

Budget summary

Your impartial, need-to-know guide to the tax measures

Corporation tax

Rates

The main rate of corporation tax (CT) for companies with profits above the upper limit of £1.5m will be reduced to 24% from 1 April 2012, 23% from 1 April 2013 and 22% from 1 April 2014.

The main rate for companies with profits arising from oil extraction and oil rights in the UK and the UK Continental Shelf (ring-fence profits) will remain at 30%.

The small profits rate of CT remains at 20% from 1 April 2012. The small profits rate for ring-fence profits remains at 19%.

CFC reform

The current Controlled Foreign Company (CFC) rules are to be repealed and replaced with a new CFC regime which will apply for CFC accounting periods beginning from 1 January 2013.

R&D relief

Legislation will be introduced in Finance Bill (FB) 2012 to amend the current research and development (R&D) rules as follows for expenditure incurred/claims made on or after 1 April 2012:

- increase the rate of additional deduction for a SME company to 125%;
- reduce the rate of payable credit for a SME company to 11%;
- clarify the definition of when a company is a 'going concern' to confirm that companies in administration or liquidation are excluded from relief; and
- widen the scope of the definition of an 'externally provided worker'.

The following reliefs/rules are to be abolished:

- vaccine research relief for SME companies (for expenditure incurred on or after 1 April 2012);
- the £10,000 minimum annual expenditure limit (for accounting periods ending on or after 1 April 2012); and
- the rule limiting the amount of payable tax credit to the company's PAYE/NIC liability (for accounting periods ending on or after 1 April 2012).

CT reliefs for the creative sector

Corporation tax reliefs for the production of culturally British video games, television animation programmes and high-end television productions are to be legislated for in FB 2013, and will take effect from 1 April 2013, subject to State aid approval. Consultation on the design will take place over the summer.

Patent Box

Legislation is to be introduced that will enable companies to apply a 10% rate of corporation tax to all profits attributable to qualifying intellectual property (IP) made on or after 1 April 2013.

Qualifying IP will include patents granted by the UK Intellectual Property Office and the European Patent Office, as well as supplementary protection certificates, regulatory data protection and plant variety rights.

The provisions will apply to existing IP, new IP and to acquired IP provided that the group has further developed the IP or the product which incorporates it.

Tax transparent investment funds

Legislation will be introduced in FB 2012 giving a power to make regulations about the tax treatment of participants in collective investment schemes for the purposes of tax on capital gains.

Business tax

Tax simplification for small businesses

The government is to consult on introducing a voluntary cash accounting basis for unincorporated businesses with receipts up to the amount of the VAT registration threshold, with a view to introducing legislation in FB 2013. It will also consult on a simplified expenses system for business use of cars, motorcycles and the home and on proposals to introduce a tax relief for disincorporation of businesses carried on by companies.

Personal service companies and IR35

The government intends to bring forward a package of measures to further counter avoidance through the use of personal service companies, and to make the existing IR35 legislation easier to understand. This will include HMRC strengthening specialist compliance teams, simplifying the way IR35 is administered, and consulting on proposals which would require office holders and controlling persons, who are integral to the running of an organisation, to have PAYE and NICs deducted at source.

Enterprise zones FYAs

FB 2012 will introduce legislation to provide 100% first-year allowances (FYAs) for expenditure incurred by trading companies on qualifying plant or machinery for use primarily in certain designated assisted areas within enterprise zones. The qualifying expenditure must be incurred between 1 April 2012 and 31 March 2017, the area in which the plant or machinery is to be used must be an assisted area at the time when the expenditure is incurred, and the plant or machinery must not be held for use in an area outside of the designated assisted area for a period of five years.

The usual general exclusions will apply including the exclusion of expenditure on assets for leasing.

Capital allowances

Fixtures

Legislation will be introduced to make the availability of capital allowances to a purchaser of fixtures on or after 1 April 2012 for corporation tax purposes or 6 April 2012 for income tax purposes conditional on:

- previous business expenditure on qualifying fixtures being pooled before a subsequent transfer on to another person; and
- a seller and purchaser using one of two existing procedures to fix their agreement about the value of the fixtures transferred within two years of the transfer; or, exceptionally
- the past owner providing a written statement of the amount of the disposal value of fixtures, which he had some time earlier been required to bring into account (for example, when he permanently ceased his business) within two years of a later sale of the property.

Business premises renovation allowances scheme

The government has confirmed that it will extend the Business Premises Renovation Allowances scheme for a further five years until 31 March 2017 for businesses within the charge to corporation tax and 5 April 2017 for businesses within the charge to income tax. The scheme's purpose is to enable businesses that own or lease vacant property in designated disadvantaged areas to claim 100% tax relief on their capital spending on renovating or converting the property to restore it to business use. Certain restrictions will be introduced to comply with EU State aid requirements.

Solar panels, feed-in tariffs & renewable heat incentive

FB 2012 will provide that expenditure on solar panels from April 2012 will be designated as special rate expenditure for capital allowances purposes. The annual investment allowance will, however, continue to be available on such expenditure.

From April 2012 (or April 2014 for combined heat and power equipment installations) enhanced capital allowances will not be available in respect of expenditure on plant or machinery when it generates electricity or heat, or produces biogas or biofuels, that attract tariff payments under either of the feed-in tariffs or renewable heat incentive schemes introduced by the Department of Energy and Climate Change. Any such allowances given in respect of expenditure incurred from these dates will be withdrawn if the tariffs are paid subsequently.

