

PKF

Accountants &
business advisers

budget commentary

2010/11

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A Budget for voters?

The Chancellor had promised a 'sensible and workmanlike' Budget for the economy without any pre-election giveaways. Whether or not he was true to his word is perhaps a subjective judgement, but sufficient measures were announced to make it important for both businesses and individuals to take an active interest in the changes to be fast-tracked through before the General Election.

The measures announced to support small business are welcome but perhaps remain overshadowed by the proposed increases in national insurance contributions (NIC) in 2011/12. The cut in stamp duty land tax (SDLT) for first time buyers will be welcomed by many. The fact that the Chancellor chose to fund these measures from the funds raised by the bankers' bonus tax and a new rate of SDLT on houses worth over £1m rather than by increasing mainstream taxes no doubt stems from the proximity of the General Election.

In the longer term, the fact that the Chancellor is still insisting that the proposed increases in NIC from 2011/12 will be sufficient - along with spending cuts (most of which are, as yet, unspecified) - to tackle the Government deficit during the next parliament, is more significant. Having ruled out increases to the standard rate of VAT before Budget day, it is clear that a future Labour Government will continue to protect those on low incomes (regarded as hit hardest by VAT increases) even at the expense of increasing costs for employers.

While this Budget may not have been wildly exciting, its final impact is unlikely to be realised until after polling day.

business tax

Corporation tax rates

The Government has confirmed that the main rate of corporation tax will remain at 28% with the small companies' rate also unchanged at 21% for 2010/11.

The Chancellor announced that there will be no further taxes on banks (or bonuses paid to their employees) until an international agreement on a new global banking levy is achieved.

Capital allowances

The 100% annual investment allowance (AIA) available on qualifying plant & machinery will be doubled to £100,000 from 1 April 2010 for companies (6 April 2010 for other businesses). Anti-avoidance is also introduced with immediate effect to counteract tax avoidance arrangements that use the AIA to create property tax losses and offset these against general income.

The Government has announced that the list of qualifying technologies covered by the enhanced capital allowances scheme is to be amended. The date of this change has yet to be announced, although this should be prior to the summer 2010 parliamentary recess.

Legislation will come into effect from 1 April 2010 for companies and 6 April 2010 for other businesses to allow a 100% first year allowance for business expenditure on new and unused zero-emission goods vehicles.

Small business rate relief

For one year from October 2010, small businesses occupying properties with rateable values up to £6,000 will pay no business rates and those using more valuable properties, up to rateable values of £12,000, will also pay less business rates.

Tax debts

Although the Business Payment Support Service is due to be extended for the whole of the period of the next parliament, it has been announced that HMRC has tough new targets for the collection of tax debts within one and three months of a debt arising, for 2010/11. From the end of 2011, businesses should be able to view all their current tax liabilities through an online system accessed via HMRC's website.

Relief for losses of consortium companies

Two changes to the consortium relief rules have been proposed, to be introduced in a Finance Bill as soon as possible in the next parliament.

The first change relates to link companies. A link company is one which has a direct interest in a consortium company and which also has one or more subsidiaries within the charge to UK corporation tax. The subsidiary is entitled to claim a proportion of the consortium company's loss by virtue of its parent's interest in the consortium company. Currently, link companies are restricted to those within the scope of UK corporation tax but it is proposed that this is extended to any company resident in an EEA territory.

The second change is an additional test for determining the proportion of a consortium company's losses that a consortium member is able to claim. The current tests restrict this to the lower of the member's percentage holding of ordinary shares, entitlement to profits available for distribution and entitlement to assets available for distribution to equity holders on a winding up. The new test will restrict the percentage relief to the level of effective control/active involvement the member has within the consortium, where this is lower than the percentage under each of the three existing tests.

Patent box regime

The Government has announced that it will consult with business during summer 2010 on the design of the patent box regime announced in Pre-Budget Report 2009. The patent box is intended to apply a 10% rate of corporation tax on income from patents from April 2013. The consultation will consider how to identify and value embedded patent income and how the regime will apply to overseas patents held by UK companies.

British video games tax relief

The Government has announced its intention to introduce a new tax relief for the UK video games industry, possibly based on existing tax incentives for investment in British films. Consultation will take place later in 2010 regarding the design of

the new relief and its introduction will be subject to EU state aid approval.

