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Deloitte's full Budget Report
commentary



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Contents

Experts' opinions	5
Immediate reactions – Sally Grimwood	5
The entrepreneurial view – Vijay Thakrar	6
More bad news for employers – Matt Ellis	7
Still postponing the inevitable – Roger Bootle	7
Businesses	9
Patent box	9
Consortium relief	11
Financial product avoidance group mismatches	11
Administrative services for start-ups	12
Annual investment allowance (AIA)	13
Anti-avoidance – taxation of earnings	13
Alternative property refinancing arrangements	14
Associated company rules simplification	14
Bank payroll tax	15
Business rates and empty property relief	16
Company share option plans: anti-avoidance	16
Cushion gas	17
Double tax avoidance relief	17
Enhanced capital allowances (ECA)	18
Enterprise management incentives	18
Foreign exchange matching rules amendments	19
Green measures	19
HMRC compliance checks regarding excise duties	20
Interest harmonisation	21
Limiting tax deductions: close companies	22
Loan relationships and derivative contracts	22

North Sea fiscal regime	22
Reinvestment relief	23
Relief for overpayments of PRT	23
Interest harmonisation for Corporation Tax (CT) and PRT on under/ overpaid tax	24
Capital allowances: plant and machinery: cushion gas	24
Pensions tax	24
REITs and stock dividends	26
Review of HMRC powers: penalties for late filing of returns and payment of tax	26
Sale and repurchase transactions	27
Sale of lessor companies: option to elect	27
Security for payment of PAYE from employers with history of non-compliance	28
Share incentive plans: anti-avoidance	29
Systemic risk levy	29
Tackling offshore tax evasion	30
Time to pay and business payment support service	31
Venture Capital Trusts	31
Video game relief	32
Worldwide debt cap	32
Zero-emission goods vehicles	33

Employers 34

Share incentive plans: anti-avoidance	34
Zero and low emission cars and vans	34
Anti avoidance – taxation of earnings	35
Disclosure of tax avoidance schemes	35
Company share option plans: anti-avoidance	36
Employer supported childcare – relaxation of conditions	37
Pensions tax	37
Tackling offshore tax evasion	38

Individuals 40

Pensions tax	40
Tackling offshore tax evasion	41
Capital gains tax: increase in lifetime limit on entrepreneurs' relief	42
Inheritance tax – nil rate band	42
Administrative services for start-ups	42

Alternative property refinancing arrangements	43
Disclosure of tax avoidance schemes	43
Double tax avoidance relief	44
Enterprise management incentives	44
Extending charity tax reliefs to certain European organisations	45
Extending the scope of the remittance rule	45
HMRC compliance checks regarding excise duties	46
Income tax adjustments between settlors and trustees	46
Income tax rates, rate limits and personal allowances 2010/11	47
Individual Savings Account (ISA): limits from 6 April 2011	47
Life insurance policies deficiency relief	47
Special guardianship orders and residence orders	48
Taxation of Financial Services Compensation Scheme interventions	48
Tax changes for certain trusts compensating asbestos victims	49
Transactions in securities – anti-avoidance	49
UK charity tax reliefs	50
Venture Capital Trusts	51
Indirect Tax	52
Landfill tax: increase in rates	52
Excise duty – alcohol	52
Insurance Premium Tax (IPT): Premium Splitting	53
Air passenger duty	53
Aggregates levy	54
Aggregates levy: Northern Ireland credit scheme	54
Bingo duty, AMLD and gaming duty changes	54
Climate change levy	55
Excise duty on tobacco products	55
Excise duty – road fuel and other oils	55
Landfill communities fund	56
Landfill tax lower rate	57
Review of HMRC powers: penalties for late filing of returns and payment of tax	57
VAT – Changes in fuel scale charges	58
VAT – Changes in registration and deregistration thresholds	58
VAT – Change to zero-rating of “qualifying” aircraft	59

VAT – Landline duty	59
VAT – Lennartz accounting: restricting application and securing revenue	59
VAT – Place of supply of gas, heat and cooling	60
VAT – Postal services	60
VAT – Reverse charge for emissions allowances	61
Stamp Tax	62
Anti-avoidance measure for partnerships	62
Additional 5% rate for residential property	62
First time buyer exemption	62
Disclosure of tax avoidance schemes	63

Experts' opinions

Immediate reactions



Sally Grimwood

Key measures of interest to everyone

- Although widely billed to be a political knock-around, in truth the 2010 Budget was as much about delivering a message to the financial markets -that there is a steady hand on the tiller.
- The forecast for public sector net borrowing for the current year has been reduced by £11bn (from £178bn at the PBR to £167bn). This brings the UK's net debt to 54% of GDP, which is actually better than France, Germany or the US.

The Chancellor also forecasts that the deficit will be more than halved over the next four years, flowing from a combination of tax increases (predominantly from highly paid individuals) and efficiency savings.

- In absolute terms, the Budget measures are dwarfed by those announced in the PBR (the PBR forecast to raise £8.5bn over three years, compared to the Budget's giveaway of £560m over the same period). Modest tax increases will fund equally modest giveaways.
- The key announcement was a one-off £2.5bn package designed to promote small businesses, made up of a large number of measures which together amount to a welcome warming of the environment for entrepreneurs (unhelpfully it looks very much like each measure will have its own definition of "small"), including:
 - The "Time To Pay" scheme has been phenomenally successful as a recession-beating measure. £5bn of tax is currently being deferred by 160,000 businesses employing 1.4 million people. It will be extended for the whole of the next parliament.
 - Business rates are the third biggest cost for small businesses (after salaries and rents, if you're interested); rates are being cut for one year from October 2010 and 345,000 businesses will not pay rates at all.
 - The 100% deduction for capital expenditure is doubling to £100k.
 - Entrepreneurs selling their businesses will benefit from a doubling in the limit for the 10% capital gains tax rate (from £1m to £2m). There will also be no increase to main capital gains tax rate of 18%.

The key measures for corporates

- Great news for computer gaming, a really important industry in which the UK leads the world. Canada introduced tax breaks for computer gaming in the hope of enticing activity, and it is great to see that the UK will be creating its own reliefs.
- Still no substantive update on the patent box, despite wide speculation that a wider consultation would be forthcoming. However, it got a specific plug in the Chancellor's speech so is still clearly flavour of the month.
- There do not seem to be new anti-avoidance measures for corporates over and above those previously announced.

The key measures for VAT and Indirect

- There are a number of small measures, but nothing of any obvious wide consequence.

The key measures for individuals

- The main disappointment for individuals is that all of the measures announced in the PBR continue to stand:
 - Income tax will increase to 50% for those earning more than £150k from April 2010.
 - 1p increase in NIC from April 2011.
 - Higher rate relief for pension contributions will kick in from April 2011 and the widely criticised anti-forestalling legislation is, of course, already in place. Interestingly, the Impact Assessment states that 50% of people facing restrictions live in London and the South East, 55% work in financial services, and 90% are male.
- Growth shares are an increasingly popular way of rewarding employees. They basically involve shares whose value are low at the outset and whose subsequent increase in value is subject to CGT at 18% rather than income tax. There will be consultation in summer 2010 over their future.
- However, first time buyers will be pleased that stamp duty has been abolished for two years for house purchases of up to £250k. This will be funded by a new 5% stamp duty rate for property purchases worth more than £1m.
- New legislation is to be included in Finance Bill 2010 concerning transactions in securities for individuals, and will apply to tax 'advantages' arising on or after Budget day. The new legislation will continue to counter the income tax advantage arising from certain transactions, but is to be limited to transactions involving close companies. All the same, it is surprising to see that the anti-avoidance will raise £170m in the current year, given the consultation on transactions in securities was badged as simplification.

The entrepreneurial view



Vijay Thakrar, tax partner

The Chancellor seems to accept the view that Small and Medium Enterprises (SMEs) are a key driver for helping to generate economic recovery, as evidenced by announcements such as the following:

- The doubling of Capital Gains Tax (CGT) "entrepreneurial relief" to £2m from 6 April 2010, effectively providing entrepreneurs with a 10% CGT rate on the first £2m of gain when selling their businesses.
- The doubling of the Annual Investment Allowance (100% relief) to £100,000 for plant/machinery used in a business from April 2010.

Whilst these are welcome measures, entrepreneurs will still be dismayed by other areas that need urgent attention if we really want to have an SME led recovery. Examples include:

- The significant regulatory burdens on businesses – smaller businesses simply do not have the resources to cope with ever-increasing regulation such as administering the government's various tax credit schemes.
- The significant Inheritance Tax Liabilities that can arise when entrepreneurs seek to pass on their hard earned (and taxed) wealth to their families – made worse by the announcement that the thresholds will be frozen for the next four years.
- The significant reduction in recent years of schemes that allow entrepreneurs to raise equity risk capital, e.g. under the Enterprise Investment Scheme or Venture Capital Trust Scheme.

So while the news in some areas was welcomed (or not as bad as feared!), there are still a number of areas to work on.

More bad news for employers



Matt Ellis, tax partner

Aside from measures already announced – the introduction of the 50% tax rate from 6 April, restriction of higher rate tax relief on pension contributions and 1% increases in National Insurance (NI) from April 2011 – today's Budget announced a raft of measures to counter planning designed to mitigate some of these changes. As a result the options available for employers to deliver tax-efficient remuneration to their employees could narrow considerably in the future.

In his Budget statement, Alistair Darling signalled specific focus in three key areas – “Geared growth” share arrangements, Employee Benefit Trusts and alternative pension structures. Consultation on these areas will take place during summer 2010 with new legislation expected in April 2011.

Unsurprisingly, if the tax costs for employment go up, employers are keener to find ways to mitigate them. The Chancellor clearly believes this is what is happening and today's announcement shows that it will be harder and harder for employers to implement tax efficient remuneration arrangements in the future.

Further, following consultation the Government has also rejected requests to change the way it should implement pension tax relief restrictions. The announcements from last year's Budget and the Pre-Budget Report will be retained, and the Treasury today published how it proposes in Finance Act 2010 to deal with the restriction of pensions tax relief from April 2011. Legislation up to then is already enacted.

From 2011/12 relief will be tapered down from 50% to 20% as gross income increases from £150,000 to £180,000. The stepped taper will be 1 % of relief for every £1,000 of gross income. Individuals with incomes over £180,000 will receive 20% – the same as a basic rate tax payer. For money purchase schemes this will be relatively easy to calculate. For defined benefit schemes the proposal is that age-related factors will be used which incorporate the impact of an individual's age and the pension scheme normal retirement age. Pension schemes will need to confirm to scheme members the deemed value of benefit each year.

In our view this is a missed opportunity to simplify the original announcements which have caused significant confusion for individuals and the industry. Taxation implications for high earners of final salary schemes will be complicated and, as a whole, may discourage formal pension saving.

Still postponing the inevitable



Roger Bootle

Key measures of interest to everyone

- This was a clever budget which made the most of very difficult circumstances. The Chancellor largely avoided the temptation to bribe the voters with their own money. There was a package of tax cuts and spending increases amounting to about £2.8bn in 2010-11, but these were partly offset by various tax rises, leaving only a modest giveaway of £1.4bn.
- Moreover, the Chancellor was able to forecast stronger than expected tax receipts and lower unemployment. Consequently, he reduced his forecasts for public borrowing by more than had been widely expected. Over the six year forecast period, borrowing will now be a cumulative £55bn lower than predicted in last year's Pre-Budget Report.
- This represents a victory for the Chancellor over the Prime Minister who, by all accounts, would have wanted to spend the receipts on various pre-election goodies. It also means that the Budget was a favourable surprise for fixed interest rate markets, and for all those at home and abroad who are worried about the UK's debt position.
- But in truth the improvements are very marginal and the key factors which will determine what happens to the borrowing requirement in practice remain a serious concern. The first of these is the pace of economic recovery. The Chancellor downgraded his forecast for growth next year by 0.25%, but at 3-3.5% it remains heroically high.

- And for the following years he made no adjustment at all to the forecast of 3.25-3.75%, which has long seemed to us to be extremely optimistic. Consumers are in no position to be increasing their spending and companies are unlikely to be keen to increase their investment. Lower sterling should help net exports in time but recent signs have not been encouraging and the Treasury seems to be very optimistic in forecasting that exports will increase by around 3% in 2010 and 4.25% in 2011.
- Second, one of the leading factors which concerns foreign investors in the UK is the government's exposure to the banking sector through its various holdings and guarantees. Although recent banking results have been better, the uncertainties over the worth of the government's holdings, and the extent of its liabilities should things go wrong, are enormous. A further downturn in the economy, recognition of the true state of commercial property portfolios and/or further weakness in residential house prices could see the government's true net asset position looking a lot worse.
- Third, the government has still put to flesh on the bones of its plans to cut government spending. In the absence of such detail the markets have little reason to find the government's numbers plausible.
- So this was an exercise in shadow-boxing. To be fair, it was done well. But we all know that the real budget will come after the looming election, and that this will involve much more pain – whoever wins.

Businesses

Patent box

The measure

A patent box regime, applying a 10% rate of corporation tax on income from patents from April 2013, was announced in the Pre-Budget Report 2009.

It is announced that consultation with business on the new regime will continue during summer 2010, with a consultation document published in time for Finance Bill 2011.

The government are looking to create a 'practical and competitive regime' in order to ensure that the UK remains an attractive location to invest in and exploit innovation. According to the Chancellor, this 'will lead to more products being manufactured in the UK'.

Areas the consultation will cover include:

- how to identify and value embedded patent income;
- how to give relief to acquired patents;
- how to include patents not yet commercialised at that point; and
- how the regime will apply to equivalent overseas patents held by UK companies.

The estimated level of investment the regime will provide to innovative industries is 1.3bn from 2013/14 onwards.

Who will be affected?

Companies with patents.

Key beneficiaries will be the UK's world class pharmaceutical and biotech sectors but the measure is intended to benefit 'innovative industries' in general. Accordingly patent filers in other sectors, including other technology, manufacturing, energy and utilities, telecoms, aerospace, defence, consumer businesses and media will benefit.

When?

Following consultation with business the measure will be introduced in Finance Bill 2011, and will apply to income from patents granted after the legislation is passed.

The reduced rate of corporation tax will apply to patent income from 1 April 2013.

Our view

We welcome the new regime for patents, which is part of aiding the UK's research and development and wider scientific and technological skill base.

Industries that will benefit

The opportunity the consultation offers, to continue to review how the regime will encourage innovation across a range of sectors, is welcome. Different industries commercialise patents in different ways and recognition of the need to consider, for example, the timing of commercialisation of a patent vis-à-vis the timing of the grant of a patent, is welcome. Differences in the time taken from innovation to the grant of a patent, and in the time taken to commercialisation, across sectors could, without careful drafting of the legislation, lead to discrimination against certain sectors.

Thus patent filers will need to make sure during the consultation phase that HMRC understand their commercial issues. In some hi-tech sectors, for example, where technological advancement is swift and product life cycles short, 'patent pending' products are commercialised in advance of the grant of patents.

The new regime could also encourage some sectors to file more patent applications in the UK, eg where previously they relied on trade secrets, or published details of innovations in journals in order to make them unpatentable, or where a technology is first registered overseas. The announcement that the Government will consult on how the regime will apply to equivalent overseas patents held by UK companies and income from acquired patents is therefore welcome.

Enhancing UK competitiveness

The combination of the R&D tax relief system (giving enhanced tax deductions for R&D expenditure) and the patent box regime means innovative activity in the UK is in a highly favoured tax position compared to some other industries. However, it is intended to allow the UK to maintain international competitiveness as many Western European countries have their own regimes already in place. Indeed, the Belgian and Dutch regimes present precedent for the UK regime.

During the debate within the Office for Life Sciences (in which Deloitte was involved) it was clear that this would not be a regime that was applied to intellectual property in the wider sense but only to patent income. Many businesses have questioned why the patent box could not be widened to include other intellectual property, as is the case with the regime in the Netherlands. We expect the consultation on the patent box to be part of a wider debate on UK competitiveness, with the largest companies arguing that in a globalised world they can site research labs, manufacturing and intellectual property wherever is most competitive and stable.

Many large groups have established tax efficient intellectual property holding structures outside the UK and may need to reorganise in order to benefit from this measure. They will also want to factor in the latest proposals for controlled foreign companies reform in the UK in decisions as to restructuring.

Restricting the regime to patents where the R&D is done in the UK would be complex to administer and the extent to which the new regime will lead to more products being manufactured in the UK remains to be seen. Within the life sciences, GlaxoSmithKline was quick following the Pre-Budget Report 2009 to announce publicly that it was linking 500m of manufacturing plant investment in the UK to the new regime.

Given the new regime is intended to apply to income from 2013 to patents granted after legislation is passed in 2011, businesses should review their patent pipeline, consider how their activities may fall within the new regime and raise issues arising as part of the consultation during summer 2010.

Interaction with R&D tax relief

At the time of the Pre-Budget Report 2009, Stephen Timms wrote that 'The Government will consider carefully how to define and target the income receiving the reduced rate; consequential changes may be required to other relevant tax rules... striking a balance against the immediate Exchequer costs.'