FYAs for low emission cars

The 100% first-year capital allowance for businesses purchasing low emission cars will be extended for two years beyond the current expiry date of 31 March 2013, except for leased cars. Also, from the same date the qualifying threshold will be reduced to 95g/km driven.

Emissions threshold for main rate cars

The threshold for a main rate car will be reduced to 130g/km, and the associated lease rental restriction will also be revalorised in line with this change. These changes will have effect from 1 April 2013 (corporation tax) or 6 April 2013 (income tax).

FYAs for gas refuelling equipment

The 100% first-year capital allowances for plant and machinery used in gas, biogas and hydrogen refuelling stations will be extended for two more years to 31 March 2015.

Employment tax

Company car tax rates

For 2014/15 the appropriate percentage of list price for cars emitting more than 75g of CO₂ per kilometre will be increased by one percentage point up to a maximum of 35%. For 2015/16 and 2016/17 there will be an increase of two percentage points up to a maximum of 37%. From April 2015, the five-year exemption for zero carbon emission cars and the lower rate for ultra low carbon emission cars will come to an end. The appropriate percentage for zero emission and all low carbon cars emitting less than 95g of CO₂ per kilometre will be 13% in 2015/16, and will increase by two percentage points in 2016/17. The diesel supplement will be removed in April 2016.

Company car fuel benefit charge

For 2012/13, the multiplier (the figure to which the appropriate percentage is applied) for calculating the car fuel benefit charge is increased from £18,800 to £20,200. The multiplier will be increased by 2% above the rate of inflation (RPI) for the tax year 2013/14.

Company car benefits: security enhanced cars

With backdated effect for 2011/12 onwards, for individuals who can demonstrate that the nature of their employment creates a threat to their personal security, certain security enhancements (eg, armour, bullet-resistant glass) will be excluded from being accessories and will thus not count towards the price of a company car for the purpose of calculating a taxable benefit.



Budget reaction



Ian Stewart
Chief Economist,
Deloitte

A Spring-like feel ...

There is a Spring-like feel to this Budget: a brighter growth outlook, some high profile tax cuts, marginally less public borrowing and lower inflation to come. The Office of Budget Responsibility believes that deficit reduction, the centre piece of the government's economic strategy and its Plan A, is on track. While growth this year will be anaemic and less than half what was expected a year ago, it has been uprated by the OBR. The fiscal forecast for this and future years is more optimistic.

But I wouldn't get carried away. The vast majority of the cuts in public spending lie ahead. The margin for error in reducing the UK's still huge deficit over the next five years is small and dependent on the unpredictable path of growth. There's still a long haul ahead for the UK economy.



Richard Mannion
National Tax Director,
Smith & Williamson

Chancellor treads fiscal tightrope – fairly successfully

Neon lights of a cut in corporation tax and top rate of income tax give the impression that the country is open for business; however, we would like to see the Chancellor do more to help enterprise when he can. Hemmed in and obliged to remain fiscally neutral, the Chancellor did as much as he could but his hands were tied by the difficult economic backdrop. Treading a difficult fiscal tightrope he managed to give a boost to working families, largely paid for by increased taxes for the wealthier and by closing loopholes.

The Chancellor is attempting to shift tax burden further to higher earners to help working families and to make the UK more attractive to external investment and incentivise UK businesses to remain and invest.



Chris Sanger
Head of Tax Policy,
Ernst & Young

UK arrivals lounges will be booming ...

The UK's arrivals lounges are likely to be booming next year as entrepreneurs respond to a far more positive message from the Chancellor. In his speech, the Chancellor has matched his reforms of the business tax environment by addressing the much maligned 50p rate. By removing this deterrent, the Chancellor has put the substance behind his rhetoric; the UK is open for business. HMRC's report showed that the first year of the 50p rate generated far less for Treasury coffers than expected, demonstrating the pervasive image that it had portrayed of the UK. The Chancellor pointed out that a rate of 45% brought in broadly the same amount of revenue, without all the negative baggage.

The delay of a year (it takes effect from April 2013) is somewhat surprising, especially as he criticised his predecessor for forestalling. In practice, many people will now plan on 45% but we can still expect income to be deferred until after the 50p rate reaches its death day.

Personal tax

Income tax rates 2013/14

The rates of income tax for 2013/14 will be: basic rate 20%; higher rate 40%; additional rate 45%; dividend additional rate 37.5%; trust rate 45%; and dividend trust rate 37.5%. The charge on benefits paid to non-individuals under an employer-financed retirement benefits scheme will reduce from 50% to 45%. Where capital sums are deemed to be income of a settlor, the rate of tax taken as paid by the trustees will also reduce from 50% to 45%.

Limits and allowances

For 2013/14 the personal allowance for those aged under 65 will be increased to £9,205. The basic rate limit will be reduced to £32,245.

The NICs upper earnings limit and upper profits limit will continue to be aligned with the level of the higher rate threshold (the total of the personal allowance and the basic rate limit).

For 2013/14 the higher personal allowance available to people aged 65–74 will be restricted to those born after 5 April 1938 but before 6 April 1948. The higher personal allowance for those aged 75 and over will be restricted to those born before 6 April 1938. The amounts of these allowances will not be increased from their 2013/14 levels. Eventually there will be a single personal allowance for all taxpayers.

