BUDGET 2013 – what's in it for you?

Tolley®CPD

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Personal Tax

Income tax and national insurance

The major changes to the rates and allowances for the 2013/14 tax year are as follows:

- the additional rate is reduced from 50% to 45% (the dividend additional rate is reduced from 42.5% to 37.5%)
- the basic rate band limit is reduced from £34,370 to £32,010, which means that the level at which higher rate tax kicks is reduced to £41,450 (down from £42,475 in 2012/13)
- the personal allowance for those born after 5 April 1948 is increased to £9,440.

As announced in Budget 2012, from 6 April 2013 age-related allowances are frozen at 2012/13 levels. and will only be available to those born on or before 5 April 1948.

In relation to the 2014/15 tax year, the major news is that the personal allowance for those born after 5 April 1948 will be £10,000. This was a key aim for the Coalition Government and it has been achieved ahead of the 2015 deadline. The 2014/15 basic rate band limit will be £31,865, which means the higher rate tax kicks in at £41,865, a slight increase from the 2013/14 tax year.

The appendix gives full details of rates and allowances.

Other taxes

The CGT exempt amount will increase to £10,900 for 2013/14 (in line with the consumer prices index) and the rates of tax will remain the same.

The Inheritance tax nil rate band remains £325,000 until at least 6 April 2018 (the freeze to the nil rate band is extended for a further three years as a result of Budget 2013).

Also, stamp duty is to be abolished on shares quoted on 'growth markets' such as the Alternative Investment Market (AIM) and ISDX Growth Market. This is to be legislated in Finance Bill 2014, although the proposed operative date is not provided.

Tax efficient investments

Seed enterprise investment scheme

The seed enterprise investment scheme (SEIS) has seen two changes which are both useful for businesses looking to seek investment using this relief. These are:

- the extension of the capital gains tax (CGT) re-investment relief to 2013/14, and
- amendments to make off-the-shelf companies eligible for relief.

There are changes to the CGT re-investment relief which previously applied in 2012/13. In 2012/13, the **entire gain** was exempted if the proceeds were re-invested in a qualifying company in the 2012/13 tax year. For gains realised in 2013/14, **only a proportion** will be exempted from charge. The chargeable gain will be an amount that is equal to half the matched re-invested gain. Also, the relief will be available if the re-investment is made in 2013/14 or 2014/15.

This aspect of SEIS meant that in addition to receiving an income tax reduction of 50% on their investment (up to a maximum of £100,000), the investor could exempt any capital gains they reinvested. This meant that the maximum relief available through the scheme in 2012/13 was £78,000. For 2013/14, the maximum relief will be £64,000.

The exclusion of off-the-shelf companies was an oversight arising from the wording of ITA 2007, s 257DG(2). This section disqualified companies which had previously been controlled by another company. The proposed change will see an exception introduced for the holding companies which owned the subscriber shares where the SEIS company was not trading or preparing to trade at the time.

Social enterprises investment tax relief

There is to be consultation in the summer of 2013 on the introduction of 'tax relief' to encourage private investment in social enterprises. It appears that the plan is to introduce the relief from April 2014 as it is to be legislated in Finance Bill 2014. It is not known whether this will be an income tax relief, in the same way as SEIS.

Capital Taxes

Trust rate of Income tax

As previously announced, the trust rate of tax applicable to discretionary and accumulation trusts is reduced from 50% to 45% from 6 April 2013. The corresponding dividend trust rate is reduced from 37.5% to 32.5%. Consequently, the tax credits attached to distributions to beneficiaries will also reduce. Where trustees are holding undistributed income covered by the tax pool, it would be advantageous for beneficiaries to distribute it before 5 April 2013. There are no changes in the standard rate of tax of 20% for interest in possession trusts and deceased estates.

Non-domiciled spouses and civil partners.

Transfers between UK domiciled spouses and civil partners are fully exempt from inheritance tax, but where one partner is non-UK domiciled, the exemption is limited. The lifetime limit for exempt transfers to non-UK domiciled spouses or civil partners is to be raised from £55,000 to £325,000 with effect from 6 April 2013. Thereafter the exemption will rise in line with the nil rate band. Note that there is no limitation on exempt transfers from a non-UK domiciled partner to a UK domiciled one.

Non-UK domiciled individuals are subject to IHT on assets located in the UK only. The Budget introduces the option for non-UK domiciled spouses and civil partners to elect to be treated as UK domiciled. The effect of such an election would be that their worldwide assets would become subject to IHT, but there will be no restriction on the exemption for assets received from their spouse or civil partner.

The provision is clearly advantageous for couples where the non-UK domiciled partner has few assets outside the UK. The value of their taxable estate will be increased only marginally and transfers from the UK domiciled partner will not be taxed.

