



Chancellor's Budget 2010

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Contents

Our View	3
Economic Implications	5
Public Sector Implications	6
Corporate Tax	8
Indirect Tax	66
Employee Issues	103
Personal Tax	121

Our View



Sue Bonney
Head of Tax

There was no surprise that, despite the need for the Government to reduce its borrowing, the Chancellor did not announce any dramatic tax hikes in his final Budget before the general election, nor did he announce any radical programme of large scale transformation for the public sector. As a whole, the Budget was one of confirmation, and brought little in the way of surprises.

In our view, there has been a missed opportunity with respect to taxation of the corporate sector. This is disappointing given the Chancellor's recognition that repaying the nation's debt will be largely dependent on the growth of the economy, in which business will play a key part. At a time when there have been a number of warnings about the UK lagging behind in terms of its tax competitiveness, and when businesses have been voicing concerns about the complexity of our tax system, it is a shame that some of the key issues such as rate reduction and simplification seem to have been pushed into the long grass for now.

The one-off 50 percent payroll tax on bank bonuses that was announced in the Pre-Budget Report remains. This is now expected to raise £2 billion which is more than twice the amount originally predicted. The Chancellor also expressed support for a 'Bank Levy' but acknowledges that taking unilateral action rather than internationally co-ordinated action could drive business out of the UK. However, the banking sector will be watching developments from the G20 meeting closely.

HMRC's extension of the 'Time to Pay' scheme (which supports companies struggling to pay their tax bills) is welcome and we see this as a pragmatic and collaborative approach to working through corporate distress, which is in the best interests of all stakeholders. The fine print of other announcements aimed at small businesses may result in them being less helpful than they could otherwise have been.

In the personal and employee tax arena, this year's Budget was one of little change. For individuals, fears that the capital gains tax rate would

rise proved ill-founded. Although speculation remains as to whether the rate change has just been postponed until after the general election. With the pre-announced increases to income tax rates, there is now a significant gap between income tax and capital gains tax rates for high earners. It will be interesting to see to what extent this leads to individuals, and their employers, seeking ways to turn income into gains, for example using share based reward.

The increase in NIC in conjunction with the 50% income tax rate will produce an effective marginal rate of tax of 52% on some earnings from April 2011. Personal allowances for individuals will also be frozen. This is the old stealth tax approach of collecting more tax by standing still.

Economic Implications



Andrew Smith
Chief Economist

Ahead of the general election, this was always going to be a 'holding' Budget and, in big picture terms, what we got was very much a re-run of December's Pre-Budget Report. The Chancellor stuck with his forecast of a rebounding economy next year and a halving of the yawning budget deficit by 2013-2014.

The good news was the public borrowing undershoot in the last few months. Although still leaving a mountain to climb, it allowed Mr Darling to project forward a steeper decline in the deficit. On these latest forecasts, the bulk of the structural deficit would be eliminated by the end of the next parliament and public debt would peak at 75 percent of GDP, against the 78 percent previously forecast. The Chancellor found sufficient room to announce a £2½ billion growth package to help small businesses and invest in key skills, paid for by spending cuts elsewhere and the bank bonus tax.

We still do not know where the spending axe will fall but this only served to highlight the difficulty of significantly cutting public spending when the biggest budgets are sacrosanct. 'Protecting' health and schools implies cuts in other departments of at least 10 percent and up to 20 percent on a worst case basis by 2013-14.

While the focus of deficit reduction is on spending cuts and already announced tax rises, it is also crucially dependent on a return to robust GDP growth. After 1-1½ percent this year, much in line with the consensus, the Treasury projects average growth of 3½ percent out to 2014.

This is perhaps the biggest risk of all. With the public sector cutting back, the private sector trying to repair its balance sheet and interest rates already at rock bottom, the best hope is an export-led revival. The lower pound should help but, worryingly, our main overseas markets are in a similar position. If growth fails to meet the forecasts, all bets are off on the public finances as well.

Public Sector Implications



Alan Downey
Head of Public Sector

The Budget details on efficiency savings are disappointing - what we need is a radical and ambitious programme to reform public services.

On the face of it, there was some good news for the public sector in the Budget. The estimate of net Government borrowing this year has fallen from £178 billion, albeit to a still eye-watering £167 billion. And we now know, at least in outline, how the Government intends to make the efficiency savings announced in the Pre-Budget Report.

But the outlook remains extremely challenging. We still face the prospect of an unprecedented contraction in public expenditure, and we remain in the dark about how and where the really big cuts will be made. What we need – and did not get – is an ambitious and radical programme of public service reform.

There are many sensible measures included in the announcements made by individual Government departments immediately after the Budget. It clearly makes sense, for example, to combine the administration of courts and tribunals and to move jobs out of London. The Department for Work and Pensions is to be congratulated on running a successful shared services centre which will provide benefits to a growing list of public sector organisations. Nobody could disagree with the statement that the NHS should “raise staff productivity by systematically spreading best practice”.

The problem is that the projected savings are relatively small when set against the huge structural deficit that threatens the UK’s triple-A credit rating. Moreover, the record suggests we cannot be confident that promised efficiency gains will actually be delivered.

Bigger and bolder steps will be required. Priorities will have to be rigorously reviewed, because we simply cannot afford all the expenditure commitments that have been made in recent years.

We need to start planning for fundamental changes that will be painful, not least in terms of job losses, and which will enable the public sector

to live within its means. The private sector has shown the way: Organisations as diverse as mobile phone companies and high street retailers have completely restructured their businesses in order to drive down costs while maintaining or improving their quality of service. The public sector can and should follow suit, drawing on the expertise of the private and voluntary sectors and learning lessons from previous public sector reform initiatives, both in the UK and overseas.

Corporate Tax



Simon Palmer
Head of International Tax
Services

From a Corporate Tax perspective, it was unfortunate that today's Budget contained no radical thinking. This is disappointing given that the Chancellor recognises that one key element in repaying the country's debt will be growth of the economy and the most significant contributor to this is business.