Child benefit: income tax charge

From 7 January 2013, an income tax charge is being introduced as a means of clawing back child benefit from those on higher incomes. Entitlement to the child benefit itself and the amount of the benefit will both remain unchanged. The charge will apply to recipients of child benefit whose income exceeds £50k in a tax year and to individuals whose partner is in receipt of child benefit and whose own income exceeds £50k. In the event that both partners have income over £50k, the charge will apply only to the partner with the highest income. Partners for this purpose include married couples, civil partners, unmarried couples and same-sex couples not in a civil partnership. Income will be measured by reference to adjusted net income, which is broadly taxable income before deducting the personal or blind person's allowance, adjusted for any pension contributions paid net of tax and Gift Aid donations.

For those with income between £50k and £60k, the amount of the charge will be 1% of the amount of benefit for every £100 of income above £50k. For example, if total child benefit is £1,752 and adjusted net income is £54k, the tax charge will be £700.80 (£17.52 x 40). For those with income above £60k, the amount of the charge will equal the amount of child benefit received, so that the benefit will be fully clawed back.

The tax will be collected via PAYE and self-assessment. Child benefit claimants will be able to elect not to receive the child benefit to which they are entitled if they or their partner do not wish to pay the tax charge. The claimant can subsequently withdraw that election if they or their partner are no longer liable to pay the charge.

Cap on unlimited tax reliefs

Legislation will be introduced in FB 2013 to apply a cap on income tax reliefs claimed by individuals for 2013/14 onwards. The cap will apply only to reliefs which are currently unlimited. For anyone seeking to claim more than £50,000 of these reliefs, they will be capped at 25% of income or £50,000, whichever is the greater.

Residence

The government had already announced its intention to introduce a statutory residence test. This was to be introduced with effect from

6 April 2012 but has been deferred to 6 April 2013. The legislation will be included in FB 2013.

Ordinary residence will be abolished for tax purposes from 6 April 2013. At the same time, overseas workday relief will be placed on a statutory footing; this is currently a non-statutory means of apportioning earnings between duties performed in the UK and duties performed elsewhere.

Non-domiciled individuals

With effect from 6 April 2012, three changes are made to the taxation of UK resident non-domiciled individuals who claim the remittance basis of taxation:

- a higher annual charge of £50k is introduced for those non-domiciles who claim the remittance basis in a tax year and have been resident in at least 12 of the previous 14 tax years. The £50k charge will work in the same way as the current £30k charge on those who have been in the UK for more than a short period;
- the charge to UK tax is removed on overseas income or capital gains remitted to the UK for the purpose of making certain qualifying business investments; and
- the existing remittance basis rules in respect of nominated income and the taxation of assets remitted to and sold in the UK are simplified.

EIS and VCTs

A number of changes will be made to these venture capital schemes, including the following.

- The maximum annual amount that an individual can invest under the Enterprise Investment Scheme (EIS) will be doubled to £1m for 2012/13 onwards. There will no longer be any minimum investment; it was previously £500 in any one company.
- For shares in investee companies that are issued on or after 6 April 2012, the maximum annual combined amount that can be invested in any one company under these schemes is to be increased from £2m to £5m; the limit on the number of people that can be employed by an investee company under each type of scheme is to be increased from 50 to 250; and the limits on the gross assets an investee company may have are to be increased to £15m immediately before the share issue and £16m after (currently £7m and £8m respectively).
- For both EIS and Venture Capital Trusts (VCTs), a new disqualifying purpose test will be introduced for shares in investee companies that are issued on or after 6 April 2012. The test will disqualify shares issued subject to arrangements whose main purpose is to generate access to the reliefs in circumstances where either the benefit of the investment is passed to another party or the business activities would otherwise be carried on by another party.
- For shares in investee companies that are issued on or after 6 April 2012, an activity comprising receipt of Feed-in Tariffs or similar subsidies will not generally be a qualifying activity for either EIS or VCT purposes, though there will be exceptions. This will also apply to shares issued between 23 March 2011 and 5 April 2012 inclusive where the investee company does not commence subsidised electricity generation before 6 April 2012.
- For shares issued under the EIS on or after 6 April 2012, loan capital will be disregarded for the purposes of the limit on the proportion of a company's capital which an investor can hold without being treated as connected with the company; and, subject to conditions, EIS shares will be permitted to carry a preferential right to dividends.

Some of these changes are subject to EU State aid approval being granted.

Seed Enterprise Investment Scheme

Legislation to be included in FB 2012 will introduce the Seed Enterprise Investment Scheme (SEIS), a new tax-advantaged venture capital scheme with effect for investments made by individuals on or after 6 April 2012. The scheme will be similar to the Enterprise Investment Scheme (EIS) but focused on smaller, early stage companies, and will run alongside the EIS. The main features of the SEIS will be as follows.

- Income tax relief will be available for investment in small companies (ie, those with 25 or fewer employees and assets of up to £200k) that are carrying on, or preparing to carry on, a new qualifying business.
- The relief will be available on share subscriptions of up to £100k per individual. It will be possible to carry back relief to the preceding year.
- The maximum relief will be 50% of the amount subscribed.
- The shares must be retained for at least three years.
- The scheme will incorporate many of the requirements of the EIS, for example the requirement that the investor have no more than a 30% stake in the investee company.
- Any one company will be able to raise investment of up to £150k under the SEIS; this will be a cumulative limit and not an annual one.
- Chargeable gains on disposals of SEIS shares will be exempt from CGT provided the shares are held for the requisite three-year period.
- Chargeable gains realised from disposals of any assets in 2012/13 will be exempt from CGT if invested via the SEIS in the same year.