Elections must be made in writing to HMRC at any time after marriage or registration of the civil partnership. There will be a provision to backdate lifetime elections up to seven years with an effective date no earlier than 6 April 2013. Once made, the election is irrevocable whilst the individual is resident in the UK. Personal representatives will be able to make the election for a deceased estate within two years of death where the death has occurred after 6 April 2013.

Limiting inheritance tax deductions for liabilities

Inheritance tax is charged on the net value of an estate after deduction of liabilities. A liability must be deducted from the asset on which it is secured. The Budget introduced provisions to counter avoidance schemes which have been developed to take advantage of this basic rule.

The most important provision as far as business owners are concerned is that there will be no deduction against the taxable estate for any liability which has been incurred to acquire property on which a relief such as BPR or APR is due. The liability must be deducted from the value of the assets qualifying for relief, which means, of course, that no tax will be saved as the assets are already relieved.

As business owners often obtain finance for the business by mortgaging their home, this will potentially have a significant impact on their liability to inheritance tax. The current legislation allows a debt secured on a property to reduce the value of that property, meaning that the business loan reduces the value of the taxable estate. The new provisions will alter the present favourable position by requiring the loan to be deducted from the BPR qualifying business assets.

Estate planning

The Chancellor confirmed the Government's intention to implement the Dilnot Commission proposals for funding the costs of care in old age. It will introduce a cap of £72,000 on reasonable care costs, and extend the means test from April 2016. Currently, those with savings in excess of £23,000 are required to contribute to their care costs but this level of preserved assets is due to increase to £118,000.

The stated purpose of freezing the nil-rate band for inheritance tax is to contribute to the funding of social care.

Practitioners will be aware that the protection of the estate from potential care costs is a prime motivation for clients to engage in estate planning. It goes hand in hand with inheritance tax mitigation. Simultaneously, elderly clients are usually anxious to hold on to more of their wealth than they need for a comfortable lifestyle, because they are afraid of being left unable to pay for care of an acceptable standard. The new proposals, if implemented and maintained, will introduce some certainty into the estate planning process.

Vulnerable beneficiaries

The Finance Bill 2013 will attempt to streamline the tax rules and definitions relating to vulnerable beneficiary trusts. Vulnerable beneficiaries include disabled persons and young people under the age of 25 who have lost one or both of their parents. It is expected that draft legislation published in January will be amended to correct certain details but no further details have been published as yet.

The broad aim of the amendments is to apply the same qualifying conditions to all types of vulnerable beneficiary trusts. The trust assets are to be applied exclusively for the benefit of the vulnerable beneficiary, with the exception of the lower of £3,000 or 3% of trust assets, which may be applied for another person. This provision may be useful where trustees want to include other members of the family, or a carer, in their arrangements, perhaps by paying for a shared holiday or a car.

Where qualifying conditions relating to a vulnerable beneficiary are defined by their eligibility for Disability Living Allowance (DLA), they will be transferred to those eligible for the Personal Independence Payment (PIP), which will begin to replace DLA from April 2013.

The provisions do not deal with the anomolies in the income tax rules relating to vulnerable beneficiary trusts.

Heritage property trusts

A small adjustment is to be made to the business asset hold-over rules which will benefit the settlors of heritage maintenance funds. The current arrangements provide both income tax and capital gains tax relief where a settlor has made a gift of heritage property which he continues to benefit from, such as in an 'open house' arrangement. However, if the trustees provide funds to the settlor for maintenance and repair of the property, the settlor is taxed on the receipt as trading income. An amendment to TCGA 1992, s 169D will, by means of a somewhat convoluted route, result in the trustees being allowed to reimburse the settlor without increasing his tax.

Other matters already previously announced

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 2 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.

Expert comments

Welcome changes to SEIS - Yvette Nunn - President of the ATT

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.

Change in the deductibility of debts for IHT purposes - Bob Truncheon - Tax partner, MHA MacIntyre Hudson

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.

Employment Taxation

Employment taxes

There were two key announcements with respect to employers' NICs and remuneration planning. These are:

- the introduction of an employment allowance worth £2,000 for all employers, and
- the increase in the threshold for the exemption for employment-related loans to £10,000.

The employment allowance will be introduced from April 2014 and will be claimed through RTI. This should help this relief be delivered automatically to all businesses, especially small businesses which are not represented. It will be available to all businesses, unlike the Regional Employers NICs Holiday which is available to new business only until 5 September 2013.

The Regional Employer's NICs Holiday failed to make a significant impact on its intended targets. HMRC estimated that the number of businesses that would claim the holiday was 400,000. As of April 2012 less than 14,000 businesses had successfully claimed the holiday.

The doubling of the employment-related loans exemption is predicted to benefit 7,000 businesses. This is presumably considering the number of businesses that offer loans to employees for things such as season tickets. However, it may well have a small benefit for many owner-managed businesses. Overdrawn loan accounts can be a cause of significant issues for many OMBs. This is particularly true for those who have operated as an unincorporated business before incorporating and have got used to taking drawings without the need for paperwork. This may reduce the number who are required to submit P11Ds purely for the purpose of disclosing an overdrawn loan account.

