The legislation will take effect on 22 April 2009 and will be treated as always having effect.

Loan relationships and connected companies

Provisions will be included in the Finance Bill 2009 to amend the loan relationship rules in two key areas. The first change will give symmetry of treatment for the debtors and creditors within a group so that there is no tax effect for either party when there is a write off of debt between the two connected companies. This takes effect on 22 April 2009.

The second change relates to the late interest rule where a deduction for interest payable to a connected creditor that is outside the UK is allowed on a paid basis rather than accruals basis if paid more than 12 months from the end of accounting period in which it accrued. The proposed change allows interest payable to a company to be deductible on an accruals basis as long as the creditor company is not resident in a 'tax haven'. This change takes effect for company accounting periods beginning on or after 1 April 2009.

Groups and chargeable gains

Previously, a capital gains group is able to relieve a chargeable gain in one group company with an allowable loss in another group company by deeming that the asset was transferred from one group company to another before the disposal. Changes are proposed in the legislation, so that there is a transfer of a gain or loss from the company

making the disposal to one or more other specified group companies rather than transfer of asset when there is a joint election. This change will remove restrictions on the type of asset and the circumstances under which the gain or loss arises.

New regime for business cars

The government confirmed the 2008 Budget announcement on the abolition of 'expensive car' for the purposes of capital allowances and its replacement by an emission based system.

The new rules will generally be effective for expenditure (or leases) on or after 1 April 2009 for companies and 6 April 2009 for unincorporated businesses. The new regime provides for capital allowances to be given according to the CO2 emissions of the car.

The vehicle scrappage scheme

A discount of £2,000 will be available to consumers buying a new vehicle when selling one more than 10 years old which they have owned for more than 12 months. The scheme will finish by the end of March 2010, or when funding for it has been used if earlier.

Small and medium-sized companies undertaking qualifying R&D may claim enhanced tax relief. Subject to clearance by the EC, the relief will increase from 150% to 175% for SMEs and for large companies the increase is from 125% to 130%.

VAT

VAT thresholds

From 1 May 2009, the registration threshold will increase from £67,000 to £68,000 and the deregistration threshold from £65,000 to £66,000.

Changes to the standard rate of VAT

It has now been confirmed that the reduction of VAT from 17.5% to 15% from 1 December 2008 to 31 December 2009 would only be for the 13 month period only and the standard rate of VAT will revert to 17.5% from 1 January 2010.

Legislation will be introduced to counter artificial schemes where those unable to reclaim all of their input tax purport to apply the 15% VAT rate to goods and services to be supplied on or after the date that the rate returns to 17.5%. The two set of circumstances which the measure will apply are where the supplier forestalls work and where a prepayment in excess of £100,000 is made before the rate rise in respect of goods or services to be provided on or after the date of the rate rise.

Further simplification of the option to tax

Simplifications will be made to the procedures for the option to tax land and buildings for a person who has previously received exempt income from the same. The simplification will be made by the introduction of a new automatic permission condition (APC) for taxpayers who would otherwise need to request permission from HMRC to be allowed to opt to tax. The new APC will have effect from 1 May 2009. At the same time, two informal concessions will be withdrawn but not until 30 April 2010.

Comment: The HMRC expects that the new APC will allow more taxpayers to opt to tax without having to contact them.

Children's car seat bases

Children's car seats are currently subject to 5% VAT whereas their bases are subject to the standard rate currently at 15%. From 1 July 2009, the lower rate will apply to the combination of a safety seat and a related wheeled framework, boosters seats and booster cushions.

VAT system for cross border trading

A series of measures is being introduced to simplify and modernise the VAT system for cross border trading and to counter fraud with effect from 1 January 2010 across the EU. There are four important measures proposed in the Budget.

Firstly, the new rules aim to ensure that business to business services are taxed where the customer is based rather than the general rule of where the supplier is established. UK business customers will need to account for UK VAT under the reverse charge mechanism. The changes are to be phased in on 1 January 2010, 2011 and 2013.

Secondly, there will be a change to the tax point for UK businesses buying in services from overseas from 1 January 2010. VAT is currently due when the services are paid for. However, from that date, the time of supply is when a service is 'performed', and a distinction is made between single and continuous supplies of services.

Thirdly, there will be a requirement for UK businesses which supply services to overseas business customers who account for VAT in its country under the reverse charge mechanism to complete an European Sales List (ESL) for each VAT quarter. This change will come into force on 1 January 2010. Further legislation is to be introduced to reduce the time available for businesses to submit the ESLs from six weeks to 21 days for electronic returns.

Finally, a new electronic VAT refund procedure is to be introduced across the EU with effect from 1 January 2010 to replace the current paper based system. From that date UK businesses will submit claims for overseas VAT electronically on a standard form to the HMRC rather than to the tax authority of the member state where the VAT was suffered.

