The Budget bulletin

Your need-to-know guide to the key tax measures

Corporation tax

Main rate

The main rate of corporation tax for companies with profits above the upper limit of £1.5m will be reduced to 23% from 1 April 2013 and then 21% from 1 April 2014. From 1 April 2015, the main rate will be reduced further to 20% and aligned with the small profits rate. 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%.

Loans from close companies to their participators

The government has introduced three changes to the rules concerning loans from close companies to their participators. The changes are intended to confirm that loans to various intermediaries (including limited liability partnerships) are within the scope of the charge, and to bring transfers of value (other than loans) within the scope of the charge when arrangements mean that there is also a corresponding receipt of value by the participator. In addition, the repayment provisions are amended to ensure that repayment relief is only given for genuine repayments, denying relief where repayments and further drawings are made within a short period of time, or where there are arrangements (or where there is an intention) to make further chargeable payments at the time the repayment is made. The changes take effect from 20 March 2013.

Research and development tax credits

For qualifying expenditure incurred on or after 1 April 2013, large companies can claim R&D relief as a taxable above the line (ATL) credit to the value of 10% of their qualifying R&D expenditure. The credit will be fully payable, net of tax, to companies with no corporation tax liability. The ATL scheme will initially be optional. Companies that do not elect to claim the ATL credit will be able to continue claiming R&D relief under the current large company scheme until 31 March 2016. The ATL credit will become mandatory on 1 April 2016.

Creative industries tax reliefs

FA 2013 will introduce a new corporation tax relief for animation, high-end television and video games production. These reliefs will allow eligible companies engaged in the relevant production to claim an additional deduction in computing their taxable profits and, where that additional deduction results in a loss, to surrender those losses for a tax credit. Both the additional deduction and the tax credit will be calculated on the basis of UK core expenditure up to a maximum of 80% of the total core expenditure by the qualifying company. The additional deduction will be 100% of qualifying core expenditure, and the payable tax credit will be 25% of losses surrendered. In order to qualify for the relief, productions must be certified by the Department of Culture, Media and Sport as 'culturally British'. Subject to State Aid approval by the European Commission, this relief will have effect for qualifying expenditure incurred on or after 1 April 2013.

Group debt cap

For periods of account of worldwide groups commencing on or after 11 December 2012, a company must make a formal election in order to be a group treasury company. All of the company's financing expenses and financing income will be included in the election if all or substantially all of its activities are treasury activities and all or substantially all of its assets and liabilities relate to such activities. However, if a company cannot meet this provision then the only financing expenses and financing income included in the election will be those that relate to its treasury activities.

Group relief

The group relief rules are to be amended as follows:

- there will be fewer restrictions on when EEA resident companies can surrender losses from their UK permanent establishments as group relief in the UK. Currently such losses can only be surrendered if they are not relievable against non-UK profits in any period. From 1 April 2013 such losses can be surrendered provided the loss is not actually used against the non-UK profits of any person in any period. The group relief will, however, be subsequently withdrawn if the losses are later used against non-UK profits;
- conditions imposed by a statutory body stipulating that one company will leave a group at a pre-determined date will not prevent claims to group relief on the grounds that there are 'arrangements' in place for a company to cease to be a group member. These provisions will apply for accounting periods ending on or after 1 April 2013;
- losses can only be surrendered to other group companies after they have been relieved against the 'gross profits' of the company in which they arose. For controlled foreign company (CFC) accounting periods ending on or after 20 March 2013 'gross profits' will include apportioned CFC profits made to the surrendering company; and
- the current restriction on the availability of trading losses, when in any 3-year period there is both a change in the ownership of a company and a major change in the nature or conduct of its trade, is to be amended to disallow trading losses where there is a transfer of the trade within the new group following the changes in ownership. Furthermore, non-trading debits, non-trading loan relationship deficits and non-trading losses on intangible fixed assets will be restricted following a change in ownership of a shell/dormant company. These provisions will apply for changes in ownership on or after 20 March 2013.

Controlled foreign companies (CFC)

The new CFC rules that were introduced in FA 2012 are to be amended to ensure the rules work as originally intended, as follows:

- the scope of the CFC rules are to be extended so that they apply to profits from all assets leased under finance leases, including hire purchase and similar types of contract;
- the amount of double taxation relief for UK companies that form part of certain arrangements involving the routing of a loan from one CFC to another CFC through a UK company is to be limited;
- the definition of a group treasury company is to be aligned with the debt cap provisions; and
- the qualifying resources rule is to be relaxed for both UK debt incurred and repaid within 48 hours and UK third-party debt that requires short-term bridging finance which is repaid from a subsequent rights issue.

In addition minor amendments are to be made to ensure that references to the interpretation of certain accounting practices are consistent throughout the new CFC rules and to ensure the matched interest rule can apply to all leftover profits. Minor consequential amendments are also to be made to the arbitrage anti-avoidance rules.

These amendments will apply from 1 January 2013, the original commencement date of the new CFC rules.

Avoidance schemes

With effect from 5 December 2012, three known avoidance schemes are being blocked:

- a scheme using a partnership to avoid the group mismatch legislation;
- a scheme exploiting the property total return swaps legislation; and
- a scheme involving manufactured payments and loan write-offs.

Manufactured payments

With effect in relation to manufactured payments that are representative of dividends or interest paid on or after 1 January 2014, the rules for taxing and relieving manufactured payments will be simplified for both corporation tax and income tax. In addition, for manufactured overseas dividends, the requirement to deduct income tax from payments and entitlement to double taxation relief on receipts will be abolished.

Foreign currency assets

For disposals by companies on and after a day to be appointed (likely to be shortly after Royal Assent to FA 2013), simplifications are made to the calculation of chargeable gains on disposals of ships, aircraft, shares and interests in shares where the disposing company operates in a currency other than sterling.

