



Talking Tax

Delivering wealth management solutions to personal and corporate clients

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Kick starting the economy

In his pre-Budget Report, the Chancellor, Alistair Darling cut VAT from 17.5% to 15% as part of a £20bn package aimed at kick starting the UK economy. But a new 45% income tax rate for earnings over £150,000, and across the board increases in national insurance rates, will help pay for it. Duties on alcohol, tobacco and petrol will rise so that their prices remain at their current levels.

VAT

As widely forecast, the standard rate of VAT will decrease on 1 December by 2.5% to 15%. The change will last for 13 months. So the standard rate will, therefore, revert to 17.5% on 1 January 2010. HM Revenue & Customs will introduce 'anti-forestalling' legislation to prevent businesses using artificial arrangements to obtain a lower VAT cost on supplies that will take place after the standard rate reverts to 17.5% on 1 January 2010.

Income tax

Two significant changes to the income tax regime were announced. In 2011/12, income (except dividends) over £150,000 will be taxed at 45%. The discretionary trust rate will also increase to 45% (except dividends). Changes were also made to the personal allowance regime, which come into effect from 2010/11. For high earners with gross income, after deduction of trading losses, between £100,000-£140,000, the personal allowance will reduce by up to half. For example, if in 2010/11, the personal allowance is £6,800, gross income of £106,800 - £140,000 will reduce the personal allowance to £3,400. And, for those with gross income above £140,000, the personal allowance is lost completely.

Increase in NIC percentages

The Chancellor announced the first increase in the NIC percentages in five and a half years. The 0.5% increase will apply for employees, employers and the self employed from April 2011. It will cost employees an extra £440 million and employers £2 billion. The lower threshold at which NIC becomes payable will also be realigned with the income tax basic personal allowance from 2011/12, which will somewhat offset these increases.

Extension of trading loss carry back

An unexpected and welcome announcement was a temporary extension of the provisions which allow trading losses to be carried back. Companies can currently carry back trading losses for one year. However, for accounting periods ending between 24 November 2008 and 23 November 2009, it will also be possible to carry back up to £50,000 of trading losses for a further two years. Relief for trading losses

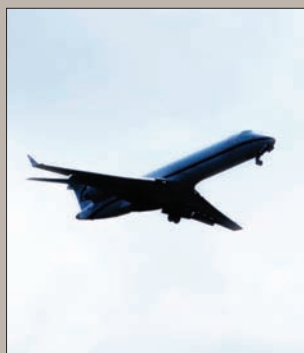
incurred by unincorporated businesses for the tax year 2008/09 will also be extended in a similar manner. Loss-making businesses should ensure they finalise their accounts and submit their tax computations as soon as possible after the year end to obtain repayments due on a timely basis. In addition, consideration should be given to whether a change in accounting date might increase the relief available.

Small companies rate of corporate tax

Another heavily trailed measure was the postponement for one year of the increase in the small companies rate of corporation tax. This will remain at 21%, increasing to 22% from 1 April 2010. Where possible, companies that enjoy the benefit of the small companies rate should consider accelerating revenue and deferring expenditure so as to benefit from the postponement.

Other business tax changes

- Amendments to the foreign dividend rules (see page 2).
- The capital allowance regime on cars costing over £12,000 will be based on the CO₂ emissions of the car from April 2009.
- A defect in the loan relationship rules which apply to companies is to be corrected.
- The rules on the timing of relief for interest paid to overseas group companies are to be changed.
- Anti-avoidance provisions relating to plant and machinery leasing and the sale of companies leasing plant and machinery are introduced.
- A defect in the regulations that deal with the taxation consequences of a change of accounting practice with regard to financial instruments is to be corrected.
- Claims for equalisation relief by corporate members of the Lloyd's insurance market may be made.
- Measures regarding the taxation of gains, stamp duty and stamp duty reserve tax in connection with certain stock lending arrangements are introduced.



Air passenger duty

Air passenger duty will be increased substantially from 1 November 2009 by reference to four geographical bands, based on the distance from London.

The tax on short haul economy flights to Europe will go up by 10% in 2009/10 and 20% in 2010/11, increases of £1 and £2 respectively. Long haul flights to more exotic locations will increase by between 25% and 112% of current rates, for example the biggest economy class fare increase will be from the current level of £40 to £85 in 2010/11, while long haul business and first class fares will increase from £80 to £170. These changes will apply to any flight, which departs on or after 1 November 2009, irrespective of whether the flight was booked or paid for before that date.

Air passenger duty is paid by airlines on passengers travelling. While it is the airline's choice to pass on this cost to its customers, these significant increases may be difficult for the airlines to absorb in the present financial climate.

Pre-Budget Report

Taxation of foreign profits

Recent proposals to reform the taxation of foreign profits have been controversial and created considerable uncertainty, contributing to the decision by a number of FTSE companies to relocate their headquarters to countries such as the Republic of Ireland and Luxembourg.

