



Tolley Tax Update:
Finance Bill 2012

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Finance Bill 2012

Following the Autumn Statement all eyes were focused on the Finance Bill 2012. For the second time in history the Government has issued draft legislation for the following years' Finance Act. The aim for David Gauke being to "set out proposals for a more predictable and stable tax system, and a new policy cycle that allows proper time for scrutiny".

The story of this Finance Bill is an update on the prior years' consultations, of which there have been many. Some of the key ones include the following:

- Statutory definition of residence
- The reform of taxation for non domiciled individuals
- Pooling of capital allowances for fixtures and fittings
- The introduction of a patent box regime
- Controlled Foreign Companies

These are just a few of the many consultations that the Government have looked at in the past year. For many tax professionals it came as a surprise that the new statutory residence test will not be applicable for 2012/2013, although it does seem a case of 'when', rather than 'if' it will be introduced. In this summary we try to outline the main changes outlined in Finance Bill 2012 and give an indication of the impacts that these will have upon clients.

Are you resident, clearly or otherwise?

The headline that many people were waiting for, both inside and outside of the tax profession was delayed further, with the Government proposing further consultation with the aim of being legislated in Finance Bill 2013.

With the aim of the legislation being to provide more certainty allowing for those with complicated affairs to quickly and easily determine whether or not they are resident in the UK, many advisers will welcome the introduction of such a test. This should help to reduce the cost of determining tax residence, whilst not affecting most people in the UK who are either clearly resident or clearly non-resident.

The impact of this is that for clients who are already counting the number of days they spend in the UK, they will have to maintain this for an additional 12 months until the statutory residence test has been included in Finance Bill 2013.

Non domiciled individuals – an incentive to change?

The Finance Bill 2012 will have several key impacts upon the taxation of non UK domiciled individuals:

- 1) Individuals who have been resident in the UK for 7 of the past 9 tax years will have the choice of whether to pay a £30,000 remittance basis charge, or be taxed on their worldwide income
- 2) Individuals who have been resident in the UK for 12 of the past 14 tax years will have the choice of whether to pay a £50,000 remittance basis charge, or be taxed on their worldwide income
- 3) From 6th April 2012, non domiciled individuals will be able to remit income to the UK free of tax where the purpose is to invest in unlisted companies, carrying out a trading activity or developing or letting commercial property
- 4) Simplification of the rules concerning the treatment of nominated income for the remittance basis charge

The changes may go some way to encouraging non domiciled individuals to invest more in UK businesses; however the increase in the remittance basis charge for long term UK resident non doms may prove unpopular with many.

For many the impact of these changes will be that they or their tax adviser will need to calculate what their income tax and capital gains tax position would be depending on whether or not they paid the RBC or had their worldwide income taxed in the UK. This could mean further costs of compliance and lead to uncertainty around the amount of tax payable and when.

Foreign currency bank accounts

From 6th April 2012 where capital gains are made on the withdrawal of money in foreign currency bank accounts held by individuals, trustees and personal representatives of the deceased, these gains will be exempt from CGT. Similarly any capital losses made will not be allowable losses.

60% tax rate, here to stay...

Finance Bill 2012 saw no changes to the additional rate of income tax, payable by those individuals with taxable income above £150,000. It is expected that further announcements will be made surrounding the top rate of income tax once the treasury has measured the impact that has been made to the economy; this is expected to be in early 2012.

The personal allowance has been extended beyond the inflationary increase that was due for the year; however the basic rate band has been cut correspondingly to ensure that the threshold for becoming a higher rate tax payer does not change. See the example below for how this will save £126 in income tax for those continuing to earn £42,475.