This is a missed opportunity in our view, at a time when there have been a number of warnings about the UK lagging behind in terms of its tax competitiveness, and when businesses have been voicing concerns about the complexity of our tax system. It is a shame that dealing with some of the key issues, such as rate reduction and simplification seems to have been put on hold.

Banks will still face the one-off 50 percent payroll tax on bonuses that was announced in the Pre-Budget Report. This is now expected to raise £2 billion which was more than twice the amount originally predicted. The Chancellor also expressed support for a "Bank Levy" but stressed that international co-ordinated action is required on this so as not to damage the UK as a financial centre. It is positive that the Government recognises that taking unilateral action to impose a bank tax could drive business out of the UK. However, the banking sector will be watching developments from the G20 meeting closely.

There were more measures for small businesses, particularly aimed at assisting cashflow but, looking at the finer detail, some of these measures could be too little too late for some businesses. What was welcome was the extension of HMRC's 'Time to pay' scheme. This scheme supports companies in distress struggling to pay their tax bills. We view this as a pragmatic and collaborative approach to working through corporate distress. It is in the best interests of all stakeholders, not least employees, to work through corporate pain together.

Contents

Financial Products avoidance	11
Capital distributions	13
Bank Payroll Tax	14
Amendments to ‘worldwide debt cap’ legislation	16
Patent box	19
Consortium relief changes	21
Release of loans to participators in close companies	22
Increase in Annual Investment Allowance (‘AIA’)	23
Systemic Risk Tax	24
Countering Double Tax Relief Avoidance	26
Risk transfer schemes	28
Life assurance – apportionment of income and gains	29
Insurance – Financial Services Compensation Scheme	31
Announcements of further reform of the taxation of UK funds	32
UK REITS	34
Extending UK charity tax reliefs to certain organisations in Europe	35
Substantial Donor legislation	37
Changes to Enhanced Capital Allowances technologies	38
100% First Year Allowance for Zero-Emission Goods Vehicles	39
Cushion Gas	40
Extension of ring fence reinvestment rules	41
Stamp duty land tax partnerships	42

Stamp Duty and Stamp Duty Reserve Tax: Relief for Members of Clearing Houses	43
Stamp duty land tax and petroleum revenue tax administration: Relief for overpayment or over-assessment to tax	45
Disclosure of Tax Avoidance Schemes	47
Film Tax Relief – Multi year claims	49
Tax incentive for UK computer game development	51
Time to pay arrangements	52
Associated Company Rules – Simplification	53
Changes to Venture Capital Schemes	54
Sale of Lessor Companies – Option to Elect	56
Corporation tax main rates	57
Corporation tax small profits rate	58
Changes in Accounting Standards	59
Harmonisation of interest	61
Anti-avoidance: Transactions in securities	63
Small business rate relief	65

Financial Products avoidance

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

HMRC have announced their intention to consult on developing 'principles based' legislation to apply to structures which give rise to an advantageous tax result from the asymmetric treatment of loan relationships or derivative contracts between group companies.

The stated underlying rationale is to restore tax symmetry and deny tax relief where there is no economic loss. Such structures would therefore generally produce a tax neutral result and any exception to this is permitted only where the arrangements do not have an avoidance intention.

It is suggested that a 'group mismatch scheme' be identified where a company has a loan relationship or a derivative contract with a connected company and it would be reasonable to assume that the transaction was 'designed' to secure either:

- a reduction in UK tax as a result of the differing tax treatment of the loan or derivative by the companies; or
- a reduction in tax if the result is contingent upon a variable, with no increase in tax if the variable goes the other way

The discussion document suggests three alternatives for countering the mischief:

- exclusion of all debits and credits which arise from the transaction
- restriction of debits by reference to the taxable credits, profits or gains
- restriction of sufficient debits as to eliminate the tax advantage

Whilst blocking legislation has been introduced in response to disclosure of such structures, HMRC consider that a 'principles based' approach will head off new tax planning strategies and remove the need for the existing complex anti avoidance legislation. The discussion document is primarily concerned with wholly domestic transactions but may be

extended to address cross border asymmetries. Views are requested on both the concept and the detail of the proposals.

Who is affected

Corporates with intra group loans and derivatives.

Timing

Possible legislation in the Finance Bill 2011.

Our view

There is undoubtedly scope for asymmetric tax treatment within intra group positions on loans and derivatives. However, our experience of 'principles based' legislation is that it can leave corporate groups uncertain as to the scope of the legislation and circumstances of its application.

Once the rules are implemented groups should consider their positions. This would provide a good opportunity to consider exposures and hedging positions on a group wide basis.

Capital distributions

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

HMRC have clarified the corporation tax treatment of certain distributions received by UK companies and have reaffirmed their practice that only distributions specifically excluded from income are treated as capital.

HMRC recently took the view that some common types of distribution would be capital in nature for corporate recipients and so potentially taxable under capital gains tax rules rather than exempt under the new dividend exemption rules introduced on 1 July 2009. An example would be a distribution paid from reserves created by a previous reduction of share capital.

This would have meant a major change in the tax treatment of commercial transactions undertaken by groups to meet shareholder dividend requirements and was at odds with HMRC's old practice, prior to the introduction of the dividend exemption.

Who is affected

UK multinationals that have received or will receive distributions from overseas investments.

Timing

New rules will be included in a Finance Bill as soon as possible in the next Parliament. The rules have indefinite retrospective effect for distributions received by UK companies but taxpayers can elect for the new rules not to apply retrospectively.

Our view

The announcement is very welcome and should simplify an area of tax law that has long been regarded as complex. However, as we have not yet received draft legislation and there was no commentary on the distinction between distributions by UK and foreign companies, UK multinationals that have been delaying intra-group distributions pending this clarification may want to continue to defer until the detail is clear.

Bank Payroll Tax

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The Government announced their intention in the 2009 Pre-Budget Report to introduce a new Bank Payroll Tax (BPT) to apply to bonuses and other relevant remuneration awarded to banking employees of banks, building societies, certain financial businesses and holding companies in banking and building society groups and UK branches of foreign banks ("taxable companies"). It applies at a rate of 50 percent and the cost is not allowable for corporation tax purposes.

