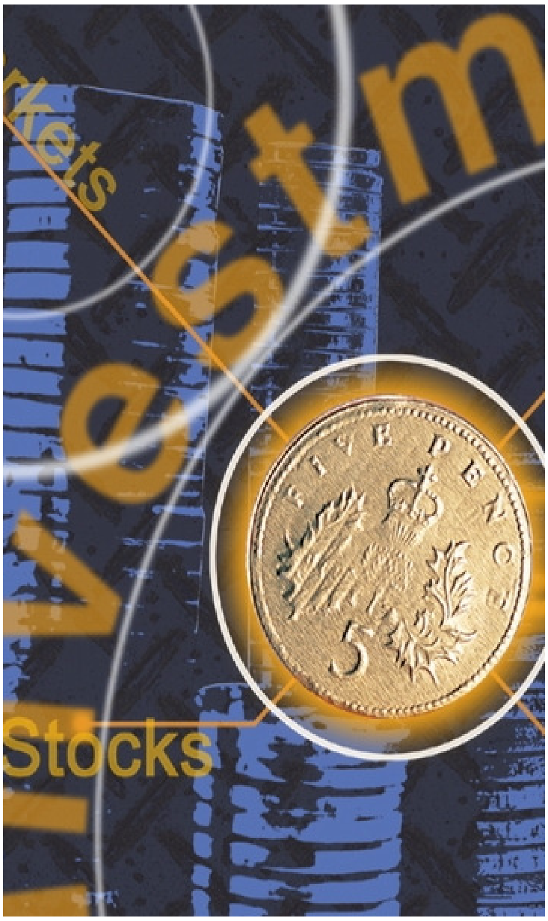
# BARRETTE

**CHARTERED ACCOUNTANTS & CHARTERED TAX ADVISORS**

## Budget Newsletter: March 2012





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On 21 March 2012 the Chancellor George Osborne delivered his third budget that has been broadly welcomed as a pro-business budget. He used the right rhetoric on championing growth, extra investment in infrastructure (such as ultra fast broadband), helping small and medium-sized businesses access to finance, and lower corporation tax.

The Budget also updates some of the previous announcements already made towards the end of last year. These include the majority of the draft clauses of Finance Bill 2012 together with updates on consultations. Some of the changes will take place from April 2012 and some will take effect at a later date, so the timing of the changes needs to be carefully considered.

Our summary focuses on how the Budget is likely to affect you, your family and your business. To help you to digest what was being said, we have included our own comments.

**The main budget proposals are:**

- A further increase in personal allowance by £1,100 to £9,205 but with a reduction in basic rate band from 6 April 2013
- Main rate of corporation tax is to be reduced to 24% from 1 April 2012
- The additional rate of income tax will be reduced from 50% to 45% from 6 April 2013
- Child Benefit will be taxed on those with income in excess of £50,000
- Tax simplification for small businesses

- Consultation on the introduction of a General Anti-Abuse Rule
- Increased stamp duty land tax on high value residential properties

# Personal tax

### Income tax personal allowance

For those under 65 the personal allowance will increase by £630 from £7,475 to £8,105 for 2012/13.

The withdrawal of personal allowance for those with adjusted net income over £100,000 introduced in 2010/11 is to remain. This effectively reduces the personal allowance by £1 for every £2 of adjusted income over the income limit. For 2012/13, the allowance ceases at adjusted net income above £116,210.

*Comment: Planning should be considered where the adjusted net income is likely to exceed £100,000. This figure is calculated after deducting pension contributions and gift aid payments against income. Considerations should therefore be given how these could be used to protect some or all of the personal allowance.*

### Tax bands and rates

From 6 April 2012, the basic rate limit will be reduced from the current £35,000 to £34,370. An individual will therefore pay 40% tax rather than 20% when their total income exceeds £42,475 (same as 2011/12). The 50% rate on income over £150,000 will continue to apply in 2012/13.

For 2013/14, the personal allowance is to increase to £9,205. The basic rate limit will be reduced to £32,245, and so the threshold at which the 40% band applies will fall to £41,450.