	2012/2013	2011/2012
Income	£42,475	£42,475
Personal Allowance	(£8,105)	(£7,475)
Taxable	£34,370	£35,000
Tax payable at 20%	£6,874	£7,000

Gifts of pre-eminent objects to the nation

The measures outlined will provide a tax reduction of 30% for individuals and 20% for companies where a gift of pre-eminent objects is made to the nation. The amount of the tax reduction available will need to be agreed with a panel of experts who will consider the amount of value placed on the items by the self assessed valuation. They will then provide a valuation of the items and the individual/company concerned will decide whether or not to proceed. Individuals will be able to spread the tax reduction across a period of up to 5 years starting with the tax year in which the object is offered. These measures are expected to take effect from the day after the Finance Bill 2012 receives Royal Assent.

EIS and VCT thresholds to increase

The measures outlined will increase the threshold for EIS tax relief so that the maximum amount that can be invested by an individual in a tax year will rise to £1 million and will apply to the tax year 2012-2013, for which State Aid Approval has already been received.

The thresholds for the size of company that will qualify will also rise as follows from 6th April 2012, subject to State Aid approval:

- Employee limit will rise from 50 employees to 250
- The threshold of gross assets before investment will be increased from £7 million to £15 million, and from £8 million to £16 million after share issue
- The maximum annual amount that can be invested in the company annually will be set at £10 million

The impact of these changes is that an additional number of companies will now qualify as EIS and VCT companies. This means that for investors, there will be a greater range of investment opportunities with more established businesses qualifying.

Seed Enterprise Investment Scheme

This new tax advantaged form of venture capital scheme was announced at the Autumn Statement 2011; it will be focused on smaller, start up companies and will provide a form of relief similar to the EIS Scheme. This scheme will make tax relief available to investors who subscribe for shares and have less than a 30% stake in the company.

The main points to note are as follows:

- The type of company this applies to is one that has less than 25 employees with assets of up to £200,000 who are preparing to carry on new business
- This will apply to the subscription of shares, using the same definition of EIS Shares
- The annual amount allowed for relief each year for an individual investor is £100,000
- There will be an exemption from CGT for capital gains made on shares within the scope of the SEIS regime
- There will be an exemption for gains realised on disposals of assets in 2012/2013 where the gains are reinvested through the new SEIS in the same year
- The individual investor will be given 50% income tax relief for the investment made and this will also be available for directors who invest in their company, provided they hold less than 30% of the shares

The impact of these changes is that an individual investor may be able to obtain up to 78% tax relief from income tax and capital gains tax. If the shares also qualifying for Business Property Relief the tax saving afforded could be even greater still. However, investors may find it difficult to find companies in which they can invest to obtain maximum relief which also provide a commercial return on investment.

Do you drive an armoured car?

Amendments to the taxation of company cars will be introduced to reflect the fact that some company cars are above the old £80,000 cap on price for benefits in kind because of security reasons. The changes will include certain improvements to a car for security reasons as an "excluded accessory", these will include the following:

- Armour designed to protect the car from explosions or gunfire
- Bullet resistant glass
- Modifications to the fuel tank for security reasons
- Other modifications for the purposes of enhanced security

This will come as a welcome relief for those afforded the luxury of a company car that provides them with additional security that is required because of the nature of employment they hold.

Champions League 2013

The Government have announced that there will be an exemption from UK taxation for the non-resident footballers and officials for the money that they earn in relation to the Champions League Final to be held at Wembley in 2013. UK-residents involved in the final will be unaffected by this legislation.

Corporation Tax

The Government has made clear that they want to make the UK the “most competitive corporate tax system in the G20”, so how do our rates of taxation compare to other countries in the EU for 2011?

- UK – From 20% to main rate of 26% on profits above £1,500,000
- Germany - 15% plus a surcharge of 5.5% of corporation tax
- France – 15% for SME’s (first 38,120 Euros) with a main rate of 33.33% following that
- Italy – 27.5% for companies with turnover below 25 million Euros and 34% above this
- Spain – 25% on first 300,000 Euros for companies with turnover below 10 million Euros, the main rate being 25%
- Belgium – Main rate of 33% increased by 3% surcharge with a variety of rates for smaller companies from 24.5% to 35.54%
- Netherlands – 20% for profits below 200,000 Euros, 25% for profits above 200,000 Euros

It seems clear that the main rates of corporation tax for the UK are going in the right direction to make our tax system more competitive, although the size and breadth of the legislation enacted in the UK would appear to offset the reductions in the main rate of tax.