Draft legislation was published at the time of the Pre-Budget Report and HMRC subsequently issued clarification on a number of points by way of further statements and a series of Questions & Answers. Numbers of representations were made on the draft legislation and the Government has now confirmed the changes that they intend to reflect in the final form of the legislation.

The main changes include clarification on when relevant remuneration is treated as being "awarded" and on the definition of "taxable company". The definition of "banking group" also now excludes any group where at least 90% of the trading income in the last period of account ending no later than 5 April 2010 is derived from insurance, asset management and related activities or non-financial activities (or a combination). But any company within the group may still be a taxable company for BPT purposes if it falls within the definition on its own.

HMRC will have the power to publish requirements on how BPT is to be paid, the information to be contained in the BPT return, the form in which the return must be made and how it should be delivered. The intention is that BPT is paid electronically by CHAPS. Taxable companies will have the ability to amend their BPT returns and HMRC will have the power to enquire into returns, issue determinations and assessments as they consider necessary, in a similar way as applies for corporation tax).

Who is affected

The BPT applies to taxable companies that award relevant remuneration during the chargeable period.

Timing

The BPT applies for the chargeable period 9 December 2009 to 5 April 2010. Payment is due by 31 August 2010.

Our view

The Budget announcement confirms HMRC's position on a number of points which have previously been the subject of informal consultation. However, many issues still remain unresolved, not least which employees are within the BPT net (determined by whether or not their duties are wholly or mainly concerned, directly or indirectly with relevant regulated activities) and the position of those employees who came to the UK in 2009/10 but are paid split bonuses for service pre/post-arrival in the UK.

The position of credit card companies is also yet to be clarified and custody banks are still lobbying for an exemption.

Overall, it has been difficult to obtain more detailed information on the scope of the BPT on a timely basis from HMRC, notwithstanding that HMRC has sought to cover a number of basic points in their Questions & Answers. The detail is clearly crucial and our view is that clarification "after the event" is not a satisfactory basis on which to have introduced such a fundamental legislative change.

Amendments to 'worldwide debt cap' legislation

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The debt cap rules were introduced in Finance Act 2009 as part of the package of reforms to the taxation of foreign profits of companies. They have been re-written into Part 7 of the Taxation (International and Other Provisions) Act 2010. The purpose of the rules is, broadly, to ensure that the UK corporation tax deduction for financing costs does not exceed the group's external financing costs on a worldwide basis.

Although the basic working of the debt cap rules remains unchanged, amendments are being made, following representations from business and advisors, to ensure the rules operate as intended. In addition to those changes announced in the 2009 Pre-Budget Report, the following changes have been announced:

- Gateway Test: The definition of relevant assets and relevant liabilities will be extended to include items which are accounted for as financial asset/liabilities, which are not short-term and which produce a return economically equivalent to interest. This will mean that many commercial arrangements which are not loans in legal form but have a similar economic effect will now be included in the gateway test, for example long term contracts that PFI groups enter into with public bodies and Sharia compliant finance arrangements.
- Protected companies: The 2009 Pre-Budget Report announced the ability for a group company to make an irrevocable election to be "protected" from suffering a debt cap disallowance. This election was intended to benefit companies that required certainty that no part of their interest costs will be disallowed under the debt cap (for example, to protect their credit rating). However, if after disallowances are allocated first to companies that are not protected, there is still financing expense to be disallowed, this must still be allocated to protected companies. As protection from disallowances was not absolute, the election did not provide the necessary certainty for credit rating purposes. It is now proposed

the legislation will include a power to make regulations that enable protected companies involved in capital market arrangements to transfer any additional tax liability arising as a result of any disallowance they suffer to another member of the group.

- **Securitisation companies:** The announcements made at the 2009 Pre-Budget Report excluded securitisation companies (which have their own tax regime) from the computation of UK financing costs and income. However, there was no equivalent exclusion in calculating the available amount, which resulted in a potential mismatch. This mismatch is to be removed by excluding the results of securitisation companies when calculating the available amount.
- **Ultimate Parent:** LLPs will be excluded from being ultimate parents of the worldwide group. This removes the anomaly that an LLP that was an ultimate parent could never exempt any of its financing income as it is not a company.
- **Industrial and provident societies:** A distribution by industrial and provident societies is deemed to be interest under the loan relationship rules and therefore included as a financing expense amount. However, it was not included in the available amount, giving rise to a potential mismatch. It is proposed to remove this mismatch by excluding such distributions from the financing expense amounts of such entities.

Who is affected

Groups of companies (but not groups that consist wholly of small or medium-sized enterprises)

Timing

With one exception, the changes will have retrospective effect for periods of account of the worldwide group beginning on or after 1 January 2010, when the debt cap rules came into force.

The exception relates to the extension of the scope of relevant assets and relevant liabilities for the gateway test. As this change might cause some groups to fail the gateway test where they might previously have passed it, a group will be able to make an election to apply the change only prospectively.

Our view

These changes are generally positive as they remove some of the uncertainties and potential mismatches that are possible under the current legislation. However, the proposed changes will, in some cases,

result in additional complexity in calculating whether groups meet the gateway test and in doing the detailed calculations.

It was hoped that draft legislation for these changes would have been published with the Budget, or at least in the Finance Bill that will be published in the next few days. However, it seems taxpayers will have to wait until the next Finance Bill is published after the election.

Patent box

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

In Budget 2009, the Government announced that it would work with business to examine the balance of taxation on innovative activity, including intellectual property. As part of this work, the Government looked at the case for a reduced rate of Corporation Tax applied to income from patents (a "Patent Box").

The 2009 Pre-Budget Report then announced the introduction of a Patent Box, applying a 10 percent corporation tax rate to income from patents from April 2013.

In Budget 2010 the Government has announced that it will consult with stakeholders regarding the design of the regime. This will include looking at "how to identify and value embedded patent income and how to give relief to acquired patents". In addition to patents granted after legislation is passed in 2011, the consultation will also consider how to include patents not yet commercialised at that point, and how the regime will apply to equivalent overseas patents held by UK companies.

Consultation is required to ensure that the scheme meets the government's objective of encouraging innovation by UK companies and also that there is clarity for taxpayers regarding the income that will be subject to the new regime.