We understand from subsequent discussion with HM Treasury that there is no intention to limit existing R&D relief.

Valuing patent income

Businesses derive value from patents in different ways, from licensing to third parties, through generating income on patented or patent pending products, to reducing their cost base using patented technologies. Valuing the income or deemed income within the regime will therefore be critical and the fact that the consultation will cover the identification and valuation of embedded patent income is therefore welcome.

Commercial complexities that the legislation will need to address include products comprising component parts relying on technologies developed at different times and partial upgrading of products reflecting patented or patent pending technology. Products may also contain value derived from other IP such as brand.

At the same time loss making UK biotech groups will need to understand how the effective 10% rate is to be achieved in order to determine the value of this measure to them. For example, the Belgian regime which is most comparable to this proposed UK regime provides a deemed deduction against patent income which cannot be carried forward and so is of limited benefit to many loss making companies.

Consortium relief

The measure

This is a proposal to amend the rules relating to the surrender of losses where there is a UK consortium involved.

The first area of proposed changes would allow companies resident in the European Economic Area which are members in UK consortia to pass relief for losses of the UK consortia to their UK subsidiaries.

The second area of proposed changes is a tightening of the rules to limit the amount of relief available based on the consortium member's level of effective control/active involvement in the consortium company.

Who will be affected?

Companies within the UK and the European Economic Area which are involved in UK consortia.

When?

The Government intends to introduce legislation as soon as possible in the next Parliament. No comment has been provided on when the provisions would become effective.

Our view

The first area of the proposed changes seeks to address the widely recognised issue of the compliance of the UK 'link company' consortium relief rules with European law. This is a welcome proposal which we hope will be carried through in the next Parliament, although the timing of the change is not clear.

The second area of proposed changes is intended to limit relief where there are 'artificial arrangements' to enable what HMRC would regard as excessive access to relief. We will be interested to see a further explanation of the terms currently being used and to understand how this will apply in practice.

Financial product avoidance group mismatches

The measure

A discussion document has been released proposing a new 'principles-based' anti-avoidance approach to transactions that involve loan relationships and derivatives that give rise to 'group mismatches' – ie where a transaction gives rise to an asymmetry (tax deductible losses versus non-taxable profits) between companies in the same group.

This is a response to the number of schemes notified to HMRC under the tax disclosure rules in respect of loan relationships and derivatives which involve a mismatch between the taxation of two group companies. This tax asymmetry potentially gives rise to a tax advantage for the group where there is no overall corresponding economic loss.

To date HMRC's approach has been to introduce a series of complex legislative changes to counteract these schemes one by one. Today's proposal is to introduce principled-based legislation mirroring the approach of the disguised interest and transfer of income stream rules which are perceived to have been an effective way of tackling anti-avoidance.

In the discussion document, HMRC have outlined how a generic approach to counteracting asymmetric avoidance could operate. In particular, the rules could apply where:

- there is a 'tax mismatch arrangement' between connected companies;
- it would be reasonable to assume that the arrangement was designed to secure, either:
 - a reduction in the group's tax rate as a result of asymmetric treatment of a loan or derivative; or
 - a possible reduction in the group's effective tax rate as a result of a contingency (e.g. currency movements or another index), unless that contingency gives rise to an equivalent likelihood of an increase in the group's tax rate.

HMRC identifies that there are a number of solutions that could address such asymmetry (eg the exclusion of debits and credits, imposition of further debits and credits, or otherwise cancelling the UK tax advantage). This detail is expected to be worked through as part of the consultation process.

A key question to be considered as part of the consultation is whether this legislation should impact only UK-UK transactions or be extended to cover cross border arrangements. It will also be expected to cover the possibility of repealing various targeted anti-avoidance rules including, potentially, the arbitrage rules (or part thereof). HMRC also welcome input into whether this principle based approach would be effective, the scope of any such rule (eg whether it should be wider than UK-UK transactions, and if so, how), and whether it is appropriate to include a purpose test, or express exclusions.

Who will be affected?

Potentially all UK corporation tax payers.

When?

Comments on the discussion document are requested by 31 May 2010. A workshop is proposed to follow in June or July 2010 and draft legislation will be released as part of the 2010 Pre-Budget Report for introduction as part of the Finance Bill 2011.

Our view

We agree with the approach to simplify what is an increasingly complex area with a growing body of targeted anti-avoidance legislation. However, the devil will be in the detail. The comprehensive consultation process which accompanied the recent disguised interest and transfer of income streams rules resulted in extensive changes to the initial proposals and it will be essential to consult widely to ensure that commercial transactions are not affected and that it is possible for taxpayers to obtain certainty.

One of the effects of the new debt cap regime (another complex set of rules) is to severely limit the types of group mismatch opportunities generally, so we would also question whether another reform process is actually needed.

Although HMRC are clear that they wish to establish symmetry within groups, it is disappointing that they do not appear to have defined, or limited this beyond, a principle of symmetry. The difficult questions and issues will be both those that they have identified for further discussion and those which cannot be identified until a clearer definition and scope has been identified. To ensure that these proposed rules do not act as another deterrent to international business being conducted with the UK, HMRC should ensure that it sets out a framework and clear scope early in the process.

The discussion document sets out that its aim is to ensure that it is only UK tax advantaged schemes that should be caught, and that a purpose test or specific exclusions might be appropriate. We agree that there need to be exclusions for commercial transactions. However, the initial suggestion of a test that is based on whether it would be reasonable to assume the arrangement is designed to reduce the group's tax rate is concerning.

Firstly, the inclusion of an 'objective purpose test' should be resisted unless there is a comprehensive clearance process (which the arbitrage rules currently provide). Secondly, this introduces a new legislative measure of how you measure a group's tax rate. In addition it appears that the question of whether there is an increase in the rate of tax requires a 'counterfactual' assumption. This inevitably is a subjective matter and is likely to give rise to disagreement between taxpayers and HMRC. Hopefully, in the pursuit of simplification, this new measure will not increase uncertainty and add to the compliance complexities for the taxpayer.

Administrative services for start-ups

The measure

HMRC and businesslink.gov.uk which provide a range of services for start-ups including online tools, video guides and factsheets, will launch a new personalised area for start-ups on businesslink.gov.uk in autumn 2011. This will provide easy access to enhanced guidance and tools to help businesses find the support they need when setting up. It will include a tax registration 'wizard' that enables registration for multiple taxes, online services and payment plans using a single interactive online form.

Building on this, HMRC will provide an online facility, by the end of 2011, that provides SMEs with a single view of their current tax liabilities or repayments across the main taxes and reduces the number of times they have to provide the same information (eg address updates) to HMRC.

Who will be affected?

Start-up businesses and SMEs.

When?

The wizard is due to launch in Autumn 2011.

Our view

We welcome the proposed announcement and believe that start-ups will benefit from the simplified administration the wizard will bring.

Annual investment allowance (AIA)

The measure

The AIA was introduced for expenditure from April 2008 to give 100% first-year tax relief for up to 50,000 per annum to businesses incurring expenditure on plant or machinery. This limit has now been doubled to 100,000 from April 2010. For chargeable periods spanning this date, the limit will be time apportioned based on the proportions of the chargeable periods falling either side of April 2010.

The rules about entitlement to an AIA have not been changed, in particular the restriction of one AIA available per group of companies and the ability to allocate the AIA against any plant and machinery expenditure (ie regardless of whether it would have otherwise been allocated to the main pool or special rate pool).

New anti-avoidance provisions have also been introduced for income tax purposes, with the effect of disallowing property loss relief against general income to the extent that the loss is attributable to the AIA and arises as a result of relevant tax avoidance arrangements entered into on or after 24 March 2010.

Who will be affected?

Businesses investing up to 100,000 a year in plant or machinery.

When?

The increase to the AIA limit will have effect for expenditure incurred on or after 1 April 2010 for businesses within the charge to corporation tax and 6 April 2010 for income tax purposes.

The anti-avoidance provisions will apply to losses arising as a result of relevant tax avoidance arrangements entered into on or after 24 March 2010.

Our view

The AIA has been well received since its introduction two years ago, and an increase in the amount of expenditure covered each year will be welcomed by smaller businesses in particular. However, compared with the withdrawal of the temporary 40% first-year allowance, the increase in the AIA limit by a further 50,000 will be of minor benefit to many large businesses investing heavily in plant and machinery.

Anti-avoidance – taxation of earnings

The measure

The Government has announced the introduction of anti-avoidance legislation designed to counteract attempts to avoid income tax and national insurance contributions via the use of employee benefit trusts, other trusts or intermediaries. In addition, the intention is to include arrangements that seek to avoid the restrictions on pensions tax relief.

This can be seen as an extension of an earlier announcement through an HMRC 'Spotlight' article which focused on planning through employee benefit trusts, seeking to impose tax charges when funds are allocated under such trusts rather than when distributed.

In addition, as part of the overall tightening on planning relating to employment income tax, anti-avoidance measures have been announced relating to:

- The use of HMRC-approved company share option plans where awards are made over shares in subsidiaries of listed companies;
- HMRC-approved share incentive plans where shares are bought from shareholders to generate corporate tax relief but without the shares being delivered to employees;
- Making awards in geared growth interests. Currently, these potentially offer capital gains tax rates for gains made. The intent of the consultation will be to ensure that amounts which should be taxed as employment income are brought within the charge to income tax and national insurance contributions.

Who will be affected?

The reach of this proposed anti avoidance legislation has yet to be defined.

When?

Any changes will not be introduced before 6 April 2011.

Our view

Although the Chancellor has announced his intention to consult, review and take action to counter avoidance, it remains to be seen what form these changes will take and how extensive they will be. This will be an important area to keep under review.

Alternative property refinancing arrangements

The measure

The Government is considering changes for alternative property refinance arrangements that do not include payment of interest (often referred to as Islamic financing) so that they have the equivalent tax treatment to conventional loans.

Who will be affected?

Individuals and businesses who wish to enter into non-interest financing arrangements and providers of such finance, eg banks.

When?

No timescale has been set.

Our view

This is a welcome proposal and builds on a number of legislative changes since 2005 to encourage the growth of Islamic financing by removing potential tax distortions.

Associated company rules simplification

The measure

The Budget proposes a simplification to the associated companies' rules, which dictate whether a company can access the small companies' rate or marginal rates of corporation tax.

Each company looking to claim lower rates of corporation tax must calculate the number of their associated companies in order to demonstrate that they fall within those lower rate bands of corporation tax. A company is an 'associated company' of another company if one of the two has control of the other, or both are under the control of the same person or persons.

The definition of 'associated company' has historically been complicated for some companies to navigate. Companies are required to count not only the companies that are controlled by their own major shareholders but also companies that are controlled by those shareholders' families or business partners. It is these rules which the Government are looking to simplify.

Who will be affected?

This measure will only affect companies with taxable profits of less than 1,500,000. Specifically, it will affect companies within that group who are unable to claim lower rates of corporation tax (or have difficulty in claiming them) because they do not have full visibility over the business interests of their shareholders' family or business partners.

When?

Legislation (including detail on commencement) will be included in Finance Bill 2011.

Our view

This is a welcome change to a persistent and unnecessary complexity in tax law, which will increase access to the small companies' and marginal rates of corporation tax across a much wider population of growing private companies.

Bank payroll tax

The measure

Following the announcement in the Pre-Budget Report, the Finance Bill will introduce the bank payroll tax (BPT), for which draft clauses have already been published.

Who will be affected?

The measure affects banks and certain other financial companies operating in the UK, where discretionary remuneration exceeding 25,000 is awarded to an individual by such entities. Whilst considerable detail was included within the previously published draft clauses, today's announcement does give further clarification on both the scope of companies and remuneration caught. Final detail is still awaited, however, including that on the content of the returns HMRC will expect to accompany BPT payments on 31 August 2010.

When?

BPT applies for a finite chargeable period, in that it is charged on relevant remuneration awarded during the period 9 December 2009 to 5 April 2010. BPT must be paid and the supporting return filed by 31 August 2010.

Our view

The broad impact of BPT was clear from the earlier announcements and HMRC discussions. The clarifications on scope are to be welcomed in giving potentially affected businesses greater clarity around:

- the exclusion of certain stand alone businesses, such as some asset managers; and
- an exemption for short term visitors in the UK for less than 60 days.

In practice, care will still need to be taken in applying the BPT definitions. For example, in relation to the definition of 'bank' and 'banking' group for BPT purposes, a stand-alone commodity trading company now appears to be out of scope, but commodity trading activity within a banking group can be within scope. Further, the burden of compliance will not be clear until further detail is provided in the Finance Bill on the format of the return expected by HMRC.

Business rates and empty property relief

The measure

The Chancellor confirmed that the threshold for the exemption from the payment of empty property rates for the rate year 2010/11 would be extended to 18,000, meaning an estimated 70% of empty properties would pay no empty rates. He also announced an increase in the small business rate relief allowances. From October 2010, small businesses occupying properties with rateable values of less than 6,000 will pay no rates for one year and small businesses that enjoy taper relief on rateable values up to 12,000 will get increased relief.

Who will be affected?

Businesses owning properties with rateable values less than 18,000 and 12,000.

When?

As outlined above.

Our view

Robert Murdoch, head of rating at Drivers Jonas Deloitte, commented:

“In the present economic climate where many small businesses are struggling, the increase in small business relief is very welcome with over 345,000 businesses set to benefit.

To a lesser extent, the confirmation of the increased threshold for empty rate relief is also welcome. However this fails to address the real crux of the matter that the changes introduced in April 2008 are penal and as a result many properties that would be available to help set up small starter businesses are being demolished because the income that the owner receives from these lettings does not cover the empty rates costs incurred when the property reverts to them. The real effect of this tax on empty property does not match the theory in both the Barker and the Lyons Reports and it is time that reality took hold and the Government realised that they are destroying the embryo opportunities that new business rely on.”

Company share option plans: anti-avoidance

The measure

HMRC approved Company Share Option Plans (CSOPs) allow tax-advantaged options to be granted to UK employees. In particular, the gain arising on the first 30,000 of approved options could be exempt from income tax and National Insurance.

Prior to the Budget 2010, in order to qualify for the approved/tax-advantaged status, there were a number of conditions to satisfy. In particular, the company whose shares were subject to the CSOP option had to be:

1. A listed company;
2. A company that is not under the control of another company; or
3. A company that is under the control of a listed company.

The legislation will now be amended so that approved CSOP options may no longer be granted over shares in a company that is under the control of a listed company. It will, however, still be possible to implement a CSOP over shares in a listed company or a company that is not under the control of another company.

Who will be affected?

Companies operating, or wishing to operate, an HMRC approved CSOP using shares in a company which is under the control of a listed company.

When?

With effect from 24 March 2010, it will no longer be possible to grant approved options over shares in an unlisted company that is under the control of a listed company.

Our view

HMRC have commented that this amendment was made to combat perceived avoidance arrangements. However, it is disappointing to see that the changes are not 'targeted'. The changes may therefore have a wider impact than HMRC intended.

In particular, we are aware of corporate groups where HMRC approved options are granted over shares in an unlisted subsidiary of a listed parent for genuine commercial reasons, ie with no tax avoidance intended.

Going forward, such companies will no longer be able to grant tax advantaged options and they will need to consider alternative incentive arrangements.

Cushion gas

The measure

While the Government confirmed in last year's Budget that cushion gas constituted plant within the context of gas storage businesses, there has been uncertainty around its treatment as a long-life asset or otherwise. On the view that the gas itself does not wear out, the Government is now to legislate to include expenditure on this asset within the list of "special rate" expenditure and therefore subject to a writing down allowance of 10% per annum (reducing balance) rather than the main pool rate of 20% per annum (reducing balance).

In addition, the Government will be introducing legislation to treat leases of cushion gas as funding leases. The effect of this will be that where such leases are for a term of five or more years they would be subject to the long funding lease rules with the effect that the capital allowances will be available to the lessee rather than the lessor.

Who will be affected?

All businesses incurring expenditure on cushion gas, within a gas storage context, as well as lessors and lessees of cushion gas.

When?

Legislation will be introduced for expenditure incurred on or after 1 April 2010 in relation to the rate of writing down allowances available in respect of expenditure incurred on cushion gas. With regard to funding lease treatment, legislation will be introduced to apply to leases commencing on or after 1 April 2010.

Our view

The lack of certainty around whether writing down allowances would be available in respect of expenditure incurred on cushion gas was previously removed in the announcement in Budget 2009 and welcomed by relevant businesses. The measures announced today, however, are disappointing in terms of the classification of such expenditure as only subject to the lower rate of plant and machinery allowances. The leasing of cushion gas being automatically designated as a funding lease, where it would not otherwise meet the economic life test for such classification, will reduce the flexibility available for lessors.