Exit charges on ceasing to be UK resident

When a company ceases to be UK tax resident and becomes resident in another member state, or when an EU or EEA incorporated company ceases all or part of its trading operations in the UK, an election can be made to defer the payment of any exit charges (including charges attributable to revaluation of trading stock) that would otherwise arise on certain unrealised profits and gains. The tax can be deferred by calculating the gain on either:

- all assets at the date of migration. The tax is then payable over 6 equal annual instalments (starting 9 months and 1 day after the end of the relevant accounting period); or
- each relevant asset and paying the tax up to 10 years later, or on the date of actual disposal if earlier. For intangible assets, derivative contract and loan relationship profits, the useful economic life of each asset would be determined at the point of migration. Tax would then be payable in equal annual instalments over the useful life of the asset.

These changes have effect from 11 December 2012. The amounts deferred under either of the above options will be subject to interest.

Business taxation

Small business income tax simplification

Legislation will be introduced in FA 2013 to allow eligible small unincorporated businesses to calculate their income and expenses on a cash basis from 2013/14. They will generally not have to distinguish between revenue and capital expenditure but capital allowances will remain available for expenditure on cars only. In addition, all unincorporated businesses will be able to deduct certain expenses on a simplified flat-rate basis.

Disincorporation relief

This new relief is intended to make it easier for the owners of a small incorporated business to disincorporate by removing some of the tax charges that arise when assets are transferred by

Budget reaction

Michael Izza
Chief executive, ICAEW

Finally, a growth strategy?

Whilst the economic news confirmed many of our fears, this budget clearly places an emphasis on helping businesses grow. Doing more to help SMEs create jobs, giving them access to professional advice and encouraging lending will continue to make the UK the most attractive place to innovate and run a business. Together, lots of small measures announced today may just add up to a growth strategy which businesses can work with.

However, the fiscal situation continues to be of concern. This budget has reinforced the need for public sector spending to be tightly controlled and to ensure the UK's deficit continues to come down as a share of GDP.

Paul Belsman
National head of tax, RSM Tenon

Homeowners to kick start the economy?

Perhaps the bravest measure announced is the proposal on helping homeowners. Coupled with the reform of the planning system, the question is will it inspire the construction industry and associated businesses? This is the sizzle in the chancellors speech to stimulate economic activity and inspire investment by the construction sector. Without the use of traditional tax stimulus.

The budget does nothing to encourage savers or redress the restrictions imposed on pension savings. The burden to support an ageing population remains a key long term challenge.

The headline increase of personal allowance to £10k offset by a decrease of the basic rate band to £31,865 which looks like more will fall into higher rate earlier next year with a slight improvement in 2014/15.

Patrick Stevens
Tax Partner, Ernst & Young

Annual Tax on Enveloped Dwellings will be universally (H)ATED

The chancellor has confirmed the introduction of the aptly named Annual Tax on Enveloped Dwellings. Aptly named as the measure will be universally '(h)Ated by those in the property sector!' The new ATED was announced at Budget 2012 as a measure designed to discourage individuals from owning property in corporate 'envelopes' as a means of avoiding stamp duty land tax. Following a consultation, which began in summer 2012, a number of reliefs have been introduced to prevent most residential property used for commercial purposes from being affected.

However, the new taxes remain extremely complex and will impose additional compliance burdens on businesses. It is even more unfortunate because these structures have generally not been used to avoid SDLT in the first place. They are mainly used by overseas investors for commercial and family purposes.

the company to one or more individual shareholders who then continue to carry on the business in an unincorporated form. It will apply to disincorporations between 1 April 2013 and 31 March 2018 inclusive. The relief takes the form of a joint claim by company and shareholders to allow qualifying business assets (goodwill and land and buildings) to be transferred between them at a reduced value for tax purposes. No corporation tax will be payable by the company on the transfer, and the shareholders to whom the assets are transferred will inherit the transfer value for capital gains tax purposes. Relief will be restricted to cases where the market value of the qualifying business assets does not exceed £100,000.

Partnerships

There will be consultation on measures to:

- remove the presumption of self-employment for limited liability partnership (LLP) partners, in order to tackle the disguising of employment relationships through LLPs; and
- counter the manipulation of profit/loss allocations by partnerships including a company, trust or similar vehicle in order to secure tax advantages.

Personal service companies (IR35)

Legislation will be included in FA 2013 to put beyond doubt for 2013/14 onwards that the intermediaries legislation (IR35) applies to office holders as well as to employees.

Offshore employment intermediaries

The government will consult on strengthening obligations to ensure that the correct income tax and national insurance is paid by offshore employment intermediaries, with a view to legislating in FA 2014.

Employment taxation

Employee shareholder status

Capital gains on the disposal of up to £50,000 of shares acquired though the adoption of the 'employee shareholder' employment status will be exempt from capital gains tax. Employees who acquire such shares will also be deemed to have paid £2,000 for those shares, thus reducing or eliminating the income tax and National Insurance contributions on acquisition.

The changes will apply to shares received through the adoption of the 'employee shareholder' status from 1 September 2013.

Note that the employee shareholder status proposals were rejected by the House of Lords on the evening of Budget day.

Enterprise management incentives

Legislation in FA 2013 will remove, for shares acquired through the exercise of a qualifying EMI option on or after 6 April 2012, the requirement for entrepreneurs' relief that the person must hold 5% or more of the ordinary share capital in the company. This measure will have effect for eligible shares disposed of on or after 6 April 2013. The period during which the option is held will count towards the qualifying 12-month holding period requirement, and the relief will also apply to the disposal of shares that replace EMI shares following a company reorganisation and to certain shares following an exchange for shares in another company.