Company cars

As has been the practice in recent years, the Budget documents provide advance information about the company car tax rates that will apply from 2015/16 to 2019/20, but this focuses only on the changes for 2015/16 and 2016/17 as the rates for later years could well change again before coming into use.

The rates for 2015/16 will be included in Finance Bill 2013. The appropriate percentage to be applied to the price of a car to arrive at the taxable benefit continues to be determined by reference to the CO2 emissions level of the vehicle, with the lowest appropriate percentages applying to the vehicles with the lowest levels of CO2 emissions.

For 2015/16 there will be a new band of 0 to 50g CO2 per km for which the appropriate percentage is 5% and another of 51 to 75g CO2 per km for which the appropriate percentage is 7%.

The appropriate percentages for all other bands above 75g CO2 per km will increase by 2% compared with 2014/15 up to a maximum of 37%.

For 2015/16, the appropriate percentage for each band will increase by a further 2%, again to a maximum of 37%.

Company vans and car or van fuel benefits

The rate of the benefit charge for company vans and for fuel provided for company cars or vans will be increased in line with inflation in autumn 2013, based on the Retail Price Index figure for September.

Taxable cheap loans - exemption doubled to £10,000

When an employer provides an employee with an interest-free (or low interest) loan, it may give rise to a tax charge as a benefit under ITEPA 2003, s 175. The current law states that if the total of all employment-related interest-free or low interest loans outstanding in the tax year does not exceed £5,000, no tax charge arises. The Budget included an announcement that this £5,000 exemption will be doubled to £10,000 from 6 April 2014.

Employee shareholder status - treatment of shares

Proposals in the Growth and Infrastructure Bill currently before Parliament create a new class of employee now labelled "an employee shareholder" (called an "employee owner" when the policy was first announced). This class of employee is only open to individuals employed by companies. There are three conditions to be met for an employee to become an employee shareholder:

- both the employer and the employee must agree that the individual employee is to become an employee shareholder
- the employing company must issue fully-paid shares worth at least £2,000 to the employee in consideration of that agreement (the shares may either be in the employing company or its parent company), and
- the employee must give no other consideration for those shares beside entering into the agreement

If an individual does become an employee shareholder, his rights under the Employment Rights Act 1996 are reduced. An employee shareholder does not have any right to request to undertake study or training, to request flexible working arrangements or to receive a redundancy payment and has only limited protection against unfair dismissal. An employee shareholder taking parental or adoption leave (or additional leave) would also have to give more notice of his intention to return to work (16 weeks in place of the normal 6 or 8 weeks as the case may be).

In the Budget, the Chancellor confirmed that Finance Bill 2013 will include measures to reduce possible tax liabilities on the shares given as consideration for the agreement to be an employee shareholder. Finance Bill 2013 will include provisions to treat the employee as if he had paid £2,000 for the shares, so there will be no income tax charge on the first £2,000 worth of such shares. Normal tax and NIC rules apply to any shares above that level. Regulations will also be made to ensure the same treatment for national insurance purposes. The Finance Bill will also include an exemption from capital gains tax on the first £50,000 gain made by the employee on the eventual disposal of all the shares he received as consideration for the agreement.

However, in the evening, after the Budget the House of Lords **blocked** the employee shareholder clauses in the Growth and Infrastructure Bill. The fate of this scheme is currently in limbo.

Enterprise Management Incentives (EMIs)

Legislation will be introduced in Finance Act 2013 to 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.

New employers' national insurance allowance

The Chancellor announced that a new allowance of £2,000 per year will be made available to all businesses and charities to be offset against their employer Class 1 secondary NICs bill from April 2014. The allowance will be claimed as part of the normal payroll process through RTI.

The Government will consult on the detail of how this initiative will be implemented before introducing legislation later in 2013.

This is intended to be an incentive for job-creation. It is more generally available but a less generous follow-up to the Regional Employer NICs holiday, which is another form of NIC allowance, available only to start--up businesses in certain geographic regions, which comes to an end on 5 September 2013. Being of more general application and with fewer conditions to satisfy, it should be easier to administer both for employers and HMRC. There is currently no indication whether this is a temporary or a permanent measure.

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.

RTI penalties

Real Time Information ("RTI") is the new system for employers to communicate PAYE information to HMRC electronically and in 'real time'. The vast majority of employers will have to operate RTI from 6 April 2013.

The Budget confirmed that, following on from consultation that took place last year, legislation will be introduced in Finance Bill 2013 to set out a new model for late filing penalties for RTI which will apply from April 2014.