Double tax avoidance relief

The measure

Three anti-avoidance measures have been introduced to counteract certain complex schemes used by banks and financial institutions which were designed to increase double relief for foreign tax suffered. The three measures are:

- Ensuring that a person may only deduct foreign tax where that person has included the foreign tax in his taxable income (ie they are taxing gross rather than net income prior to relieving the foreign tax);
- Amendments to the double tax relief anti-avoidance rules to tighten the definitions of certain prescribed schemes in Schedule 28AB ICTA1988; and
- Clarification that relief for foreign tax is available only if the gross amount (rather than net amount) of a dividend or manufactured overseas dividend is included in taxable income prior to the relief for foreign tax being given.

Who will be affected?

Taxpayers using avoidance schemes to receive relief for foreign tax where they have not suffered the cost of the foreign tax.

When?

Applies to foreign tax paid or payable after 1 April 2010 for corporation tax purposes, and 6 April 2010 for income tax and capital gains tax. It also applies to manufactured overseas dividends paid or treated as paid 21 days after 24 March 2010.

Our view

This will only affect a small number of taxpayers who have entered into such transactions and is unlikely to have wider commercial significance.

Enhanced capital allowances (ECA)

The measure

As has become expected in each Budget since the introduction of the ECA regime in 2001, the list of qualifying technologies has again been updated.

Permanent magnet synchronous electric motors and biomass fired warm air heaters have been added to the list of energy saving technologies qualifying for the 100% first-year allowances, whilst compact heat exchangers and liquid pressure amplification units have been removed. The criteria for eligible taps and showers have been tightened. Minor housekeeping changes are also to be made to the existing criteria for both the energy saving and water efficient schemes.

Who will be affected?

Businesses investing in relevant energy efficient assets.

When?

The changes to the schemes will have effect on or after a date to be appointed by Treasury Order prior to the summer 2010 Parliamentary recess.

Our view

The significant NPV benefit of up to circa 30% in securing ECAs is now more attractive with the withdrawal of the temporary 40% first-year allowance, as generally assets otherwise attracting ECAs would qualify as special rate assets and therefore only receive writing-down allowances at a rate of 10%.

Whilst the addition of the new technologies is welcomed, this is largely confined to a fairly narrow range of businesses and is offset by the impact of the removal of other technologies which will disappoint those investing in refrigeration and cold storage in particular.

Enterprise management incentives

The measure

Companies currently wishing to offer share options to their employees under Enterprise Management Incentives (EMI) must operate "wholly or mainly in the UK". The criteria to be able to award such approved options is to be relaxed enabling companies who have a 'permanent establishment' in the UK to be able to qualify.

Who will be affected?

Companies who have a permanent establishment in the UK and otherwise meet the qualifications to offer options under EMI.

When?

The change will have effect on or after the legislation receives Royal Assent.

Our view

This relaxation is welcome and will allow a wider range of employers to be able to make EMI award.

Foreign exchange matching rules amendments

The measure

It has been announced that regulations have been laid to amend the 'Exchange Gains and Losses (Bringing into Account Gains and Losses) Regulations' (the EGLBAGL Regulations) in Statutory Instrument 2002/1970. In particular, the new regulations change the way in which previously disregarded foreign exchange movements are brought back into tax.

The EGLBAGL Regulations provide that, where foreign exchange gains or losses on loans or currency contracts used to hedge (for instance) a share asset have previously been disregarded for tax purposes (on the basis that they fall within the foreign exchange tax matching rules), they must be brought back into account when the share asset is disposed of.

The main affect of the amendments is that, instead of producing a 'free-standing' net chargeable gain or loss in respect of the previously disregarded foreign exchange movements, the disposal consideration for the share asset is adjusted.

The amendments seek to correct the position which arose previously, where the net chargeable gain or loss was not capable of being transferred within a group (under section 171A TCGA 1992) because the gain or loss did not accrue 'in respect of an asset'. There will also be an interaction with indexation allowance.

Who will be affected?

Companies which have used, or will use, the foreign exchange tax matching rules to disregard foreign exchange movements on hedging loans or currency contracts.

When?

The change applies where hedged assets are disposed of on or after 6 April 2010, subject to transitional rules.

Our view

The main amendment discussed above is not unexpected as it had been previously been discussed with the foreign exchange matching working group, and is to be welcomed since it allows alignment with the workings of section 171A TCGA92.

Green measures

The Government have recognised that the low-carbon economy is central to building strong, long-term, sustainable growth – in 2008-2009 the UK's low-carbon and environmental sectors were worth an estimated 112bn and provided employment for almost 910,000 people (Innovas, March 2010). They also recognise the role the Government has to play in enabling the investment needed for the transition to a low-carbon economy, particularly in the energy sector given the unprecedented scale of the investment challenge (the Government estimate investment of 100-120bn is required in this sector by 2020).

The measures

Budget 2010 announced the following measures aimed at supporting the financing of low carbon investment and low carbon jobs:

- The creation of a Green Investment Bank operating on a commercial basis which will invest in low-carbon infrastructure to address emerging equity finance gaps. The Government will invest up to 1 billion from the sale of infrastructure-related assets and will seek to match this with at least 1 billion of private sector investment. A consultation will be launched in summer 2010;
- Whilst the Government recognise that the EU ETS cap provides the best long-term solution to secure a more robust low carbon future they acknowledge the need for greater certainty. They therefore plan to consult this summer on mechanisms to provide greater certainty for low-carbon investment with measures to be introduced in the 2010 Pre-Budget Report;
- Nitrous oxide gases from nitric acid production will be opted into the EU ETS from 2011;
- A previous assessment of the energy markets has shown that over the long-term, action on the carbon price will be insufficient to meet the Government's energy policy objectives. There will therefore be a consultation on the electricity policy framework this autumn with a White Paper in Spring 2011;

- There will be a consultation on grandfathering the minimum level of Renewables Obligation support for biomass installations at the point of accreditation and also the sustainability criteria for biomass used for combined heat and power;
- Up to 60m for the development of port sites, to support offshore wind turbine manufacturers looking to locate new facilities in the UK;
- The launch of UK Finance for Growth (UKFG) to streamline the Government's SME finance support which will include help for businesses seeking to commercialise low-carbon technologies. UKFG will work in partnership with DECC and Regional Development Agencies to co-ordinate all public low carbon SME equity schemes including the Carbon Trust's VC activities and the UK Innovation Investments Fund's (UKIIF)'s low carbon programmes;
- A commitment to reduce government departments' estates and operational carbon emissions by at least 30 per cent by 2020. This will be included in the individual carbon reduction plans to be published shortly.

In addition, the following fiscal measures were announced:

- The fuel duty increase for 2010 will be staged, with an increase of one penny per litre on 1 April and one penny per litre on 1 October 2010, then 0.76 pence per litre on 1 January 2011. Fuel duty will also rise by one penny per litre in real terms on 1 April each year from 2011 to 2014;
- The standard rate of landfill tax will increase by 8 per tonne on 1 April 2014, to encourage alternatives to landfill. The lower rate will be frozen in 2011-2012 and the list of wastes which qualify for this rate will remain broadly the same as currently;
- Climate Change levy rates will rise in line with inflation from April 2011 to maintain the levy's environmental impact;
- Aggregates levy will increase just above inflation to 2.10 per tonne on 1 April 2010;
- There will be an update to the technologies included in the Enhanced Capital Allowances scheme for energy and water efficient products including new sub categories for 'self driving' magnetic motors and biomass air heaters;
- Company car tax for ultra-low carbon cars (emissions of between 1 and 75g CO₂/km) will be halved for five years from April 2010. Vehicle Excise Duty discounts will be available for vehicles that achieve early compliance with the Euro VI air quality standard. HGD VED will continue to be frozen in 2010-2011.

Our view

The Government has recognised that the low-carbon economy is central to building strong, long-term, sustainable growth – in 2008-2009 the UK's low-carbon and environmental sectors were worth an estimated 112 billion and provided employment for almost 910,000 people (Innovas, March 2010). It also recognises the role it has to play in enabling the investment needed for the transition to a low-carbon economy, particularly in the energy sector given the unprecedented scale of the investment challenge (the Government estimate investment of 100-120 billion is required in this sector by 2020).

The Government is putting the Green Investment Bank in place because there is a huge financing requirement in respect of the carbon agenda. In order to meet the UK's carbon reduction targets significant volumes of investment in low carbon infrastructure will be required and there is a real risk that private financing will not be able to meet that demand. By putting this funding in place the government will give confidence that the infrastructure can now be built.

HMRC compliance checks regarding excise duties

The measure

The proposals will update the compliance checking framework for excise duties to make them consistent with the approach now used by HMRC across all other business taxes. The measures are targeted at counteracting the risk of excise fraud and include:

- modernising information and inspection powers;
- aligning the record-keeping rules and the time limits for assessments and claims with changes made to other taxes and duties;

- a power to inspect documents;
- a power to enter premises used by a trader;
- a power to make unannounced inspection visits;
- new record keeping requirements aligned across all taxes and duties; and
- a power to seek information from third parties, such as banks.

Safeguards such as the prohibition of inspection of wholly private premises have been introduced, in line with HMRC's practices on other taxes.

Who will be affected?

Businesses and individuals involved with excise duties on alcohol, tobacco, energy products, gambling duties and air passenger duty.

When?

The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament. The record-keeping changes and amendments to information and inspection powers are expected to have effect from 1 April 2011. The proposed changes to time limits for making assessments and claims need a transitional period and are not expected to become fully operative before 1 April 2012.

Our view

The proposals follow a consultation where it was recognised that excise duties are different from other taxes and, therefore, sometimes require a different approach from HMRC. Additional safeguards are proposed to account for these differences, but the overall effect will be to bring a welcome consistency to HMRC's approach across all business taxes.

Interest harmonisation

The measure

Corporation tax and petroleum revenue tax (PRT) are to be brought into the harmonised interest regime introduced by FA 2009.

In the harmonised regime, interest on late paid tax will be charged by HMRC from the date the tax is due to be paid and interest on tax repayments will accrue from the date of payment of tax or, if later, the date it is due to be paid.

The rules relating to interest on corporation tax quarterly instalment payments will remain outside the harmonised rules, reflecting the particular nature of these payments.

Who will be affected?

Taxpayers making late payments of corporation tax or PRT, or receiving repayments from HMRC.

When?

The new provisions will be brought into effect by Treasury Orders, which will specify the dates from which they are effective. Interest harmonisation is expected to be phased in over a number of years.

Our view

Until recently there were a number of different rules applying to interest across taxes and duties. The single legislative framework for interest should make it easier for taxpayers to understand how their interest is calculated.

It is also satisfying that the Government has responded to the representations made during the consultation process to exclude interest on corporation tax quarterly instalment payments from the harmonised regime.

Limiting tax deductions: close companies

The measure

Legislation is to be introduced in the Finance Bill to deny a corporation tax deduction where a loan to a participator in a closely held company (essentially a company with five or fewer shareholders) is released or written off. The effect of writing off or releasing the loan is to trigger an income receipt, akin to a dividend payment, in the hands of the participators. This treatment is to be retained, but the new rules deny the corporate debt rules.

Who will be affected?

Closely held companies who have made loans to participators that have been written off or released.

When?

The provisions will apply to loans released or written off on or after Budget Day.

Our view

This technique was being used as a means of extracting funds tax efficiently from close companies. The changes are designed to prevent this, by denying corporate tax relief.

Loan relationships and derivative contracts

The measure

Legislation will be introduced into Finance Bill 2010 to allow regulations to be made to amend corporation tax rules on loan relationships and derivative contracts. This is in preparation for the changes expected to be made during 2010 to International Accounting Standard 39 'Financial Instruments: Recognition and Measurement' ('IAS 39').

Who will be affected?

Businesses who have adopted IAS 39 or Financial Reporting Standard 26 'Financial Instruments: Recognition and Measurement' ('FRS 26') in their entity statutory accounts.

When?

Although the regulations will be included in Finance Bill 2010, they are primarily intended to be utilised to react to changes in the replacement accounting standard for IAS 39 and FRS 26. The current timetable for the new international accounting standards expects finalisation by the end of 2010 with mandatory application by 2013 (however EU ratification will be required before the standards can be adopted by UK companies). Therefore application of the provisions is unlikely to take place before the end of 2010 even where early adoption is allowed.

Our view

While this measure will be introduced in expectation of changes to IAS 39, it may also be used for the impact of the adoption by the UK Accounting Standards Board of International Financial Reporting Standards for Small and Medium Entities to replace existing UK Generally Accepted Accounting Practice, currently timetabled for 2012. We welcome the introduction of this measure which will enable a faster response to remove uncertainty on how financial instruments will fall to be taxed under the various new accounting standards. For example, additional volatility to profit and loss may be introduced which may not be covered by the existing 'disregard regulations' and this measure could allow for these to be dealt with via secondary legislation.

North Sea fiscal regime

Whilst there were no significant announcements in respect of the North Sea fiscal regime, the Government has today confirmed some expected changes to North Sea chargeable gains legislation and various minor points on interest and tax payments. These are detailed below.

Announcements were made earlier this year that the Field Allowance would be extended to the area west of Shetland to further support the development of gas fields in this region.

Discussions between Government and industry are ongoing in respect of other areas of importance to industry such as the taxation of decommissioning trusts. Tax changes for certain trusts compensating asbestos victims that were announced today will be of interest to the Industry. Although this measure is unrelated to the North Sea fiscal regime, it is worth noting that trusts attached to Decommissioning Security Agreements (DSAs) may be subject to income tax, inheritance tax and capital gains tax in certain circumstances. Today's change highlights the fact that Government can and will make exception to the usual taxation of trust rules and industry would welcome a similar exemption applying to DSA Trusts.

Reinvestment relief

The measure

Legislation was introduced in Finance Act (FA) 2009 to exempt certain chargeable gains arising on disposals of certain North Sea assets to the extent that disposal proceeds are reinvested in certain classes of assets. The intention of the legislation was to ensure that the reinvestment relief would apply in a group context (i.e. that the company making the reinvestment did not need to be the company making the disposal). The drafting of the legislation did not achieve this. Today's announcement is that reinvestment relief can apply to disposals and reinvestments on a group-wide basis.

Who will be affected?

This measure affects oil and gas companies operating in the UK or on the UK Continental Shelf.

When?

The change will have effect in relation to disposals made on or after 24 March 2010.

Our view

Although it is welcome that Government are correcting this mistake, in our view the change should be retrospective and apply from the time that the reinvestment rules were introduced in 2009 as this was always the intention of the law.

We are awaiting legislation to extend the reinvestment relief rules to include exploration and development drilling announced in the 2009 Pre-Budget Report. It is now clear that this legislation will not be enacted pre-election.

Relief for overpayments of PRT

The measure

This measure amends error or mistake relief rules such that it will be possible to reclaim an overpayment of PRT where there is no other statutory route available to the company. Time limits for repayment claims will be changed from six to four years.

Who will be affected?

This will apply to participators in oil fields who are liable to PRT.

When?

The measure will apply from 1 April 2011, to allow for claims to be made under the old rules (no doubt to ensure that this is in line with European law requirements).

Our view

It is not surprising that the rules have been harmonised across taxes, following similar changes to income tax, capital gains tax and corporation tax rules last year.

Interest harmonisation for Corporation Tax (CT) and PRT on under/overpaid tax

The measure

CT and PRT will be included in the harmonised late payment interest regime on under/overpaid tax introduced in FA 2009. The aim is to ensure that the current different interest regimes are replaced by a single regime for interest charged on late payments or interest income on repayments of tax. Interest will be charged on companies from the date the tax was due to be paid to HMRC until the date it is paid. HMRC will pay interest on tax repayments from the date the tax was due to be paid or actually received (if later) until the date that the repayment is made.

Who will be affected?

Payers of corporation tax and PRT who make late payments to HMRC, or receive tax repayments from HMRC.

When?

The new legislation will be introduced over a number of years, taking into account changes to HMRC systems required to handle these changes.

Our view

Simplifying the tax system in this way is to be welcomed, although it is disappointing that such changes will take so long to implement.

Capital allowances: plant and machinery: cushion gas

The measure

Two measures have been announced in respect of cushion gas:

- All leases of cushion gas will be treated as funding leases; and
- All expenditure on cushion gas will qualify for capital allowances at 10% on a reducing balance basis.

Who will be affected?

This affects companies that operate gas storage facilities and lessors of cushion gas.

When?

The provision in respect of leases will apply to leases commencing on or after 1 April 2010, except in some circumstances where a contract for the lease is already in place.

The legislation in respect of capital allowances will apply to expenditure incurred on or after 1 April 2010.

Our view

The treatment of cushion gas as plant and machinery was announced in early 2009. Those affected may be disappointed that Government has decided to apply the 10% capital allowance rate, rather than the rate of 20% which is applied to general plant and machinery, although since cushion gas does not strictly wear out, capital allowances at the same rate as a long life asset are not surprising.

The treatment of these arrangements as funding leases ensures that only the lessee should obtain the capital allowances where the lease is for a term of five or more years. Depending on the particular circumstances of companies affected, this could be an adverse or helpful measure. We will have to see the detail of the legislation to determine this.

Pensions tax

The measure

The Government issued on 24 March 2010 a summary of the responses to last December's consultation document on how to implement the restriction of higher rate relief on the pension savings of high income individuals from 6 April 2011. The summary outlines what they have decided on each of the points under discussion and what the next steps in the process are going to be.