Worldwide debt cap

Further changes to the worldwide debt cap rules have been announced which, with the exception of the change to the gateway test, will apply to periods of account of groups beginning on or after 1 January 2010 (i.e. when the debt cap rules came into force).

Two of the changes relate specifically to groups which apply the special rules for securitisation companies. These changes remove the results of such companies from the calculation of the 'available amount' and will allow companies involved in capital market arrangements to transfer additional corporation tax liabilities arising as a result of the debt cap to other members of the group.

In applying the gateway test, account will now be taken of long term arrangements which, despite not having the legal form of loans, have the economic effect of loans and give rise to an interest-like return.

The legislation will also now make it clear that a limited liability partnership cannot be the ultimate parent of a group of companies for debt cap purposes. Finally, it will be made clear that distributions made by industrial and provident societies, normally treated as interest for tax purposes, will not constitute finance expenses for the purposes of the debt cap rules.

Double tax relief

Anti-avoidance provisions have been announced which negate certain schemes which are designed to provide relief for overseas tax twice on the same income.

The first provision will ensure that a company may only claim relief for foreign taxes by way of deduction where it has included the foreign tax payable in its taxable income.

The second provision relates to a specific targeted anti-avoidance rule in the double tax relief regime. Legislation will be introduced to make it clear that this rule applies to negate two prescribed schemes identified by the Government. The first of these schemes involves a company claiming a credit for foreign tax that is negated elsewhere. The second scheme involves a company taking or omitting a step

with the effect of increasing the double tax relief claim.

Further amendments are proposed to prevent financial traders claiming relief for foreign tax twice on the same income, once under the standard double tax relief rules and then again under the manufactured overseas dividend regulations.

REITs

Legislation is to be introduced to allow REITs to issue stock dividends in lieu of cash to meet their 90% profit distribution requirement. Under the current legislation stock dividends are ignored for the 90% test. This measure has been introduced to assist REITs with limited cash resources in the current property market. The new legislation on such distributions will come into force on the date of Royal Assent to Finance Bill 2010.

Share incentive plans

Some companies have been abusing the share incentive plans (SIP) legislation to claim corporation tax relief in respect of sums transferred into trusts where it was never intended that shares with any real value would be issued to employees. As a consequence, where payments are made but there is a delay in issuing shares or there are alterations to shares, new rules will apply. The effect is that relief will be withdrawn where insufficient shares are appropriated to employees within set time limits. In future, corporation tax deductions will not be allowed where a payment is made to a SIP trust as part of a tax avoidance scheme intended to obtain such a deduction.

Company share option plans

The Government has announced an anti-avoidance move that could have unfortunate consequences for those that have done nothing wrong. In respect of options granted on or after 24 March 2010, CSOPs will cease to be available to companies that are under the control of a listed company.

Rewarding employees via trusts

The Government has announced that it intends to take action to tackle what it perceives as avoidance through the use of trusts and other vehicles to reward employees. The legislation is expected to have effect from 6 April 2011.

Car benefits

From 6 April 2010, individuals provided with a car for private use, by their employer, with an approved CO₂

emission level of 75g/km or less will be charged with a taxable benefit at 5% of the list price.

VAT and duties changes

Rate of VAT

As well as ruling out an immediate increase in the rate of VAT, the Chancellor made it clear that a future Labour Government would increase other taxes rather than raise the rate of VAT to reduce the Government deficit.

VAT registration threshold

From 1 April 2010, the VAT turnover threshold is to be increased from £68,000 to £70,000. The level at which businesses can apply for deregistration will be increased from £66,000 to £68,000.

VAT on postal services

HMRC is to implement last year's European Court of Justice (ECJ) judgement in the case of *TNT Post UK*, which restricted the postal exemption to the core duties of the national postal service provider. The ECJ held that services that fall outside this obligation should be subject to VAT.

From 31 January 2011, the services of Parcelforce and postal contracts the Royal Mail individually negotiates with customers will be subject to VAT at the standard rate. Ordinary stamped postal deliveries will be unaffected. At the same time, a specific provision will be introduced to confirm that the 'Postbus' service provided by Royal Mail is zero-rated as passenger transport.