Enterprise Management Incentives

The limit on the value of shares over which an employee may hold options under the Enterprise Management Incentives scheme will be increased from £120k to £250k from a date to be announced. The government intends to implement the measure as soon as possible, subject to EU State aid approval.

Qualifying time deposits

Legislation is to be included in FB 2012 to require banks, building societies etc to deduct sums representing income tax at the basic rate from interest on qualifying time deposits (generally deposits of at least £50,000). The legislation will apply only to such deposits opened or made on or after 6 April 2012.

Life insurance: qualifying policies

There will be a limit on the premiums that can be paid into qualifying life insurance policies each year with effect from 6 April 2013 (subject to transitional provisions). Policies issued on or after this date will only be qualifying policies where the premiums payable for an individual do not exceed £3,600 each year.

Armed forces

A new income tax exemption is to be introduced for the Continuity of Education Allowance paid to members of the armed forces to provide a continuity of education for their children. Currently the allowance is taxable as employment income, but the tax is paid on behalf of the recipients by the Ministry of Defence. Payments made from 6 April 2012 will instead simply be exempt from income tax.

Budget reaction



Raj Mody
Partner
and Head
of Pensions
Group, PwC

No further changes to the pensions tax relief framework

It's great that pensions have been left alone. Even speculation about changes in the run-up to the Budget was undermining confidence in pensions saving, causing some individuals to make snap judgments about their retirement plans. What we really need to see is a stronger commitment from government to a long-term stable framework for pensions tax, possibly supervised by an independent Commission, so pensions aren't always subject to short-term political interference.



David O'Keefe
Chairman,
CIOT's R&D
Working
Group

R&D tax credits: 'above the line' relief welcomed

A change to an 'above the line' system would mean that the tax credit would be part of the cost calculation of an R&D project undertaken by the engineers or other personnel who are going to carry out the work, rather than being a relief which is claimed by the tax department after the event. This is likely to make R&D projects more affordable at the relevant decision making point, which should encourage R&D spend in the UK.

We welcome, too, the Chancellor's commitment to ensure that small and medium enterprises' (SME) R&D incentives are not reduced as a result of this change and look forward to being involved in the consultation on the detail. Although the drivers for an 'above the line' system are not so apparent for SMEs, we would advocate that the same system is applied for large companies and SMEs as to restrict the changes to large companies would only give rise to more complexities at the margins for growing (or shrinking) companies.



Michael Izza
Chief
Executive,
ICAEW

A Budget for tomorrow, not for today

This Budget sends a signal that the UK is not only open for business but will actively encourage investment. However, it will have little immediate impact in accelerating the UK's slow economic recovery. It is a Budget for tomorrow, not for today. Ultimately, businesses still need confidence to invest in the UK's economic future.

The tax simplification measures the Chancellor outlined are not the root and branch reform of the tax system that we believe is long overdue. Whilst the smallest businesses may benefit from a simpler corporation tax regime, the vast majority of individuals and companies will still have to struggle with a tax code that is already one of the most complex in the world and which continues to grow in complexity.

Capital gains

Foreign currency bank accounts

Legislation will be introduced in FB 2012 to exempt individuals, trustees and personal representatives from capital gains tax on gains made on withdrawals on or after 6 April 2012 of money from bank accounts denominated in a foreign currency. Consequently, capital losses will not be allowable.

Non-resident, non-natural persons

The government will consult on the introduction of a capital gains tax charge on residential property owned by non-resident, non-natural persons, and the consultation will be made in conjunction with the stamp duty land tax enveloping annual charge for high-value residential properties. The charge will be introduced in FB 2013 with the measure coming into effect in April 2013.

Rollover relief

Legislative changes will be made in FB 2012 to ensure that the availability of capital gains tax rollover relief in respect of entitlements to the EU Single Payment Scheme is preserved.

Pensions

Pensions tax relief

Legislation will be introduced in FB 2013 to amend the rules which currently allow employers to pay pension contributions into their employees' family members' pensions as part of their employees' remuneration package to remove the tax and NICs advantages from these arrangements.

Inheritance tax

Estates leaving 10% or more to charity

For deaths on or after 6 April 2012, the normal 40% rate of IHT is reduced to 36% if at least 10% of the deceased's net estate is left to charity.

Where the estate consists only of the deceased's free estate, the value on which the 10% threshold is based is the value of the net chargeable estate excluding charitable legacies and after deducting all available exemptions and reliefs plus the available nil-rate band. If the total value of the charitable legacies is at least equal to this 10% threshold, the whole chargeable estate qualifies for the reduced rate.

If the estate includes two or more components, the 10% test is applied to each component as if it were a separate estate. The free estate, any settled property and any jointly-owned property all count as components for this purpose. If the 10% test for a component is passed, IHT will be charged on that particular component at the 36% rate. An election can also then be made to treat two or more components as one and reapply the 10% test accordingly.

The reduced rate will apply to charitable legacies made by Instrument of Variation as well as to those made by the will, but the charity must be notified that the devolution of the estate has been varied in its favour.

An election can be made to disapply these rules for one or more components. This might be worthwhile if, for example, the benefit of the reduced rate would be eaten up by additional valuation costs.

Spouses & civil partners domiciled outside the UK

The government will consult on legislation to increase the IHT-exempt amount that a UK domiciled individual can transfer to

their non-UK domiciled spouse or civil partner. The government similarly proposes to allow individuals who are domiciled outside the UK and who have a UK domiciled spouse or civil partner to elect to be treated as domiciled in the UK for the purposes of IHT. Legislation will be included in FB 2013.

