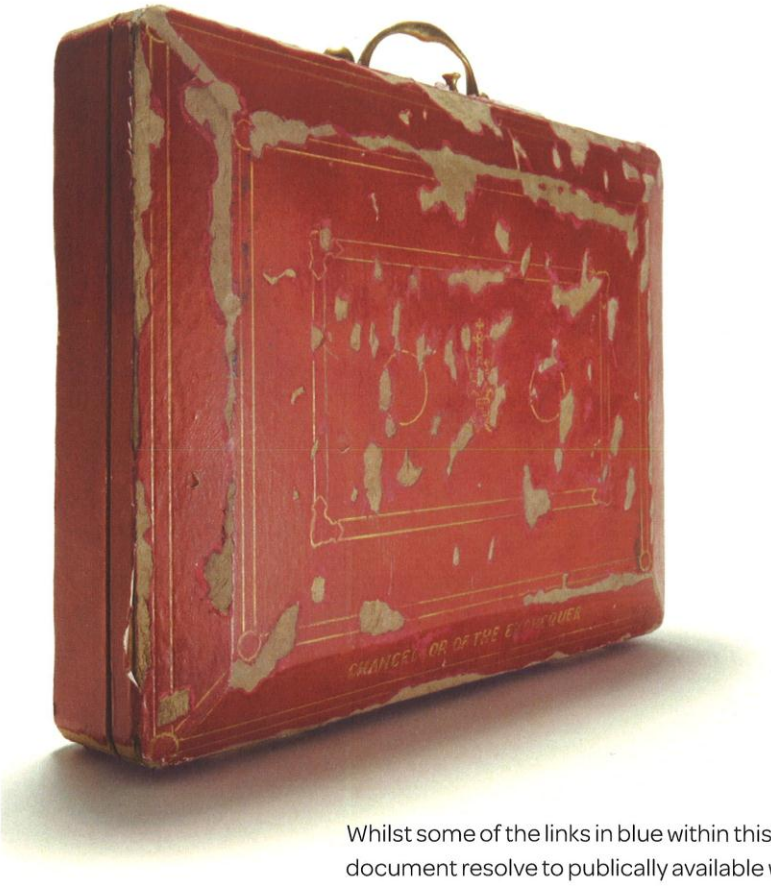
BUDGET 2013/14

Free in depth, practical guidance on the budget for Owner-Managed Businesses



Whilst some of the links in blue within this document resolve to publically available websites, others link into documents within TolleyGuidance and are subscription sensitive. If you do not have a subscription to TolleyGuidance then you can request a free trial **tolley.co.uk/budget13**.

Tolley® Tax intelligence from LexisNexis®

Budget 2013 — Owner-Managed Businesses overview

Produced by Tolley 20/03/2013

George Osborne delivered his Budget speech on 20 March 2013, in advance of publication of Finance Bill 2013 on 28 March 2013. This note outlines some of the key changes relating to owner-managed businesses.

See also the Budget 2013 — Anti avoidance provisions news item.

Tax rates and allowances

Corporation tax rates

The Chancellor had previously announced the year-on-year reduction in the main rate of corporation tax. The main rate was already set to reduce to 23% and this has not been changed. The main announcement was that from 1 April 2015 there would be a single 20% rate of corporation tax. This means the rates of corporation tax since 1 April 2010 are:

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%	-

Income tax and national insurance rates

The income tax and national insurance rates for 2013/14 will be:

Rate	2013/14
Personal allowance	£9,440
Starting rate for savings: 10%	£0–£2,790
Basic rate: 20%	£0–£32,010
Higher rate: 40%	£32,011–£150,000
Additional rate: 45%	Over £150,000
Personal allowance abatement	£100,000
Class 2 rate	£2.70
Class 2 small earnings exception	£5,725 per year
Class 4 lower profits limit	£7,755 per year
Class 4 upper profits limit	£41,450 per year
Class 4 rate between lower profits limit and upper profits limit	9%
Class 4 rate above upper profits limit	2%

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. See the Regional Employer National Insurance Contributions Holiday guidance note.
Overview of Tax Legislation and Rates (para 1.19)

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.
Impact assessment for Regional Employer NICs Holiday (September 2012) Regional Employer NICs Holiday statistics (April 2012)

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.
Exemption threshold for employment-related loans TIIN

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 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.

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 pension pots in excess of £1.25m or who 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:
Overview of tax legislation and rates 2013 , para 2.10

- £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'.
TIIN: Reducing the pensions tax annual and lifetime allowances

Anyone intending to register for fixed protection 2014 will need to follow 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.

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 article 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. See the TIIN on 'Company car tax rates' and the full table of rates in the Overview of Tax Legislation and Rates for details of the changes for all years.

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 CO_2 emissions level of the vehicle, with the lowest appropriate percentages applying to the vehicles with the lowest levels of CO_2 emissions.

For 2015/16 there will be a new band of 0 to 50g CO_2 per km for which the appropriate percentage is 5% and another of 51 to 75g CO_2 per km for which the appropriate percentage is 7%.

The appropriate percentages for all other bands above 75g CO_2 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%.

A table showing the new bands and percentages, alongside those applicable for years up to 2014/15, can be found here: Click here to view pdf

Other taxes

In summary:

- the capital gains tax exempt amount will increase to £10,900 for 2013/14 and the rates of tax remain the same
- the inheritance tax nil rate band remains £325,000 until 6 April 2018

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.
Overview of tax legislation and rates 2013 , para 2.28

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 CGT re-investment relief to 2013/14, and
- amendments to make off-the-shelf companies eligible for relief

The re-investment relief was intended to be available for 2012/13 only. This has now been partially extended to 2013/14. The CGT relief will be available to half of the qualifying re-invested amount. That gives a maximum re-investment relief on £50,000 of gains.
SEIS: CGT Re-investment relief TIIN

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. See the SEIS tax relief guidance note for more information.

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.
SEIS: eligible companies TIIN

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.
Budget 2013 report , para 1.135

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 following news items explain the **old proposals**, but they will largely remain unchanged:

- Simplified income tax for smaller businesses — simplified cash basis
- Simplified income tax for business — fixed rate deductions

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

Simpler income tax for the simplest small businesses TIIN

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.

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. Please refer to the Above the line R&D credit guidance note in the Corporate Tax module (subscription sensitive) for details of the regime. 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.

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.

Changes previously announced

With the Autumn Statement and draft legislation for Finance Bill 2013 announcing many of the immediate changes, the Budget documents make little mention of changes that will come in next month. These include:

- the cap on unlimited tax reliefs
- personal service companies and IR35
- creative sector corporation tax reliefs
- temporary increase to the annual investment allowance from 1 January 2013
- disincorporation relief