Company car tax rates

For 2015/16 two new appropriate percentage bands will be introduced for company cars emitting 0–50g/km (5%) and 51–75g/km (9%). Cars emitting 76–94g/km will be in the 13% band and a 1% increase will apply for each rise in emissions of 5g/km, up to a new maximum of 37% (details have been taken from the table on page 4, Annex B of *HMRC Budget 2013 Overview of Tax Legislation and Rates*).

In 2016/17, the appropriate percentages will be 7% for the 0–50g/km band and 11% for the 51–75g/km band. The 3% diesel supplement will be removed.

Exemption threshold for employment-related loans

Currently the cash equivalent of the benefit of an employment-related loan is not taxed as earnings of the employment if the loan (or the outstanding balance of the loan) does not exceed £5,000. For 2014/15 onwards, this will be increased to £10,000.

Employer-supported childcare

From 6 April 2013 the tax-exempt amount for employer-supported childcare (childcare vouchers or directly contracted childcare) will increase from £22 per week to £25 per week for additional rate taxpayers who joined such a scheme on or after 6 April 2011.

Tax-free childcare scheme

A tax-free childcare scheme is to be phased in from autumn 2015. It will be worth up to £1,200 per year for each child (i.e. basic rate relief on childcare costs up to £6,000 a year). It will be available to families where all parents are working and not receiving tax credits or universal credit so long as neither parent earns over £150,000 a year. Current employer-supported childcare arrangements will be phased out for new applicants from autumn 2015.

Promoting employee ownership

FA 2014 will include a capital gains tax exemption for qualifying disposals of a controlling interest in a business to an employee-owned structure.

Employment allowance

From April 2014, all businesses and charities will be eligible for an employment allowance of £2,000 per year to set against employer class 1 NICs. It is intended that this will be administered through the normal payroll process.

Real time information penalties

From 6 April 2013, all employers operating PAYE are required to make returns under RTI to provide HMRC with pay and deduction details each time they pay their employees, although transitional provisions will apply until 5 October 2013 to employers with fewer than 50 employees. Penalties will apply where the RTI returns and payments are not made on time or the returns are inaccurate. Penalties will apply to each PAYE scheme, with the size of the penalty based on the number of employees in the scheme so that different-sized penalties will apply to micro, small, medium and large employers.

Late filing penalties: Filing defaults will apply for each month that a return is not being received. The first default in any year will not be penalised, but all subsequent defaults will attract a penalty (under FA 2009, Sch 55). Penalties will be charged quarterly, and will be subject to the reasonable excuse and appeal provisions. An additional tax-geared penalty will apply where a return is outstanding for 3 months or more. These penalties will come into effect for the tax year 2014/15.

Late payment penalties: Where payments are not received in full and on time, a late payment penalty may be charged (under FA

2009 Sch 56). Late payment penalties will be automated and will be charged in-year, rather than after the end of the tax year.

Most penalties for late payment RTI come into effect for tax year 2014/15. However, a change to the current legislation will ensure that penalties are incurred for each late payment relating to a tax year, rather than for each payment due during a tax year. This change will apply from the date of Royal Assent to FA 2013.

Penalties for inaccuracies: The provisions for inaccuracy penalties (FA 2007 Sch 24) are extended to inaccuracies in a PAYE or construction industry scheme return with effect in relation to any assessment of a penalty made on or after the date of Royal Assent to FA 2013.

Capital allowances

Annual investment allowance

Legislation introduced by FA 2013 will increase the annual investment allowance from £25,000 to £250,000 per annum for a two-year period commencing on 1 January 2013.

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 2 years to 31 March 2015 by FA 2013. FA 2015 will extend the 100% first-year capital allowances on gas refuelling equipment to 31 March 2018.

Low emissions cars

The 100% first-year capital allowances for low emissions cars will be extended for two years to 31 March 2015 by FA 2013, but cars acquired for leasing will no longer qualify. For expenditure after 31 March 2013, the qualifying thresholds which determine the rates of allowances will be reduced to 95g/km or less for first-year allowances, 96–130g/km for the 18% allowances, and over 130g/km for the 8% allowances. For leases commencing from 1 April 2013 (corporation tax) and 6 April 2013 (income tax), the 130g/km threshold also applies to the 15% lease rental restrictions. FA 2015 will extend the 100% first-year capital allowances on low emission cars to 31 March 2018, but will reduce the threshold to 75g/km.

First-year tax credits

Secondary legislation has been introduced to extend the availability of first-year tax credits to 31 March 2018.

Energy-saving and environmentally-beneficial technologies

The list of technologies that qualify for 100% energy-saving or environmentally-beneficial first-year allowances (FYAs) will be updated. The changes to the schemes will take effect from an appointed day, which will be announced prior to the summer 2013 parliamentary recess.

Personal taxation

Income tax basic personal allowance and basic rate limit

The personal allowance for those born after 5 April 1948 will be £9,440 for 2013/14 and £10,000 for 2014/15; thereafter it will rise in line with the consumer prices index. The basic rate limit for 2013/14 will be reduced to £32,010 and to £31,865 for 2014/15.

Budget reaction

Kirsty Garrison
Tax partner, Deloitte

Procurement rules: 'positive changes'

On Valentine's Day the chief secretary to the Treasury announced new rules that allow government departments to ban companies and individuals which take part in failed tax avoidance schemes from being awarded government contracts. We have sympathy with the broad objectives of the policy but the initial draft focused too much on the past and didn't encourage good compliance for the future.

We're delighted to see that the retrospection has been alleviated, in that firms will only be banned in respect of returns filed from 1 October 2012 and amended from 1 April 2013. There is still scope for past tax planning which has since been unwound to bar now-compliant firms from government contracts, if their tax affairs are under enquiry and not yet been settled – but given that the proposed changes to government procurement were first announced in September, firms have been on notice since then. And the position going forward is clear – avoid tax, and run the risk of losing public sector work.