Who is affected

All businesses which hold, or may in future hold, patents in the UK. The regime will be of particular interest to companies in the pharmaceutical sector.

Timing

The consultation will take place in 2010 over the summer months. It is intended that legislation will be effective from April 2013.

Our view

We welcome the Government's intention to work with business to design a practical and competitive regime for patents but are disappointed that

there is no indication that the regime will extend to intellectual property other than patents.

The issues relating to identifying qualifying patent income are complex and differ between sectors. We consider that, in order to be successful, the regime needs to be accessible and valuable to all sectors.

The Government mentions two complexities, patent income incorporated in the price of products and patents acquired in addition to self-developed patents, but there are several key issues around multiple patents and patent ownership that will need to be clarified.

Timing also continues to be a key area of uncertainty. The Budget announcement seems to indicate that the Government will be willing to consider patents already registered but not yet producing income. There needs to be clarity about the treatment of patents already commercialised, and commercialisation which is extended or modified by new patents.

The timing is important otherwise, for some sectors, the patent box would not be effective for several years.

Consortium relief changes

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The Government announced that it intends to amend the consortium relief rules so that EU and EEA resident link companies involved in UK consortia will be able to pass on the losses of those consortia to their UK resident subsidiaries.

At the same time it was announced that the rules designed to ensure that consortium relief is given only in proper proportion to the member company's involvement in the consortium are to be strengthened.

An additional test will be added based, broadly speaking, on a measure of the level of effective control/active involvement the member has within the consortium.

Who is affected

UK companies which are members of a consortium or are subsidiaries of an EU or EEA resident consortium link company.

Timing

The measure will be included in a Finance Bill to be introduced as soon as possible in the next Parliament.

Our view

The announcement regarding EU and EEA resident link companies is a response to the recent First Tier Tribunal decision in the Philips Electronics case where it was held that the UK rule which prevents the link company in a consortium claim being non-UK resident is contrary to EU law.

The anti avoidance provision is designed to stop artificial arrangements that use different classes of consortium share to give a member or members access to a proportion of losses in excess of that to which their actual level of control in the consortium should entitle them. It remains to be seen whether this provision is targeted appropriately.

Release of loans to participators in close companies

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

This measure prevents a close company from obtaining a corporation tax deduction under the loan relationship regime where a loan or advance to a participator is written off. This new provision will apply where a charge to tax has previously arisen on the close company when the loan or advance was made to the participator. The participator will remain taxable on the write off.

Who is affected

Close companies making loans to participators.

Timing

Legislation will be introduced in the Finance Bill 2010 and the rules will apply for debt releases or write-offs on or after 24 March 2010.

Our view

This clarifies the tax treatment of the write off of loans to participators by close companies to bring the treatment in line with a payment of a dividend by the close company to its participators.

Increase in Annual Investment Allowance ('AIA')

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The 100 percent annual investment allowance ('AIA') will be increased from £50,000 to £100,000 for capital expenditure incurred on plant and machinery. The AIA is available for most expenditure on plant and machinery, subject to certain exceptions.

The Government have also introduced anti-avoidance legislation to disallow property loss relief against general income to the extent that loss is attributable to the AIA. This anti-avoidance will only apply where the main purpose or one of the main purposes of the arrangements is to obtain a reduction in tax liability.

Who is affected

Individuals, partnerships consisting of individuals and companies, irrespective of size, that invest in plant and machinery for the purposes of their qualifying activity. The anti-avoidance legislation will apply to losses arising as a result of arrangements entered into on or after 24 March 2010.

Timing

The new rules will take effect for capital expenditure incurred on or after 1 April 2010 for corporation tax, and 6 April 2010 for income tax.

Our view

The increase in AIA will be welcomed by many businesses, especially the SME sector. However this is to be balanced with the fact that the Government have not extended the temporary 40 percent FYA for capital expenditure on plant and machinery introduced in Finance Act 2009.

Systemic Risk Tax

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The Government has confirmed that it considers a systemic risk tax could form part of a package of internationally agreed measures to reduce both risk taking within the financial services sector and the impact of future systemic crises.

The Government considers:

- any such tax should be co-ordinated internationally but the proceeds should be for national governments to use as they see fit and should form part of general taxation receipts rather than a segregated fund; and
- the tax base should be as simple as possible while taking account of the characteristics of a firm's business that give rise to systemic risk.

The intention is to continue to work with the G20 and IMF on the development of this proposal.

Who is affected

The proposal is that any such tax should apply to all financial institutions that might contribute significantly to systemic risk.

Timing

No time frame or firm proposals were announced.

Our view

There are some key questions to be asked about the Government's approach to an internationally coordinated systemic risk tax, such as:

- What qualitative and quantitative criteria will be used to determine whether a financial institution contributes significantly to systemic risk? We have already seen the uncertainty around the scope of the Bank Payroll Tax introduced in December 2009.
- How will national governments determine their share of any new tax? If, for example, the tax was determined by reference to the balance sheet, how are global banks to determine the assets and

liabilities to be attributed to the various branches in different countries? Transfer pricing will be absolutely key.

- How will double taxation be avoided if the new tax is not to be determined by reference to profits or gains?

Countering Double Tax Relief Avoidance

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

HMRC has announced the intention to counteract certain double tax relief avoidance arrangements.

Legislation will be introduced in the 2010 Finance Bill to ensure that expense relief for double taxation can only be claimed where a company has been taxed on the gross amount of income on which foreign tax has been suffered. This is to counter a scheme identified by HMRC where a company has claimed expense relief for foreign tax whilst only bringing into account for corporation tax purposes the net amount of income which had suffered the foreign tax. Under such an arrangement the company would effectively have been claiming double relief for foreign tax.

Legislation will be introduced in the 2010 Finance Bill to make some minor changes to the targeted DTR anti-avoidance rule now contained in the Taxation (International and Other Provisions) Act 2010. The anti-avoidance rule applies where there is a prescribed scheme. Although no legislation has been published, the intention is to target certain arrangements that have sought to exploit the current definitions of the prescribed schemes.