For companies with annual profits less than £300,000 they benefit from a small companies rate of corporation tax of just 20% an attractive reason to start a business in the UK. This is in addition to the reduction in the main rate of corporation tax to just 24% from April 2013.

Controlled Foreign Companies

The much awaited draft legislation on controlled foreign companies (CFC) has been released, showing the Government’s intentions going forwards for this complicated area of taxation. The consultation period for this area of tax reform ended on 22nd September 2011 and the main changes that the Government have announced are as follows:

- The profits of a foreign subsidiary will be outside the scope of the new CFC regime unless they meet the specified conditions in a “gateway” test
- The gateway conditions will define which profits have been artificially diverted from the UK
- Foreign subsidiaries will be able to rely upon “safe harbours” to show that either some, or all of its profits are outside the scope of the new CFC regime
- Safe harbours will include conditions covering commercial business, incidental finance and other sector specific rules
- The new regime will also provide specific exemptions for CFCs and have two main applications for excluded territories and a low profits exemption

The Government have estimated that the tax cost in making these changes will be reflected by a £100 million reduction in receipts per annum. The changes outlined have been made to “make the rules simpler to apply, exempting genuine foreign profits whilst better targeting artificially diverted UK profits”. Although the measures included are likely to be included in the Finance Bill 2012, the effect of this upon companies is only likely to apply after the Finance Bill 2012 has received Royal Assent, however further consultation on this is still due.

Worldwide Debt Cap

As part of Finance Bill 2012, several changes have been announced which will affect the Worldwide Debt Cap. These changes will have effect for companies with accounting periods ending on or after the date that the Finance Bill 2012 receives Royal Assent.

The main changes announced are as follows:

- 1) There will be an opt out of the de-minimis limits of the net financing deduction and net financing income amounts
- 2) There will be changes to the way the following are dealt with:
 - Mergers, acquisitions and de-mergers of groups
 - Dormant companies and the elections for companies to be treated as 'authorised dormant companies'
 - An anti avoidance provision will be introduced and the power to make regulations to deal with the proposed changes in accounting standards for consolidated company accounts
- 3) The Government also expects to make changes to the rules concerning mismatches from loans to a partnership and asset backed pension contributions

Patent Box

The Government have announced that from 1st April 2013, companies with qualifying Intellectual Property (IP) Patents will be able to elect to apply a 10% rate of corporation tax. The aim of this policy is to "provide an additional incentive for companies to retain and commercialise existing patents and to develop new innovative patented products". The guidance published sets out a structure for calculating the profits attributable to qualifying IP. Qualifying IP will include patents granted by the UK Intellectual Property Office and the European Patent Office. It is also planned for a Targeted Anti Avoidance Rule (TAAR) to be introduced, which will provide comprehensive guidance on this area of taxation, which is likely to be published in summer 2012. The consultation on the Patent Box regime is planned to end on 10th February 2012.

Research and Development

The Finance Bill 2012 clearly sets out the Government's intentions to get the UK creating more innovation and drive research by increasing the amount of reliefs available. The main changes to the R&D regime are listed below and will have effect from 1st April 2012:

- Clarification will be provided on when a company is to be regarded as a "going concern", meaning that where a company is either in administration or part of liquidation proceedings R&D relief will not be available
- SME's – The additional deduction available will be increased from 100% to 125%, giving a total deduction of 225% of the actual costs incurred
- Loss making SME's – the rate payable for surrendered losses will be reduced to 11% of the loss
- The rule restricting the R&D claim made to the company's PAYE/NIC liability will be removed
- For both SME's and large companies the minimum expenditure requirement of £10,000 per annum will be removed and the definition of an externally provided worker will be widened to increase the scope for this element of the relief

With such a great opportunity to help clients reduce their tax bill and even improve their cash flow by surrendering R&D losses; this is an area that tax advisers can really take advantage of to help their clients in the coming financial year. Further consultation on this is planned as part of the 2012 Budget and the changes are expected to be introduced in April 2013.