The definition of non-compliance has been clarified, to the benefit of government procurers who have much greater certainty of what to look out for. Other positive changes are the move to only apply the new rules to contracts valued over £5m and confirmation that declarations will only be needed from the bidding entity itself – both changes remove burdensome administration, especially from small and medium enterprises, without watering down the policy objective of encouraging compliant behaviour.

Sandy Bhogal
Head of tax, Mayer Brown

Anti-avoidance: 'every step forward seems to coincide with a step back'

The government is trying to design a tax system which is attractive for business but the pressure to collect tax revenue is intense, so every step forward seems to coincide with a step back. A further drop in the corporation tax rate may fuel the argument that the UK is becoming a corporate tax haven, but one hopes that people will recognise the merits for doing so. However, a low tax rate does not of itself encourage businesses to invest in the UK. Certainty and predictability in the tax system is more important. The government has obscured the line between avoidance and evasion and brought questions of morality into the debate and risks alienating business as well as undermining the fundamental concept of the rule of law by allowing this to continue. A good example of this is the GAAR. It could be seen as either a reasonable compromise that will not affect the centre ground of tax planning, or as another example of using a sledgehammer to the crack the nut of a minority of aggressive tax avoidance schemes which are generally being knocked down by the courts and, if legislation was appropriately drafted, such schemes would not even be contemplated. However, what cannot be argued is the uncertainty that it creates, and maybe more consideration should have been given as to whether it was really necessary.

Cap on income tax reliefs

From 6 April 2013 a cap will operate on a number of reliefs that are set off against income. The most important of these are trade and property loss reliefs and qualifying loan interest relief. It will still be possible to carry forward unlimited losses against future trade profits. There are also exceptions for losses attributable to overlap relief and business premises renovation allowances. The cap will not apply to charitable reliefs. The cap is set at the greater of £50,000 or 25% of income (as adjusted).

Statutory residence test

A statutory test to determine UK residence status will operate from 6 April 2013. The test will contain three parts: an automatic overseas test, an automatic UK test and a sufficient ties test combining time spent in the UK with a person's ties to the UK.

Reforms to ordinary residence

The concept of ordinary residence is abolished from 6 April 2013. The effect of this is mitigated by retaining overseas workday relief (OWR) and putting it into statute, broadly replicating the current treatment under SP1/09. OWR will be available to non-domiciled individuals coming to the UK regardless of any intention to settle. It will be available for the tax year in which the individual becomes UK resident and the following two tax years. There will be transitional provisions to protect those currently benefiting from OWR who may otherwise lose out on the introduction of the statutory rules.

Non-domicile taxation

Rules relating to the remittance basis and exempt property will be amended to remove a potential tax charge where the property is lost, stolen or destroyed whilst in the UK and to remove a minor anomaly. The range of exempt property is also to be extended and the interaction of various time limits clarified. The changes will be effective on and after 6 April 2013.

Legislation is introduced to ensure that, under certain circumstances, money used to make payments on account will not result in income or gains being regarded as remitted to the UK.

Sports events

Sportspeople who are not resident in the UK will be exempt from UK income tax on any income received as a result of their performance at the 2013 London Anniversary Games or the 2014 Glasgow Commonwealth Games, or as a result of any activity carried out during a specified period where the main purpose is to support or promote the Games.

Life assurance: qualifying policies

FA 2013 will restrict tax relief for higher and additional rate taxpayers with gains on qualifying life assurance policies by providing for an annual premium limit for such policies of £3,600 from 6 April 2013. Transitional rules, restricting relief, will apply to policies issued between 21 March 2012 and 5 April 2013 inclusive. Regulations will require beneficial owners of new policies to sign a statutory declaration that they have not breached the annual premium limit, and will provide for reporting requirements for insurers.

Life assurance: time-apportioned reductions

ITTOIA 2005 s 528 provides that a chargeable event gain from a life assurance policy issued by a foreign insurer is reduced proportionately if the policyholder has been resident outside the UK at any time during the life of the policy. FA 2013 will extend time-apportioned reductions to life policies issued by UK insurers, and will amend the methodology used to calculate the reductions. The change will have effect on and after 6 April 2013.

Withdrawing a notice to file a self-assessment return

With effect from the date of Royal Assent to FA 2013, HMRC will have the statutory power to withdraw a notice to file a self-assessment tax return. This will apply to individuals, partnerships and trustees.

Universal credit

Universal credit will be exempt from income tax.

Personal and armed forces independence payments

From Royal Assent to FA 2013, the income tax exemption for employer-supported childcare for disabled children will be amended to include a reference to personal independence payment (PIP). From 1 April 2013, the definition of a disabled person for capital allowances purposes will be extended to include reference to recipients of PIP or armed forces independence payment (AFIP). From 1 April 2013, consequential amendments will be made to legislation on insurance premium tax, the reduced rate of VAT and the zero rate of VAT to include references to PIP and AFIP.

Savings and investments

Seed enterprise investment scheme

CGT reinvestment relief: A capital gains tax exemption is already available where:

- an individual realises a chargeable gain on a disposal at any time in 2012/13; and
- he is eligible for, and claims, SEIS income tax relief for 2012/13.

On a claim, so much of the acquisition cost of the SEIS shares as is specified in the claim and does not exceed the amount of the gain is set against the gain. To the extent that an amount is set against the gain, it ceases to be a chargeable gain. The total amount that can be set against gains cannot exceed £100,000.

The exemption is now being extended to cover gains realised in 2013/14 and SEIS shares acquired in that year or the following year. This time the amount that is treated as not being a chargeable gain is limited to half the gain otherwise chargeable.