Charities

Gifts of pre-eminent objects to the nation

Under a new scheme to take effect on a day to be appointed after Royal Assent to FB 2012, individuals and companies will be able to donate pre-eminent objects, or collections of objects, to the nation in return for a reduction in their UK tax liabilities. A potential donor will make his own valuation of the object(s) in question. A panel of experts will consider the offer and, if it considers the object is pre-eminent and should be accepted, the panel will agree the value of the object with the donor. If the donor decides to proceed based upon that valuation he will become entitled to an income tax and/or capital gains tax reduction of 30% of the agreed value or, in the case of a corporate donor, a corporation tax reduction of 20% of the agreed value. Individuals will be able to spread the tax reduction forward across a period of up to five years starting with the tax year in which the object is offered. The donor must specify in advance how the tax reduction is to be used. The total reduction in tax liabilities given each year under this scheme and the pre-existing IHT Acceptance in Lieu scheme must fall within an overall limit of £30m.

SDLT

Rates for residential properties

A new 7% rate of SDLT is to be introduced for purchases of residential property where the consideration exceeds £2m. The new rate applies where the effective date of the transaction (usually the date of completion) is after 21 March 2012, subject to a transitional rule to ensure that the new rate does not apply to contracts entered into before 22 March 2012 but completed on or after that date.

Enveloping of high value residential properties

Where a residential property is purchased on or after 21 March 2012 and the consideration exceeds £2m, a new higher rate of stamp duty land tax of 15% will apply if the purchaser or purchasers are certain types of non-natural person. For this purpose, non-natural persons include companies, collective investment schemes (such as unit trusts) and partnerships in which a non-natural person is a partner. Exclusions from the higher rate will apply for property developers and certain corporate trustees. A transitional rule will ensure that the new rate will not apply to transactions where the contract was completed and signed by all parties before 21 March 2012.

SDLT sub-sale relief anti-avoidance

An anti-avoidance measure is to be included in FB 2012 to counteract a disclosed avoidance scheme with effect for transactions on or after 21 March 2012. The measure will put beyond doubt that the grant or assignment of an option cannot satisfy the requirements of sub-sale relief. The relief applies where a person contracts to purchase an interest in land but, before completion, transfers their rights under the contract to a third party.

SDLT DOTAS changes

Two changes are being made to the Disclosure of Tax Avoidance Schemes (DOTAS) regime for SDLT. The first will remove the DOTAS 'grandfathering' rules for certain avoidance schemes. This will include requiring certain grandfathered schemes, still in use but disclosed before April 2010, to be disclosed one additional time by promoters so that new users of those schemes must be identified to HMRC. The second change will remove the property valuation thresholds for disclosure.

VAT

Registration issues

With effect from October 2012, businesses will be able to register and deregister for VAT, and amend their VAT registration details, electronically. In addition, with effect from 1 December 2012 non-UK established businesses will be required to register for VAT regardless of the value of taxable supplies they make in the UK, ie, such businesses will no longer benefit from the UK VAT registration threshold.

Low value consignment relief

This measure removes, with effect from 1 April 2012, low value consignment relief from mail order goods imported into the UK. This is an anti-avoidance measure which prevents the VAT-free importation of consignment of goods with a value of less than £15 (prior to 1 November 2011, £18).

Cost-sharing exemption

The cost-sharing exemption provided for in EU Directive 2006/112/EC, art 132(1)(f) is to be implemented in the UK with effect from Royal Assent to FB 2012. The measure will exempt from VAT the supply of services by a group which consists of persons engaged in exempt or non-taxable activities so long as the services are supplied to group members at cost and for the purposes of those activities. Conditions may be imposed in connection with the exemption.

Car fuel scale charges

The scale used to charge VAT on fuel used for private motoring in business cars will be amended from the start of the first VAT period beginning on or after 1 May 2012.

The government intends to consult on legislation to be included in FB 2013 to give effect to certain extra-statutory concessions relating to the scale charges and a proposal to amend the scale by annual public notice having the force of law instead of by statutory instrument.

Invoicing rules

Following changes made by the EU Invoicing Directive, secondary legislation will be introduced to simplify the VAT invoicing rules, with effect from 1 January 2013.

Energy-saving materials in charitable buildings

Legislation will be introduced in FB 2013 which will mean that buildings used for a relevant charitable purpose will no longer benefit from the reduced rate of VAT in respect of the supply and installation of energy-saving materials. The reduced rate will continue to apply to the supply and installation of energy-saving materials in residential accommodation, including accommodation operated by charities.



Budget reaction



Patrick Stevens
Tax Partner,
Ernst &
Young

Stamp Duty on expensive homes: the Empire strikes back ...

Stamp Duty avoidance on the purchase of expensive homes has been rife for well over a year. Many people have wondered why the loopholes have not been closed down before now. Now that the counteraction has arrived it is draconian.

Anyone foolish enough to transfer a house (worth over £2m) into a company in the future will pay 15% Stamp Duty. It means that this will just not happen. For those houses worth over £2m that are already in companies, there is the promise of 'a large annual charge' (to be consulted on) and a Capital Gains Tax charge if they are sold out of the company after April 2013. All of this is clearly aimed at making people close down companies holding their houses before April next year.

An alternative way of avoiding this Stamp Duty was to use the detailed provisions of the Sub sale rules. This has also been closed down. Finally the Chancellor stated that if people found new loopholes in this area of tax they would be immediately closed down with retrospective effect.