Where the restrictions apply, higher rate relief will be reduced by 1% for each additional 1,000 of income between 150,000 and 180,000, so that at incomes of 180,000 and above relief will be restricted to the basic rate. This will work by imposing a tax charge to recover the excess higher rate relief that the individual will claim through their tax return as normal.

The Government consulted the pensions industry and other professionals on the detail of the proposed new regime but has not been persuaded to change its views except in a few minor areas. As a result:

- The value of an employer's contribution to a defined benefit scheme will be determined using age-related factors which will take into account both the age of the individual and their normal retirement age under their pension scheme. This will result in a significantly higher deemed value for older scheme members compared with younger members. Members taking early retirement will be particularly affected. The factors will be reviewed at least every five years.
- The Government will consider the options for recognising 'negative' deemed contributions to a defined benefit scheme, ie where the deemed employer contribution is valued at less than the amount actually contributed by the employee.
- These measures can affect employees with a salary substantially less than 150,000 who receive exceptional payments, for example termination payments. However, only the first 30,000 of any redundancy payments will be excluded from the income test. Respondents to the consultation suggested the exclusion should be much higher.
- The charges will apply in the year in which pension benefits are drawn by using the income of the previous year, although there will be an exemption where the member retires through serious ill health or dies.
- The tax relief restriction will apply equally to high income members of overseas schemes that benefit from UK tax relief, although it is recognised that some members may have difficulty meeting the self-assessment deadline for reporting any charge payable by them, and further consultation will take place on this point.
- There will be an obligation on employers, in conjunction with pension scheme administrators, to provide information to employees to enable them to be able to self assess their position. This will represent a particular burden for defined benefit scheme administrators. Further discussion will take place on this.
- Where an individual's recovery charge exceeds 15,000 they can spread the payment (plus interest) over three years if their pension scheme is not able to pay it on their behalf.

From 6 April 2011 the special annual allowance will have no further relevance, and normal ongoing regular pension savings will no longer be protected.

Who will be affected?

A high income individual is one whose annual taxable income is at least 150,000 before deducting personal pension contributions and payments to charity, but including any employer pension contributions made on their behalf. Individuals whose income on this basis is less than 130,000, ignoring any employer pension contributions, are not affected.

When?

As announced, the restriction of higher rate relief will take effect from 6 April 2011.

Our view

It is disappointing that the Government has rejected any significant modifications to the proposals outlined last December for restricting higher rate tax relief on the pension savings of high income individuals. Many have argued it would have been far simpler and fairer to lower the annual allowance from the current 245,000 to say 50,000, but the Government rejected this.

The proposals are likely to carry a heavy administrative cost for employers and pension scheme managers and will be very difficult for individuals to understand and deal with through self assessment without professional help.

High earners are likely to be deterred from further participation in defined benefit pension schemes because they will have no control over the tax charges that continued membership will give rise to. There will be no refund if the scheme fails to provide the promised benefits because of underfunding and the sponsoring employer can no longer support it.

REITs and stock dividends

The measure

UK REITs are qualifying groups or companies with property rental businesses that have elected to join the REITs regime. The benefit of being in the REIT regime is that profits and gains arising from the rental business are exempt from corporation tax. To qualify for the regime, the REIT is required to distribute 90 per cent of profits from its property rental business per accounting period to its shareholders. The change announced today will allow stock dividends to be issued in lieu of cash dividends to meet this distribution requirement.

Who will be affected?

UK property groups who have elected into the REITs regime.

When?

The legislation will be introduced in a Finance Bill as soon as possible in the next Parliament and will have effect for property income distributions made on or after the date the Bill receives Royal Assent.

Our view

This is a welcome change and one that has been lobbied for by UK REITs for some time given the desire to retain cash within their businesses.

Review of HMRC powers: penalties for late filing of returns and payment of tax

The measure

This measure applies to VAT and other indirect taxes and excise duties and will complete the reform of the penalty regimes for late filing of tax returns and late payment of tax.

The new regime will replace the current range of penalties and will treat late payment of tax and late filed returns separately. It is designed to encourage filing and payment on a timely basis by introducing an escalating series of penalties depending on the number of failures within a set penalty period. Further penalties will arise if there is a prolonged delay in filing returns or paying the tax due.

Under the new regime:

- Businesses making quarterly returns will face a 100 penalty on the first occasion that a quarterly return is filed late. This failure also starts a penalty period which is set for one year;
- For each subsequent failure within the penalty period, the penalty escalates by 100 (up to a maximum of 400 per failure) with the penalty period being extended to one year from the date of the last failure;
- For prolonged failures, an additional penalty of 5% of the tax on the relevant return will be imposed at 6 and 12 months from the due date.

Businesses making monthly returns will face penalties of 100 for the first three defaults in any penalty period and 200 for the next three up to a maximum of 400 per failure.

Businesses that pay tax late will also suffer penalties:

- For businesses making quarterly returns, the first late payment will start a penalty liability period of one year;
- A further default in that period will result in a penalty of 2% of the tax paid late;
- Subsequent defaults in the penalty period will result in penalties increasing to 3% and then to a maximum of 4% for the fourth and subsequent defaults;
- Prolonged defaults will be penalised at 5% of the tax at 6 and 12 months from the date of failure.

Businesses making monthly returns will face a similar regime except that after the first failure the tax geared penalties are 1% for the first three failures in any penalty period, 2% for the next three up to a maximum of 4% per failure.

Who will be affected?

Taxpayers who do not file their tax returns on time or pay their tax liabilities in full and on time for indirect taxes and excise duties.

When?

The implementation of new penalties for late filing and late payment requires changes to HMRC's computer systems and internal processes and is to be staged over a number of years. The new provisions will be brought into effect by Treasury Orders which will specify the dates from which they have effect.

Our view

This is a measure which is part of the ongoing process to reform the UK penalty regime for late filing and payment of tax.

Sale and repurchase transactions

The measure

A proposed retrospective amendment to the corporation tax treatment of manufactured payments received in the course of sale and repurchase (or 'repo') transactions was made on 9 February 2010. The proposed legislation confirms that amounts to be brought into account for tax purposes by companies in respect of manufactured payments are those that are taken into account in accordance with generally accepted accounting practice.

Who will be affected?

Companies who receive manufactured payments under repo transactions, predominantly banking groups.

When?

As originally announced, the government proposes that this legislation will have retrospective effect from the date the repo rules were introduced ie 1 October 2007.

Our view

Whilst any retrospective legislation is of concern, it is understandable that the government has felt the need to introduce this move to prevent a potential windfall from the lack of clarity in the original legislation.

Sale of lessor companies: option to elect

The measure

A tax deferral can arise in certain leasing companies because of the profile of capital allowance deductions versus the profile of taxable income. This often results in such companies not paying tax in respect of rental income in the early years of a lease. Schedule 10 FA 2006 (now Chapter 3 Part 9 of CTA 2010) was introduced to seek to prevent groups with leasing companies from turning the temporary timing benefit into a permanent benefit by selling leasing companies which were about to start to pay tax due to the reversal of the timing benefit. Selling the company to a loss-making group before the taxable profits arose enabled the future (deferred) tax liability that would otherwise crystallise over time to be avoided. The provisions of Schedule 10 can be triggered by any change in the relationship between a company which uses assets for leasing or derives income from leasing and its ultimate 75% parent or consortium members. Similar provisions apply on the sale of certain partnership interests.

Schedule 10 creates a deemed income charge broadly equal to the difference between the tax written down value of plant and machinery and the book value of the assets which arises in the company on the day prior to the change in relationship. A corresponding deduction is available for the leasing company immediately after the change in relationship with restrictions on the way in which that deduction may be utilised, so that for a UK tax paying purchasing group it is intended that Schedule 10 should produce only a timing disadvantage.

In Pre-Budget Report 2009, HMRC announced the introduction of a relieving provision to offer leasing companies an option to elect for alternative treatment to the Schedule 10 charge and subsequent deduction. Given the current economic climate, the effective benefit of the deduction which Schedule 10 creates may be reduced due to a lack of profits to offset against the deduction arising in the purchasing group. The proposed measure allows leasing companies to elect that instead of triggering a deemed income charge at the time of the change of ownership, the profits of the leasing business shall be ring fenced following the change in ownership and the new group will not be able to offset losses arising in other group companies or from other activities of the new group or new leases written by the leasing company against the profits arising to the leasing company from the leasing business as at the change of ownership.

A revised draft of the legislation was published today.

The Government made changes to ensure that the election has the intended effect. In particular:

- that the effects of the ring fence are not brought to an end unless the full amount of deferred income calculated is brought into charge to tax (applicable to leasing companies owned by consortia);
- to prevent companies who have made the election from being treated as a tonnage tax company (which would prevent the deferred profits of a leasing business from being brought into tax); and
- that the rules bring the treatment of a lessor CFC into line with the treatment of a UK resident lessor.

The government also introduced a change to the option to elect to ensure that expenditure unconditionally contracted for before 9 December 2009 should not be prevented from qualifying for capital allowances.

Who will be affected?

The sale of lessor rules and the option to elect may affect groups with companies which have a business of leasing plant or machinery (for example equipment hire, intragroup equipment leasing companies and in-house vendor finance providers) as well as those looking to purchase and sell such companies.

When?

The option to elect rules announced in Pre Budget Report 2009 have effect for transactions where the relevant day (ie the date of the change of ownership) falls on or after 9 December 2009. The changes announced today to ensure the legislation operates as intended operate in each case by reference to today (24 March 2010) although their precise timing of effect varies in each case. The changes relating to unconditional contracts entered into before 9 December 2009 are deemed to always have had effect from the date the draft legislation was published on 9 December 2009.

Our view

The changes announced in Budget 2010 are aimed at ensuring that the option to elect operates as HMRC intended.

The option to elect is welcomed as going some way to removing the commercial straightjacket which the sale of lessor rules impose on certain commercial transactions. However, the changes do not go as far as we would like. In order to prevent Schedule 10 having an adverse effect on entirely commercially motivated sales of leasing businesses (in particular where the purchaser does not have UK taxable profits) we have always considered that a general anti-avoidance or commercial purpose test should be included in Schedule 10.

Security for payment of PAYE from employers with history of non-compliance

The measure

HMRC will be empowered to require employers to provide a financial security where PAYE or National Insurance is at serious risk. HMRC will set the security required according to the potential tax liability involved, although employers will have a right of appeal.

The new regulations will introduce a new criminal offence for employers who fail to pay the security and impose fines of up to 5,000.

Who will be affected?

The measure will affect employers who have a history of serious non-compliance in terms of paying late or not paying PAYE or National Insurance. HMRC will issue security notices to such employers.

When?

The intended date for the new regulations is 6 April 2011, and a 12 week consultation period on the regulations is proposed.

Our view

This would seem to be another measure targeted at employers who deduct PAYE and National Insurance but fail to handover the deductions to HMRC. We assume that the measure is aimed at employers who are persistently non-compliant. However, when the regulations are released for consultation we will be able to establish whether they have broader application.

Share incentive plans: anti-avoidance

The measure

The Budget introduces two pieces of anti-avoidance legislation in relation to HMRC-approved share incentive plans (SIP).

1. Corporation tax deductions for contributions to a SIP trust used to buy shares from a non-corporate shareholder

Where companies make a contribution to the trustees of an HMRC-approved SIP and the trustees use those funds to acquire shares from a non-corporate shareholder, the company can claim a corporate tax deduction upfront for the contribution to the trust. If a sufficient number of shares are not appropriated to employees within specified time limits, the corporation tax deduction may be withdrawn.

Legislation will be introduced to ensure that the company will no longer be able to obtain the upfront corporation tax deduction if, at the time the contribution is made, it is not genuinely intended that the shares would be passed to employees (ie it is part of a tax avoidance scheme).

2. Withdrawing approval of an HMRC-approved SIP

Where alterations are made to a company's share capital or the rights attached to shares, and the alterations materially affect the value of the SIP shares, HMRC can already withdraw the HMRC approved status of the plan.

A minor change will be made to the current legislation to ensure that approval of a SIP may be withdrawn even if, at the time of the alteration, there are no participants in the SIP or no shares have been awarded.

Who will be affected?

Companies operating an HMRC-approved SIP.

When?

The legislation will apply for contributions made to the SIP trust and for alterations to the share capital/share rights made on or after 24 March 2010.

Our view

We would not expect many companies to be affected by these anti-avoidance provisions. They may, however, be regarded as prudent housekeeping by HMRC to prevent future avoidance.

Systemic risk levy

The measure

The Government considers that an internationally coordinated systemic risk tax on financial institutions could help to reduce the risks and impact of future financial crises.

The Government has set out in the Budget the key principles it believes should guide further international work on systemic risk taxes. These are:

- a systemic risk tax should be coordinated internationally;
- it should complement but not substitute for existing G20 initiatives aimed at addressing systemic risk;
- the tax proceeds should go into general taxation of the national governments and should not be seen as an insurance policy for financial institutions;
- the timing of its introduction should take account of the timing and strength of the economic recovery;
- it should be as simple as possible to aid international co-ordination; and
- it should cover all financial institutions that might contribute significantly to systemic risk.

Who will be affected?

Financial institutions, in particular banking groups, operating in the UK.

When?

No timescale has been set. Given the current Government's desire to introduce a new tax in an internationally coordinated manner, any proposal is likely to take several months to conclude.

Our view

A number of G20 governments have suggested windfall or other new taxes on the banking sector in order to recover the costs of 'banking bailouts' and to raise tax revenues. President Obama has already announced a proposal to levy a 15 basis point levy on some of the borrowing costs of large banking groups (with over \$50bn of assets). Other commentators have suggested a Tobin style tax, which would be a tax on each financial transaction.

The Government's desire for an internationally coordinated response appears sensible given the risk that the UK could lose business, employment and tax revenues by taking a unilateral approach.

Tackling offshore tax evasion

The measure

There will be increased penalties for individuals who fail to pay taxes due on offshore income or gains, with penalties of up to 200% of tax for deliberate and concealed tax evasion. This represents a doubling of the existing maximum penalty. The tax geared penalties that can arise for inaccurate tax returns, failure to notify tax liabilities and failure to submit tax returns will all be affected.

The level of the maximum penalty will be determined by the level of information exchange between the overseas country and the UK. The government will list which territories are in each category in secondary legislation;

- Where there is automatic information exchange (as, for example, under the European Savings Directive) the increased penalties will not apply;
- Where there is information exchange on request, the new maximum penalty will be 1 times the existing limit of 100% of the tax;
- Where the non-compliance arises in a jurisdiction which has not agreed to exchange information with the UK, the penalty will be double the existing limit of 100% of the tax.

A forthcoming consultation on possible information requirements and disclosure obligations regarding offshore assets was also announced

Who will be affected?

The new penalty regime will apply to income tax and capital gains tax. It will affect individuals and businesses with offshore assets that fail to declare the full extent of their tax liabilities.

When?

It is expected that the new penalty regime will apply to tax periods commencing on or after 1 April 2011.

Our view

Proposals to tackle offshore evasion were the subject of a consultation document published in December 2009. The Budget proposals reflect the Government's acknowledgement of the responses received since then, which were also published today. The Government's acknowledgement that there should be no additional reporting requirements for overseas bank accounts is to be welcomed, as is the acknowledgement that not all taxpayer errors will be treated as being deliberate.

The Government is continuing to target tax evasion associated with UK taxpayers holding undeclared assets offshore. In this, the UK is in line with all of the major economies which are counteracting tax leakage by a combination of information exchange and new reporting requirements. The UK approach is to incentivise early disclosure by offering reduced penalties and partial amnesties such as the Liechtenstein Disclosure Facility, which will run until 2015, with the corresponding risk of increased penalties becoming increasingly evident.

We are waiting for the detail of the proposed legislation, particularly on how the penalties will be applied in practice where there are both UK and overseas tax failures.

Time to pay and business payment support service

The measure

The Chancellor has indicated his intention that the 'business payment support service' and the 'time to pay' schemes should be extended for the whole of the next Parliament. This represents only a minor clarification since last December when he said they would remain for 'as long as needed'.

There is no change to last December's announcement that businesses seeking time to pay arrangements worth 1,000,000 or more will be required from April 2010 to provide an independent business review (IBR) in support of their request. HMRC held informal consultation workshops throughout January this year and further guidance on the process is expected to be published shortly.

Who will be affected?

All businesses who are in genuine difficulty, unable to pay their tax on time (eg income tax, corporation tax, VAT, PAYE or National Insurance) and can demonstrate they are likely to be able to pay if HMRC allow them more time, will be able to take advantage of the scheme. From 24 November 2008 to date, this scheme has allowed businesses that together employ over 1.4 million people to defer payment of over 5 billion of tax.

In terms of the new IBR requirement, HMRC estimate that this will affect less than 0.25% of businesses annually. In their view this represents 'a very small minority of businesses with substantial debts'.

When?

The schemes are already in operation and the implementation date for IBRs remains 6 April 2010.