Regulations will be made to amend the manufactured overseas dividend (MOD) regulations (SI 1993/2004) to counter arrangements that seek to allow a company to offset overseas tax suffered on foreign dividend income (or relevant withholding tax suffered on a MOD received) against withholding tax liabilities on MODs paid, whilst at the same time only bringing into account the net amount of foreign dividend income (or MOD) in its corporation tax computation. The effect is to secure double relief for foreign taxes. The amending regulations have been published today.

Who is affected

These changes are likely to be in response to particular disclosed schemes and the impact should be limited to companies that have

entered into such schemes. The impact is likely to be limited to financial traders.

Timing

Draft legislation introduced in the 2010 Finance Bill will have effect for foreign tax paid or payable on or after 1 April 2010 (for corporation tax) or 6 April 2010 (for income tax and capital gains tax).

The revisions to the MOD regulations will come into force on 14 April 2010.

Our view

The effect of these anti-avoidance measures should be limited to financial traders that have been party to the particular arrangements that have been targeted. However, the amendments to the MOD regulations could potentially impact the ability of a financial trader to apply offsetting provisions and traders should confirm that they satisfy the new conditions.

Risk transfer schemes

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Anti avoidance legislation is to be introduced to restrict the exposure of the Exchequer to losses arising from over-hedging and under-hedging structures to the real economic loss.

Draft legislation has previously been published. The effect of the legislation is that losses from loan relationships and derivative contracts which derive from certain schemes are “ring-fenced” and can only be offset against profits on the same arrangement. The adjustment is one-sided in that relief for losses is restricted but profits are taxable in full.

The rules apply on a group basis because typically the schemes involve more than one group company.

Powers are to be included to enable the provisions to be extended in the case of banks and other financial traders to instruments other than loans.

Who is affected

Companies that have undertaken such structures.

Timing

The new rules apply to accounting periods beginning on or after 1 April 2010.

Where a company’s accounting period straddles this commencement date, the changes apply with effect from a deemed accounting period beginning on 1 April 2010.

In the first accounting period to which the rules apply, the opening pool of profits or losses is nil. As a result, gains which have been taxed prior to commencement are ignored when applying the ring-fencing rules going forward.

Our view

This is targeted anti avoidance legislation in respect of disclosed structures.

Life assurance – apportionment of income and gains

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

A Written Ministerial Statement on 15 July 2009 announced that changes to the rules for apportioning income and gains for certain parts of the life assurance business would be made as a counter to perceived tax avoidance. These provisions (as modified following discussion with the industry and broadly as covered in the 2009 Pre-Budget Report) are to be included in the pre-election Finance Bill.

A rule is proposed to be introduced in a post-election Finance Bill to give an anti-avoidance rule for a transfer of an insurance business which affects the application of these new apportionment rules. The proposed form of this rule is that it should apply where the transfer has, as one of its main purposes, obtaining an apportionment benefit in respect of the excess of the fair value of assets transferred over the business transfer-out amount. The remedy would be to bring the excess into account in the transferor immediately before the transfer, with a compensating relief in the transferee.

Who is affected

Companies carrying on life assurance business, in particular those with a non-profit fund or subfund.

Timing

The revised apportionment rules apply for periods of account beginning on or after 9 December 2009. The proposed anti-avoidance rule on business transfer schemes will apply for transfers of business on or after 24 March 2010.

Our view

The general change to the apportionment rules has been subject to consultation and is an improvement on the original Written Ministerial Statement proposal. The anti-avoidance rule on transfers, as described,

would represent an acceleration of taxable income and thus it is to be hoped that it would only be applied in artificial situations.

Insurance – Financial Services Compensation Scheme

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

If the Financial Services Compensation Scheme (“FSCS”) intervenes to protect the policyholders of a life assurance company, it may for example provide financial assistance to the insurer, transfer the policyholders’ rights to another insurer or pay compensation to the policyholder. The pre-election Finance Bill is to include a regulation-making power aimed at ensuring that the tax treatment should broadly be the same as if the FCSC had not intervened.

This matches a similar measure in the Finance Act 2009 for pension savings.

There will be an anti-avoidance rule where there are arrangements made to secure a tax advantage.

Who is affected

Individuals with life assurance products where the FSCS intervenes to protect their interests.

Timing

The legislation will be introduced in the Finance Bill 2010 and will apply from Royal Assent but may have retrospective effect if they do not increase a person’s tax liability.

Our view

This should be broadly welcome as preserving policyholders’ expected outcomes.

Announcements of further reform of the taxation of UK funds

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The government has announced plans to work with the asset management industry to address issues in two areas. First, to ensure stamp duty reserve tax (SDRT) does not apply to UK funds investing in underlying funds where the underlying funds are themselves primarily invested in UK equities. Secondly, to resolve issues where Authorised Investment Funds (AIFs) make offshore income gains in certain circumstances on fund of fund investments.

The government is launching a working group to consult on whether establishing a tax-transparent contractual fund vehicle would be beneficial for the UK and also launching a review to look at modernising the tax rules relating to Investment Trust Companies (ITCs).

The government has stated it remains open to further discussion on the relative impact of drivers on the location of asset management activity and further possible reforms.

Who is affected

Authorised Investment Funds, Pension funds, Asset Managers, Fund product development teams, Fund Administrators and ITCs

Timing

A consultation document on Investment Trusts will be issued in Summer 2010 but there is no specific timetable for the other announcements.

Our view

The SDRT regime adds complexity to the UK tax regime and creates an additional compliance burden for asset managers. It also makes UK funds harder to understand and therefore less attractive to investors when marketed offshore. This was originally highlighted in the KPMG/IMA paper "Taxation and the Competitiveness of UK Funds" in

October 2006, and has been the subject of regular representations since then. We therefore view the announcements today as a step in the right direction.

Currently SDRT does not apply where a UK fund is directly invested in non-UK equities but it does apply where a fund is investing in another fund, irrespective of whether the underlying fund is itself invested in non-UK equities. The proposed change removes this inequality which should ensure that UK fund of fund structures are as efficient as other structures for the full range of underlying funds. The proposed amendments are logical if they can be administered without unreasonable compliance costs.