Capital Allowances on Feed-in Tariffs

From 1st April 2012 for companies and 6th April 2012 for individuals, there will be a change to the capital allowances regime for items of plant and machinery that attract a Feed in Tariff (FIT) or tariffs under the Renewable Heat Incentive (RHI). The changes to the capital allowances regime will apply from April 2014 where the expenditure is in respect of combined heat and power equipment.

Finance Bill 2012 will introduce legislation that means expenditure on solar panels will be treated as special rate expenditure from April 2012; however AIA will still be available for these amounts. Enhanced Capital Allowances will no longer be available where the plant or machinery generates electricity or heat that attracts payments under the FITs or RHI schemes. Where an ECA is provided, it will be withdrawn if the plant or machinery subsequently receives a payment under either tariff subsequently.

Fixtures

The Government has proposed several key changes to the way that a purchaser of a building can claim capital allowances on fixtures. These will have effect from 1st April 2012 for companies and from 6th April 2012 for individuals. These changes will mean that the ability to claim allowances will depend on:

- 1) The previous expenditure on qualifying fixtures being pooled before a subsequent transfer to another person and
- 2) The seller and purchaser fixing their agreement of the value of the fixtures to be transferred, this need to be done within two years of the transfer or
- 3) The past owner provides a written statement of the amount of the disposal value of the fixtures which he had been required to bring into account at some earlier time; he must do this within two years of the transfer of the property

The purchaser and seller can currently agree to fix a price either by jointly electing for any part of the sale price to be attributed to fixtures, or if the two parties can't agree on the value attributed either of the parties will be able to refer the matter to a First Tier Tribunal for an independent determination. The impact of these changes is that it will now be even more important to consider the capital allowances position when the building is being sold, preferably with the individual/company seeking tax advice in advance of the transaction.

ESC C16

Legislation is going to be introduced to give statutory effect to ESC C16, the reason being that the Government wishes to reduce the uncertainty faced by shareholders when having their company struck off. The operative date that has been proposed by the Government for this is 1st March 2012. The legislation is to propose that where a distribution is made by a company prior to its dissolution then it will not be treated as a distribution for the purposes of the Corporation Taxes Act, so long as the total distributions do not exceed £25,000. The order will also amend TCGA 1992 to treat this type of distribution as a capital distribution.

Extra statutory concessions

A list of ESCs that the Government is proposing to withdraw has been published and a response from those affected has been called for by 30th November 2012. It has been stated that the withdrawal of these concessions is planned from 2013/2014, allowing for at the very least a full years notice. It has also been stated very clearly, that no ESC will be removed retrospectively. The concessions which are being consulted upon are as follows:

- A12: Double taxation relief: alimony etc under United Kingdom court order: payer resident abroad
- B1: Machinery or plant: changes from 'renewals' basis to capital allowances basis
- B49: Section 532 CAA 2011: Grants repaid
- EIM23470: Company cars for disabled without blue badges
- Filing extension for P11D(b)

If you have clients who may be affected by these proposals you should contact Emma Cartledge at HMRC Central Policy before the closing date for comments.

VAT – Low Value Consignment Relief

It has been recently been publicised that Low Value Consignment Relief (LVCR) has been reduced from £18 to £15 from 1st November 2011, from 1st April 2012 the relief will be withdrawn completely for goods imported from the Channel Islands. This means that between 1st November 2011 and 1st April 2012, the new reduced rate of LVCR will apply to goods imported from the Channel Islands. The measures have been introduced to ensure that UK businesses are able to compete on a level playing field.