Penalties will apply to each PAYE scheme, with the size of the penalty being based on the number of employees in the scheme. Each scheme will be subject to only one late filing penalty each month, regardless of the number of separate returns due in the month. An employer may miss one deadline per year without penalty, but all subsequent defaults will attract a penalty. Penalties will be charged quarterly, and subject to the usual reasonable excuse and appeal provisions.

In cases of late payment, penalties will be based on the number of previous late payments in the tax year. Regulations are likely prevent penalties being issued where there is only a small discrepancy between the return figures and sums paid over each period

There will also be amendments to the existing legislation on penalties for inaccuracies, allowing a tax year to be treated as a single tax period for penalty purposes.

The penalties rates themselves will be set by regulation once the penalty framework has been put in place in Finance Bill 2013.

Simplifying the collection of Class 2

Self-employed people currently pay Class 2 national insurance via monthly via direct debit or via half-yearly bills. To simplify the administration for these people, the proposal is that Class 2 will be collected via Self Assessment, in the same way as Class 4 national insurance is collected. There will be a consultation with interested parties and legislation will be brought forward if required. There is no time scale given, but it is hoped that this could be included in Finance Bill 2014..

PAYE coding notice

The Budget contains a proposal to review the rules related to the collection of debts via the PAYE coding notice with a view to increasing the size of the debt which can be collected.

Other Budget proposals to be consulted on in 2013

Tax relief for health interventions

This Budget proposal is for a limited exemption from a benefits charge on health-related interventions made by employers to support employees returning to work after sickness. The outline of the proposal so far is that it would exempt up to £500 paid by employers on interventions recommended by the Health and Work Assessment and Advisory Service to support employees to return to work after a period of sickness absence. A consultation is expected later in 2013 with legislation in Finance Bill 2014.

OTS recommendations on approved employee share schemes

In its report published in March 2012, the Office of Tax Simplification ("OTS"), recommended that the current system of HMRC approval of tax advantaged employee share schemes should be replaced with a form of self certification similar to that in place for the Enterprise Management Incentive. The Government has accepted that recommendation and the Budget confirmed that a consultation on a proposed self certification system will be published shortly with a view to legislation in Finance Bill 2014.

OTS recommendations on unapproved share schemes

The Government's plans for picking up on the recommendations in the OTS report on unapproved share schemes, published in January 2013, are less well covered in the Budget. The only comment is that the Government will consult on a number of the recommendations made, with no indication when such consultation may take place or in which Finance Bill any changes might be implemented.

Employee ownership

The Budget confirmed the Govenment's intention to introduce a new relief from capital gains tax on the sale of a controlling interest of a business into an employee ownership structure. That new relief will be consulted on before introduction in Finance Bill 2014. There is also likely to be consultation on ideas for further incentives in this area, including measures targeted at employees through indirect ownership models.

Payroll giving

There is currently a consultation underway on ways to improve payroll giving, setting out a range of options to increase amounts received by charities through payroll giving, including opening up the market to non-charity participants. The consultation closes on 19 April 2013. Future news articles will report on the outcome of that consultation.

Expert comments

Government to proceed with 'employee-shareholder' plans - Lynda Finan - Legal director, tax group, DLA Piper

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.

Pensions

Pensions

As announced in the Autumn Statement 2012, from 2014/15 the annual allowance is to be reduced from £50,000 per year to £40,000 per year and the lifetime allowance will drop from £1.5m to £1.25m.

Individuals who have or expect to have pension pots in excess of £1.25m at retirement (and who do not already have lifetime allowance protection) will be able to use the 'fixed protection 2014' regime to protect their pension savings. Individuals who register for the fixed protection 2014 will be entitled to a lifetime allowance which will be the greater of:

- £1.5m
- the standard lifetime allowance

As was the case in previous lifetime allowance protection regimes, the individual will not be able to contribute to any defined contribution pension scheme from 6 April 2014 and any benefit accrual in a defined benefit scheme must be limited to a 'relevant percentage'.

Anyone intending to register for fixed protection 2014 will need to follow the automatic enrolment consultation carefully. Currently, all employees must be enrolled in the employer pension scheme and then they must opt-out. The Department of Work and Pensions proposes that those with lifetime allowance protection be exempted from the automatic enrolment.

Capped Drawdown

Legislation will be introduced in Finance Act 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.

Pensioners

Single tier pension

The single tier pension is to be brought forward to April 2016. It is unclear whether the other state pension reforms recommended in the White Paper will be introduced at the same time (ie the increase in the qualifying years from 30 to 35, the need for a minimum number of qualifying years before becoming entitled to the state pension and the removal of the ability to inherit or derive rights to the state pension from a spouse / civil partner).

The single-tier pension will necessitate the closure of the state second pension (S2P) which is based on the national insurance contribution record. Therefore the biggest beneficiaries of these changes will be women, the low paid and the self-employed.