Lennartz accounting

In recent years, a purchaser has had the right to choose the *Lennartz* approach to recover VAT on assets acquired for both business and private/non-business use. Instead of apportioning VAT recovery at the time of purchase, *Lennartz* accounting allowed the VAT to be immediately recovered in full, then gradually offset by paying output tax on private use of the asset as it arises.

However, in January 2010, HMRC released a Business Brief that seriously curtailed the scope of *Lennartz*, withdrawing its use for land and property and assets purchased by charities. The

Government intends to legislate to implement these restrictions in the use of *Lennartz* accounting.

HMRC has already confirmed that it will not require businesses to unwind existing *Lennartz* accounting arrangements provided they continue to make the relevant output tax payments. New revenue protection legislation has been announced in the Budget which will introduce a retrospective statutory requirement to honour these payments. There will also be changes to the capital goods scheme regulations to account for the business/non-business use of immovable property.

Finally, HMRC believes that the new legislation will effectively remove any entitlement to VAT recovery on directors' accommodation, so the current legislation specifically blocking this recovery will be repealed from 1 January 2011.

Reverse charges

Operators buying natural gas, and supplies of heat and cooling from overseas suppliers, will be required to account for VAT on these supplies as a reverse charge from 1 January 2011.

The UK is to introduce a new reverse charge system to cover trading in emissions allowances (carbon credits), which will require the purchaser to account for VAT to HMRC, rather than the vendor, even when the sale takes place within the UK. This system is to be introduced from 1 November 2010 to replace the emergency zero-rate introduced in summer 2009 to combat increased missing trader fraud in the industry.

Zero-rating of qualifying aircraft

Under the current law, the supply of an aircraft weighing 8,000kg and over that is not designed for recreation or pleasure is zero-rated. This definition is to be amended to bring UK legislation into line with European VAT law. From 1 September 2010, the zero-rate will only apply to aircraft used by airlines operating for reward chiefly on international flights.

Insurance premium tax – premium splitting

HMRC has amended and reintroduced the anti-avoidance legislation it announced in Pre-Budget Report 2009 to close what it considered to be a loophole in the insurance premium tax (IPT) legislation. This is intended to refine and better target the provision, after consultation with the industry.

The legislation was initially introduced in December 2009 following a High Court victory by Homeserve GB, who successfully argued that a contract for use of a hotline facility to call out engineers was separate from a related domestic plumbing and electrical breakdown insurance contract, and therefore not subject to IPT.

HMRC's original amendment limited the impact to individuals purchasing insurance for private purposes, and this remains in force. The further amendments, which take effect immediately, appear to be intended to exclude the taxing of additional fees where an element of optionality is present, and also in situations where the premium

has been lowered as a result of a reduction in risk. It remains to be seen how this will be applied in practice.

Landfill tax

The Treasury is currently required by law to consider whether waste for landfill is inactive or inert when deciding whether it is eligible for the lower rate of landfill tax. On 1 October 2010, this specific requirement will be replaced by a general responsibility of HMRC to publish whichever criteria are used to determine eligibility.

The standard rate of landfill tax will increase to £56 per tonne from 1 April 2011 (£48 from 1 April 2010). The aggregates levy is to increase from £2.00 to £2.10 per tonne with effect from 1 April 2011.

Air passenger duty

For flights departing on or after 1 November 2010, air passenger duty rates will increase. The increases range from £1 per passenger for a short haul flight in economy class to £60 per passenger for a business or first class ticket on a flight to a destination more than 6,000 miles from London.

personal tax

Income tax rates and personal allowances

Aside from the changes already announced in Pre-Budget Report 2009 (see page 10), personal tax rates and allowances will continue at 2009/10 levels.

Entrepreneurs' relief

The amount of an individual's gains that can qualify for entrepreneurs' relief is currently subject to a lifetime limit of £1m. For trustees, the £1m limit is that of the beneficiary of the settlement who meets the conditions for the trustees to claim the relief.

This lifetime limit will be increased to £2m with effect from 6 April 2010. The existing limit of £1m will apply to any disposals made before 6 April 2010 so any individuals or trustees considering disposals which would generate qualifying gains in excess of the current lifetime limit may wish to consider deferring the sale until the new limit has come into force.