Our view

In practice financial difficulties within major UK businesses will tend to have disproportionate consequences on the economy as a result of the knock-on effects to suppliers, lenders and employees in the supply chain. In this sense, continued HMRC support is a significant boost to the underlying economy.

To date many taxpayers have found it a difficult process to persuade HMRC that a deferral of any significant sum is justified and increasing volumes of applications have stretched HMRC resources.

From April 2010, HMRC now promise a 'swift decision', based on an IBR paid for by the business. The cost/benefit to the businesses involved will depend on the detailed requirements and the facts of each case. Given the importance of these businesses, we continue to encourage HMRC to implement this measure in such a way that burdens to business are minimised and the cash flow benefits available are delivered to deserving cases in a more timely fashion.

Venture Capital Trusts

The measure

Four changes are to be made to the Enterprise Investment Scheme (EIS) and Venture Capital Trust (VCT) Schemes.

The existing requirement for the shares making up a VCTs ordinary shares to be included in the UK official list is to be replaced with a requirement that shares should be admitted for trading on any EU regulated market. Equally, the new rules will increase the requirement as regards 'eligible shares' from a minimum of 30% to 70%. The definition of such shares will also change to include shares with preferential rights to receive dividends.

In the case of both EIS and VCTs new rules will be introduced to exclude investments in companies which would be classed an "enterprise in difficulty" under European Commission rules. In addition, under current rules there must be a qualifying trade which is carried on wholly or mainly in the UK. This is to change so that the requirement will be for the company issuing the shares to simply have a permanent establishment in the UK.

Who will be affected?

Investors in EIS and VCT schemes.

When?

The new rules are to be introduced as soon as practicable.

Our view

These changes were required in order to satisfy the European Commission rules concerning the provision of approved state aid.

Video game relief

The measure

A new tax relief to support game development undertaken by the UK video games industry will be introduced.

Who will be affected?

The Government will be consulting later this year on the design of the new relief so it is not yet known how the relief will be applied.

When?

The relief will be introduced once approval for the relief as State aid has been obtained.

Our view

This relief will be narrowly focussed, but will be welcomed by those companies that it affects. It will be interesting to see how this relief will interact with the R&D tax relief available to SMEs which is also a State aid.

Worldwide debt cap

The measure

The worldwide debt cap rules were introduced in 2009 to limit UK corporation tax deductions for interest costs of large groups to no more than the finance cost borne by the worldwide group as a whole. The Pre-Budget Report 2009 proposed several changes to address anomalies in the debt cap rules and the following further amendments were announced today:

- The results of companies falling within the special tax regime for securitisation companies will be excluded from the 'available amount'. This supplements the previously announced change that excludes a securitisation company from the definition of financing costs and income;
- Where a company is involved in capital market transactions and incurs a corporate tax liability as a result of the application of the debt cap, it will be allowed to transfer this to another group member. This recognises the difficulties which could arise where a company involved in a securitisation could otherwise incur an unexpected liability due to disallowance of expense under the debt cap;
- The definition of debt for the gateway test will include long-term arrangements that have the economic effect of a loan, even where these do not have the legal form of a loan. It is expected this will be especially important in the PFI sector;
- It will be made clear that a limited liability partnership cannot be an ultimate parent of a group for debt cap purposes;
- Distributions made by industrial and provident societies will be excluded from the definition of financing expenses of these companies, even though they are typically regarded as interest for tax purposes.

Who will be affected?

Each of these changes addresses specific issues raised by particular industry groups and are unlikely to affect the majority of large corporate groups who fall within the debt cap rules.

When?

The changes announced at the Pre-Budget Report 2009, together with the further amendments announced today, will be introduced into a Finance Bill as soon as possible in the next Parliament and will have effect (other than the change to the gateway test) from 1 January 2010. It is proposed that the change to the gateway test will be elective and will only apply prospectively.

Our view

These changes reflect the ongoing discussions between HMRC and representative bodies to address the various problem areas and mismatches that have been identified under the debt cap rules. As such, the proposals are welcome but highlight the complexities of the debt cap provisions. It is disappointing that there are still a number of areas which HMRC have not yet addressed and will now likely require retrospective legislation.

Zero-emission goods vehicles

The measure

As announced at the 2009 Pre-Budget Report, this measure will provide a 100% first-year allowance for expenditure incurred on new and unused (ie not second-hand) zero-emission goods vehicles. Eligible vehicles must be unable to produce CO2 emissions under any circumstances and must be designed for the conveyance of goods or burden.

The general exclusions applicable to all first-year allowances will apply here (including an exclusion for leased assets), in addition to further restrictions imposed by State aid rules (including an overall expenditure cap of 85m over the five year life of the measure).

Who will be affected?

Businesses purchasing zero-emission goods vehicles.

When?

This measure will have effect for expenditure incurred for a period of five years starting on 1 April 2010 for corporation tax purposes and 6 April 2010 for income tax purposes.

Our view

This extension of the existing incentive offered on expenditure incurred on cars with low CO2 emissions will surely be welcomed by businesses investing in energy efficient and low carbon vehicles, albeit that this relief is only available to zero-emission (ie electric motor-based) vehicles.

Employers

Share incentive plans: anti-avoidance

The measure

The Budget introduces two pieces of anti-avoidance legislation in relation to HMRC-approved share incentive plans (SIP).

1. Corporation tax deductions for contributions to a SIP trust used to buy shares from a non-corporate shareholder

Where companies make a contribution to the trustees of an HMRC-approved SIP and the trustees use those funds to acquire shares from a non-corporate shareholder, the company can claim a corporate tax deduction upfront for the contribution to the trust. If a sufficient number of shares are not appropriated to employees within specified time limits, the corporation tax deduction may be withdrawn.

Legislation will be introduced to ensure that the company will no longer be able to obtain the upfront corporation tax deduction if, at the time the contribution is made, it is not genuinely intended that the shares would be passed to employees (ie it is part of a tax avoidance scheme).

2. Withdrawing approval of an HMRC-approved SIP

Where alterations are made to a company's share capital or the rights attached to shares, and the alterations materially affect the value of the SIP shares, HMRC can already withdraw the HMRC approved status of the plan.

A minor change will be made to the current legislation to ensure that approval of a SIP may be withdrawn even if, at the time of the alteration, there are no participants in the SIP or no shares have been awarded.

Who will be affected?

Companies operating an HMRC-approved SIP.

When?

The legislation will apply for contributions made to the SIP trust and for alterations to the share capital/share rights made on or after 24 March 2010.

Our view

We would not expect many companies to be affected by these anti-avoidance provisions. They may, however, be regarded as prudent housekeeping by HMRC to prevent future avoidance.

Zero and low emission cars and vans

The measure

Company cars and vans will no longer attract an income tax charge if they have zero CO2 emissions (eg electric vehicles). Hybrids which can run on electricity or petrol/diesel will not qualify for the exemption.

In addition, petrol cars emitting 75g of CO2 per kilometre or less will attract a reduced chargeable benefit of 5% of their list price. Ultra-low emission diesel cars will still be subject to the 3% surcharge, making the chargeable benefit for diesel cars 8% of list price.

Reduction and abolition of company car and van benefits will also reduce Class 1A National Insurance liabilities for employers.

Who will be affected?

Employees provided with a zero emission car or van, or an ultra-low emission car.

When?

The exemption is a temporary measure and will have effect from 6 April 2010 to 5 April 2015.

Our view

Tax incentives for electric cars and vans should further encourage employers to provide these vehicles and, in turn, encourage a wider variety of such models to be made available in the UK.

We welcome further incentives for the selection of cars with lower CO2 emissions. Whilst there are currently no cars generally available in the ultra-low group of up to 75g/km and none are expected within the next six months, the pace of manufacturers reducing emissions means that there are likely to be options available before the incentive period ends. However, we would expect these cars to have diesel engines, attracting an 8% charge on list price.

Anti avoidance – taxation of earnings

The measure

The Government has announced the introduction of anti-avoidance legislation designed to counteract attempts to avoid income tax and national insurance contributions via the use of employee benefit trusts, other trusts or intermediaries. In addition, the intention is to include arrangements that seek to avoid the restrictions on pensions tax relief.

This can be seen as an extension of an earlier announcement through an HMRC 'Spotlight' article which focused on planning through employee benefit trusts, seeking to impose tax charges when funds are allocated under such trusts rather than when distributed.

In addition, as part of the overall tightening on planning relating to employment income tax, anti-avoidance measures have been announced relating to:

- The use of HMRC-approved company share option plans where awards are made over shares in subsidiaries of listed companies;
- HMRC-approved share incentive plans where shares are bought from shareholders to generate corporate tax relief but without the shares being delivered to employees;
- Making awards in geared growth interests. Currently, these potentially offer capital gains tax rates for gains made. The intent of the consultation will be to ensure that amounts which should be taxed as employment income are brought within the charge to income tax and national insurance contributions.

Who will be affected?

The reach of this proposed anti avoidance legislation has yet to be defined.

When?

Any changes will not be introduced before 6 April 2011.

Our view

Although the Chancellor has announced his intention to consult, review and take action to counter avoidance, it remains to be seen what form these changes will take and how extensive they will be. This will be an important area to keep under review.

Disclosure of tax avoidance schemes

The measure

HMRC published a consultation document in respect of the Disclosure of Tax Avoidance Schemes (DOTAS) regime at the time of PBR in December 2009. The paper set out five proposed measures:

- increased penalties for failure to comply with a disclosure obligation, subject to determination by the Tribunal;

- a new requirement for a person who introduces a client to a notifiable scheme to provide HMRC with the name and address of the promoter who provided them with details of that scheme;
- the introduction a new “trigger point” for the disclosure of actively marketed schemes – the point at which a promoter first communicates a fully designed scheme to a third party for the purpose of obtaining clients of that scheme;
- a new requirement for promoters to provide HMRC with periodic information about clients who implement a notifiable scheme for scheme reference members (SRNs) issued on or after the date the regulations come into force; and
- the revision and extension of the Tax Avoidance Schemes Regulations 2006 which contain the descriptions of schemes to be disclosed, commonly referred to as “hallmarks”- the term used to describe the types of schemes that should be notified.

The Budget now proposes that some of changes are to be taken forward, but that consultation will continue, and that changes will be made to take into account the comments already made during the consultation process.

Who will be affected?

In the main, these proposals will affect the promoters of disclosable arrangements.

When?

HMRC propose to continue discussions with stakeholders who have contributed to the consultation, in order to revise and finalise the draft regulations with a view to finalising the regulations in the summer and their coming into force in the autumn of 2010.

Our view

It is of vital importance that the hallmarks continue to focus on avoidance and do not result in a disproportionate reporting obligation, which may result in disclosures which are of limited use to HMRC. Whilst HMRC’s policy aims are understandable, the timescale for the imposition of the significant changes proposed must allow promoters and intermediaries to update their systems.

Company share option plans: anti-avoidance

The measure

HMRC approved Company Share Option Plans (CSOPs) allow tax-advantaged options to be granted to UK employees. In particular, the gain arising on the first 30,000 of approved options could be exempt from income tax and National Insurance.

Prior to the Budget 2010, in order to qualify for the approved/tax-advantaged status, there were a number of conditions to satisfy. In particular, the company whose shares were subject to the CSOP option had to be:

1. A listed company;
2. A company that is not under the control of another company; or
3. A company that is under the control of a listed company.

The legislation will now be amended so that approved CSOP options may no longer be granted over shares in a company that is under the control of a listed company. It will, however, still be possible to implement a CSOP over shares in a listed company or a company that is not under the control of another company.

Who will be affected?

Companies operating, or wishing to operate, an HMRC approved CSOP using shares in a company which is under the control of a listed company.

When?

With effect from 24 March 2010, it will no longer be possible to grant approved options over shares in an unlisted company that is under the control of a listed company.

Our view

HMRC have commented that this amendment was made to combat perceived avoidance arrangements. However, it is disappointing to see that the changes are not 'targeted'. The changes may therefore have a wider impact than HMRC intended.

In particular, we are aware of corporate groups where HMRC approved options are granted over shares in an unlisted subsidiary of a listed parent for genuine commercial reasons, ie with no tax avoidance intended.

Going forward, such companies will no longer be able to grant tax advantaged options and they will need to consider alternative incentive arrangements.

Employer supported childcare – relaxation of conditions

The measure

This measure will relax the requirement for employer supported childcare schemes to be 'available to all employees'. Currently, the employer's supported scheme must be available to all employees in order to attract income tax and National Insurance exemptions. As the schemes often work through a salary sacrifice arrangement, participation could take some low-paid employees below the national minimum wage thresholds.

This measure will relax this requirement, allowing employers to exclude employees at or near the national minimum wage.

Who will be affected?

Employers who offer support for childcare through a childcare voucher scheme or who directly pay for their employees' childcare costs.

When?

This measure will not be included in the 2010 Finance Bill but the Government, if re-elected, intends to legislate for it in 2011. It will have retrospective effect from tax year 2005/06 onwards.

Our view

If introduced, this would be a welcome relaxation dealing with a practical problem affecting many employers who offer childcare benefits.

Pensions tax

The measure

The Government issued on 24 March 2010 a summary of the responses to last December's consultation document on how to implement the restriction of higher rate relief on the pension savings of high income individuals from 6 April 2011. The summary outlines what they have decided on each of the points under discussion and what the next steps in the process are going to be.

Where the restrictions apply, higher rate relief will be reduced by 1% for each additional 1,000 of income between 150,000 and 180,000, so that at incomes of 180,000 and above relief will be restricted to the basic rate. This will work by imposing a tax charge to recover the excess higher rate relief that the individual will claim through their tax return as normal.

The Government consulted the pensions industry and other professionals on the detail of the proposed new regime but has not been persuaded to change its views except in a few minor areas. As a result:

- The value of an employer's contribution to a defined benefit scheme will be determined using age-related factors which will take into account both the age of the individual and their normal retirement age under their pension scheme. This will result in a significantly higher deemed value for older scheme members compared with younger members. Members taking early retirement will be particularly affected. The factors will be reviewed at least every five years.
- The Government will consider the options for recognising 'negative' deemed contributions to a defined benefit scheme, ie where the deemed employer contribution is valued at less than the amount actually contributed by the employee.

- These measures can affect employees with a salary substantially less than 150,000 who receive exceptional payments, for example termination payments. However, only the first 30,000 of any redundancy payments will be excluded from the income test. Respondents to the consultation suggested the exclusion should be much higher.
- The charges will apply in the year in which pension benefits are drawn by using the income of the previous year, although there will be an exemption where the member retires through serious ill health or dies.
- The tax relief restriction will apply equally to high income members of overseas schemes that benefit from UK tax relief, although it is recognised that some members may have difficulty meeting the self-assessment deadline for reporting any charge payable by them, and further consultation will take place on this point.
- There will be an obligation on employers, in conjunction with pension scheme administrators, to provide information to employees to enable them to be able to self assess their position. This will represent a particular burden for defined benefit scheme administrators. Further discussion will take place on this.
- Where an individual's recovery charge exceeds 15,000 they can spread the payment (plus interest) over three years if their pension scheme is not able to pay it on their behalf.

From 6 April 2011 the special annual allowance will have no further relevance, and normal ongoing regular pension savings will no longer be protected.

Who will be affected?

A high income individual is one whose annual taxable income is at least 150,000 before deducting personal pension contributions and payments to charity, but including any employer pension contributions made on their behalf. Individuals whose income on this basis is less than 130,000, ignoring any employer pension contributions, are not affected.

When?

As announced, the restriction of higher rate relief will take effect from 6 April 2011.

Our view

It is disappointing that the Government has rejected any significant modifications to the proposals outlined last December for restricting higher rate tax relief on the pension savings of high income individuals. Many have argued it would have been far simpler and fairer to lower the annual allowance from the current 245,000 to say 50,000, but the Government rejected this.

The proposals are likely to carry a heavy administrative cost for employers and pension scheme managers and will be very difficult for individuals to understand and deal with through self assessment without professional help.

High earners are likely to be deterred from further participation in defined benefit pension schemes because they will have no control over the tax charges that continued membership will give rise to. There will be no refund if the scheme fails to provide the promised benefits because of underfunding and the sponsoring employer can no longer support it.

Tackling offshore tax evasion

The measure

There will be increased penalties for individuals who fail to pay taxes due on offshore income or gains, with penalties of up to 200% of tax for deliberate and concealed tax evasion. This represents a doubling of the existing maximum penalty. The tax geared penalties that can arise for inaccurate tax returns, failure to notify tax liabilities and failure to submit tax returns will all be affected.

The level of the maximum penalty will be determined by the level of information exchange between the overseas country and the UK. The government will list which territories are in each category in secondary legislation:

- Where there is automatic information exchange (as, for example, under the European Savings Directive) the increased penalties will not apply;
- Where there is information exchange on request, the new maximum penalty will be 1 times the existing limit of 100% of the tax;
- Where the non-compliance arises in a jurisdiction which has not agreed to exchange information with the UK, the penalty will be double the existing limit of 100% of the tax.

A forthcoming consultation on possible information requirements and disclosure obligations regarding offshore assets was also announced.