While the 20% basic rate and 40% higher rate remain unchanged in 2013/14, the 50% additional rate tax will be reduced to 45%. For dividends liable to the additional rate of tax, a rate of 37.5% will be payable (2012/13: 42.5%).

### Child Benefit

There was wide speculation before the Budget of the withdrawal of child benefit from families where at least one parent pays tax at 40% or higher.

The Chancellor listened to the potential unfairness and objections that may arise and has decided to taper the withdrawal of child benefit where the higher earner's net income (after losses but before allowances) exceeds £50,000. The income tax charge will apply at a rate of 1% for every £100 of income over £50,000. This will lead to the full withdrawal of child benefit at £60,000 of net income.

Where both partners have adjusted net income above £50,000, the charge will apply on the partner with the most income. This tax charge is to apply from 7 January 2013, and will be collected through PAYE and self-assessment, to the end of the tax year. The amount of income to be taken into account will however be the full amount of income for 2012-13.

Child benefit claimants could elect not to receive the child benefit so that they would not come under the income tax charge.

*Comment: If you, or your partner, are currently receiving child benefit, you do not have to do anything now. HMRC will write to all those affected by this change later in 2012. However, to reduce the effect of the withdrawal of child benefit, please discuss with us how you could re-arrange the distribution of income within your family. This should be done as soon as possible to ensure the new arrangements are in place for* *the full tax year 2012/13.*

**National Insurance Contributions**

The thresholds at which NICs are payable by employees will increase to £146 per week (the primary threshold) and to £144 per week by employers (the secondary threshold).

**Cap on Tax Reliefs**

The Chancellor is introducing legislations to deal with wealthy individuals who take advantage of tax reliefs that have no annual limits, such as relief for trading losses, charitable donations, and capital allowances. He is proposing that from 6 April 2013, all such tax reliefs will be capped at the greater of £50,000 per year or 25% of the taxpayer's gross income. If this legislation passes through it could significantly affect loss-making businesses that are not conducted through a company.

*Comment: The measure will affect high earners who make legitimate tax relief claims. Considerations should be given to accelerating income into the current year when these reliefs could be claimed uncapped. It will also be a worthwhile reviewing the option of incorporating the business.*

**Statutory residence test**

It was confirmed by the Government that the statutory residence test announced in Budget 2011 will take effect from 6 April 2013. Detailed proposals have been subject to consultation and there will be further consultation before the rules are finalised.

*Comment: The determination of residence is currently based on old case law. While the statutory residence test gives more certainty on the residence status of individuals, it is likely that ambiguities will persist in more complex cases. In these cases, it is imperative that professional advice is sought.*

**Reform of ordinary residence**

From 6 April 2013, the Government is also proposing to remove the concept of 'ordinary residence' for individuals but to retain overseas workday relief for employees and put it on a statutory basis. The main areas of tax likely to be affected by this change are capital gains tax and the remittance basis.

**Reform of non-domicile taxation**

Individuals who are non-UK domiciled or non-ordinarily resident may be able to benefit from the remittance basis of taxation on overseas income and gains. A number of changes are included in Finance Bill 2012 and the key changes are:

- a proposal to increase the remittance basis charge to £50,000 paid by long-term non-domiciled UK residents (those who have been resident in the UK for 12 (or more) of the last 14 years); and

- introduction of a relief that will enable non-domiciliaries to invest in qualifying investments in the UK using foreign income or gains without triggering a taxable remittance.

# Corporate and business tax

**Corporation tax main rate**

The main rate of corporation tax is to be further reduced. The planned 1% decrease previously announced is to be increased to 2% from 1 April 2012. The rate will therefore move from 26% to 24%. Further reductions by 1% to 23% and 22% will take place on 1 April 2013 and 1 April 2014 respectively. The small company rate of 20% will however remain.