Pensions

The Government has confirmed that it will introduce legislation which will restrict the availability of tax relief on contributions made by or on behalf of high income individuals to registered pension schemes on or after 6 April 2011. The individuals affected are those with annual incomes, without deduction or relief for pension contributions and charitable donations, but including employer pension contributions, of £150,000 or more. However, those individuals with annual incomes of less than £130,000, excluding employer pension contributions, are not affected.

Individuals with an annual income of £180,000 or over will have tax relief on such contributions restricted to the basic rate of income tax. The rate of tax relief for an individual with an annual income of between £150,000 and £179,999 will be somewhere between the individual's marginal income tax rate and the basic rate. The restriction will be applied by way of a recovery charge payable through the self-assessment regime.

It has been announced that the annual and lifetime allowances with regard to contributions to registered pension schemes will be increased to £255,000 and £1.8m respectively for the tax year 2010/11. These allowances will then be frozen for a further five years, up to and including 2015/16.

Also from 6 April 2010, any man or woman reaching pensionable age will only need 30 qualifying years to earn the full basic state pension.

Inheritance tax

The nil rate band for inheritance tax (IHT) will remain at £325,000 for all years up to and including 2014/15.

ISAs

The annual ISA subscription limits for individuals aged over 50 (£10,200 total and £5,100 for cash only ISAs) will apply to all individuals from 2010/11 onwards. The ISA limits for 2011/12 and later tax years will be increased in line with inflation (but not reduced if the rate is negative).

Residence and domicile

Changes will be made to the definition of 'relevant person' in determining whether a remittance to the UK has been made by a UK resident, non-UK domiciled or not ordinarily resident individual.

When such an individual, who claims the remittance basis of taxation, enjoys overseas income or gains in the UK directly or indirectly, he or she creates a taxable remittance. If that individual allows persons connected with him or her to enjoy those funds in the UK, this also counts as a remittance. Connected persons include spouses and civil partners, children under 18, trusts and close companies. The change, effective from 6 April 2010, will make it clear that the latter category includes subsidiaries of non-resident

companies which would be close if they were resident in the UK.

However, ahead of the Budget, the Government again stated that it has no further plans to change the rules for non-UK domiciled individuals in this parliament or the next.

Surrendering life policies

Individuals who have made withdrawals from a life policy in past years (and suffered tax liabilities) may claim tax relief when the policy ceases, if the tax calculation on surrender shows a loss. This relief will continue to be available at an individual's highest rate of income tax – even if that is 50% – from 6 April 2010 onwards.

Sin taxes

The scheduled increase in fuel duty is now to be phased in at 1p per litre on 1 April and 1 October 2010 and 0.76p per litre on 1 January 2011. Tobacco duties increase from 6pm on 24 March 2010 and alcohol duties from midnight on 28 March 2010 as follows:

Product	Increase (Incl. VAT)	Unit
Beer (4.2% abv)	2p	pint
Wine	10p	75cl bottle
Sparkling wine	12p	75cl bottle
Spirits (37.5% abv)	36p	70cl bottle
Cider and perry still	5p	litre
Cider and perry sparkling	9p	75cl bottle
Cigarettes	15p	packet of 20
Cigars	6p	packet of 5
Hand rolling tobacco	15p	25g
Pipe and chewing tobacco	9p	25g

anti-avoidance and HMRC powers

Loans to participators

The law with regard to the release or waiver of a loan made by a close company to a participator, usually a shareholder, has been clarified. Under normal accounting principles, the company needed to recognise an expense through its accounts when releasing such a loan and as a result it may have

been possible to claim corporation tax relief on the expense.

From 24 March 2010, the law will be changed to ensure that corporation tax relief on the release of a loan to a participator in a close company will explicitly be denied. This is a specific provision and

bolsters existing anti-avoidance legislation which acts to deny relief in respect of interest payable upon, and waivers of, non-commercial loans made for an unallowable purpose.