Business Taxation

Simplified cash basis

The simplified cash basis was announced at Autumn Statement 2012 and draft legislation for Finance Bill 2013 was published on 11 December 2012 for consultation purposes. Following feedback HMRC have decided to amend the proposed legislation.

The changes that will be introduced include:

- businesses using the cash basis will continue to do so until their circumstances are no longer suitable for them
- businesses using the cash basis will not have to use the simplified flat rate expenses for their cars; and
- simplifying the legislation

This appears to mean that businesses will no longer simply be able to opt out of the cash basis when it suits them. This might deter some businesses from using it but it will eliminate the possibility of deliberately taking advantage by joining and leaving the simplified cash basis at will. It also simplifies considerations as the cash basis is a one-off decision for clients.

The removal of the mandatory use of the flat rate for cars (and presumably motorcycles) will give the trader more opportunity to gain tax relief for the costs of running their vehicle. However, it seems that they will not be able to get relief for the capital element of the vehicle if they take this option.

A genuine simplification of the legislation, even at the expense of 'fairness', is desirable given that the aim of the regime is to provide simplicity.

Capital allowances

Legislation will be introduced in Finance Bill 2015 to extend the 100% first year allowance (FYA) for expenditure incurred on cars with low carbon dioxide emissions and electrically propelled cars for an additional three years to 31 March 2018.

Expenditure on railway assets and ships as defined in CAA 2001 is currently excluded from access to 100% FYAs for new energy saving plant and machinery. This exclusion will be removed in respect of qualifying expenditure on railway assets or ships incurred on or after 1 April 2013.

An announcement was made at the time of the Autumn Statement on the increase in the threshold for AIAs to £250,000 (from £25,000) for the two years from 1 January 2013.

Corporation Tax

Corporation tax rates

Reductions in the main rate of corporation tax for non ring-fenced profits have been announced in previous Budgets. An additional 1% reduction was confirmed in the Autumn Statement 2012, reducing the rate from 24% to 23% in April 2013 and then to 21% in April 2014. In an effort to become the most competitive tax regime of any major economy, the Chancellor has confirmed that the main rate of corporation tax will be reduced to 20% from 1 April 2015. The main rate and small profits rate of corporation tax are therefore being unified, such that marginal relief calculations will no longer be required.

The rates of corporation tax since 1 April 2010 are summarised in the following table:

Year commencing 1 April	2010	2011	2012	2013	2014	2015
Small Profits Rate	21%	20%	20%	20%	20%	-
Marginal Relief Lower Limit	£300,000	£300,000	£300,000	£300,000	£300,000	-
Marginal Relief Upper Limit	£1,500,000	£1,500,000	£1,500,000	£1,500,000	£1,500,000	-
Standard Fraction	7/400	3/200	1/100	3/400	1/400	-
Main Rate of Corporation Tax	28%	26%	24%	23%	21%	20%
Marginal rate of corporation tax	29.75%	27.5%	25%	23.75%	21.25%	-

Above the line R&D tax credit

The introduction of an above the line R&D credit was announced at Autumn Statement 2011 and is available for qualifying expenditure incurred on or after 1 April 2013. Following a period of consultation, legislation was published in the draft Finance Bill 2013. The draft legislation states that the rate of the credit is equal to 9.1% of the total qualifying R&D expenditure incurred in the accounting period. However, the Chancellor confirmed in the Budget that the rate of the credit will be increased to 10%, which will be reflected in the updated version of the Finance Bill 2013.

Close company loans

The Government announced that three changes would be made to the implementation of the corporation tax charge on loans to participators under CTA 2010, s 455 (formerly ICTA 1984, s 419). These changes have effect from 20 March 2013 and are intended to:

- ensure that loans to partnerships and trusts are caught
- bring transfers of value other than loans within the scope of the charge, and
- prevent temporary repayment of loans ('bed and breakfasting')

In HMRC's technical note HMRC say that some companies have argued that where loans are made to partnerships which include corporate partners, CTA 2010, s 455(1) does not apply. Changes will therefore be made to bring such arrangements within scope of the charge.

There will be exceptions where loans are made in the ordinary course of business.

HMRC list situations where they consider that loans to trustees should fall within CTA 2010, s 455. These include where:

- shares in the close company are held in the trust
- the loan is to trustees who are associates of a participator, and
- the trustees are all relevant persons and each is a participator or associate of a participator

Some of these arrangements might already fall within the scope of the rules on disguised remuneration..

The rules involving the extraction of 'value other than loans' is also targeted at the use of partnerships. The rules aim to establish that where profits of a corporate partner are not withdrawn from the partnership a withdrawal of excessive capital by a participator may be caught by CTA 2010, s 455.

At present, it is not clear that these structures are not already caught by s 455, as HMRC implies in its technical note at paragraph 24. However, this will put the matter beyond doubt.