It is also encouraging that the government has announced that it will work with the asset management industry to resolve the issue of offshore income gains on fund of fund investments. Finding a solution is, however, unlikely to be straightforward and care should be taken that any fix can be administered

The possibility of a UK tax transparent contractual fund vehicle is positive for the UK and is likely to be of interest to pension funds and managers considering master feeder structures for UCITS products. It is hoped that such a vehicle could compete with similar structures in the Netherlands, Luxembourg and Ireland.

The announcement of a review of the tax rules for ITCs is long awaited. Certain aspects of the current rules place a significant administrative and operational burden on ITCs for no obvious policy benefit. This contributes to the UK being unattractive as a location for domiciling these funds. KPMG has been actively engaged in highlighting to policymakers the need for a review of these rules as we consider that maintaining the current set of requirements for obtaining investment trust status could result in further funds migrating, or being established, offshore.

UK REITS

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The REITs legislation is to be amended to allow UK REITs to issue stock dividends instead of cash dividends to meet the requirement to distribute 90 percent of profits derived from its property rental business. Shareholders will continue to be taxed as though they had received a dividend from exempt profits in the form of cash i.e. they will be taxed as if they had received rent.

The current economic downturn has put severe cash constraints on UK REITs, particularly in light of banks being less willing to provide debt funding. While many REITs have issued stock dividends to investors, the value of the stock issued did not count towards meeting the 90% distribution test. The REIT will still be required to account for income tax, currently at a rate of 20%, on the payment of a stock dividend as it would for a cash dividend.

Who is affected

UK REITs and their investors.

Timing

The existing REITs legislation will be amended in a Finance Bill to be introduced as soon as possible in the next Parliament. The measure will have effect for property income distributions made on or after the date of Royal Assent.

Our view

This is positive news for UK REITs as it gives them the flexibility to conserve cash which can be used to meet the working capital needs of the business, such as paying down debt to avoid being in breach of banking covenants, and therefore puts them on a level footing with other listed companies. The property industry had lobbied for this change in the light of recent economic conditions.

Extending UK charity tax reliefs to certain organisations in Europe

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Currently UK charitable tax exemptions and reliefs are only available to UK charities. Non-UK charities are therefore unable to benefit from these exemptions and reliefs. In addition, UK taxpayers are unable to obtain tax relief on donations to non-UK charities.

Legislation is to be introduced to extend UK charitable tax exemptions and reliefs to certain organisations which are equivalent to UK charities and Community Amateur Sports Clubs (CASCs) in the EU, Norway and Iceland. This will require a new definition of charity for UK tax purposes. The new definition of charity will include a requirement for UK charities and EU organisations to demonstrate that their trustees, directors and managers are “fit and proper”.

HMRC will also introduce a number of other reforms relating to the existing rules and the Gift Aid regime, in particular:

- Rules regarding payments by UK charities to bodies outside the UK will be strengthened;
- Charities will have to apply donations received under Payroll Giving for charitable purposes only to claim a tax exemption; and
- Changes will be made to current Gift Aid reclaim procedures and new notification procedures for new charities wishing to claim tax on Gift Aid donations will be introduced.

Who is affected

UK charities and Community Amateur Sports Clubs; organisations based in the EU, Norway or Iceland which meet the UK definition of a charity; trustees, directors and managers of such organisations; and donors to UK and non-UK charities

Timing

The new definition of a charity will apply to donations made by individuals on or after 6 April 2010. The changes relating to donations received under Payroll Giving and payments made by UK charities to non-UK bodies will apply from 24 March 2010.

The other new rules will mostly have effect later in 2010/11, subject to a commencement order.

Our view

The vast majority of existing UK charities will be unaffected by these changes.

For new UK charities and non-UK charities it will be necessary to meet the new definition of a 'charity' in order to benefit from UK charitable tax reliefs and exemptions.

For non-UK charities that are able to satisfy the new definition of charity this is a positive move, as income that would previously have been taxable in the UK may now be exempt. These charities will also now be able to reclaim tax from HMRC on eligible Gift Aid donations, i.e. donations from UK and non-UK donors where sufficient UK tax is paid by the donor.

This is also a positive move for UK donors who can obtain tax relief for donations to charities in the EU, Norway and Iceland, providing the donation qualifies under the existing Gift Aid rules. Importantly, HMRC have confirmed that they will consider claims by UK donors for relief on donations to EU charities from the date of the ECJ Persche case (27 January 2009) on a case by case basis.

Substantial Donor legislation

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Anti-avoidance legislation introduced in Finance Act 2006 can trigger a tax charge in a charity where a substantial donor (defined as a donation of more than £25,000 over 12 months or £150,000 over 6 years) enters into certain transactions with the charity.

HMRC have accepted that the provisions are far reaching and often catch innocent transactions. Formal consultation on the substantial donors legislation was launched in 2008 and an HMRC working party was formed in 2009 to look at new rules to replace the existing legislation.

It had been anticipated that the new rules would be introduced in Finance Bill 2010. However, it was simply announced in today's Budget that 'informal consultation with stakeholders will continue on the proposed rules'.

Who is affected

UK charities.

Timing

Timing has not yet been announced but it is hoped the new legislation will be included in the first post-election Finance Bill.

Our view

It is disappointing that the proposed new rules to replace the substantial donors legislation were not announced in the Budget. However, we are optimistic that the continued consultation will see the introduction of the new rules and KPMG will remain on the HMRC working party.

Changes to Enhanced Capital Allowances technologies

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The government will be revising the energy technology list later this year by Treasury Order. Two new technologies will be introduced - Permanent Magnet Synchronous Motors and Biomass fired warm air heaters. One main technology (Compact Heat exchangers) and one sub-technology (Liquid Pressure Amplification) will be removed.

The criteria for taps and showers will be tightened and there will be some other minor changes to existing criteria for the energy and water technologies.

Who is affected

Businesses investing in energy and water efficient plant and machinery.

Timing

Changes will take effect on and after a date to be appointed by Treasury Order to be made prior to the summer 2010 Parliamentary recess.