Transactions in securities

Legislation will be included in Finance Bill 2010 to introduce a new regime to replace the existing transactions in securities rules. The new rules will focus solely on transactions involving close companies (including overseas companies) where a tax advantage has been obtained. There will be a new exemption for transactions arising under a fundamental change in ownership of the close company concerned. There will also be rules which clearly set out how the tax advantage achieved is to be quantified.

Disclosure of tax avoidance schemes

Alongside an ongoing consultation process, the Government has announced plans to significantly widen the scope of the DOTAS rules. Proposals include:

- enhanced penalties for failure to comply with disclosure obligations
- moving forward the date a scheme must be disclosed, to when the scheme is first marketed, rather than when it is made available for implementation
- a requirement for promoters to provide HMRC with a quarterly list of clients to whom scheme reference numbers have been issued
- extending the disclosure requirement to cover the avoidance of IHT charges arising in trusts
- an extension to the existing 'hallmarks' including widely drafted 'employment scheme' and 'income into capital scheme' hallmarks.

Advisers and professional bodies have expressed concern at the potential scope of the new hallmarks, which as currently drafted might catch quite innocent arrangements. The Government intends to continue the consultation process during summer 2010, with a view to implementing all the changes at once, in autumn 2010.

Countering offshore tax avoidance

Following a consultation document issued with Pre-Budget Report 2009, the Government is to introduce tough new measures to punish individuals

with undeclared offshore tax liabilities. For tax periods commencing on or after 1 April 2011, HMRC will be able to charge similar penalties for failure to declare such liabilities to those usually associated with tax evasion.

The size of the tax-geared penalty will depend on the other tax jurisdiction involved and the type of information exchange agreement in place with that jurisdiction. The highest penalties, up to 200% of the unpaid tax, will arise where the other jurisdiction does not have an information exchange agreement with the UK. Such penalties will increase the attractiveness of coming clean about offshore accounts using tax amnesties such as the long running Liechtenstein Disclosure Facility which offers a fixed 10% penalty rate.

Penalties for late return filing and payment of tax

HMRC has outlined its new penalty system for late filing of returns and late payment for indirect taxes. This affects not only VAT, but also excise duties, environmental taxes and air passenger duty.

This is intended to replace the much derided VAT surcharge regime, which is based on a flat percentage of the unpaid tax. The new system will separately penalise late filing and late payment and introduce extra penalties for prolonged failures to file or pay.

So far there is no firm date for implementation. HMRC anticipates a substantial education and preparatory period before introducing the system. Broadly speaking, however, the penalties comprise:

- late filing penalties of £100, rising to £400 for repeat offenders
- late payment penalties ranging from 2-4% of the unpaid tax
- additional penalties based on 5% of the unpaid tax if the return remains unfiled and/or unpaid once six and then 12 months has elapsed since its due date
- up to 100% penalty for deliberately withholding a return to prevent HMRC assessing the correct liability to tax.

HMRC has announced changes to its record keeping rules, powers to inspect and the time limits for making assessments and claims for businesses trading in excise goods, such as alcohol, tobacco, fuel etc.

HMRC's new powers of inspection include the power to enter premises to inspect documents and to seek information from third parties such as banks (subject to formal notice and the right of appeal to Tribunal). The record keeping changes take effect on 1 April 2011.

other measures

Stamp duty land tax

The main rates of SDLT will remain unchanged for 2010/11 but, for first time buyers only, the nil rate band of SDLT will apply to residential properties valued at up to £250,000 bought between 25 March 2010 and 24 March 2012. From 6 April 2011, a new 5% rate of SDLT will apply to purchases of residential property where the value exceeds £1m.

The SDLT legislation includes specific rules that prevent a disproportionate charge arising on transactions between a partnership and one of its partners, for example, where ownership proportions in a partnership are adjusted. These rules will be amended to block avoidance schemes involving a contrived partnership between a vendor and purchaser. Where any 'notional land transaction' between such contrived partners takes place on or after 24 March 2010, the special SDLT rules for partnerships will not apply.

Landline duty

From 1 October 2010, a new duty of 50p per month will be charged on all telephone landlines. The funds raised are to be used to improve high speed broadband coverage.

Charities

Following the decision of the European Court of Justice in the *Persche* case, new legislation is to be introduced in Finance Bill 2010 to extend the current UK charitable tax reliefs to certain organisations in the EU, Norway and Iceland that are equivalent to UK charities and community amateur sports clubs.