Many people will be able to understand the reason for these changes. However some people hold property through companies for reasons completely unconnected with tax. For example, for people who come from certain other countries who have forced heirship rules, it is the only way of passing on their assets as they wish to do so. For others it is important to maintain privacy about their assets. In these and other cases these rules will have difficult side effects.



Andrew Gotch
Chairman of
the CIOT's
Owner
Managed
Business
Taxes sub-
committee

Will tax reliefs cap prevent self-employed offsetting losses?

The CIOT appreciates that there has been public pressure upon the government to ensure that those with high income cannot avoid tax by extensive use of tax shelters. However, introducing a cap on the amount of business losses that can be utilised in any one year would smack of being anti-business and mis-targeted at a time when businesses are trying to recover from the recession or expand.

This would mean that a business that had losses of £100,000 brought forward from previous periods, eg, during the recession, and which made a profit of £100,000 during 2013/14 could only utilise £50,000 of the losses. It would seem inappropriate to charge tax on those small business owners, forcing them to continue to carry forward the balance of losses.

The government needs to clarify whether this proposal includes loss relief for unincorporated businesses. We hope that it will ensure that it does not.

VAT evasion on road vehicles brought into UK

With effect from 2013 (the precise date is yet to be announced), any person bringing a road vehicle into the UK for permanent use on UK roads will have to notify HMRC within 14 days. It will not be possible to register or license such a vehicle until notification is made and any VAT due has been paid or secured.

This requirement will not apply to certain categories, eg, UK residents returning from holiday, private importers and vehicles imported under secure schemes approved by the DVLA.

VAT grouping extra-statutory concession

Legislation will be introduced in FB 2012 to replace a concession that allows a reverse charge to be based on the cost of services purchased by the group members established overseas, rather than on the actual charge made to the UK member. The legislation will take effect from Royal Assent; the current concession will continue to apply in the meantime.

Public bodies

Legislation is to be introduced with effect from Royal Assent to FB 2012 which clarifies the definition of 'public body' for VAT purposes. Supplies by such bodies are treated as not being made in the course or furtherance of a business except in designated cases, or where such treatment would lead to a distortion of competition. The new legislation clarifies the meaning of 'public body' by means of a reference to Directive 2006/112/EC, art 13(1).

Listed buildings

Zero-rating for approved alterations to listed buildings is to be removed with effect from 1 October 2012. In addition, the '60% test' for the first sale or long lease of a substantially reconstructed listed building is to be removed, so that zero-rating will apply only if the reconstructed building incorporates no more of the original building than the external walls, together with other external features of architectural or historic interest. Transitional arrangements will provide for the retention of zero-rating where a contract for reconstruction was entered into prior to 21 March 2012, and at least 10% of the work (by cost) was completed before that date. Anti-forestalling measures will be introduced in FB 2012.

Small cable-based transport

The rate of VAT applicable to the carriage of passengers on small cable-based transport will be reduced from 20% to 5% with effect from 2013. This will apply where vehicles carry fewer than 10 people each, as transport in larger vehicles is zero-rated. This reduction will be evaluated after three years.

Hairdressers' chair rental

Legislation is to be introduced with effect from 1 October 2012 to ensure that the provision of chairs in a hairdressing salon to a self-employed stylist is standard-rated. This will be achieved by adding the provision of such chairs in a salon (together with related services) to the list of supplies which are excluded from exemption under VATA 1994 Sch 9 Group 1 Item 1.

Holiday caravans

From 1 October 2012, the zero-rating of caravans will apply only to those caravans which are designed and constructed for continuous year round occupation. This effectively means that all holiday caravans (not just mobile caravans) will be standard-rated.

Hot food and premises

From 1 October 2012, the meanings of 'hot food' and 'premises' for

the purposes of VAT zero-rating will be clarified. From that date:

- 'hot food' means all hot food, with the exception of freshly baked bread; and
- the sale of all food for consumption in areas adjacent to a retailer, or in areas that are shared with other retailers, is standard-rated.

Self-storage

Legislation is to be introduced with effect from 1 October 2012 to ensure that the provision of self-storage facilities will be taxed in the same way as other storage facilities. This will be achieved by adding self storage facilities to the list of supplies which are excluded from exemption under VATA 1994 Sch 9 Group 1 Item 1. Anti-forestalling legislation will come into force immediately.

Sports nutrition drinks

Legislation is to be introduced with effect from 1 October 2012 which provides for the standard-rating of 'sports nutrition drinks' (case law currently holds that some drinks in this category are not regarded as beverages, and are therefore not excluded from zero-rating). From that date, sports drinks that are marketed as products designed to enhance physical performance, accelerate recovery after exercise or build bulk, and other similar drinks, including syrups, concentrates, essences, powders, crystals or other preparations of such drinks will be standard-rated.

Further anti-avoidance

General anti-abuse rule

The government has accepted the recommendation of the Aaronson Report that there should be a general anti-abuse rule (GAAR) targeted at artificial and abusive tax avoidance schemes. The government will consult on draft legislation in the summer of 2012, with a view to introducing legislation in FB 2013. The GAAR will be extended to SDLT.

Post-cessation trade relief

Legislation will be introduced in FB 2012 to deny post-cessation trade relief and capital gains relief for payments or events which are made or occur directly or indirectly in consequence of, or in connection with, tax avoidance arrangements the main purpose of which is the obtaining of a reduction in tax liability as a result of post-cessation trade relief. The amendments will apply to payments made, or events occurring, on or after 12 January 2012 except where a payment is made pursuant to an unconditional obligation in a contract made before that date.