VAT on road vehicles brought into the UK

As part of the initiative between HMRC and the DVLA, 2013 will see the need for drivers bringing a new or used road vehicle, for use in the UK on UK roads to notify HMRC of the arrival within 14 days. This will also need to be done before the vehicle is registered with the DVLA. For individuals or non VAT registered businesses any VAT due must be paid at the time of notification. It will not be possible to licence and register the vehicle until HMRC has been notified and the VAT paid.

There will be several exceptions to the notification procedure including:

- Visitors bringing their vehicles into the UK temporarily
- UK residents returning from a holiday with their road vehicle
- Private importers
- Vehicles brought into the UK under secure schemes approved by the DVLA

With these changes to the rules many clients may be caught unaware and find themselves paying additional VAT that they have not budgeted for.

VAT – Removal of the threshold for Non UK Established Businesses

With effect from 1st December 2012 the threshold for VAT registration for non UK established businesses will be removed entirely where they are making taxable supplies in the UK. The Government have announced that a new schedule 1A will be created and existing schedules will be amended where appropriate.

Lost reliefs

The OTS has announced a number of tax reliefs to be abolished from April 2012, with the key ones being:

- Class 1 NIC Exemption for certain apprentices and students coming to the UK
- Class 1A NICs exemption for prescribed general earnings
- Certain payments made to mariners to be disregarded for Class 1 NICs

The Government have also confirmed that the following reliefs announced to be abolished from April 2013 will go ahead as planned:

- Cycle to work days: provision of meals
- Luncheon vouchers: exemption from Class 1 Nics
- Mineral royalties
- Disadvantaged areas relief for SDLT
- Capital allowances: safety at sports grounds
- Capital allowances: flat conversion allowances
- Grants for giving up agricultural land

Following consultation HMRC have decided “for exceptional reasons”, not to abolish the following reliefs:

- Late night taxis
- Land remediation relief
- Compensation for mis-sold pensions
- Class 1 NICs exemption for payments as a reward for assistance with lost or stolen credit cards

Do you do digital?

Whilst the majority of people within the UK tax system will be comfortable using online channels it has become increasingly clear the focus of HM Revenue and Customs will be in taking most processing and compliance functions online. It is therefore increasingly important for tax practitioners to ensure that they have both safe and efficient internet access and facility to make submissions of returns of a variety of types online.

What's next?

So now that we've had the Autumn Statement and draft clauses for the Finance Bill 2012 announced, the next step will be further consultations on the items announced ending on Friday 10th February 2012. Following that the Budget for 2012 will be announced, outlining the exact details of the tax changes to be introduced. As David Gauke said in September “The Governments approach to tax policy making puts consultation on policy and scrutiny of the legislation as the cornerstones”. With so much happening the key challenge will be to maintain an awareness of the changes that will impact upon your clients.

Where can you get help?

At Tolley we are here to help you with our Tolley Tax Intelligence solutions covering the following:

- 1) TolleyLibrary – the next generation of online libraries, encompassing news and analysis of the latest changes in taxation
- 2) TolleyGuidance - Essential practice expertise, sourced, created and organised online for you by the country's leading names in taxation
- 3) TolleyInsight - News, current awareness and topical commentary delivered direct to your desktop and door
- 4) TolleyLearning – groundbreaking training and learning resources that support tax professionals at every stage of their career

To find out more about any of these areas and how they can help your business, contact us today.

Key Tax Rates at a glance

	2012 - 2013	2011-2012
Income Tax Rates		
Basic rate of 20% up to:	£34,370	£35,000
Higher rate of 40% up to:	£150,000	£150,000
Additional rate of 50% on income over:	£150,000	£150,000
Basic Personal Allowance:	£8,105	£7,475
Corporation Tax Rates		
£0 - £300,000	20%	20%
£300,000 - £1,500,000	26.25%	27.50%
£1,500,000 and above	25%	26%
Inheritance Tax		
Nil rate band	£325,000	£325,000
Tax rate on excess	40%	40%
Rate for charitable giving, where 10 % of estate donated to charity	36%	40%