The definition of a charity for tax purposes is to be aligned across UK tax legislation creating a single definition for all taxes. The new definition of an organisation eligible to benefit from the UK charitable tax exemptions will be one which:

In order to bring excise duties in line with other taxes, the time limits for assessments and claims in respect of over or under payments of duty will be extended from three to four years from 1 April 2012.

- is set up for charitable purposes only, within the meaning of the Charities Acts 2003 and 2006
- is located in an EU member state, or other territory specified by HMRC (Norway and Iceland will become specified territories following Royal Assent)
- is regulated in its home country by a regulator that has a similar remit to the Charity Commission, operating under the domestic rules of the home territory and
- is supervised by "fit and proper" persons (further guidance on this aspect is due to be issued shortly).

Certain modifications to the existing charitable tax relief rules are to be introduced as follows:

- the rules relating to UK charities making payments to bodies outside the UK and the requirement that the charity must take reasonable steps to ensure that the funds are to be applied for charitable purposes are to be strengthened (although at the time of writing no further details are available),
- HMRC will seek to recover tax from both UK and non-UK resident donors where it is found that they have not paid sufficient tax to cover the donation, and
- HMRC intends to consult with the charitable sector over a planned reduction in the number of Gift Aid repayment claims that can be made by a charity in any year. Consideration is to be specifically given to small charities and the effect on their cash flow that this change may create. There are also plans to introduce a new style repayment form.

The draft legislation on substantial donors, which was expected to be introduced in Finance Act 2010, will now not be included until the sector has had an opportunity to consult on the impact of the new measures to be introduced following the *Persche* case.

Green investment bank

Capital investment in renewable energy generation by businesses is to be supported by loans funded from a green investment bank that the Government will create using £1bn funded from sales of Government assets and matched with £1bn of private capital.

Climate Change Levy

The rates effective from 1 April 2011 are:

Energy	Rate per hour
Electricity	£0.00485 per kw
Gas supplied by a gas utility or supplied in a gaseous state	£0.00169 per kw
Petroleum gas or other gaseous hydrocarbon supplied in a liquid state	£0.01083 per kg
Any other taxable commodity	£0.01321 per kg

changes from April 2010 and later

Income tax rates and allowances

The 50% additional tax rate applies from 6 April 2010 to individuals with incomes in excess of £150,000. An equivalent additional rate of 42.5% applies to dividend income (which is an effective rate of 36.11%, taking into account the dividend tax credit).

Similarly, the dividend trust rate increases from 32.5% to 42.5% and the trust rate applicable to other income will be increased from 40% to 50% for all income in excess of the £1,000 basic rate band.

The basic personal allowance is reduced by £1 for every £2 that the individual's taxable annual income exceeds £100,000. The personal allowance is £6,475 in 2010/11, so this will be reduced to nil for individuals with income of £112,950 or more. From 6 April 2010, non-UK residents will no longer be entitled to personal allowances and reliefs from income tax if the sole reason for this entitlement is because they are commonwealth citizens.

Other rates and allowances are frozen at 2009/10 levels as is NIC – apart from the NIC lower earnings limit which increases by £2 to £97 per week and the special rate of Class 2 for volunteer workers which increases to £4.85 per week (both from 6 April 2010).

Furnished holiday lets

In Pre-Budget Report 2009 it was announced that the advantageous tax regime for furnished holiday lets in the UK and the European Economic Area ceases from 6 April 2010 (1 April 2010 for companies).

PAYE and benefits in kind

From 6 April 2010, employers with fewer than 50 employees are required to file PAYE returns (P14 and P35) online (previously, such small employers could file paper returns) except for:

- employers who utilise the simplified deduction scheme for domestic employees
- practising members of religious societies or orders whose beliefs are incompatible with the use of electronic methods of communication
- employers who employ someone to provide care or support services in or from their home provided certain conditions are met.

A new penalty regime applies to PAYE and class 1A and 1B NIC payments for 2010/11 and later years (the first payment to which the new rules apply is due in May 2010). The penalty is calculated as a percentage of the amount paid late but the percentage charge depends on how late the payment is and how many other payments have been made late for that tax year.