Our view

With the government's focus on the 'green' agenda the enhanced capital allowances (ECA) regime is at the front line helping to make any necessary capital expenditure in this area tax efficient. Given the possibility of a timing benefit in claiming a 100 percent first year allowance over 10 percent or 20 percent writing down allowances or a payable tax credit for loss making companies, businesses should consider the ECA regime as a valuable way to potentially improve their cash tax position.

100% First Year Allowance for Zero-Emission Goods Vehicles

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The Government have confirmed that a 100 percent first year allowance ('FYA') will be available for capital expenditure incurred on new, but not second hand, zero-emission goods vehicles. The allowance will only be available for vehicles that cannot emit CO2 under any circumstances and the design of the vehicle is primarily suited to the conveyance of goods or burden.

This FYA is subject to the general exclusions noted in the Capital Allowances Act 2001 for FYAs and there are additional restrictions that prevent this allowance being available to certain businesses.

Who is affected

Businesses that invest in goods delivery vehicles for the purposes of their qualifying activity.

Timing

The new rules will take effect for capital expenditure incurred on or after 1 April 2010 (for corporation tax), 6 April 2010 (for income tax) and before 1 April 2015 (for corporation tax) and 6 April 2015 (for income tax).

Our view

This is a welcome addition to the assets that attract FYAs. It should be noted that many businesses lease such vehicles and this FYA will not be applicable in this circumstance. That said, the measure falls in line with the Government's policy to encourage the low carbon sector.

Cushion Gas

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Cushion gas is used in gas storage facilities to ensure gas can be injected and extracted efficiently. Expenditure on cushion gas is accepted as qualifying for plant and machinery allowances. The announcement has two effects. Firstly, expenditure incurred on cushion gas will be eligible for capital allowances at the special rate of 10 percent per annum and not the main rate of 20 percent per annum.

In addition, as cushion gas is not used up in the process of gas storage, its life is usually considered to be as long as the expected life of the storage facility. Hence, it is possible to have long leases over the cushion gas and for those leases to remain operating leases for accounting purposes. This is considered a quirk and not in the spirit of the long funding leasing regime. The new rules treat all leases of more than five years over cushion gas as long funding leases for tax purposes. This means a UK lessee of cushion gas is able to claim capital allowances rather than the lessor. A lessee may alternatively opt to claim a deduction for the lease rentals. However, the lessor will not become entitled to capital allowances in these circumstances.

Who is affected

Companies that incur expenditure on purchases of cushion gas; lessors and lessees of cushion gas.

Timing

The change will have effect in relation to expenditure incurred, and leases commencing, on or after 1 April 2010.

Our view

The changes to the rate of capital allowances will not, for most companies, have a negative impact as most have considered cushion gas to be a long life asset in any event.

The long funding lease changes seem reasonable as this particular asset is unusual in a plant and machinery context as it has a function but does not degrade. The changes seek to bring the treatment for this asset in line with other leases of more typical plant and machinery.

Extension of ring fence reinvestment rules

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

A reinvestment relief was introduced in Finance Act 2009 that provided for an exemption from chargeable gains for certain disposals of UK Oil and Gas assets where a company incurred expenditure on, broadly, offshore assets. The announced measure will also allow a group company to make the reinvestment.

Who is affected

Upstream Oil and Gas companies operating in the UK.

Timing

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

Our view

When the reinvestment rules were first announced, consultation resulted in the original proposed legislation being amended to apparently make the rules operate in a group context. However, those amendments failed to achieve that effect through a technical oversight and the change announced today will ensure the provision applies as intended, albeit only for disposals on or after 24 March 2010.

Stamp duty land tax partnerships

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The anti-avoidance rules for stamp duty land tax (SDLT) are being changed to block certain schemes where special partnership rules within the SDLT code have been used to mitigate the tax payable when UK property is transferred to a partnership.

Who is affected

Those implementing avoidance schemes.

Timing

The new rules take effect for transactions from 24 March 2010 subject to transitional provisions where contracts are in place before that date.

Our view

It is unsurprising that further anti-avoidance provisions have been introduced. Nevertheless, it is unfortunate that what is already a complicated statutory code is made yet more complex and there is the possibility that the tax analysis of other commercial transactions may be thrown into doubt given the wide-ranging scope of the anti-avoidance provision and the lack of clarity as to whether it applies in particular circumstances.

Stamp Duty and Stamp Duty Reserve Tax: Relief for Members of Clearing Houses

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

When UK securities are cleared through a central counterparty such as a clearing house, a number of transactions arise involving exchange members, their nominees, the clearing house and members and nominees of the clearing house, each of which can potentially be subject to stamp duty or stamp duty reserve tax (SDRT). HM Treasury have powers to make regulations which remove all but the last of these charges.

The Select Committee on Statutory Instruments reported in December 2009 that HM Treasury did not have the authority to extend the relief to members of clearing houses, and nominees of such members as opposed to nominees of clearing houses.

Legislation will therefore be introduced to make it explicit that the power to make regulations extends to clearing house members and their nominees.

Who is affected

Members of clearing houses, and their nominees, clearing houses themselves, buyers and sellers of UK securities that will be cleared by such clearing houses and securities trading platforms.

Timing

The legislation will take effect on and after Royal Assent to Finance Bill 2010.

Our view

This is a positive measure which will help to remove confusion and uncertainty in relation to tax reliefs that has arisen in the financial markets following the recent comments made by the Select Committee.

Stamp duty land tax and petroleum revenue tax administration: Relief for overpayment or over-assessment to tax

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The rules for correcting mistakes in stamp duty land tax returns and petroleum revenue tax returns to secure a repayment of tax or discharge of a liability are to be amended. The time limit for claiming the repayment is to be reduced from six to four years and the list of mistakes which do not entitle the taxpayer to claim has been lengthened. One new addition to the list is the failure to make a stamp duty land tax claim or election.

Who is affected

Any taxpayer who has overpaid stamp duty land tax or petroleum revenue tax or has been over-assessed to stamp duty land tax or petroleum revenue tax.

Timing

It is proposed that the new rules will take effect from 1 April 2011.