Eligible companies: With effect in relation to shares issued to individuals on or after 6 April 2013 the SEIS legislation will be amended to ensure that companies cannot inadvertently be disqualified from being SEIS companies by virtue of having been established by corporate formation agents before being sold on to their ultimate owners.

Community investment tax relief

The rules governing tax relief on investments in community development finance institutions (CDFIs) are to be amended to allow the carry-forward of unused relief, as long as some part of the investment is retained within the CDFI. However, carry-forward will not be possible beyond the five-year investment period.

In addition, to comply with European state aid rules, company investment in CDFIs will be limited to the equivalent of €200,000 in any three-year period.

The above measures will be effective for all investments made by individuals from 6 April 2013 and by companies from 1 April 2013.

Offshore funds

The Offshore Funds (Tax) Regulations, SI 2009/3001, will be amended to clarify that, where a disposal of an interest in a fund would incur a charge to tax on an offshore income gain, the potential charge can not be avoided by any merger or reorganisation of the fund in which the interest is held. This takes effect from 20 March 2013.

Unauthorised unit trusts

FA 2013 will contain powers to make regulations introducing new rules for unauthorised unit trusts (UUTs) and their investors. This is to prevent UUTs being used for tax avoidance. The new rules will not fully apply until 2014/15 at the earliest.

Social investment tax relief

The government will consult on the introduction of a new tax relief to encourage investment in social enterprises, with a view to introducing legislation in FA 2014.

Pensions

Annual and lifetime allowances

For 2014/15 onwards the standard lifetime allowance is reduced to £1.25m and the annual allowance to £40,000. There will be a fixed protection regime to prevent retrospective tax charges arising as a result of the reduction in the lifetime allowance. The government will offer an individual protection regime in addition to fixed protection when the standard lifetime allowance is reduced.

Capped drawdown

Legislation will be introduced in FA 2013 to increase the maximum income which a drawdown pensioner with a capped drawdown pension fund can choose to receive. The maximum for a drawdown pension year will go up from 100% to 120% of the basis amount, for all drawdown pension years starting on or after 26 March 2013.

Family pension plans

From 6 April 2013 a payment by an employer into the registered pension scheme of an employee's spouse or family member will be subject to income tax and National Insurance contribution liabilities on the employee and employer respectively.

Abolition of contracting out (defined contribution schemes)

Tax provisions referring to contracting out through a defined contribution pension scheme are to be removed or amended following the abolition of contracting out through a defined contribution pension scheme from 6 April 2012 by Pensions Act 2007 and Pensions Act 2008. Some of these simplifying measures have effect from 6 April 2013, but others are deferred to 6 April 2015 or 6 April 2016 in order to allow for late payment of amounts due before abolition or adjustments to payments already made in respect of pre-abolition contributions. Consequential amendments affect the calculation of the upper limit on short service refund lump sums.

Bridging pensions

The maximum age at which a pension may reduce is to be increased from 65 to the state pension age, with effect in relation to bridging pension payments made on or after 6 April 2013. This simply accommodates the increase in state pension age.

Budget reaction

Patrick Harrison
Tax partner, PKF

SMEs among the main beneficiaries

The chancellor didn't have much room for manoeuvre in the Budget, but it's clear that he's tried to help SMEs with the initiatives that he's announced.

The reduction in employer national insurance contributions of up to £2,000 per business was one of the biggest surprises of the Budget. It remains to be seen if it's enough to encourage SMEs to take on additional staff, but it will certainly be welcome by the owners of smaller companies – particularly family owned businesses and one-man bands – in this tough economic climate.

However, the initiatives designed to improve the supply of funding to SMEs are likely to prove to be the most effective measures in the longer term. Extending the CGT exemption under the SEIS is a smart move at a time when many businesses are struggling to get hold of debt funding from traditional sources. We've started to see interest from clients wanting to take shareholdings in SMEs through tax-efficient schemes like SEIS, demonstrating that sensible tax incentives can help plug the funding gap provided the Treasury gets the balance right.

For more established SMEs, the abolition of stamp duty on AIM shares is something for which the Stock Exchange has long lobbied. Reducing the cost of capital in this way could provide a much-needed boost for businesses using markets like AIM to continue to expand.

That said, the chancellor's intention to launch a consultation on the (currently presumed) self-employed status of partners and the allocation of profits to partners is a potential concern for SMEs that operate as partnerships. Tax abuse needs to be tackled, but it's essential that the Treasury doesn't use a sledgehammer to crack a nut and inadvertently harm this important segment of the business community.

Neal Todd
Tax partner, Berwin Leighton Paisner

Banks 'once again singled out'

Financial institutions will no doubt be disappointed by the Budget. Not only have banks once again been singled out (with the Bank Levy being increased to offset the reduction in the corporation tax rate) but other measures also show that the government continues to penalise banks compared to other tax payers.

The government has once again changed its stance on the banking code of practice. There now seems to be a possibility of banks being named and shamed if they do not comply with the code. This seems to be a retrograde step given that this was a voluntary code that banks entered into some time ago.

On a more positive note, the introduction of the Business Bank and the extension of the funding for lending scheme will no doubt be welcomed by the banking sector. Nonetheless, given that the chancellor recognises the importance of lending to the economy, it is difficult to understand why the bank levy has been increased at the expense of providing much needed funds to business.

Overseas transfers of UK pension savings

The regime governing qualifying recognised overseas pension schemes (QROPS) is to be tightened by adding further circumstances that may lead to exclusion.

Inheritance tax

Nil-rate band

Legislation will be introduced in FA 2014 to extend the freeze on the IHT nil-rate band of £325,000 for a further 3 years from 2015/16 until 2017/18.