**Enterprise Investment Scheme (EIS)**

The changes previously announced in 2011 are to come into effect on 6 April 2012. These are:

- An individual can invest a maximum in total in a tax year is increased from £500,000 to £1m
- Subject to meeting all qualifying conditions, the size that a company can benefit from EIS is increased to £15m gross assets and fewer than 250 employees

Other changes announced include:

- An increase from the current £2 million limit to £5 million that can be invested in an individual company under either the EIS or the Venture Capital Trust (VCT)
- In order to obtain EIS relief, the individual cannot be "connected" to the company. The rules are however to be relaxed by removing limits on the amount of loan capital the EIS investor could provide to the company

**Seed Enterprise Investment Scheme (SEIS)**

As previously announced, the Government is introducing a new scheme to encourage individuals to make equity investments into seed stage companies. Under the new scheme, there will be income tax relief at 50% of the sum invested, and capital gains tax exemption on gains made in 2012/13 where the gains are re-invested in qualifying seed stage companies. Together, this represents up front tax relief of up to 78%. Exemption from CGT on disposals of SEIS shares will also be available after a three year qualifying period.

There are significant restrictions on the company including:

- The issuing company must have fewer than 25 employees before the shares are issued

- It must have gross assets of less than £200,000 immediately before the shares are issued

- It must not have raised any money from EIS or VCT investors

- It must carry on a genuine new trade, and not have carried on any other trade before

- It must be less than two years old, by reference to the date on which they commenced the new trade

- The overall amount that a company can raise under the SEIS is limited to £150,000. This is the total amount and not an annual limit

In addition to the above, there are a number of anti-avoidance rules largely drawn from the EIS regime.

*Comment: The relief aims to encourage business angels to invest in seed stage companies, and the definition of seed stage is narrowly drawn. Nevertheless, if your company meets the requirements, or if you are planning to start a new enterprise, this scheme should be a great help on raising finance from private investors.*

**Annual Investment Allowance (AIA)**

The maximum amount of AIA will be reduced in April 2012 from £100,000 to £25,000. Where a company's accounting period spans this date, transitional rules will apply.

*Comment: Please consult our year end tax planning ideas sent to you earlier this month as to how you could make full use of the current AIA.*

**Writing Down Allowances (WDAs)**

The rates of WDAs will also change in April 2012 from 20% to 18% for plant and machinery in the main pool, and from 10% to 8% for long life assets and integral features. For periods spanning this date, allowances should be calculated on an apportioned basis based on the number of “days”.

**New Enterprise Zones**

In addition to the Enterprise Zones previously announced, the Government has designated further sites in London, Scotland and North Wales to benefit from the enhanced capital allowances.

**Capital allowances on cars**

There will be a two year extension on the 100% first year allowances for low emission cars beyond the current expiry date of 31 March 2013. However, the qualifying threshold will be reduced from 110g/km to 95g/km from April 2013.

Currently, cars with emissions between 111-160 g/km inclusive qualify for the main rate WDA (18% from April 2012). The threshold will be reduced to 130 g/km for additions from April 2013.

*Comment: The above changes may result in an increased Class 1A NIC for employers and increased tax charge for employees. Employers should therefore review their company car policy in light of the above and check whether cash alternatives or other measures should be introduced.*

**Environmentally beneficial plant and machinery**

Legislation will be introduced in Finance Bill 2013 to extend the availability of first year tax credits for environmentally beneficial plant and machinery for a further five years from April 2013. These credits are available for companies surrendering losses attributable to expenditure on designated energy-saving or environmentally beneficial plant and machinery.

**Research and Development (“R&D”) tax credits**

The Government announced that it is to introduce an “above the line” R&D tax credit with a minimum rate of 9.1% before tax from 2013. A payable credit can be claimed by loss making companies. There will be consultation by the Government on the detailed design of the credit and the final rates will be decided following consultation.

*Comment: Companies engaged in R&D should particularly welcome the above change especially those in a loss-making position.*

**Patent Box**

The Finance Bill 2012 will include legislation to introduce the patent box regime. Basically, this allows companies to elect, from 1 April 2013, to apply a 10% corporation tax rate to all profits attributable to qualifying intellectual property (IP). This will apply to existing and new IP. The patent box also applies to acquired IP, provided that the group has further developed it or the product that incorporates the IP. Initially, qualifying patents must be granted by the UK or the European Patent Office.

**Tax relief for the creative sector**

There will be consultation over the summer of 2012 on the introduction, from April 2013, of corporation tax reliefs for the production of culturally British video games, television animation programs and high end television productions. These reliefs will be subject to EU state aid approval.