To prevent 'bed and breakfasting' there will be a new '30 day rule' which will mean that relief from s 455 under CTA 2010, s 458 is withdrawn where repayments of more than £5,000 are made which are redrawn within 30 days. Furthermore, if the outstanding amounts are £15,000 or more and there is an intention to redraw an amount, then relief is also withdrawn.

'Redrawing' in this situation will include any of the arrangements caught by s 455 under these new rules.

Deductions for employee acquisitions of shares

Legislation will be introduced in Finance Bill 2013 to clarify the availability of the corporation tax deductions for companies granting share options or issuing shares to employees. The new legislation will have effect for accounting periods ending on or after 20 March 2013 and has not been the subject of previous consultation.

Under the current legislation set out in CTA 2009, Part 12, the value of the corporation tax deduction available is equivalent to the amount which is chargeable on the employee at the time the option is exercised or shares are acquired. No other deduction is available for expenses directly related to the provision of shares.

The new provisions clarify that where relief is claimed under CTA 2009, Part 12, no deduction is available for any other expenses relating to the provision of shares, or for any connected matter. In addition, a deduction will not be available in respect of the grant of share options, unless the employee actually acquires shares under the option.

Corporation tax loss relief

Three new anti-avoidance measures relating to loss relief have been announced, which will be introduced in Finance Bill 2013. These rules close loopholes which enable companies to pass on the benefit of losses to third parties, or to access greater amounts of group relief than would otherwise be available.

The first measure relates to the availability of group loss relief in the context of Controlled Foreign Companies (CFCs) and applies to surrender periods ending on or after 20 March 2013. Under current legislation, UK property business losses, management expenses, and non-trading losses on intangible fixed assets can only be surrendered if the aggregate amount exceeds the surrendering company's gross profits for the surrender period (CTA 2010, s 105). Apportioned CFC profits are not currently included in the computation of gross profits for this purpose. These profits will be included as gross profits under the new legislation.

The second measure relates to the treatment of losses in the event of a company re-organisation resulting in a change of ownership and applies to transactions that occur on or after 20 March 2013. Under current legislation set out in CTA 2010, Part 14, Chapter 2, the use of losses is restricted where a trade is transferred between unconnected companies and there is a major change in the nature or conduct of the trade within three years following the change in ownership, or where trading activities become small or negligible before any significant revival. However, a loophole exists where the restriction does not apply in the case of a transfer of trade which occurs after the re-organisation. This loophole will be closed under the new legislation, such that trading losses will not be available where the trade, or part of the trade, is transferred within the new group either before or after the change in ownership.

The third measure restricts the availability of non-trading debits, non-trading loan relationship deficits and non-trading losses on intangible fixed assets following the change in ownership of a dormant company, in order to target loss buying. This amendment will have effect in relation to surrender periods ending on or after 20 March 2013.

Corporate loss-buying

Targeted anti-avoidance rules will be introduced with immediate effect in order to prevent 'loss buying'. Under current legislation, companies are able to acquire unrealised losses from unconnected companies and subsequently relieve them against profits which arose from unconnected activities.

Three new provisions will be introduced to combat such loss buying arrangements. The first extends the application of CAA 2001, Part 2, Chapter 16A, such that relief for allowances in respect of expenditure in new pools (which arise where the tax written down value of the assets exceeds the balance sheet value), or losses attributable to such allowances, is restricted.

The two other rules will amend CTA 2010 to counter tax motivated re-organisations between unconnected parties and to counter arrangements that aim to transfer profits to companies so that the relevant deductions can be used.

Review of loan relationships and derivative contracts legislation

A consultation will be launched setting out a number of proposals to modernise the corporation tax treatment of corporate debt. It is anticipated that legislation will be included in Finance Bill 2014 and Finance Bill 2015. Details of the consultation are expected to be available in the summer of 2013.

Group Relief Rules

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.

Other minor amendments to draft legislation

Amendments have been made to some of the legislation included in the draft Finance Bill 2013, following a period of consultation which closed on 6 February 2013. The Finance Bill 2013 is due to be published on 28 March 2013 and will contain the changes summarised below.

Controlled foreign companies (CFCs)

In addition to the measures relating to the new CFCs regime contained in the draft Finance Bill 2013, the Government has announced that three further provisions will be included in the Finance Bill 2013. These are:

- the definition of a group treasury company will be aligned for both the CFC and worldwide debt cap regimes
- a relaxation on the limitation or qualifying resources funded from UK debt
- application of the matched interest rules to left-over profits

The new regime applies to CFCs with accounting periods beginning on or after 1 January 2013.

Foreign currency assets and chargeable gains

The provisions set out in the draft Finance Bill 2013 require companies with a non-sterling functional currency to use their functional currency to calculate any chargeable gains and losses on disposals of shares not covered by the substantial shareholdings exemption. At Budget 2013, the Government extended the measure to include disposals of ships and aircraft. These provisions will have effect for relevant disposals on or after the date that Finance Bill 2013 receives Royal Assent.