Limiting the deduction for liabilities

In response to known tax avoidance schemes and arrangements, changes will be made to the IHT rules that allow a deduction for liabilities owed by the deceased on death from the value of the estate. In some circumstances, the changes will bring in new conditions for the deduction to be allowable, or will restrict the deduction, so that no tax advantage results from the scheme or arrangements. This will have effect for deaths and chargeable transfers on or after the date of Royal Assent to FA 2013.

Spouses and civil partners domiciled overseas

For transfers of value made on or after 6 April 2013, the treatment of transfers between a UK domiciled individual and their non-UK domiciled spouse or civil partner will be reformed in two ways:

- the cap on the value of assets that can be transferred free of IHT will be increased to the level of the prevailing nil-rate band level; and
- under a new election regime, a non-UK domiciled individual who is married or in a civil partnership with a UK domiciled person will be able to elect to be treated as UK domiciled for IHT purposes.

OEICs and AUTs

With retrospective effect from 16 October 2002, the switching of UK assets from a trust settled by a non-UK domiciled individual to investments in open ended investment companies and authorised unit trusts is exempt from IHT charges.

Property taxation

High-value UK residential property held by certain non-natural persons

With effect from 1 April 2013 certain companies, collective investment schemes and partnerships with company members (termed 'non-natural persons' (NNP)) who own relevant residential property valued at over £2m on relevant dates will be liable to an annual tax on enveloped dwellings (ATED). The tax charge will be based on the band into which the property value falls and there will be a range of reliefs.

Returns will not be required until 1 October 2013 with payment required on or before 31 October 2013 for 2013/14, and on or before 30 April for each subsequent tax year.

The tax is being introduced as part of a package of measures to tackle tax avoidance involving the ownership of high-value property.

CGT (rather than corporation tax) will be chargeable at the rate of 28% in respect of gains accruing on the disposal of interests in high value residential property that are the subject of the ATED.

The charge will apply for disposals by both UK and non-UK resident NNPs on or after 6 April 2013. A form of rebasing will apply to ensure that pre-6 April 2013 gains remain outside the scope of the new CGT charge.

With effect from the date of Royal Assent to FA 2013, the SDLT payable by NNPs on the acquisition of a residential property will be subject to various reliefs.

Lease premium relief: duration of lease

For leases granted from 1 April 2013 for companies and from 6 April 2013 for individuals and partnerships, relief will no longer be available to a trader or intermediate landlord that pays a lease premium on a lease that is only deemed to be short because of the operation of Rule 1 in CTA 2009 s 243.

Trust taxation

Heritage Maintenance Funds

With retrospective effect for 2012/13 onwards, an amendment will be made to the capital gains tax gifts hold-over relief rules where property is gifted to a heritage maintenance fund (HMF). The amendment will allow the HMF to reimburse settlors for expenditure on repair and maintenance of the property without adverse tax consequences.

Anti-avoidance

General anti-abuse rule

Legislation will be introduced in FA 2013 whereby a general anti-abuse rule (GAAR) will provide for the counteraction of tax advantages arising from tax arrangements that are abusive. The GAAR will apply to income tax, NICs, corporation tax (including amounts treated as corporation tax), CGT, IHT, petroleum revenue tax and SDLT. It will also apply to the residential property tax due to be enacted with effect from 1 April 2013.

The measure will apply to abusive tax arrangements entered into on or after Royal Assent to FA 2013, but separate legislation will be introduced later to apply the GAAR to NICs.

Isle of Man, Guernsey, Jersey

To assist in identifying and tackling tax evasion, the Isle of Man, Guernsey and Jersey have agreed to enter into tax information exchange agreements with the UK that will significantly increase the amount of information automatically exchanged on potentially taxable income.

Income tax rules on interest

Disguised interest: New anti-avoidance legislation will replace current legislation on the disposal of futures and options, stock lending and sale and repurchase arrangements. It will apply to arrangements to which a person becomes party on or after 6 April 2013, and also to arrangements in place on that date to which the current provisions apply.

An income tax charge will arise on amounts that are 'economically equivalent to interest'. That is to say, it arises by reference to the time value of money, at a rate comparable to a commercial rate of interest, and is practically certain to be produced.

Deduction of income tax: Changes to the rules governing the deduction of income tax from payments of interest will ensure that:

- interest in respect of compensation payments will be subject to deduction at source;
- the location of the deed under which interest is paid has no bearing on whether the interest arises in the UK for the purposes of deduction at source; and
- a rule is introduced to value payments of interest in kind and to require the payer to issue a certificate.

The new rules will apply to payments of interest made on or after the date of Royal Assent to FA 2013.

Transfer of assets abroad

With retrospective effect from 6 April 2012 the transfer of assets abroad legislation will be amended to create a new exemption which operates where the EU Treaty freedoms of establishment and movement of capital are engaged and which focuses on whether the nature of transactions is genuine and whether they serve the purpose of the freedoms. The changes should exempt genuine commercial overseas business activities and other genuine transactions protected by the EU Single Market.

Attribution of gains from non-UK resident companies

The provisions attributing gains of non-resident closely controlled companies to certain UK participators will be modified so that gains will only be attributed to UK participators if their interest in the non-resident company is 25% or more. Gains from assets used for genuine business activity will, in certain circumstances, be excluded from the scope of charge. The legislation is expected to come into force on the date of Royal Assent to FA 2013, but with retrospective effect on and after 6 April 2012.

UK/Switzerland agreement: remittance basis

Changes are made to ensure that amounts received by HMRC under the agreement are not treated as taxable remittances where they are made by non-UK domiciled individuals resident in the UK who are taxed on the remittance basis.

Implementation of FATCA

Legislation introduced in the US in 2010 (the Foreign Account Tax Compliance Act (FATCA)), requires financial institutions outside the US to pass information about the accounts of US persons to the US tax administration (the Internal Revenue Service). Any financial institution that fails to comply with the US legislation is subject to a 30% US withholding tax on any US source income. However, current law does not allow UK financial institutions to pass FATCA information either directly to the US or to HMRC on a voluntary basis, nor does it enable HMRC to require it. With effect from the date of Royal Assent to FA 2013, UK financial institutions are able to comply with these obligations without breaching UK data protection law.