**Controlled Foreign Companies (CFCs)**

The CFC rules can apply to a UK company that has a subsidiary operating in a country with a low rate of corporation tax.

Under the rules, a UK company may be charged to corporation tax on relevant profits of the subsidiary. Starting in 2007, a Government programme has been in place to modernise the CFC rules to make the UK more attractive to international business.

Under the new rules, the business profits of a foreign subsidiary will be outside the CFC regime if they meet the conditions set out in a “gateway test”. These conditions set out what is to be treated for the purposes of CFC as profits artificially diverted from the UK.

The regime provides certain exemptions from CFC as an alternative to the gateway test. These are the excluded territory exemption and low profits exemption.

**Tax simplification for small businesses**

The Government has announced that it will introduce a voluntary cash accounting basis of taxation for small unincorporated businesses (up to the VAT registration threshold) from April 2013. The aim is to make it easier for small businesses to calculate their tax.

Other plans being considered by the Government include a simplified expense system and disincorporation relief.

*Comment: The above changes should make it easier for small businesses to calculate their tax liabilities. However, a residual concern remains for those small businesses with turnover that fluctuate across the threshold. Would they have to deal with two entirely different tax regimes, as well as transitional rules?*

# Indirect Taxes

**VAT rates**

The VAT registration and de-registration thresholds are to increase. From 1 April 2012, the taxable turnover threshold rises from £73,000 to £77,000, and the threshold for de-registration rises from £71,000 to £75,000.

**VAT – anomalies and loopholes**

With effect from 1 October 2012, legislations will be introduced to address long standing VAT anomalies and loopholes. The changes are:

- Approved alterations to listed buildings would be subject to VAT, in order to bring them into line with the VAT treatment on the alterations of non-listed buildings. Repairs and maintenance for all buildings would be subject to VAT

- Excluding supplies of self-storage facilities from the exemption of VAT altogether

- Applying VAT, in the minority of cases where it is not being applied, to hot food and sports drinks

- Putting beyond doubt that the rental of specific chairs to hairdressers is a standard-rated supply

- Ensuring that leisure caravans are consistently taxed at the standard rate

# Employment taxes

## Company car tax rates

Finance Bill 2012 will introduce legislation to increase the appropriate percentage of the list price subject to tax for cars with $CO_2$ emissions of more than 75g/km by 1% up to a maximum of 35% in 2014/15.

The Budget also announced that the maximum appropriate percentage 'cap' will increase from its current rate of 35% to 37% for both 2015/16 and 2016/17 in a future Finance Bill. Other changes include:

- From April 2015, the exemption for cars with zero and ultra low carbon emissions will be withdrawn, and cars with $CO_2$ emission levels of less than 95g/km will have an appropriate percentage of 13%, increasing to 15% in 2016/17.
- From April 2016, the 3% supplement applicable to diesel cars will be withdrawn, so diesel cars will be taxed on the same basis as petrol cars.

## Car and van fuel benefit charges

Employees and directors who are provided with free fuel for private motoring by their employers suffer a benefit in kind charge on which tax and Class 1A NICs charges are based.

The benefit charge is calculated by multiplying a set figure by the appropriate percentage for the car based on its $CO_2$ emissions. The car fuel benefit charge multiplier will increase from £18,800 to £20,200 with effect from 6 April 2012. The multiplier will increase by 2% above the rate of inflation (based on RPI) in 2013/14. The van fuel benefit charge multiplier will remain frozen at £550 for 2012/13 and will increase by inflation in 2013/14.

## Real Time Information (RTI )

Draft legislation has been produced by the HMRC to introduce probably the most significant change in the PAYE system since its introduction in 1944. Under the RTI scheme, employers will provide monthly information electronically to HMRC related to wages and salaries paid to employees. Once the scheme is 'bedded in', there will no longer be a need for employers to complete year end returns such as the P35 and P14.

The new scheme will be piloted by volunteer employers from 6 April 2012. The plan is that it will apply to employers on a phased basis from 6 April 2013 so that all employers are operating the system by October 2013. The 2012 Budget announced that the HMRC will consult before the summer on new models for late payment and late filing penalties under RTI. Legislation will be included in Finance Bill 2013.