Who will be affected?

The new penalty regime will apply to income tax and capital gains tax. It will affect individuals and businesses with offshore assets that fail to declare the full extent of their tax liabilities.

When?

It is expected that the new penalty regime will apply to tax periods commencing on or after 1 April 2011.

Our view

Proposals to tackle offshore evasion were the subject of a consultation document published in December 2009. The Budget proposals reflect the Government's acknowledgement of the responses received since then, which were also published today. The Government's acknowledgement that there should be no additional reporting requirements for overseas bank accounts is to be welcomed, as is the acknowledgement that not all taxpayer errors will be treated as being deliberate.

The Government is continuing to target tax evasion associated with UK taxpayers holding undeclared assets offshore. In this, the UK is in line with all of the major economies which are counteracting tax leakage by a combination of information exchange and new reporting requirements. The UK approach is to incentivise early disclosure by offering reduced penalties and partial amnesties such as the Liechtenstein Disclosure Facility, which will run until 2015, with the corresponding risk of increased penalties becoming increasingly evident.

We are waiting for the detail of the proposed legislation, particularly on how the penalties will be applied in practice where there are both UK and overseas tax failures.

Individuals

Pensions tax

The measure

The Government issued on 24 March 2010 a summary of the responses to last December's consultation document on how to implement the restriction of higher rate relief on the pension savings of high income individuals from 6 April 2011. The summary outlines what they have decided on each of the points under discussion and what the next steps in the process are going to be.

Where the restrictions apply, higher rate relief will be reduced by 1% for each additional 1,000 of income between 150,000 and 180,000, so that at incomes of 180,000 and above relief will be restricted to the basic rate. This will work by imposing a tax charge to recover the excess higher rate relief that the individual will claim through their tax return as normal.

The Government consulted the pensions industry and other professionals on the detail of the proposed new regime but has not been persuaded to change its views except in a few minor areas. As a result:

- The value of an employer's contribution to a defined benefit scheme will be determined using age-related factors which will take into account both the age of the individual and their normal retirement age under their pension scheme. This will result in a significantly higher deemed value for older scheme members compared with younger members. Members taking early retirement will be particularly affected. The factors will be reviewed at least every five years.
- The Government will consider the options for recognising 'negative' deemed contributions to a defined benefit scheme, ie where the deemed employer contribution is valued at less than the amount actually contributed by the employee.
- These measures can affect employees with a salary substantially less than 150,000 who receive exceptional payments, for example termination payments. However, only the first 30,000 of any redundancy payments will be excluded from the income test. Respondents to the consultation suggested the exclusion should be much higher.
- The charges will apply in the year in which pension benefits are drawn by using the income of the previous year, although there will be an exemption where the member retires through serious ill health or dies.
- The tax relief restriction will apply equally to high income members of overseas schemes that benefit from UK tax relief, although it is recognised that some members may have difficulty meeting the self-assessment deadline for reporting any charge payable by them, and further consultation will take place on this point.
- There will be an obligation on employers, in conjunction with pension scheme administrators, to provide information to employees to enable them to be able to self assess their position. This will represent a particular burden for defined benefit scheme administrators. Further discussion will take place on this.
- Where an individual's recovery charge exceeds 15,000 they can spread the payment (plus interest) over three years if their pension scheme is not able to pay it on their behalf.

From 6 April 2011 the special annual allowance will have no further relevance, and normal ongoing regular pension savings will no longer be protected.

Who will be affected?

A high income individual is one whose annual taxable income is at least 150,000 before deducting personal pension contributions and payments to charity, but including any employer pension contributions made on their behalf. Individuals whose income on this basis is less than 130,000, ignoring any employer pension contributions, are not affected.

When?

As announced, the restriction of higher rate relief will take effect from 6 April 2011.

Our view

It is disappointing that the Government has rejected any significant modifications to the proposals outlined last December for restricting higher rate tax relief on the pension savings of high income individuals. Many have argued it would have been far simpler and fairer to lower the annual allowance from the current 245,000 to say 50,000, but the Government rejected this.

The proposals are likely to carry a heavy administrative cost for employers and pension scheme managers and will be very difficult for individuals to understand and deal with through self assessment without professional help.

High earners are likely to be deterred from further participation in defined benefit pension schemes because they will have no control over the tax charges that continued membership will give rise to. There will be no refund if the scheme fails to provide the promised benefits because of underfunding and the sponsoring employer can no longer support it.

Tackling offshore tax evasion

The measure

There will be increased penalties for individuals who fail to pay taxes due on offshore income or gains, with penalties of up to 200% of tax for deliberate and concealed tax evasion. This represents a doubling of the existing maximum penalty. The tax geared penalties that can arise for inaccurate tax returns, failure to notify tax liabilities and failure to submit tax returns will all be affected.

The level of the maximum penalty will be determined by the level of information exchange between the overseas country and the UK. The government will list which territories are in each category in secondary legislation:

- Where there is automatic information exchange (as, for example, under the European Savings Directive) the increased penalties will not apply;
- Where there is information exchange on request, the new maximum penalty will be 1 times the existing limit of 100% of the tax;
- Where the non-compliance arises in a jurisdiction which has not agreed to exchange information with the UK, the penalty will be double the existing limit of 100% of the tax.

A forthcoming consultation on possible information requirements and disclosure obligations regarding offshore assets was also announced

Who will be affected?

The new penalty regime will apply to income tax and capital gains tax. It will affect individuals and businesses with offshore assets that fail to declare the full extent of their tax liabilities.

When?

It is expected that the new penalty regime will apply to tax periods commencing on or after 1 April 2011.

Our view

Proposals to tackle offshore evasion were the subject of a consultation document published in December 2009. The Budget proposals reflect the Government's acknowledgement of the responses received since then, which were also published today. The Government's acknowledgement that there should be no additional reporting requirements for overseas bank accounts is to be welcomed, as is the acknowledgement that not all taxpayer errors will be treated as being deliberate.

The Government is continuing to target tax evasion associated with UK taxpayers holding undeclared assets offshore. In this, the UK is in line with all of the major economies which are counteracting tax leakage by a combination of information exchange and new reporting requirements. The UK approach is to incentivise early disclosure by offering reduced penalties and partial amnesties such as the Liechtenstein Disclosure Facility, which will run until 2015, with the corresponding risk of increased penalties becoming increasingly evident.

We are waiting for the detail of the proposed legislation, particularly on how the penalties will be applied in practice where there are both UK and overseas tax failures.

Capital gains tax: increase in lifetime limit on entrepreneurs' relief

The measure

The lifetime limit on gains qualifying for entrepreneurs' relief will increase from 1million to 2million.

Who will be affected?

Individuals and trustees of settlements who qualify for the relief. For trustees, the limit is that of the beneficiary who meets the requirements in order for the trustees to claim the relief.

When?

Legislation will be introduced in the 2010 Finance Bill and will affect qualifying disposals on or after 6 April 2010.

Our view

The new measures result in a doubling of the amount of qualifying gains available to be taxed at an effective rate of 10%, rather than the main CGT rate of 18%, and are to be welcomed.

Inheritance tax – nil rate band

The measure

Legislation will be introduced in Finance Bill 2010 to freeze the limit of the inheritance tax (IHT) nil rate band for the tax year 2010/11 at the current level of 325,000. This freeze had been announced in the 2009 Pre-Budget Report and will now be extended to cover the tax years 2011/12 to 2014/15.

IHT is payable at 40% on the value of a chargeable transfer above the nil rate band.

Who will be affected?

Individuals, trustees and executors and personal representatives of deceased individuals.

When?

The measure will have effect for chargeable IHT events made on or after 6 April 2010 and before 6 April 2015.

Our view

The extension of the freeze of the nil rate band is not wholly unexpected given there was no increase proposed for 2010/11.

Administrative services for start-ups

The measure

HMRC and businesslink.gov.uk which provide a range of services for start-ups including online tools, video guides and factsheets, will launch a new personalised area for start-ups on businesslink.gov.uk in Autumn 2011. This will provide easy access to enhanced guidance and tools to help businesses find the support they need when setting up. It will include a tax registration 'wizard' that enables registration for multiple taxes, online services and payment plans using a single interactive online form.

Building on this, HMRC will provide an online facility, by the end of 2011, that provides SMEs with a single view of their current tax liabilities or repayments across the main taxes and reduces the number of times they have to provide the same information (eg address updates) to HMRC.

Who will be affected?

Start-up businesses and SMEs.

When?

The wizard is due to launch in Autumn 2011.

Our view

We welcome the proposed announcement and believe that start-ups will benefit from the simplified administration the wizard will bring.

Alternative property refinancing arrangements

The measure

The Government is considering changes for alternative property refinance arrangements that do not include payment of interest (often referred to as Islamic financing) so that they have the equivalent tax treatment to conventional loans.

Who will be affected?

Individuals and businesses who wish to enter into non-interest financing arrangements and providers of such finance, eg banks.

When?

No timescale has been set.

Our view

This is a welcome proposal and builds on a number of legislative changes since 2005 to encourage the growth of Islamic financing by removing potential tax distortions.

Disclosure of tax avoidance schemes

The measure

HMRC published a consultation document in respect of the Disclosure of Tax Avoidance Schemes (DOTAS) regime at the time of PBR in December 2009. The paper set out five proposed measures:

- increased penalties for failure to comply with a disclosure obligation, subject to determination by the Tribunal;
- a new requirement for a person who introduces a client to a notifiable scheme to provide HMRC with the name and address of the promoter who provided them with details of that scheme;
- the introduction a new “trigger point” for the disclosure of actively marketed schemes – the point at which a promoter first communicates a fully designed scheme to a third party for the purpose of obtaining clients of that scheme;
- a new requirement for promoters to provide HMRC with periodic information about clients who implement a notifiable scheme for scheme reference members (SRNs) issued on or after the date the regulations come into force; and
- the revision and extension of the Tax Avoidance Schemes Regulations 2006 which contain the descriptions of schemes to be disclosed, commonly referred to as “hallmarks”- the term used to describe the types of schemes that should be notified.

The Budget now proposes that some of changes are to be taken forward, but that consultation will continue, and that changes will be made to take into account the comments already made during the consultation process.

Who will be affected?

In the main, these proposals will affect the promoters of disclosable arrangements.

When?

HMRC propose to continue discussions with stakeholders who have contributed to the consultation, in order to revise and finalise the draft regulations with a view to finalising the regulations in the summer and their coming into force in the autumn of 2010.

Our view

It is of vital importance that the hallmarks continue to focus on avoidance and do not result in a disproportionate reporting obligation, which may result in disclosures which are of limited use to HMRC. Whilst HMRC's policy aims are understandable, the timescale for the imposition of the significant changes proposed must allow promoters and intermediaries to update their systems.

Double tax avoidance relief

The measure

Three anti-avoidance measures have been introduced to counteract certain complex schemes used by banks and financial institutions which were designed to increase double relief for foreign tax suffered. The three measures are:

- Ensuring that a person may only deduct foreign tax where that person has included the foreign tax in his taxable income (ie they are taxing gross rather than net income prior to relieving the foreign tax);
- Amendments to the double tax relief anti-avoidance rules to tighten the definitions of certain prescribed schemes in Schedule 28AB ICTA1988; and
- Clarification that relief for foreign tax is available only if the gross amount (rather than net amount) of a dividend or manufactured overseas dividend is included in taxable income prior to the relief for foreign tax being given.

Who will be affected?

Taxpayers using avoidance schemes to receive relief for foreign tax where they have not suffered the cost of the foreign tax.

When?

Applies to foreign tax paid or payable after 1 April 2010 for corporation tax purposes, and 6 April 2010 for income tax and capital gains tax. It also applies to manufactured overseas dividends paid or treated as paid 21 days after 24 March 2010.

Our view

This will only affect a small number of taxpayers who have entered into such transactions and is unlikely to have wider commercial significance.

Enterprise management incentives

The measure

Companies currently wishing to offer share options to their employees under Enterprise Management Incentives (EMI) must operate "wholly or mainly in the UK". The criteria to be able to award such approved options is to be relaxed enabling companies who have a 'permanent establishment' in the UK to be able to qualify.

Who will be affected?

Companies who have a permanent establishment in the UK and otherwise meet the qualifications to offer options under EMI.

When?

The change will have effect on or after the legislation receives Royal Assent.

Our view

This relaxation is welcome and will allow a wider range of employers to be able to make EMI award.

Extending charity tax reliefs to certain European organisations

The measure

Following the 2009 judgment in the European Court of Justice (ECJ), reliefs available to UK charities and Community Amateur Sports Clubs (CASCs) will be extended to equivalent organisations in the European Union (EU), Iceland and Norway. This will be achieved by the introduction of a statutory definition of 'charity', 'charitable company' and 'charitable trust'.

In addition to those changes affecting individual donors, there are further changes for charities, both in and outside the UK. Charities receiving donations tax-free will face tightened rules over what they spend the donations on, and will need to take reasonable steps to ensure monies paid to non-UK bodies are used for genuine charitable purposes.

The rules regarding the recovery of tax overpaid to charities (where individuals using gift aid have not paid enough tax to cover the donation) will be amended to apply the same treatment to UK and non-UK resident donors. HMRC's concessionary practice of making in-year repayments under gift aid to charities will be put on a statutory basis, with some restrictions on the number and value of in-year repayment claims.

Who will be affected?

- UK and non-UK resident individuals and companies who make donations to charities in the EU, Iceland or Norway;
- Non-UK resident individuals with UK-sourced income who make gift aid donations; and
- Trustees/managers of charities and CASCs both in the UK and the EU, Iceland or Norway.

When?

The restrictions on charities regarding their spending, both in and outside the UK, take effect from 24 March 2010.

Changes to the definition of 'charity', and changes to the rules on in-year recovery of tax in respect of gift aid donations, take effect from 6 April 2010.

Our view

This measure will be welcome to individuals making donations to charities in the EU, Iceland and Norway, who have not previously been able to claim relief. Individuals with significant contributions between the ECJ judgment date (27 January 2009) and April 2010 may want to consider making a claim to HMRC for tax relief on these donations. The tightening of the rules for charities themselves are perhaps unsurprising, given the opening up of the system to charities regulated outside the UK, and will likely result in increased administration requirements for charity trustees and managers.

Extending the scope of the remittance rule

The measure

FA 2008 extended the scope of what counts as a remittance of foreign income or gains by a resident, non-domiciled individual. Since April 2008, a remittance also occurs where income or gains are gifted abroad to family or controlled entities and then brought to the UK.

Remittances by a 'relevant person' include those by certain close family members and close companies in which the non-domiciliary or his family are participators. Any such company involved in making a remittance is likely to be non-resident. Normally, a non-resident company cannot be close. The FA 2008 legislation recognised this by treating non-resident 'remittance' companies as close. However, this did not explicitly extend to a subsidiary of the non-resident company used for remittance purposes. This defect will now be corrected.

Who will be affected?

High net worth non-domiciliaries who seek to remit foreign income or gains to the UK by gifting it to a controlled offshore entity which then transfers the funds to the UK.

When?

The change will have effect from 6 April 2010.

Our view

The measure remedies a technical defect in the 2008 legislation. It is not one which appears to have been widely used.

HMRC compliance checks regarding excise duties

The measure

The proposals will update the compliance checking framework for excise duties to make them consistent with the approach now used by HMRC across all other business taxes. The measures are targeted at counteracting the risk of excise fraud and include:

- modernising information and inspection powers;
- aligning the record-keeping rules and the time limits for assessments and claims with changes made to other taxes and duties;
- a power to inspect documents;
- a power to enter premises used by a trader;
- a power to make unannounced inspection visits;
- new record keeping requirements aligned across all taxes and duties; and
- a power to seek information from third parties, such as banks.

Safeguards such as the prohibition of inspection of wholly private premises have been introduced, in line with HMRC's practices on other taxes

Who will be affected?

Businesses and individuals involved with excise duties on alcohol, tobacco, energy products, gambling duties and air passenger duty.

When?

The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament. The record-keeping changes and amendments to information and inspection powers are expected to have effect from 1 April 2011. The proposed changes to time limits for making assessments and claims need a transitional period and are not expected to become fully operative before 1 April 2012.

Our view

The proposals follow a consultation where it was recognised that excise duties are different from other taxes and, therefore, sometimes require a different approach from HMRC. Additional safeguards are proposed to account for these differences, but the overall effect will be to bring a welcome consistency to HMRC's approach across all business taxes.

Income tax adjustments between settlors and trustees

The measure

A person who sets up a trust (a settlor) can receive repayments of tax on trust income if their personal income tax rate is lower than that of the trustees (the body that runs a trust). The measure outlined requires that the repayment must be paid over to the trustees by the settlor. The repayment paid to the trustees will not have inheritance tax implications.

Who will be affected?

Individuals who are assessable on the income of trusts that they have created. Such an individual will be assessable on the income if they, their husband/wife/civil partner can benefit from the trust or if their minor children actually do receive a benefit from the trust.

When?

The measure is to take effect for repayments received in respect of income tax chargeable from 6 April 2010.