Data-gathering from merchant acquirers

With effect from Royal Assent to FA 2013, merchant acquirers and other businesses that process credit, debit and charge card transactions for retailers will be 'data-holders' for the purpose of FA 2011 Sch 23. This will allow HMRC to issue a notice to merchant acquirers requiring them to provide information regarding credit and debit card sales made by retailers, and the retailers' name, address, VAT number if available, and bank account details.

Budget reaction

Diarmuid MacDougall
Partner,
PwC

R&D 10% boost will get Britain back on track

Manufacturers and high technology industries are set to benefit from 10% funding by government of their research and development which could help Britain get back on track.

This is fantastic news for British business, especially those in high end technology sectors such as automotive, life sciences and aerospace. This credit, which will come into place on 1 April, will provide vital extra funding for businesses that may now be able to pursue projects that would otherwise have been abandoned.

It will make the cost of doing R&D in the UK lower, thereby making our R&D centres more globally competitive, which in turn should help us attract and secure vital skills. Additionally, smaller businesses (less than 500 employees) will for the first time get a payable credit on R&D for customers.

Many of these businesses face the risk that when they undertake R&D to develop a component for a customer, they may or may not recoup the cost when the item goes into larger scale production. Once in place, the payable credit will provide some protection against projects not reaching the production stage.

With interest rates remaining low, the US economy recovering, and continuing expansion in the fast growing economies of China and India, now is perhaps better than ever for British businesses to invest in the innovation that is needed to secure our future economic growth.

Bob Trunchion
Tax partner,
MHA MacIntyre Hudson

Change in the deductibility of debts for IHT purposes

Currently you would look at how a debt is secured for IHT purposes rather than the purpose for which the debt was used for working out a liability on death. For example: where a landowner or a small business owner buys a factory or additional tranche of land, currently they would look to secure the debt on an investment property or their house. The business property would attract BPR and the debt would reduce the value of their house for IHT purposes. From Royal Assent of the Finance Act 2013 (about 20 July 2013), the debt will now be deducted from the value of the business asset rather than the investment.

For example, a person buying a factory today for £400,000 with an investment property (worth £500,000), with no debt secured upon it, would look to secure the debt to buy the factory on the investment property. The debt is deducted for IHT purposes from the value of the investment property, which brings the value of that property to just £100,000 (i.e. £500,000–£400,000). However, the factory will attract business property relief at 100% so the net estate would be substantially reduced. But clearly this increases the risk if the business fails as the investment property will be lost. From Royal Assent, the tax advantage is lost – meaning that the business risk should now be the prime reason for securing the debt on the factory.

Deductions in computing trading and property income

For arrangements (or any transaction forming part of arrangements) entered into on or after 21 December 2012, amendments will be made to ensure that in certain circumstances existing rules prohibiting a deduction take precedence over those permitting a deduction. This will be the case for both income tax and corporation tax, and will apply where the deduction arises from tax avoidance arrangements. There will be an exception where the arrangements are (or the transaction is) pursuant to an unconditional obligation in a pre-21 December 2012 contract.

Disclosure of tax avoidance schemes

The DOTAS regime is to be extended to include two new information provisions:

- the client must provide the promoter with information that can be subsequently included on the promoter's client list; and
- HMRC will have the power to seek further information from a promoter where the client is an intermediary rather than the end user of the scheme.

The provisions will be implemented through secondary legislation and regulation-making powers will come into force on the date of Royal Assent to FA 2013.

Stamp taxes

SDLT avoidance: transfers of rights

Where a transfer of rights takes place on or after 21 March 2012, new measures put beyond doubt that SDLT avoidance schemes involving an onward sale which is not to be completed for a number of years are ineffective.

SDLT: leases simplification

From Royal Assent to FA 2013, the rules on abnormal rent increases will be abolished and there will be simplification of the reporting requirements where a lease continues after the expiry of its fixed term or an agreement for lease is substantially performed before the actual lease is granted.

SDLT: avoidance schemes

Retrospective legislation, with effect from 21 March 2012, will be introduced to close two specific SDLT avoidance schemes, which abuse the transfer of rights or subsale rules contained in FA 2003 s 45. The new legislation will provide that the original contract will not be disregarded where the notional secondary contract is substantially performed but not completed at the same time as the substantial performance or completion of the original contract; the purchaser under the original contract (or a person connected with him) is in possession of the land after that date, and the main purpose (or one of the main purposes) of the transfer of rights is the obtaining of a tax advantage by the purchaser under the original contract. The purchaser under the original contract is required to notify HMRC of any SDLT due by 30 September 2013.

SDLT: reform of transfer of rights rules

The government is to reform SDLT rules for 'transfers of rights' with effect from the date of Royal Assent to FA 2013.

Stamp tax on shares

The government intends to abolish stamp tax on shares in companies quoted on growth markets such as the alternative investment market and the ISDX growth market in FA 2014.

VAT

Registration thresholds

With effect from 1 April 2013, the VAT registration threshold will be increased from £77,000 to £79,000. The deregistration threshold will be increased from £75,000 to £77,000. The registration and deregistration thresholds for acquisitions from other EU member states will be increased from £77,000 to £79,000.

Energy-saving materials in charitable buildings

Legislation will be introduced in FA 2013 which will mean that, with effect from 1 August 2013, 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.

Changes to zero-rating of exports from the UK

The government will consult on secondary legislation on VAT zero-rating of certain supplies of goods for export outside the EU. These changes will treat sales to businesses who are VAT registered in the UK but have no business establishment here as zero-rated where they arrange for the export of the goods to a non-EU destination.