Large and medium-sized groups will strongly welcome the announcement that foreign dividends received on ordinary shares and most non-ordinary shares will be exempt from UK tax. However, this exemption will be balanced by a targeted anti-avoidance rule and, more significantly, a cap on interest deductions by UK members of a multinational group by reference to the group's consolidated net external finance costs. The rules which deny relief for interest incurred for unallowable purposes will also be extended and consequential changes will be made to the rules on Controlled Foreign Companies.

Draft legislation will be published later this year for consultation, with a view to including these reforms in the 2009 Finance Bill. Consideration should be given to:

- deferring the repatriation of profits from subsidiaries in lower-taxed jurisdictions; and
- reorganising group financing arrangements.

Representations should also be made on publication of the draft legislation including its extension to small groups.

The government has deferred a decision on the controversial aspects of further reforms to the controlled foreign companies' rules and consultation will continue through 2009.



One further change is the abolition of the requirements to obtain consent from the Treasury in advance of the issue of shares by an overseas subsidiary or a change in control of such a subsidiary. This is one of the few provisions of the Taxes Acts breach of which is a criminal offence. These rules and the notification requirements will be repealed and replaced by a quarterly reporting requirement for high-risk transactions with a de minimis limit of £100 million.

Lifetime and annual allowances

Tax-relieved saving in a registered pension scheme is subject to an overall limit called the lifetime allowance (LTA). This was set at £1.5m when it was introduced in April 2006 and will rise to £1.8m in 2010/11. The annual contribution limit on which tax relief can be claimed is called the annual allowance (AA). This was set at £215,000 when introduced in April 2006 and will rise to £255,000 in 2010/11.

However, the government has decided to freeze both of these limits from April 2011 and will hold them constant for the next five years i.e. up to and including the tax year 2015/16. Given that, in the first five years, the annual increases averaged 3.75% for the LTA and 3.47% for the AA, this will not only reduce the contribution relievable against income tax in real terms, but will also increase the potential for an individual's pension plan to become liable to the 55% surplus tax for those who do not have existing transitional protection in place. It will also make planning to maximise the available LTA more difficult since any investment that produced a positive return of any kind would be subject to a 55% tax charge when benefits were taken.



From a planning perspective, individuals who were at, or approaching, the LTA limit in 2010/11 may find it more tax-efficient to start taking pension benefits from their pension plans in the form of an income to reduce the fund value rather than defer benefits in the knowledge that any increase in value would be taxed at 55%.

VAT penalty alert

Buying a business? Make sure you know what to do to keep the VAT side simple.

The current 15% misdeclaration penalty will be replaced with a tiered penalty structure relating to the filer's actions. This will apply to VAT returns for periods starting on or after 1 April 2008 with a filing date on or after 1 April 2009.

Under the new regime, there will be no penalty for an error on a VAT return where reasonable care has been taken. However, penalties can be charged as follows:

- 30% for careless errors;
- 70% for deliberate errors which are not concealed;
- 100% for deliberate errors with concealment.

Given that there are no useful definitions of what constitutes 'reasonable care' or 'carelessness', appeal cases seem likely before the practical working of the regime is fully understood.

Where an unprompted disclosure is made to HMRC, the above penalties can be reduced to zero, 20% and 30% respectively. Following a prompted disclosure, perhaps in anticipation of a VAT inspection, the standard penalties may be halved to 15%, 35% and 50% respectively.

These reduced penalties are welcome, although the approach is not as certain or generous as under the current regime, where voluntary disclosure is usually



guaranteed to result in no penalty being imposed. HMRC does, however, have the power to issue a suspended penalty (for a period of up to two years) to encourage improved compliance.

Note that the rules for voluntary disclosures have already changed. Previously only errors with a net VAT value less than £2,000 could be adjusted for on the next VAT return. This limit has been raised to £10,000 or, if higher, 1% of the turnover shown on the VAT return, up to a maximum of £50,000. This is a welcome change, although a penalty of the 'prompted' disclosure type could still be imposed. Businesses may therefore still decide to make a full written disclosure in order to qualify for the lower, 'unprompted' penalty class.



Tax dates

30 December

Deadline for self-assessment filing online if any underpayment (of up to £2,000) is to be coded out rather than paid direct on 31 January.

31 December

Filing deadline for corporation tax return CT600 for accounting period ended on the previous 31 December.

31 January

The last date by which 2007/08 tax returns must be filed with HMRC.

Payment date for balance of any tax due for 2007/08 and first payment on account for 2008/09.

Automatic penalty of £100 for late returns (where relevant tax has not been paid).

2 February

P46 (CAR) Quarterly filing date for notification of change of company car.

28 February

Self assessment. 5% surcharge on 2007/08 tax due 31 January but still not paid.

News

Home office expenses

[If you are seeking tax relief for home office expenses, why not consider a new approach?](#)

There are strict rules governing the tax relief that can be claimed by individual directors/employees for expenses incurred using a home office. Such expenses that directors/employees charge to the company can be subject to income tax and NI under PAYE.