Our view

The measure prevents a settlor receiving potentially unwanted repayments from the trust as a result of tax rate differentials. This allows them to return any benefit they receive to the trust without adverse tax implications which would otherwise result from adding cash to the trust. This is to be welcomed because the settlor will often have set up the trust to benefit future generations of the family and will not want its value to be diminished.

Income tax rates, rate limits and personal allowances 2010/11

The measure

As previously announced, the 20% basic rate will continue to apply to taxable income up to 37,400 and the 40% higher rate to taxable income above 37,400. The 50% additional rate will apply to taxable income above 150,000.

Personal allowances will remain at their existing amounts (under 65 – 6,475; 65 to 74 – 9,490 and over 75 – 9,640). The personal allowance will be withdrawn for all individuals with income over 100,000 at a rate of reduction of 1 of personal allowance for every 2 of income, above 100,000.

Who will be affected?

The additional rate will apply to taxpayers with taxable income above 150,000. The changes to personal allowances will affect taxpayers with taxable income above 100,000.

When?

The introduction of the additional rate and changes to personal allowances will take effect from 6 April 2010.

Our view

No further changes were announced.

Individual Savings Account (ISA): limits from 6 April 2011

The measure

The annual ISA investment limits will increase in line with the retail prices index on an annual basis. The cash ISA limit will remain half the annual ISA investment limit.

In addition, for 2010/11 the annual ISA investment limit will increase to 10,200 of which 5,100 can be saved in cash. This limit has applied to individuals over 50 since October 2009, and will be extended to all Taxpayers from 6 April 2010.

Who will be affected?

All individuals who invest in ISAs.

When?

The new indexing measures will take effect for 2011/12 and later years. The indexing will take effect from 6 April of the tax year in question.

Our view

The general increase in ISA limits for 2010/11 and increasing the ISA limits in line with RPI from 6 April 2011 will come as positive news to savers.

Life insurance policies deficiency relief

The measure

Relief when losses arise on certain life policies and similar investments is being extended to ensure it provides relief to 50% taxpayers as well as 40% taxpayers.

Where gains are made on some life policies, the policyholder is taxable on the gain. Gains can arise where there are partial surrenders in excess of limits determined by the premium paid and the number of years the policy has been running. When the policy is finally surrendered the overall gain on the policy may be less than the amount that has been taxed as a result of partial surrenders of the policy. Under current legislation the policyholder obtains relief for this deficiency against tax payable at the upper rates but not basic rate tax. With the introduction of 50% higher tax rates from 6 April 2010, this measure ensures that the deficiency can also be relieved against tax chargeable at the higher rates.

Current rules have permitted tax avoidance where a non taxpayer or basic rate taxpayer withdraws funds in excess of the permitted limits triggering a gain that is not taxable. The policy was then transferred to an upper rate taxpayer who surrendered it generating a deficiency which gave relief for tax at the upper rates. Anti-avoidance provisions are also being introduced to prevent taxpayers obtaining relief in excess of the tax that they have already suffered.

Who will be affected?

Taxpayers surrendering life policies, capital redemption policies and annuity policies.

When?

On chargeable events on policies after 6 April 2010.

Our view

We welcome the extension of the relief to the additional rate of tax as providing fairness for taxpayers. The anti-avoidance provision was expected and seems targeted and proportionate.

Special guardianship orders and residence orders

The measure

Certain payments made to qualifying carers (see below) who effectively take on legal parental responsibility will be exempt from income tax.

The qualifying payments for the income tax relief are:

- Those made by the child's parents or by, or on behalf of, the local authority;
- To a qualifying carer.

Who will be affected?

Individuals who care for one or more children placed with them under:

- a special guardianship order; or
- a residence order, where the individual is not the children's parent or step-parent.

When?

The measure will take effect for payments received from 6 April 2010.

Our view

The exemption from income tax for payments made to individuals taking on parental responsibilities to assist in the development of children is recognition of the important role that those individuals are taking.

Taxation of Financial Services Compensation Scheme interventions

The measure

Policyholders may suffer a tax disadvantage where compensation is paid or in the case of certain interventions (such as transferring a policyholder's rights to another insurer) under the Financial Services Compensation Scheme (FSCS). The life policy or annuity policy may lose its tax advantages as a result.

Who will be affected?

The Finance Bill will contain legislation to protect the tax position of policyholders where the FSCS intervenes.

When?

Regulations can be made once the Finance Bill receives Royal Assent. They can be backdated to apply to an earlier period provided they do not increase anyone's tax liability.

Our view

This follows similar powers introduced in the Finance Act 2009 to provide similar protection for FCSC interventions affecting pension savers. It provides much needed protection.

Tax changes for certain trusts compensating asbestos victims

The measure

The trusts covered by this measure will be those created as part of an arrangement made by a company with its creditors requiring them to pay compensation to victims of asbestos related conditions. Such trusts will be exempt from income tax, capital gains tax and inheritance tax.

Who will be affected?

Trustees of relevant trusts created on or before 23 March 2010.

When?

The measure takes effect from 6 April 2006.

Our view

It is only fair that tax breaks are given to trusts set up to compensate victims of asbestos. This effectively brings such trusts in line with charitable trusts which do not normally pay income tax, capital gains tax or inheritance tax.

Transactions in securities – anti-avoidance

The measure

Following the consultation document Simplifying Transactions in Securities Legislation published on 31 July 2009, clearer legislation will be introduced in the Finance Bill 2010 targeting arrangements involving tax avoidance more effectively.

Existing legislation provides for the counteraction of an income tax advantage when a person enters into certain transactions in securities with a view to obtaining that income tax advantage.

Previous legislation covered UK listed as well as non-listed companies. The scope of the new legislation is limited to transactions with a tax avoidance purpose and the replacement rules will only apply to certain arrangements involving close companies including overseas companies.

The effect of the legislation continues to be to counteract the income tax advantage. The new legislation also makes clear how the tax advantage is to be quantified.

Who will be affected?

Individuals entering into transactions in securities to obtain an income tax advantage.

A wider range of companies will be covered by the new legislation but the new income tax advantage test and new exemption covering fundamental changes in ownership of close companies will mean fewer individuals need to consider whether the rules apply to them.

Certain transactions by companies involving 'dividend stripping' and similar arrangements are no longer covered by the legislation because avoidance opportunities involving these arrangements have been removed.

When?

The measure will generally have effect for transactions where the tax advantage is obtained on or after 24 March 2010.

Some aspects of the measure affect the Corporation Tax Act 2010 and will have effect at the same time as that Act.

Our view

Following the consultation document and the summary of responses published on 9 December 2009, this is a refinement to the existing rules which was widely anticipated.

UK charity tax reliefs

The measure

The Budget announced a number of changes to the law and processes relating to charity tax relief. These include:

- Aligning the definition of a charity across all charity tax reliefs and exemptions administered by HMRC;
- Changing the nature of payroll-giving income by requiring that it be put to charitable purposes to qualify for exemption;
- Strengthening the rules requiring UK charities that make payments to bodies outside the UK to take reasonable steps to ensure the funds are used for genuine charitable purposes; and
- Aligning the treatment of UK resident and non-UK resident donors who make donations under Gift Aid without sufficient tax to cover the repayment to the charity.

UK charitable tax reliefs will also be extended to certain organisations equivalent to UK charities and UK Community Amateur Sports Clubs (CASCs) in the EU, Norway and Iceland, as a result of a European Court of Justice (ECJ) decision in 2009.

An anti-avoidance measure is also being introduced to prevent exploitation of the rules for tax relief on gifts of certain qualifying investments, such as certain shares, securities and land, to charities.

Who will be affected?

- Trustees, directors and managers of UK charities and UK CASCs;
- Managers of organisations equivalent to a UK charity or CASC in the EU, Norway or Iceland;
- UK resident donors and non-UK resident donors with UK source income who give to UK charities and similar organisations in the EU, Norway or Iceland; and
- Non-UK resident individuals with UK source income who make Gift Aid donations

When?

- The relevant legislation will be introduced in Finance Bill 2010;
- The changes to the nature of payroll-giving income and restrictions on the payment of charitable funds outside the UK will have effect from 24 March 2010;
- The new definition of a charity will apply to Gift Aid donations by individuals on or after 6 April 2010;
- Claims in respect of donations to organisations equivalent to UK charities in the EU, Norway or Iceland made after the ECJ judgment on 27 January 2009 and before 1 April 2010 will be considered on a case by case basis;
- The anti-avoidance measure will apply from 15 December 2009.

Our view

These measures should streamline HMRC's treatment of charities and the individuals who donate to those charities.

Venture Capital Trusts

The measure

Four changes are to be made to the Enterprise Investment Scheme (EIS) and Venture Capital Trust (VCT) schemes.

The existing requirement for the shares making up a VCTs ordinary shares to be included in the UK official list is to be replaced with a requirement that shares should be admitted for trading on any EU regulated market. Equally, the new rules will increase the requirement as regards 'eligible shares' from a minimum of 30% to 70%. The definition of such shares will also change to include shares with preferential rights to receive dividends.

In the case of both EIS and VCTs new rules will be introduced to exclude investments in companies which would be classed an "enterprise in difficulty" under European Commission rules. In addition, under current rules there must be a qualifying trade which is carried on wholly or mainly in the UK. This is to change so that the requirement will be for the company issuing the shares to simply have a permanent establishment in the UK.

Who will be affected?

Investors in EIS and VCT schemes.

When?

The new rules are to be introduced as soon as practicable.

Our view

These changes were required in order to satisfy the European Commission rules concerning the provision of approved state aid.

Indirect Tax

Landfill tax: increase in rates

The measure

The standard rate of landfill tax will increase by 8 per tonne to 48 per tonne on 1 April 2010 and will then increase by another 8 per tonne to 56 per tonne on 1 April 2011.

The Chancellor also announced that the landfill tax 'escalator' (whereby the standard rate of landfill tax increases by 8 per tonne each year) will continue until April 2014 rather than ending in 2013. The Government has further confirmed that the standard rate will not fall below 80 per tonne in future.

Who will be affected?

Anyone disposing of most categories of waste at landfill sites will face increased landfill tax costs as a result of this measure.

When?

As previously announced, the current rate will increase by 8 per tonne on 1 April 2010 and then by 8 per tonne annually thereafter (until 2014).

Our view

The continued rate rise has long been signalled so there is nothing unexpected in this measure. The ongoing rate rise will result in additional costs of sending waste to landfill and should be borne in mind by any business that needs to dispose of waste.

Excise duty – alcohol

The measure

The new measures increase the excise duty rates for alcohol. Excise duty is increased by 2% for spirits, beer, wine and made-wine and 10% for cider. The increase will, on average, add:

- 2p to the price of a pint of beer;
- 5p on a litre of still cider;
- 10p on a bottle of wine;
- 12p on a bottle of sparkling wine; and
- 36p on a 70cl bottle of spirits.

It was also announced that the technical definition of cider will be amended to ensure products that more closely resemble made-wines are taxed appropriately. No changes will be made to the structure of cider duty but this will be kept under review.

Who will be affected?

A wide range of businesses and consumers.

When?

The increase will take effect on 29 March 2010.

Our view

The increases are significant particularly when taking into account increases in the previous years. These will be especially disappointing for the brewing industry and pubs which have been suffering a strong decline and will see these increases as exacerbating the problems they already face. Cider manufacturers and cider importers will certainly be affected by the significant increase in the excise duty rate.

Insurance Premium Tax (IPT): Premium Splitting

The measure

Draft legislation was announced in the 2009 Pre-Budget Report to close a perceived IPT legislative loophole involving certain insurance 'administration fees'. This followed the High Court's decision in the case of Homeserve Membership Limited, which held that 'unbundled' services connected with a home insurance product were not subject to IPT under the current law.

The original draft legislation has now been amended following consultation with industry representatives, and is now more closely targeted.

The measure only affects non life personal lines insurance and has been narrowed to apply only to fees in relation to what could be described as 'commoditised insurance'. IPT will apply to fees charged to private individuals under contracts separate to the insurance contract where certain criteria are met.

These fees will be considered part of the premium for IPT purposes and the insurer will be required to account for IPT on them in line with its normal IPT accounting procedures.

Who will be affected?

Businesses that charge fees to an insured person in connection with certain contracts of insurance as outlined above and the insurers who underwrite these 'commoditised' insurance products.

When?

The new legislation is effective from today and therefore has effect in relation to payments made on or after 24 March 2010.

Our view

This measure is not unexpected and is an improvement on the previous draft legislation announced in the PBR. It has a narrower scope and should not affect traditional home and motor insurance or specialist insurance where the charge for insurance is normally dependent on the individual's circumstances.

IPT accounting remains the responsibility of insurers and the separate fees caught by the new legislation will need to be included in the IPT returns of the insurer, and the correct tax point for these fees will need to be identified. Although HMRC have not mentioned it, it should be implied that those businesses that have accounted for IPT under the draft legislation from 9 December 2009 would be entitled to a refund for any additional IPT paid in relation to the period before 24 March 2010.

Air passenger duty

The measure

The rates of air passenger duty (APD) will increase from 1 November 2010, irrespective of when the ticket was booked or purchased.

Who will be affected?

All air passengers and airlines will be affected by this change.

When?

The rates will change on 1 November 2010.

Our view

The rates increase is relatively substantial. This adds further fuel to the argument that APD is a revenue raising measure rather than a tax designed to encourage more environmentally friendly behaviour.

Aggregates levy

The measure

The rate of aggregates levy is to increase from 2.00 per tonne to 2.10 per tonne.

Who will be affected?

- Businesses extracting aggregates;
- Business in the construction and civil engineering sectors which use aggregates.

When?

1 April 2011.

Our view

The aggregates levy rate has not altered significantly since it was introduced and was frozen last year in recognition of the difficulties faced by the construction industry.

Aggregates levy: Northern Ireland credit scheme

The measure

The Northern Ireland aggregates levy credit scheme is to be extended for a further 10 years so that it will apply until April 2021.

Who will be affected?

Businesses which pay aggregates levy on the commercial exploitation of aggregates in Northern Ireland can claim an 80% tax credit where they meet certain conditions.

When?

This measure will come into effect when the primary legislation enacting this change receives Royal Assent. Regulations will follow. This measure is subject to State Aid approval.

Our view

This is obviously good news for aggregates producers in Northern Ireland. However the credit scheme in Northern Ireland is controversial and the British Aggregates Association have used it to challenge the validity of the levy itself.

Bingo duty, AMLD and gaming duty changes

The measure

- A reduction in bingo duty from 22% to 20%;
- Changes in amusement machine license duty (AMLD) in accordance with a revised table of charges;
- Changes in gaming duty based on a revised gross gaming yield (GGY) table.

Who will be affected?

- Casinos, bingo clubs and operators of gaming machines.

When?

- The new rate for bingo duty will have effect for accounting periods beginning on or after 29 March 2010;
- The increase in the amounts of duty for AMLD will have effect for any licence applications received at HMRC accounting centre after 4pm on 29 March 2010;
- The changes to the GGY bandings have effect for accounting periods starting on or after 1 April 2010.

Our view

- The reduction in bingo duty will produce savings for bingo operators;
- The AMLD changes will bring about an increase in duty in line with inflation which will increase costs for amusement machine operators;
- The gaming duty banding changes reflect inflation and should have the effect of reducing charges for casinos and similar operators.

Climate change levy

The measure

The rates of the climate change levy (CCL) will increase in line with inflation from 1 April 2011.

Who will be affected?

All business and non-residential energy users who pay CCL on their energy bills will be affected by this rate change. Energy supply companies will also need to amend their systems to reflect the changes in rates.

When?

1 April 2011. The HMRC document setting out the new CCL rates can be accessed [here](#).

Our view

CCL rates are not increasing in 2010 but the changes will occur from 1 April 2011.

Discussion regarding CCL continues to highlight the rising costs of this levy on businesses not addressing their energy use.

Excise duty on tobacco products

The measure

The new measures increase the excise duty on tobacco products. These changes represent an increase of 1% on current duty levels. This is equivalent to 15p on the price of a packet of cigarettes. Cigars, hand-rolling tobacco and other smoking tobacco will increase by a similar percentage.

Who will be affected?

Manufacturers, importers of tobacco products, retailers and consumers.

When?

The increase will take effect from 6pm on 24 March 2010.

Our view

The Government states that it is committed to maintaining high rates of tobacco duty in recognition of the adverse impact of smoking on health.

Excise duty – road fuel and other oils

The measure

Excise duty on the main road fuels, unleaded petrol and diesel were increased by 2p per litre on 1 September 2009 to 56.19p per litre. These duties will be increased on 1 April 2010 by 1p per litre to 57.19p per litre.

These duties will be further increased on:

- 1 October 2010 by 1p per litre; and on
- 1 January 2011 by 0.76p per litre.

Finally, duties will be increased on:

- 1 April 2011 to 2014 by 1% above inflation each year.

The same increase of 1p per litre will also be applied to leaded petrol and will take effect on 1 April 2010, increasing the rate to 66.91p per litre. This rate will be further increased on 1 October 2010 by 1p per litre and on 1 January 2011 by 0.76p per litre.