Property loss relief against general income and post-cessation property relief

FB 2012 will amend legislation to deny agricultural property loss relief and post-cessation property relief for expenses arising, or a payment or an event which is made or occurs, directly or indirectly in consequence of, or in connection with, tax avoidance arrangements, the main purpose of which is the obtaining of a reduction in tax liability as a result of the reliefs. The amendments will apply to expenses arising and payments made, or events occurring, on or after 13 March 2012 except where expenses arise or a payment is made pursuant to an unconditional obligation in a contract made before that date.

Plant and machinery leasing

For disposal events for long funding leases occurring on or after

21 March 2012 the legislation will be amended to ensure that businesses bring into account all relevant expenditure and receipts in arriving at the disposal value.

Life insurance policies: income tax avoidance

Changes are being made to provisions applying to life insurance policies, capital redemption policies and life annuity contracts. The changes apply where there have been gains earlier in the life of the policy or contract but the gains were not chargeable to tax under the income tax rules for these products (because, for example, the earlier gains were attributable to a person who was not UK resident). The new measure amends the rules for calculating the amount of gains from the relevant policies and contracts. It puts beyond doubt that the gains liable to income tax are not reduced by the fact that there are untaxed gains earlier in the life of the policy or contract, or by the use of certain cluster policy arrangements. This addresses aspects of the current rules that have been exploited in disclosed avoidance schemes. The measure will have effect for relevant policies and contracts made on or after 21 March 2012. It will also apply to existing policies and contracts which are assigned in part or whole, or are used as security for a debt, or into which policyholders choose to pay further premiums, on or after 21 March 2012.

IHT: avoidance using offshore trusts

The inheritance tax provisions relating to excluded property and settled property will be amended to counter avoidance schemes involving the acquisition of interests in settled property in offshore trusts by ensuring that any reduction in the value of a person's estate as a result of the arrangements is charged to IHT. The changes will largely replicate the tax treatment that a UK domiciled individual using such a scheme would incur if the assets within the offshore trust had instead been transferred to a UK trust. The change has effect on and after 21 March 2012.

Repeal of reliefs

Angostura Bitters and Black Beer: The relief from excise duty for Angostura Bitters and Black Beer is to be withdrawn from 1 April 2013.

Pool betting duty: Various reliefs, designed to ensure that the benefit of reductions in pool betting duty could be passed on to trusts supported by pool betting companies without further tax liabilities arising, are to be repealed as obsolete with effect from 1 April 2013 (for corporation tax purposes) and 6 April 2013 (for income tax and inheritance tax purposes).

Deeply discounted securities: Relief is currently available for certain incidental expenses incurred on the acquisition and disposal of deeply discounted securities, but only where the securities have been held since before 27 March 2003. Incidental costs of disposal will no longer be allowable, either to increase a loss on disposal or to reduce a profit, if they are incurred on or after 6 April 2015.

Disadvantaged area relief: The relief from SDLT for purchases of residential property in areas designated as 'disadvantaged' where the purchase price does not exceed £150,000 is to be abolished. This measure will have effect for transactions with an effective date on or after 6 April 2013. All claims for relief for purchases prior to this date must be made on or before 5 May 2014.

Capital allowances: flat conversion allowances: This relief will be withdrawn for expenditure incurred on or after 6 April 2013 for businesses within the charge to income tax and 1 April 2013 for

Budget reaction



Nicholas Stretch
Partner,
CMS
Cameron
McKenna

50% tax rate ending

The fall in the top rate of income tax from 50% to 45% from 6 April 2013 (ie next year) gives rise to all sorts of opportunities for employers and employees to save tax by delaying payments of bonuses and vesting of shares awards until after that date.

In early 2010, many companies accelerated bonus payments and share vestings so that they were able to be taxed at 40% before the 50% rate came in that year. Now they should consider acting the other way – to delay payments, and given that bonuses for 2011 are now starting to be paid, some companies may wish to take urgent action. Companies may enjoy the cash flow benefit of deferral of cash bonuses, but there could be some downside.

Individuals will need in some cases to accept that if they leave employment in the meantime they will lose rights altogether. If they do, in retrospect they might well wish to have taken the bonus and paid 50% tax rather than not get anything at all. Of course, there is also a fear (as with all trends that become too popular) that if income tax receipts fall because of mass deferral, then the effect of delaying bonuses etc in this way will be reversed by specific anti-avoidance legislation neutralising any benefit. This was a fear in 2010, which never materialised, but that does not mean that it is not a relevant concern.



Kevin Cummings
Tax Partner,
Berwin
Leighton
Paisner

Banks singled out ...

Banks continued to be singled out by the Chancellor with a further hike in the bank levy (to 0.105% from 1 January 2013). The rise is as much political as it is revenue-raising, and stops the banking sector from enjoying falling corporation tax rates. Budget documents continue to focus on financial sector regulatory reform and trail the publication of a White Paper on the recommendations of the Vickers report. Budget papers also quietly announce the long-awaited nod from government ministers on tax reform to permit tax-efficient regulatory capital in line with Basel III requirements: statutory law-making powers will be granted through Finance Bill 2012.

businesses within the charge to corporation tax. The entitlement to writing-down allowances on unrelieved expenditure brought forward will also cease with effect from the same dates.

Agricultural land relief: Legislation will be introduced to repeal TCGA 1992 s 249, which provided a relief from CGT for grants for giving up occupation of agricultural land. As no such grants have been made for many years, the relief will be abolished in relation to disposals made on or after 6 April 2013.