A potentially attractive approach is for directors/employees to charge their company rent for the use of the home. This changes the nature of the income they receive from employment income to property income and as the rules for deductibility of expenses become less stringent, it increases the range of home expenses that can be relieved for tax.

VAT for housebuilders

[Housebuilders struggling to sell properties should be alert to VAT issues.](#)

One alternative to the sale of the freehold or major interest is to offer a short lease. However, this creates an exempt supply and means that input VAT incurred on construction cannot be recovered.

HMRC is aware of the potential problem and has issued some helpful and detailed guidance, including a couple of concessions designed to assist housebuilders. For example, one concession relates to the calculation of how much irrecoverable VAT may be involved. Anyone affected should contact their Moore Stephens adviser.

Corporation tax filing deadlines

[Changes to deadlines means there's no need to delay filing corporation tax returns.](#)

For corporation tax periods ending after 31 March 2008, HMRC's 12 month enquiry window will now commence from the date of delivery of the return, not the statutory due date for companies and groups that are 'small'. This means that companies that send in their returns early will now obtain certainty of their tax position sooner.

Consequently, there is no longer any reason to delay filing corporation tax returns and computations until the last moment. HMRC has said that they will try to encourage large companies and groups to do likewise by entering informal agreements that mirror these rules, although how this will work in practice remains to be seen.

Who to contact

For more information, contact your usual Moore Stephens partner, or log on to www.moorestephens.co.uk

Profile: Ruth Marron-O'Neill



Qualified solicitor Ruth Marron-O'Neill, head of Snow Hill Legal, is passionate about her work and the peace of mind that she and her colleagues can provide.

Snow Hill Legal is a specialist legal division of Moore Stephens. Set up 2001, it supports the firm's Private Client Services department and provides a one-stop-shop so that clients can address their inheritance

tax, wills and estate planning needs.

"We are a young and enthusiastic team," says Ruth, who works alongside fellow solicitors Joanne Morgan and Claire Trotel. "We understand that private client work must be handled sensitively, as we are helping clients to think about and address very personal matters. We always aim to provide advice that is clear to understand, so that clients can feel confident about making informed decisions."

Providing an efficient service is also a priority. "We are focused on getting the job done," Ruth explains. "We are really keen to help people get peace of mind."

Work related to lifetime planning takes up much of the team's time. "I specialise in inheritance tax, estate

planning and will drafting for UK and non-UK domiciled high net worth individuals," Ruth says. She is worried that many people still die intestate. "Around 68% of people don't have wills," she says. "That figure needs to come down. From our post-death estate administration work, it's clear that where problems arise, it's usually with the estates where there are no wills or where they aren't up to date. It's important that people ensure their wills reflect their current intentions, their current financial and personal circumstances and the relevant tax laws."

Snow Hill Legal has extensive experience of estate administration, dealing with estates with UK and overseas aspects. Increasingly, the Snow Hill Legal team are called on to advise where there is concern about the administration of estates by other professionals or executors. "A growing area of work for us has been advising disgruntled beneficiaries," Ruth comments. "It may be that they haven't heard anything from the solicitor for months, or that they have had to pay another lot of inheritance tax that doesn't seem right. In such cases we will look at how the estate administration is being handled and do our best to help sort things out."

Discretionary talk

It's just over a year since the inheritance rules changed to help married couples and civil partners. But further steps can still be taken to protect family wealth.

How did the inheritance tax (IHT) rules change?

The unused proportion of the deceased spouse's or civil partner's nil rate band can now be transferred for the benefit of the estate of the second spouse or civil partner. This applies where one of the couple died on or after 9 October 2007.

What's the tax impact?

If, for example, the husband dies leaving everything to his wife, on her death her estate benefits from both her nil rate band and an additional 100% of the nil rate band attributable to her late husband. The current nil rate band is £312,000 so if the wife dies in the current tax year, £624,000 of assets are protected from IHT. At an IHT rate of 40%, this is a tax saving of £124,800, which would not have automatically been available under the old rules.

Does this mean nil rate band discretionary trusts in wills are redundant?

Not necessarily. Many couples have provided for such trusts – where the value of the nil rate band is left to

a discretionary trust for the benefit of family members – in their wills. Such wills do not have to be changed and there may be good non tax reasons to set up and run the trust following the death of the first spouse. For example, if the surviving spouse remarries, the trust protects the inheritance of any children from the first marriage. The trust also protects the family wealth from care home fees.

My spouse has predeceased me. What should I do to protect my estate?

Firstly, make sure you keep safe all relevant documentation, including your marriage certificate, your late spouse's or civil partner's death certificate, a copy of their will and Grant of Probate and any deed of variation. Secondly, please take advice to ensure you consider all your options.

We believe the information in Talking Tax to be correct at the time of going to press, but we cannot accept any responsibility for any loss occasioned to any person as a result of action or refraining from action as a result of any item herein.

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