*Comment: This is a significant development and the success of the scheme will depend on the ability of the HMRC computer system to cope. History suggests that this could be doubtful.*

## Integration of the operation of Income Tax and NIC

The 2011 Budget included plans for an informal consultation on the potential integration of the operation of PAYE and National Insurance Contributions (NICs). The 2012 Budget confirmed that a formal consultation process will be launched to examine this issue in April 2012.

**Personal Service Companies (PSCs) for directors**

The Government announced in the Budget a range of measures to be introduced to tackle IR35 related tax avoidance, including the strengthening of specialist compliance teams and the simplification of the administration of IR35.

It has also signaled that measures will be introduced in Finance Bill 2013 requiring office holders or 'controlling persons' who are integral to the running of an organization to have PAYE and NICs deducted at source by the organization which engages them.

*Comment: This will be subject to further consultation and may need a new legislation. The largest impact could potentially be on employers with executive or non-executive directors on the board who operate via a PSC.*

**Enterprise Management Incentives (EMI) changes**

The Government has announced two significant changes to the tax relief applying to share options granted to employees of small and medium sized businesses under the EMI scheme:

- The potential size of options is to be increased. The limit on the value of shares over which options may be granted will increase from £120,000 to £250,000. This change will be enacted by statutory instrument to take effect as soon as possible.
- Entrepreneurs' Relief (ER) is to be extended to gains on shares acquired through EMI. This will lower the rate of tax on options to a potential rate of 10%. This is intended to apply to gains made on the exercise of options on or after 6 April 2012. This change will be enacted in the 2013 Finance Bill.

# Capital Taxes

**Annual exemption**

The annual exempt amount from capital gains will be frozen at £10,200 for 2012/13.

**Foreign currency bank accounts**

The Government proposed that the CGT exemption on foreign currency bank accounts held by an individual used to meet personal expenditure abroad will also apply to all foreign currency bank accounts held by individuals, trustees of settled property and personal representatives of deceased persons. This exemption will apply for all withdrawals made on or after 6 April 2012.

**Inheritance tax ("IHT") nil rate band**

The IHT nil rate band will remain frozen at £325,000 until 6 April 2015.

**Stamp Duty Land Tax (SDLT)**

A new top rate of 7% SDLT on residential properties valued at £2m or more takes effect from 22 March 2012. There are also a number of anti-avoidance measures to be introduced (for further details, see the anti-avoidance section below).

# Other matters

### Anti-avoidance measures

### General anti-abuse rule (GAAR)

It was announced that the Government accepts the recommendation from a leading tax lawyer that a GAAR targeted at artificial and abusive tax avoidance schemes would be beneficial to the UK tax system. Such a GAAR would apply to income tax, NIC, CGT and corporation tax. It would not apply to "responsible tax planning".

The Government will consult on new draft legislation with a view to introducing it in Finance Bill 2013. The Government has announced that it will extend the GAAR to SDLT.

### Employer pension contributions for family members

HMRC are aware that some employers have been making pension contributions into their employees' family members' pensions (typically involving a Self Invested Personal Pension) as part of their remuneration package to obtain tax and NICs advantages.

The Government announced in the Budget that legislation will be introduced in Finance Bill 2013 to amend the rules. A regulation-making power will also be introduced to allow changes to be made to the lifetime allowance fixed protection legislation. Technical improvements will also be made to the annual allowance rules through secondary legislation.

### SDLT avoidance

With effect from 21 March 2012, SDLT anti-avoidance is to be introduced which applies a 15% SDLT rate to residential properties worth over £2m purchased by non-natural persons, such as companies, trusts and CIS. This is to tackle anti-avoidance schemes involving the transfer of a property to a company and then selling the shares of the company so that 0.5% stamp duty is payable on the shares rather than 5% SDLT payable on the property.

The Government will introduce further anti-avoidance measures in April 2013, such as the imposition of an annual charge on properties worth over £2m already enveloped within companies or other structures.

What does the above mean to you, your family and your business? For instance, how will the Budget affect the amount of child benefit that your family will be receiving? How will the changes in allowances and tax rates affect the amount you draw out from your company every month?

If you would like to discuss the implications of the 2012 Budget to you, your family and your business further, please feel free to contact us.