Deferral of payment of exit charges

An exit charge arises when a UK company changes its place of effective management and control to another EU territory or European Economic Area (EEA) member state, and is based upon the market value of the company's assets at the time of migration. See the Outbound migration guidance note for further background information.

Legislation contained in the draft Finance Bill 2013, which seeks to minimise the impact on the EU concept of freedom of establishment, has been amended following consultation. In addition to the existing rules requiring payment of the charge within nine months and one day following the end of the accounting period, two additional payment options will now be included in the Finance Bill 2013, rather than the single additional option proposed in the draft Bill. These are as follows:

- staged payments made in six equal annual instalments, the first payment being due within nine months and one day following the end of the accounting period
- computation of the tax due at the time of exit, allocated on an asset by asset basis. The tax will become due as and when assets are realised. An annual statement must be provided to HMRC setting out which assets have been realised. The tax may be deferred for a maximum period of 10 years, or until disposal if sooner.

Expert comment

R&D 10% boost will get Britain back on track - Diarmuid MacDougall - Partner, PwC

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.

TAXES MANAGEMENT

General anti-abuse rule

The Chancellor first announced his intention to introduce a UK GAAR in Budget 2012. Following a period of consultation during 2012, responses to the consultation and draft Finance Bill 2013 clauses were published on 11 December 2012.

The GAAR legislation will come into force on the date of Royal Assent to the Finance Act 2013. There is an exception for NICs as it was confirmed in the Budget that separate NICs legislation will be introduced after Royal Assent to Finance Bill 2013 when parliamentary time allows.

Tax information exchange agreements with Crown dependencies

Jersey, Guernsey and the Isle of Man have entered into tax information exchange agreements with the UK Government as part of the strategy to target offshore tax evasion.

Disclosure facilities will also be put in place to allow investors with accounts in these Crown dependencies to settle their past tax affairs with HMRC in advance of the information being automatically exchanged. The Government expects to raise over £1bn through these disclosure facilities over the next five years. Although very little detail is currently in the public domain, these disclosure facilities may be operated along the same lines as the Liechtenstein disclosure facility (LDF).

Interestingly, in terms of the categorisation of these Crown dependencies for penalties for offshore matters, Guernsey and the Isle of Man are category 1 territories and Jersey is a category 2 territory. This means that higher penalties are charged in relation to an offence where the offshore matter relates to Jersey. With the signing of this information exchange agreement perhaps Jersey will now be reclassified as a category 1 territory?

These increased penalties are only applicable where the tax at stake is income tax or capital gains tax.

HMRC's offshore evasion strategy

HMRC published its promised offshore evasion strategy document 'No safe havens' on 20 March 2013. Essentially, the strategy is:

- there will be no jurisdiction where UK taxpayers feel safe to hide their income and assets due to:
  - more automatic information exchanges
  - resources that will be focused on the highest priority jurisdictions and specialist staff who will be recruited to identify and profile high-risk taxpayers
- tax evaders will be encouraged to voluntarily pay the tax due
- tax evaders who do not come forward will be subject to sanctions (such as penalties of up to 200% and the potential widening of penalties for offshore matters which are currently limited to income tax and capital gains tax inaccuracies)
- there will be no place for people who facilitate UK tax evasion (the Government will consider widening the powers in relation to high-risk promoters to encompass facilitators)

Application of decisions in test cases

It is proposed that if HMRC is successful an 'avoidance case' in court, it will be able to **require** taxpayers who have used the same avoidance scheme or similar to acknowledge that the judgment applies to them and either:

- amend their Returns accordingly, or
- confirm that they stand by their original Returns

A tax-geared penalty would be charged, subject to safeguards, if they failed to take reasonable care. This is expected to be legislated in Finance Bill 2014.

It is unclear whether the reverse will also be true: that HMRC will be required to accept a taxpayer's Tax Return as filed if another taxpayer is successful in a similar avoidance case.

'Naming and shaming' of high-risk promoters

The dishonest agents regime begins on 1 April 2013. Under this regime, HMRC has the power to levy penalties of up to £50,000 on an individual tax agent found to be acting dishonestly. HMRC also has the power to publish the agent's details.

In the Autumn Statement 2012, the Chancellor announced that new penalty rules would be introduced for promoters of tax avoidance schemes. The proposals announced in the Budget go further and suggest that a raft of new measures will be introduced including information powers, penalties and the power to publish the promoter's details. These sound very similar to the dishonest agents regime and there is the potential that either:

- the dishonest agents regime could be extended to high-risk promoters, or
- the high-risk promoters regime could be modelled on the dishonest agents regime

Tax avoidance using partnerships

The Chancellor announced in the Autumn Statement 2012 that HMRC would be pursuing 'abusive' partnership arrangements. Following Budget 2013, the Government will consult on measures to:

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

The use of corporate partners within partnerships has been almost standard planning over recent years. HMRC is obviously taking a closer look at these arrangements.