The new rules apply to all employers and contractors required to make PAYE payments to HMRC.

The fuel benefit charge for company cars (applicable where the employer pays for any fuel costs) increases to £18,000 (multiplied by the relevant percentage as determined by the CO₂ emissions of the car or van). The equivalent amount applicable to company vans increases to £550.

The official rate of interest used to calculate the benefit on employer loans will reduce from 4.75% for 2009/10 to 4% for 2010/11.

VAT returns

All businesses whose annual turnover exceeds £100,000 and all newly VAT registered businesses are required to file VAT returns online and pay electronically from April 2010.

Capital allowances

A number of changes in the capital allowances regime take effect from 1 April 2010 for companies (6 April 2010 for unincorporated businesses). The temporary first year allowance for expenditure on qualifying plant and machinery applicable for 2009/10 will come to an end on 31 March 2010 (or 5 April for unincorporated businesses).

The headline rate of industrial buildings allowances and agricultural buildings allowances will fall from 2% to 1% and an equivalent reduction will also be made to the allowances available on buildings purchased second hand before 21 March 2007.

Subject to EU state aid approval, a 100% allowance will be available to businesses purchasing new and unused electric vans.

Associated companies rules

An amendment will be made to the rules which determine whether companies are treated as associated with each other when calculating their entitlement to the small company rate of corporation tax or marginal relief. This change is most likely to affect family owned companies where, for example, a husband controls one company and his wife controls another company.

Currently, such companies are deemed to be associated and, therefore, the profit limits used for deciding the rate of corporation tax payable are divided by two for each company. However, through legislation intended to be included in Finance Bill 2011, companies will only be treated as associated if there is 'commercial interdependence' between them. This test is already applied by way of extra-statutory concession in most cases where two companies are controlled by different members of the same family. However, it cannot be applied where the two family members concerned are husband and wife, civil

partners or consist of a parent and his or her adult children.

Community infrastructure levy

After much delay, the community infrastructure levy (CIL) will provide a commercial alternative to the expected scaling down of current 'section 106' agreements between developers and Local Authorities (LAs) from 6 April 2010. The rate of the CIL (per metre² of developed land) for a particular area will be set by the LA and the charge will arise when development approval is given by the LA.

Repayment and error or mistake claims

Changes to the rules regarding claims for repayment of overpaid income tax, capital gains tax and corporation tax apply from 1 April 2010. These rules provide that repayment may be claimed for up to four years from the end of the period for which the payment, assessment or return was made. HMRC is not liable to make a repayment where:

- the alleged overpayment arises from a mistake concerning a claim, election or notice
- repayment can or could have been obtained by other means
- the grounds of the claim have already been considered by a Court or Tribunal
- HMRC has taken proceedings to enforce payment of the amount.

Changes also take effect on 1 April 2010 to align the time limits for HMRC to make assessments of all the above taxes, plus VAT. The time limit will now be four years from the end of the relevant tax year or accounting period. Where the taxpayer has failed to take reasonable care this time limit is extended to six years but where the loss of tax has been deliberate the deadline is extended to 20 years.

Naming and shaming

For tax periods commencing on or after 1 April 2010, HMRC has the power to publish information about any business or individual whose tax affairs are investigated leading to one or more relevant tax penalties being charged, where the amount of potential lost tax revenue in relation to the penalty or penalties exceeds £25,000. It may publish (probably online):

- the person's name and address

- the nature of any business carried on by the person
- the amount of the penalty or penalties and associated potential lost revenue, and
- any other information considered appropriate to make clear the person's identity.

Independent business reviews

Businesses can apply to HMRC's Business Payment Support Service to spread the cost of their tax payments using a 'time to pay' arrangement. From 6 April 2010, HMRC will insist on a business

supplying an Independent Business Review in support of any application to defer liabilities in excess of £1m: the reviews must be conducted by a qualified Insolvency Practitioner or accountant.

False self employment

The recent update to the consultation on tackling false self-employment shows that the Government and HMRC are to press on with the original proposals, broadly unchanged despite a swathe of negative responses, once the construction industry has recovered from the current downturn.

For more information on any of the Budget issues please get in touch with your usual PKF contact.

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