Following the ending of the duty differential on biofuels for road use, the duty rates for biodiesel and bioethanol will be increased to the same rate as the main road fuels, to 57.19p per litre. These duties will be further increased on 1 October 2010 by 1p per litre and on 1 January 2011 by 0.76p per litre. Biodiesel made from waste cooking oil will continue to benefit from a 20p per litre duty differential for a period of two years via a relief scheme to be introduced on 1 April 2010.

The rate of excise duty applicable to aviation gasoline ("Avgas") used for domestic flights will be increased by 3.78p per litre on 1 April 2010. This rate will be further increased on 1 October 2010 by 1p per litre and on 1 January 2011 by 0.76p per litre.

On 1 September 2009 the excise duty rate for road fuel natural gas was increased to 22.16p per kg to maintain the differential with main road fuels in pence per litre equivalents. The excise duty rate for road fuel liquefied petroleum gas ("LPG") was increased to 27.67p per kg to reduce the differential with main road fuels by the equivalent to 1p on a litre of petrol. These rates will be increased further on 1 October 2010 by 1.44p and 2.86p per kg respectively to maintain their differential with main road fuels. From 2011 to 2014, the duty differential for road fuel natural gas will be maintained and that for LPG will be reduced by the equivalent of 1p on a litre of petrol each year.

The effective rates for non-road fuels will be increased on 1 April 2010 by the same percentage as the main road fuels. These rates will be similarly increased on 1 October 2010, 1 January 2011, and 1 April 2011 to 2014.

Who will be affected?

A wide range of businesses and consumers will be affected.

When?

The dates when the new rates of excise duty are to be affected are included in the details of the measure above.

Our view

The increase in road fuel excise duties is likely to hit motorists hard in the current economic climate and the road transport industry has indicated that it will be hit especially hard. This year, the 1p increase is slightly lower than the anticipated 2p. This suggests that the Chancellor has taken into account the current economic situation but has also secured an additional source of revenue to compensate for the larger increase which would have been generated. Users of biofuels for road use will also be hit very hard as the 20p excise duty differential with other road fuel will cease from 1 April 2010. The increase to the rate of Avgas will also affect on domestic flights and increase the cost of travel. The increase of non-road fuels should not, in many instances, directly affect the excise duty on oil used to generate electricity for home users as this can be relieved.

Landfill communities fund

The measure

The credit that landfill site operators can claim for contributions made to bodies enrolled under the Landfill Communities Fund (LCF) will be reduced from 6% to 5.5% of their annual landfill tax liability.

Who will be affected?

Landfill site operators who claim for such contributions against their annual landfill tax liability and the community projects funded by these contributions.

When?

The measure will have effect on and after 1 April 2010.

Our view

The Government states that this measure will result in an increase to the maximum value of the LCF from 72m in 2009-10 to approximately 74.25m in 2010-11. However, this increase is purely driven by the increase in the rate of landfill tax as, with a reduced rate of credit, the value of contributions to the LCF would have otherwise dropped.

Landfill tax lower rate

The measure

The criteria for determining the lower rate of landfill tax are to be published. It has also been stated that HM Treasury must take these into account when listing the materials that qualify for the lower rate, which it should do later this year.

Who will be affected?

People disposing of waste which currently qualifies for the lower rate of landfill tax, namely inert and inactive waste, will need to be aware that the list of qualifying materials may be changing. Materials that no longer qualify for the lower rate will be subject to the standard rate, i.e. a shift from 2.50 per tonne to 48 per tonne (as of 1 April 2010).

When?

1 October 2010.

Our view

HM Treasury announced in 2009 that it was undertaking a consultation on 'modernising landfill tax' with a view to changing the classification of materials qualifying for the lower rate. This caused great consternation and resulted in much lobbying by affected parties. The energy generation sector for example felt they would have suffered a significant and unbudgeted increase in cost if materials such as ash were to be reclassified.

It is not entirely clear what changes will come about in October 2010 but it is to be hoped the Government have taken on board the feedback they received in the consultation and that the list of qualifying materials to be published by HM Treasury will be available sooner rather than later to allow businesses time to respond and prepare.

Review of HMRC powers: penalties for late filing of returns and payment of tax

The measure

This measure applies to VAT and other indirect taxes and excise duties and will complete the reform of the penalty regimes for late filing of tax returns and late payment of tax.

The new regime will replace the current range of penalties and will treat late payment of tax and late filed returns separately. It is designed to encourage filing and payment on a timely basis by introducing an escalating series of penalties depending on the number of failures within a set penalty period. Further penalties will arise if there is a prolonged delay in filing returns or paying the tax due.

Under the new regime:

- Businesses making quarterly returns will face a 100 penalty on the first occasion that a quarterly return is filed late. This failure also starts a penalty period which is set for one year;
- For each subsequent failure within the penalty period, the penalty escalates by 100 (up to a maximum of 400 per failure) with the penalty period being extended to one year from the date of the last failure;
- For prolonged failures, an additional penalty of 5% of the tax on the relevant return will be imposed at 6 and 12 months from the due date.

Businesses making monthly returns will face penalties of 100 for the first three defaults in any penalty period and 200 for the next three up to a maximum of 400 per failure.

Businesses that pay tax late will also suffer penalties:

- For businesses making quarterly returns, the first late payment will start a penalty liability period of one year;
- A further default in that period will result in a penalty of 2% of the tax paid late;
- Subsequent defaults in the penalty period will result in penalties increasing to 3% and then to a maximum of 4% for the fourth and subsequent defaults;

- Prolonged defaults will be penalised at 5% of the tax at 6 and 12 months from the date of failure.

Businesses making monthly returns will face a similar regime except that after the first failure the tax geared penalties are 1% for the first three failures in any penalty period, 2% for the next three up to a maximum of 4% per failure.

Who will be affected?

Taxpayers who do not file their tax returns on time or pay their tax liabilities in full and on time for indirect taxes and excise duties.

When?

The implementation of new penalties for late filing and late payment requires changes to HMRC's computer systems and internal processes and is to be staged over a number of years. The new provisions will be brought into effect by Treasury Orders which will specify the dates from which they have effect.

Our view

This is a measure which is part of the ongoing process to reform the UK penalty regime for late filing and payment of tax.

VAT – Changes in fuel scale charges

The measure

Amendments will be made to the VAT fuel scale charges for taxing private use of road fuel.

Who will be affected?

Any businesses which recover input tax on fuel used for private motoring.

When?

The new scale charges are applicable from the start of a business' next prescribed accounting period beginning on or after 1 May 2010.

Our view

These annual amendments to the fuel scale charge were expected as they reflect the changes in fuel prices.

VAT – Changes in registration and deregistration thresholds

The measure

The taxable turnover registration threshold for VAT will increase from 68,000 to 70,000.

The taxable turnover deregistration threshold for VAT will increase from 66,000 to 68,000.

The registration and deregistration thresholds for relevant acquisitions from other EU member states will increase from 68,000 to 70,000.

Who will be affected?

Any business whose taxable turnover is close to the current VAT thresholds for registration and deregistration.

When?

The new thresholds will have effect from 1 April 2010.

Our view

As expected, the VAT registration and deregistration thresholds are increased again.

VAT – Change to zero-rating of “qualifying” aircraft

The measure

The measure will change the definition of aircraft which can be supplied at the zero rate of VAT from one based on weight and usage to one based on the status of the customer.

Zero-rating will only apply to supplies of aircraft used by commercial airlines chiefly on international routes.

Who will be affected?

- Suppliers of aircraft.
- Suppliers of parts and services for aircraft.
- Aircraft operators.

When?

The change will apply to all such supplies made on or after 1 September 2010.

Our view

This measure was expected, as it aligns the UK definition of ‘qualifying’ aircraft with the EU VAT Directive following the commencement of infraction proceedings by the European Commission against the UK in autumn 2008.

VAT – Landline duty

The measure

Introduction of a new duty charge on owners of telephone lines (referred to as ‘landline loops’). The rate will be 0.50 per line per month.

Who will be affected?

It is likely that the duty will be passed down the supply chain from telephone operating companies to end users.

When?

The duty has effect on or after 1 October 2010.

Our view

This new duty is likely to increase telephone charges for consumers.

VAT – Lennartz accounting: restricting application and securing revenue

The measure

Under the so called ‘Lennartz mechanism’ VAT on immovable property, boats and aircraft can be recovered in full, notwithstanding that the asset is to be used for both business and non-business (or private) purposes. VAT is then effectively paid back over a number of years to reflect the non-business (or private) use.

The changes introduced will mean that VAT will only be recoverable to the extent that the asset is used for business purposes. Changes in the degree of private use in subsequent years will result in VAT adjustments.

Pre-existing Lennartz arrangements will be allowed to continue at the taxpayer’s choice but the taxpayer will be legally required to continue accounting for VAT on non-business or private use.

Who will be affected?

Businesses which use assets such as buildings, boats and aircraft for both business and private purposes. Also, although they are no longer permitted to use the Lennartz mechanism, further and higher education institutions and charities will, under this measure, be obliged to continue accounting for VAT on assets which benefitted from this treatment unless they opt to unwind the Lennartz VAT accounting altogether.

When?

The changes will apply from 1 January 2011.

Our view

The European Law change that underlies this change in the UK law effectively reverses a long standing European Court of Justice judgment. Taxpayers will lose the benefit of a cash flow saving previously available when they buy assets to be used for both business and non-business/private purposes.

VAT – Place of supply of gas, heat and cooling

The measure

This measure will implement changes to the VAT treatment of supplies relating to natural gas and of heat and cooling.

Currently gas supplied via the natural gas distribution system is treated as supplied where a wholesale customer is established or where it is consumed with UK VAT registered customers accounting for VAT on supplies received from suppliers established abroad under the reverse charge. There are currently no rules which specifically govern the application of VAT to supplies of heat and cooling.

The rules, which will be extended to apply to heat and cooling supplied through networks, are to be amended so as to:

- extend their scope to cover supplies in all categories of the natural gas pipeline;
- limit their scope to supplies involving natural gas pipelines located in the EU or linked to such pipelines; and
- extend the relief from import VAT to all natural gas imported via a network (including liquefied natural gas by tanker).

Who will be affected?

Suppliers, importers and VAT registered recipients of natural gas, heat and cooling.

When?

The measure has effect from 1 January 2011.

Our view

The extension of the relief from import VAT to all natural gas will be welcomed by importers.

VAT – Postal services

The measure

The VAT exemption for postal services will be restricted to public postal services and incidental goods provided by the universal service provider (USP) of public postal services, currently Royal Mail. This change means that standard rated VAT will be applied to postal services and goods that Royal Mail is not under a statutory duty to provide, such as parcel post services which are provided to customers on terms that have been freely negotiated. Standard stamped and franked mail delivered by Royal Mail will remain exempt from VAT.

Who will be affected?

This measure will affect Royal Mail itself and those of its business customers who are unable to recover the VAT on these postal services because they are wholly or partly exempt from VAT, such as those in the financial, healthcare and charity sectors.

When?

The measure will affect supplies made on or after 31 January 2011.

Our view

This measure was introduced following a judgment in April 2009 from the European Court of Justice in *TNT Post UK v HMRC* which ruled that the VAT exemption for postal services does not apply to specially negotiated contracts for postal services provided by a USP. This ruling recognised that the USP should not be at a fiscal advantage as compared to providers of postal services that fall outside the duties of the USP.

VAT – Reverse charge for emissions allowances

The measure

The VAT reverse charge provisions will be amended so they can be applied to services. This measure will be used to introduce a reverse charge for supplies of emissions allowances.

Under current provisions to combat Missing Trader Intra-Community (MTIC) fraud, taxpayers purchasing certain goods (mobile phones and computer chips) are required to account for and pay VAT on their purchases instead of the supplier. This provision is being amended so that it can be applied to services. The precise services to which it will apply will be specified in secondary legislation.

The reverse charge will replace the interim zero-rating for these services which was introduced on 31 July 2009.

The measure also includes an option to introduce reporting requirements. However, there will be no additional reporting requirements in respect of emissions allowances, so suppliers will not be required to submit reverse charge sales lists for these supplies.

Who will be affected?

Any business supplying or purchasing emissions allowances.

When?

The reverse charge for emissions allowances will apply from 1 November 2010, from which date the zero-rating for supplies of emissions allowances will be withdrawn.

Our view

This measure replaces the reverse charge provisions which were only intended to apply on an interim basis. It is in line with the proposed EU Directive on this issue.

Stamp Tax

Anti-avoidance measure for partnerships

The measure

Anti-avoidance is introduced to stop schemes taking advantage of special provisions for partnerships. This is by extending a pre-existing stamp duty land tax general anti-avoidance rule so that it takes precedence over the partnership provisions.

Who will be affected?

It will affect transactions in UK property between partnerships and their partners or, in certain cases, persons connected with the partners.

When?

The measure takes effect from 24 March 2010, although transitional rules will potentially protect transactions involving a number of steps, if one or more of those steps was completed before today.

Our view

The effect of the measure is not far short of abolishing a relief for transfers of UK property into or out of partnerships. That is to say, the relief may now only apply if no or little consideration is given by the purchaser. This measure, as well as undoubtedly blocking certain avoidance structures, will therefore have a significant impact on ordinary commercial restructuring. These will involve contributions and dissolutions of partnerships, incorporations from partnerships and the introduction of partnerships into existing offshore structures to permit onshore management.

Additional 5% rate for residential property

The measure

A new 5% rate of stamp duty land tax will be introduced for purchases of residential property over 1m.

Who will be affected?

This will affect purchasers of UK residential property.

When?

It will take effect from 6 April 2011.

Our view

The measure is purportedly to fund the two-year extension to the 0% threshold for first-time buyers of residential property. However, it is odd that the rate will take effect one year after the extension to the threshold and, unlike the extension to the threshold, there is no suggestion that the additional rate will be temporary. As with the current rate bands, the additional rate will likely distort the housing market, particularly in the run-up to its introduction. Recent data from the Land Registry shows that 480 properties were sold for over 1 million in November 2009.

First time buyer exemption

The measure

A relief is introduced on residential home purchases where the consideration is above 125,000 but not more than 250,000. Residential property for these purposes is effectively a freehold interest or a lease of more than 21 years.

Who will be affected?

The relief, which is subject to anti-avoidance provisions, will only be available to those purchasers who are buying residential property for the first time (considering previous acquisitions, wherever in the world) and where they intend to occupy the property as their sole or main residence.

When?

The relief will apply where the SDLT effective date is on or after 25 March 2010 and before 25 March 2012.

Our view

The measure, it is hoped, will reinvigorate the housing market after Bank of England mortgage data shows the end of the 175,000 holiday at the start of the year held back the house price recovery. The measure, which is unlikely to be dropped if there is a change of Government (as it is consistent with Conservative policy) will likely distort further the housing market around the new 250,000 threshold. First-time buyers purchasing a house above 250,000 (even by 1) will pay a minimum of 7,500 in tax.

In 2008-2009, the Treasury reported that the Exchequer received approximately 500m from residential purchasers where the consideration was 250,000 or less. The Chancellor noted today that 9 out of 10 first time buyers would now be exempt from SDLT. However, the cost to the Exchequer of introducing these measures will depend on the numbers of first-time buyers who are paying more than the nil rate threshold of 125,000. Earlier this month it was reported that first-time buyers dropped to 25% (down from a usual 40%) of the total market.

Disclosure of tax avoidance schemes

The measure

HMRC published a consultation document in respect of the Disclosure of Tax Avoidance Schemes (DOTAS) regime at the time of PBR in December 2009. The paper set out five proposed measures:

- increased penalties for failure to comply with a disclosure obligation, subject to determination by the Tribunal;
- a new requirement for a person who introduces a client to a notifiable scheme to provide HMRC with the name and address of the promoter who provided them with details of that scheme;
- the introduction a new "trigger point" for the disclosure of actively marketed schemes – the point at which a promoter first communicates a fully designed scheme to a third party for the purpose of obtaining clients of that scheme;
- a new requirement for promoters to provide HMRC with periodic information about clients who implement a notifiable scheme for scheme reference members (SRNs) issued on or after the date the regulations come into force; and
- the revision and extension of the Tax Avoidance Schemes Regulations 2006 which contain the descriptions of schemes to be disclosed, commonly referred to as "hallmarks"- the term used to describe the types of schemes that should be notified.

The Budget now proposes that some of changes are to be taken forward, but that consultation will continue, and that changes will be made to take into account the comments already made during the consultation process.

Who will be affected?

In the main, these proposals will affect the promoters of disclosable arrangements.

When?

HMRC propose to continue discussions with stakeholders who have contributed to the consultation, in order to revise and finalise the draft regulations with a view to finalising the regulations in the summer and their coming into force in the autumn of 2010.

Our view

It is of vital importance that the hallmarks continue to focus on avoidance and do not result in a disproportionate reporting obligation, which may result in disclosures which are of limited use to HMRC. Whilst HMRC's policy aims are understandable, the timescale for the imposition of the significant changes proposed must allow promoters and intermediaries to update their systems.

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