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 2013.

With effect from Royal Assent to FA 2013, deemed supplies of road fuel (i.e. in respect of private or non-business use) will be taxed according to the rules set out in VATA 1994 Sch 4. Valuation of the deemed supply by scale charge is to be retained as an optional method within VATA 1994 Sch 6; the scale charge table will be updated annually by HMRC.

Anti-forestalling arrangements apply from 11 December 2012, such that deemed supplies of fuel made between that date and the date of Royal Assent will be valued under the new arrangements to the extent that the actual use of the fuel is after the date of Royal Assent.

Changes to the place of supply rules

Currently, intra-EU business-to-consumer supplies of telecommunications, broadcasting and e-services are taxed in the member state in which the business is established. With effect from 1 January 2015, European legislation requires that these supplies be taxed in the member state in which the customer is located. To save the need for affected businesses to register for VAT in all member states in which they have customers, a 'mini one stop shop' system will be introduced from 1 January 2015. This will give businesses the option of registering in the UK only, and accounting for VAT due in other member states using a single return. The requisite legislation will be introduced in FA 2014.

Refunds made by manufacturers

FA 2014 will enable regulations to be made to allow manufacturers to reduce their VAT payments to take account of refunds they make directly to the final customer. The government will consult further to support the design of the legislation.

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 1 April 2013. This will apply where vehicles carry fewer than 10 people each, as transport in larger vehicles is zero-rated.

Supplies of research between eligible bodies

Subject to the responses to a consultation which closed on 14 March 2013, the government plans to introduce secondary legislation to withdraw, with effect from 1 August 2013, the exemption for supplies of research between eligible bodies (e.g. government departments and educational establishments).

Tax administration

Overpayment relief

Where tax has been levied contrary to EU law, overpayment relief will not be affected by any prevailing practice. The four-year time limit for claims to overpayment relief arising from a mistake in a return is amended to make clear that the four years run from the period to which the mistake relates. These changes will have effect for claims received on and after the end of the six-month period following the date of Royal Assent to FA 2013.

HMRC criminal investigations powers

When the Inland Revenue and HM Customs and Excise merged in 2005, legislation prevented the automatic transfer of powers from one regime to another.

Currently, therefore, some of HMRC's criminal asset recovery powers under the Proceeds of Crime Act 2002, in respect of former Inland Revenue functions, can only be exercised by the police on HMRC's behalf. With effect from the date of Royal Assent to FA 2013 HMRC officers will be able to use these powers.

Miscellaneous

Bank levy

The full bank levy rate is increased to 0.130% with effect from 1 January 2013, and will be increased to 0.142% with effect from 1 January 2014.

Patent royalties

With effect for payments made on or after 5 December 2012, general income tax relief is abolished for payments of patent royalties. This does not, however, affect relief for payments deductible against income from a particular source such as a trade or profession.

Fuel duty

The fuel duty increase of 3.02 pence per litre (ppl) that was due to come into effect on 1 January 2013 has been cancelled. The further increase of 1.89 ppl that was due to take effect from 1 April 2013 was initially deferred to 1 September 2013, and has subsequently also been cancelled.

Air passenger duty

Legislation will be introduced in FA 2014 to increase air passenger duty (APD) in line with inflation (based on the Retail Prices Index) from 1 April 2014. With effect from 1 April 2013, APD will be extended to smaller aircraft and business jets (5.7 tonnes threshold, compared to the current 10 tonnes threshold). At the same time, amendments to the Air Passenger Duty Regulations, SI 1994/1738, provide for a scheme under which an operator may account for and pay APD on an annual basis.

Budget reaction

Lynda Finan
Legal director, tax group, DLA Piper

Government to proceed with 'employee-shareholder' plans

Despite the less-than lukewarm response to its proposed new 'employee-shareholder' status (free shares in return for giving up certain employment rights), the government is proceeding with it, although implementation has now been deferred – it will apply to shares received on or after 1 September 2013. As anticipated, an income tax and NICs exemption will be available for the first £2,000 of shares awarded. Corporation tax relief will also be available for businesses, presumably limited to the first £2,000 of shares per employee.

In support of the objective of widening employee share ownership, a new CGT relief is to be introduced in 2014 for the sale of a controlling interest in a business into an employee ownership structure. This may facilitate the succession of some closely-held companies, though given it will only apply to controlling interests, is unlikely to attract many takers. A lower threshold would do more to achieve the government's objective. Other measures are promised, including a £50m annual budget in support. From April 2014, a new national insurance employment allowance of £2,000 will be available to all businesses and charities to set against their employer NICs bill. This will to remove one third of all employers from the obligation to pay employer NICs and encourage small business to create new jobs.

Yvette Nunn
President of the ATT

Welcome changes to SEIS

The extension for a further year of the CGT relief on gains reinvested into seed enterprise investment scheme (SEIS) qualifying shares (albeit at half the level for 2012/2013) will be welcome by new small companies looking for an injection of kick-start funds.

It is also good to see that the drafting error which denies SEIS relief where the investment is in a company that was formed by a corporate formation agent is being corrected for share issues from April 2013. The puzzle is why the error could not have been corrected when it came to light or indeed why the change could not now be backdated to April 2012. Some small companies have been denied access to vital funds in 2012/2013 because of the error.

Bill Dodwell
Head of tax policy, Deloitte

And finally …

Is Budget 2013 a social media story? Chancellor George Osborne arrived on Twitter with his first tweet and photograph at 8.08am on Budget Day. His second tweet explained that he wouldn't be tweeting during the speech itself, which no doubt was a good plan. Tweets about the UK Budget averaged 6,000 per hour on Budget Day – but hit 60,000 during the hour Mr Osborne spoke.