Harbour reorganisation schemes: Three existing tax reliefs relating to the transfer of the trade or assets of a company to a harbour authority under a certified harbour reorganisation scheme are to be repealed with effect for transactions on or after 1 April 2013.

Life assurance premium relief: Currently, income tax relief of 12.5% is still available on regular premiums paid into qualifying

Budget reaction



Stephen Coleclough
Tax Partner,
PwC

Sandwich chains, supermarkets and property owners all hit by VAT clampdown

The Budget has targeted VAT on various products from warmed-up sandwiches to large caravans. Now, sandwiches which are not hot, but warmer than the 'ambient air temperature' will attract VAT. But the issue is by no means cut and dried. Bizarrely, products with freshly baked bread aren't caught in the net. Batten down the hatches for the first court case on the legal definition of 'freshly-baked'.

The temperature issue also begs the question of whether VAT is payable depends upon how hot a day it is. Some major players in the hot food market, sandwich chains for example, will be caught by this. Will they put their prices up, or will they let it hit their margins? At the budget end of the market, where a price increase may not be possible without the threat of customers walking away, it may cause these businesses to struggle. And in an attack on the cafe culture of eating outside, a la Parisienne, cold take away food served in roped-off pavement areas around cafes is also hit. These changes are expected to raise £50m in 2012/3 rising to £120m in 2016/17, which some may see as highly ambitious.

Elsewhere, sports drinks, whether they slake the thirst or not, are now going to be liable to VAT, as will be the very large caravans which were previously regarded as homes and zero-rated.

In a surprise move the government has withdrawn the VAT tax break for alterations to listed buildings. The government has recognised the inequality in the fact that altering a listed building was not liable for VAT, yet repairing it to maintain its heritage features attracted VAT. But rather than apply rational rules, the government has chosen to withdraw the relief altogether. It is expected that this will raise £35m next year, rising to £125m in 2016/17, which means the taxman is expecting people to spend an awful lot on altering their homes.

life insurance policies issued on or before 13 March 1984. This relief will be repealed with effect for premiums paid, or due and payable, on or after 6 April 2015. Changes made to policies as a direct consequence of the repeal will not affect their status as qualifying policies.

Life assurance premiums paid by employers under EFRBS:

Where, in connection with an employer-financed retirement benefit scheme, an employer pays premiums under a life assurance policy in order to provide retirement or death benefits to the employee, the individual employee is eligible for tax relief. The relief will no longer be available to employees for payments made by their employers on or after 6 April 2015.

Luncheon vouchers: Relief from income tax and NICs on the first 15p per working day of a meal voucher provided by an employer is to be withdrawn with effect from 6 April 2013.

Mineral royalties relief: The reliefs relating to mineral royalties are to be repealed with effect from 1 April 2013 (for corporation tax) and 6 April 2013 (for income tax). Reliefs in respect of capital losses

on mineral leases or agreements will no longer be available for leases or agreements entered into on or after these dates. However, the ability to crystallise losses and the entitlement to carry back losses for up to 15 years will be preserved for mineral leases or agreements entered into before these dates.

Payments for the benefit of family members: The relief for individuals who are required to make payments to secure an annuity for their surviving spouse, civil partner or children is to be withdrawn with effect from 6 April 2013.

Pensions for 1947 redundancies: Legislation providing pensions for those made redundant following the closure (in 1947) of the offices for land tax and income tax assessors is to be repealed with effect from 6 April 2013.

Stamp duty: certain transactions in land: The following stamp duty reliefs are being repealed:

- certain leases granted by registered social landlords under agreements with local authorities to provide temporary housing for the homeless;
- purchases of residential property in designated disadvantaged areas where the purchase price for the property does not exceed £150k;
- purchases of residential property under shared ownership schemes;
- transfers of land to registered social landlords; and
- transfers of land made in connection with the provision of facilities for visiting forces and allied headquarters.

The reliefs will cease to be available for instruments executed on or after 6 April 2013. Any outstanding claims must be made before 6 April 2013. The transitional provisions that were introduced when disadvantaged areas relief for non-residential properties was abolished in 2005 will be retained.

Stamp duty: certain transactions in shares: Stamp duty reliefs relating to transfers to the Crown in connection with nationalisation schemes; partial relief for transfers made in connection with certain company acquisitions; and an exemption for certain transfers that prior to 2008 would otherwise have been chargeable with fixed stamp duty of £5, are repealed for instruments executed on or after 6 April 2013.

Tax reserve certificates issued by HM Treasury: The exemption from tax in respect of interest on tax reserve certificates issued by HM Treasury between 1941 and 1975 is to be repealed with effect from 1 April 2013 (for corporation tax purposes) and 6 April 2013 (for income tax purposes).

Administration of tax

Tax agents: dishonest conduct

Currently, HMRC may call for the papers of a tax accountant only where the accountant has either been convicted of a tax offence in a UK court or has been penalised for assisting in the preparation of an incorrect return.

These provisions will be replaced by a new power. Where HMRC has determined that an agent has engaged in dishonest conduct, they will be able to issue a notice to that agent requiring production of the working papers. The notice will be subject to prior approval by the First-tier Tribunal. Where working papers are no longer in the power or possession of the tax agent, HMRC will be able to request these from a third party.

There will be a civil penalty for dishonest conduct of an amount up to £50,000. In cases where full disclosure was not made, HMRC will be able to publish details of the penalised tax agent. It is intended that the legislation will be effective from 1 April 2013.