Employment issues

Changes to company car tax from 2011/12

The current £80,000 price cap used to determine the cash equivalent value of a car for benefit purposes is to be abolished. This may create a significant increase in the car benefit for some. Company car tax rates are effectively being increased by way of a reduction in the lower threshold for CO2 emissions. The figure currently at 130g/km is to be reduced to 125g/km.

Living accommodation

A tax saving scheme used to provide living accommodation resulting in reduced benefit in kind charges has been quashed from 22 April 2009. In future, where a lease premium is to be paid for 10 years or less, that premium will be treated as if it were a rental payment, and taxed by spreading the premium over the term of the lease.

Personal savings

Individual Savings Accounts (ISAs)

The ISA limits for individuals aged 50 or over will be raised from £7,200 to £10,200 in 2009/10. Of this, up to £5,100 can be saved in cash. This will have effect on or after 6 October 2009, and the same increase for all investors will have effect on or after 6 April 2010.

Removal of higher rate relief on pension contributions

The Government has announced its intention to restrict tax relief on pension savings with effect from 6 April 2011 for people with taxable income of £150,000 or more. This is combined to anti-forestalling measures which will limit higher rate tax relief to that on the individual's 'normal pattern of contributions', or £20,000, whichever is greater, for payments made in 2009/10 and 2010/11.

Comment: Rather than pension contributions, employers may have to consider other more tax efficient methods to remunerate their employees once the new regime is in effect.

Capital Taxes

Inheritance tax, Agricultural Property and Woodlands Relief

Legislation will be introduced in the Finance Bill 2009 to extend the inheritance tax agricultural property relief (APR) and woodlands relief (WR) to property in the EEA. Property qualifying for this extended inheritance tax relief will also qualify for capital gains tax holdover relief. The extension of the relief will be available from 22 April 2009 and also from an earlier date in certain circumstances including holdover relief for prior disposals of agricultural property in qualifying EEA state.

Comment: The extension of APR and WR to land in the EEA means that there are more planning options available to minimise inheritance tax.

Stamp duty land tax (SDLT)

In September 2008, the Chancellor announced a 'holiday' from SDLT which exempted from SDLT any acquisitions of residential property costing less than £175,000. The measure applies to acquisitions taking place between 3 September 2008 and 2 September 2009 inclusive.

Legislation will be introduced to extend the above where the effective date for SDLT is before 1 January 2010. After that, the SDLT will revert back to £125,000.

Other matters

Tax payments

The HMRC will at some point on or after April 2011 introduce voluntary managed payment plans (MPPs) allowing taxpayers to spread their income tax or corporation tax payments equally over a period straddling the normal due dates.

It is also proposed to introduce arrangements whereby HMRC is allowed to collect small debts they are owed through the Pay As You Earn (PAYE) system.

Comment: The MPPs allow the taxpayers to be protected from the usual penalties and interests even though they paid late but it will be some time before they become operational.

Substantial charitable donors

Following an extended consultation process, the rules relating to substantial donors to charities are set to change. From 23 April 2009, donors can make contributions of up to £150,000 (previously £100,000) in a six year period, but the current limit of £25,000 a year on such donations remain unchanged.

Deliberate tax defaulters

The government has announced that it will legislate to enable HMRC to publish the names and details of individuals and companies who are penalised for deliberate defaults leading to a loss of tax of more than £25,000. This will not apply where a full unprompted disclosure is made or a full prompted disclosure is made within the required time. The provisions will be brought in from a date yet to be announced.

Penalties

It is proposed that starting from April 2010 and over a period of time the penalty regime will be revised in respect of late filing of returns and late payment of tax. The regime applies to income tax, corporation tax, PAYE, NICs, Construction Industry Scheme (CIS), stamp duty land tax, stamp duty reserve tax, inheritance tax (IHT), pension schemes and petroleum tax.

Penalties will be applied for the first time to all employers who are late in making monthly PAYE and NICs payments and companies late in making corporation tax payments. There will be provisions for removing the late payment penalties during an agreed time to pay arrangement with the HMRC unless the taxpayer defaults or misuses the arrangement.

Landfill tax

The standard rate of landfill tax increases from £40 per tonne to £48 per tonne for any standard rated disposal of waste made, or treated as made, on or after 1 April 2010.

Other news

National minimum wage set to rise this October

The national minimum wage for adults is set to rise to £5.80 an hour from this October.

The hourly rate for 18-21 year-olds will increase from £4.77 to £4.83, whereas the rate for 16 and 17 year-olds will go up to £3.57 an hour from £3.53.

Late filing of employer annual return

Although the date for submitting the 2008-09 employer annual returns has passed on 19 May, HMRC said that they will only issue a late-filing penalty if the returns are not received by 23:59 on Tuesday 26 May where a firm files online or where the post is opened on Wednesday 27 May where a firm files by paper.

What does the above mean to you, your family and your business? For instance, how would you extract monies from the company in capital rather than income? Given the increase in NICs, what kinds of benefits are exempt from tax and NICs?

If you would like to discuss the implications of the 2009 Budget to you, your family and your business further, please feel free to contact us.

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