There are also provisions in Budget 2013 to ensure that loans from close companies to partnerships are caught by the loans to participator rules in CTA 2010, s 455.

Expert comments

Anti-avoidance: 'every step forward seems to coincide with a step back' - Sandy Bhogal Head of tax, Mayer Brown

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.

VAT

VAT registration and de-registration thresholds

With effect from 1 April 2013 the following thresholds will apply:

- the VAT registration threshold will increase to £79,000
- the VAT de-registration threshold will increase to £77,000

Fuel scale charges

The Government announced in Budget 2012 that they intend to revise the existing VAT fuel scale charges in order to bring long standing concessions into law and to withdraw the concession for partly exempt businesses. The annual revalorisation will also be simplified.

The VAT fuel scale charge annual adjustment will take effect from 1 May 2013 to bring the charges in line with current fuel prices. Further details on the revised fuel scale charge will be provided when they have been released by HMRC.

Place of supply rules and a mini One Stop Shop (MOSS)

As previously announced the VAT rules regarding the place of supply of telecommunication, broadcasting and e-services will be amended with effect from 1 January 2015. From this date the place of supply for B2C sales will be the country where the customer belongs. The Government will introduce new legislation covering the revised VAT treatment of these services.

The Government announced in Budget 2013 that it will introduce a mini One Stop Shop with effect from 1 January 2015 that will give businesses the option of registering for VAT in the UK in order to account for VAT due in other EU countries on supplies of telecommunication and broadcasting services, etc. Businesses will be able to VAT register under the MOSS scheme with effect from October 2014. This measure will be similar to the existing single online VAT registration procedure that can be used by non-EU businesses that provide B2C electronically supplied services within the EU. This measure will undoubtedly reduce the administrative burden that will be placed on businesses that supply these services across the EU to private or non-business customers. However, it is likely that the business will need to submit 8th Directive refund claims in order to recover any foreign VAT incurred if they do not VAT register.

Further details will be announced by the Government in due course and will be included in Finance Bill 2014.

Exports

In Autumn 2013 amended legislation will be introduced that will extend the zero-rating provisions to non-resident businesses that are VAT registered in the UK, who export goods located in the UK to non-EU countries. As per existing legislation, where a non-resident business is VAT registered in the UK, the purchase of the goods from a UK supplier will be liable to UK VAT because the zero-rating provisions have not been satisfied.

Under the amended legislation, it should be possible for UK VAT registered businesses that sell goods to overseas customers who are VAT registered in the UK to zero-rate the sale providing that they hold evidence that the goods have been exported to a non-EU country.

VAT retail export scheme

The Government has announced that it intends to consult on possible options that could be implemented to amend the existing retail export scheme in order to make the scheme easier to administer and understand and to reduce errors.

VAT refunds for NHS bodies

As previously announced in the 2012 Budget, the Health and Social Care Act 2012 will exempt the following organisations from corporation tax and include them within the VATA 1994, s 41 VAT refund scheme:

- the NHS Commissioning Board
- clinical commissioning groups
- National Institute for Health and Care Excellence, and
- Health and Social Care Information Centre

The Government also announced in Budget 2013 that the following bodies would also be included in the VATA 1994, s 41 refund scheme and the relevant legislation would be included in the Finance Bill 2013 and 2014 respectively:

- Health Research Authority, and
- Health Education England (Finance Bill 2014)

Manufacturer refunds

The Government has announced that it will introduce legislation that enables manufacturers to reduce their VAT payment to take into consideration any refunds (for discounts, faulty goods or customer complaints, etc) that have been made directly to the end consumer. A consultation will take place during 2013 that will allow affected businesses to comment on the intended changes and provide information on current industry practices before the revised legislation is introduced. The relevant legislation will be introduced in Finance Bill 2014.

Further information will be provided once the consultation document has been released.

Education and research exemption

In Budget 2012, a review of the VAT treatment of university degree education was announced and a consultation document was issued in 2012.

The review has been completed and a number of interesting issues were raised. The Government has indicated that it will take these into consideration when considering possible changes to the existing VAT exemption. Further information will be released by the Government later this year.

In December 2012 a consultation document was issued on the withdrawal of the VAT exemption for business research that has been supplied by one eligible body to another. The Government has announced that, subject to the responses it received during the consultation period which ended on the 14 March 2013, it will introduce legislation withdrawing the exemption with effect from 1 August 2013.

Energy saving materials installed in a charitable building

The 2013 Budget confirmed that the reduced VAT rate will no longer be applied to energy saving materials that are installed in a charitable building. These supplies will be liable to VAT at the standard rate with effect from 1 August 2013.

Expert Comments - SMEs among the main beneficiaries - Patrick Harrison - Tax partner, PKF

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.