Our view

The measure in respect of stamp duty land tax was announced in the Pre-Budget Report and draft legislation was produced in January.

There are perhaps some positive elements of the new measure (for example the strict requirement that the tax be paid before a claim can be made has been removed) but the new measures will in many cases

make it more difficult for taxpayers to remedy genuine mistakes and reduce the period within which a claim can be made.

Disclosure of Tax Avoidance Schemes

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The Disclosure of Tax Avoidance Schemes regime was introduced in 2004 and imposes obligations on promoters and users of tax avoidance schemes which have certain "hallmarks". A promoter is required to disclose details of the scheme to HMRC within certain time limits. A taxpayer who expects to obtain a tax advantage from the scheme is required to notify HMRC of its use either on their tax return or by filing a separate form identifying, by means of a Scheme Reference Number, the planning they have undertaken.

On 9 December 2009 the Government announced a consultation aimed at extending and strengthening the existing Disclosure of Tax Avoidance Schemes regime. The consultation document proposed significant extensions to the hallmarks and increased penalties for failure to comply with the rules. The proposed draft legislation and regulations in the consultation document were wider than the specific issues identified.

Today the Government announced that it is exploring how inheritance tax charges applying to trusts can be brought within the disclosure regime.

Who is affected

All taxpayers who implement disclosable planning.

Timing

The amendments to the existing regime are expected to come into effect in autumn 2010.

Our view

The proposals are, for the most part, targeted at specific areas that HMRC perceive to be high risk. The introduction of new hallmarks and the widening of some existing hallmarks will inevitably lead to more disclosures being made. This will impact on the number of taxpayers required to notify Scheme Reference Numbers to HMRC adding to their compliance burden.

The Finance Bill will contain provisions extending the existing regime. More information should be available over the next few weeks once the Finance Bill is published. Other measures will be introduced by Regulation and HMRC will have further discussions with business about the detail of the package of regulations. This ongoing consultation is encouraging to see.

It is hoped that any moves to bring inheritance tax within the disclosure regime will be subject to consultation.

Film Tax Relief – Multi year claims

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Further to the announcement in the Pre-Budget Report, it is intended that there will be a change to the way in which a loss incurred by a film production company may be surrendered for a film tax credit.

Under current film tax relief rules, in any accounting period after the first period, the loss which may be surrendered by a film production company for a tax credit is currently the lesser of the available qualifying expenditure (cumulative qualifying expenditure to date, less any previously surrendered amount) and the loss incurred in that period.

HMRC have become aware that the way in which the legislation operates restricts the available tax credit in an unintended way. The proposed revision will extend the loss amount to not only include the loss incurred in that period but also to include any unsurrendered loss brought forward.

Draft legislation and an explanatory note were published on HMRC's website at the time of the Pre-Budget Report in December 2009.

Who is affected

UK film production companies making films with production spends spread over two or more accounting periods and which have some overseas expenditure.

Timing

The Government intends to legislate the above in a Finance Bill as soon as possible in the next Parliament. The amendment will be deemed to always have had effect for accounting periods ending on or after 9 December 2009.

Our view

The change is positive as it corrects an unintended anomaly in existing legislation whereby a film production company may be restricted on the

amount of film tax credit which it can claim where there is an increased UK spend in second or later production accounting periods.

Tax incentive for UK computer game development

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The government has announced an intention to introduce a new tax relief for the UK computer games industry. This is intended to encourage the retention of talent in the UK, and the growth of a successful industry which generates significant exports.

Such a relief would require European State Aid approval, and the detailed design has not yet been settled. The first indication from the Chancellor's speech is that it would share features with the new film tax relief.

Who is affected

The announcement will be affect companies subject to UK Corporation Tax that are making, or proposing to make, computer games.

Timing

Consultation on the design of the relief is intended to commence later in the year.

Our view

The computer games industry has been lobbying for a targeted tax relief similar to film tax credits for some time. It would seem that the government is now persuaded that the case has been made.

We welcome the proposed relief as a useful incentive to encourage an important creative industry in the UK. However, as the form of the relief has yet to be decided, and the election will come before any consultation, the future for this relief remains uncertain.

Time to pay arrangements

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

HMRC's Business Payment Support Service was set up on 24 November 2008. It is designed to provide help for businesses and individuals having difficulty in paying their tax liabilities, for example, by arranging for payments to be made over an agreed period.

At the Budget 2009, the Chancellor announced an extension to the service. From 22 April 2009, any viable business anticipating making a trading loss in the current tax year would be able to have the anticipated loss taken into account as part of any rescheduling of its Corporation Tax or Income Tax payments. This new measure meant businesses would no longer have to wait for the end of their accounting period to have the loss taken into account in calculating what they have to pay.

HMRC will continue to offer time to pay arrangements for all viable businesses having difficulty in meeting their tax obligations.

Who is affected

All tax-paying businesses and individuals in a potential current year loss position.

Timing

The measure extends the present arrangements indefinitely.

Our view

The service is said to have provided flexible time to pay arrangements for over 200,000 businesses since being introduced and its extension is therefore a welcome and sensible move in the current climate.

Associated Company Rules – Simplification

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Legislation is to be introduced amending the rules for determining whether companies are associated for the purposes of the small companies' rate of corporation tax and marginal small companies' relief. The legislation will amend the rules which attribute rights held between associated persons for the purposes of establishing who has control over a company.

Who is affected

Companies potentially qualifying for corporation tax small company relief.

Timing

A commencement date has not been stated but if enacted the new rules are likely to take effect with effect from the date of Royal Assent to Finance Act 2011.

Our view

A Treasury consultation document on this issue including draft legislation was published in October 2009. The intention of the proposal is to provide a more targeted and less mechanical approach so that companies are treated as associated only where there is real interdependence between them. It is not clear whether the previously published draft legislation will be amended in the light of responses to the consultation.

Changes to Venture Capital Schemes

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Changes are to be introduced to the Enterprise Investment Scheme (EIS) and Venture Capital Trust (VCT) schemes as agreed with the European Commission as a condition for the schemes retaining State Aid approval.

Currently, VCT's shares are required to be quoted on the official UK list on the London stock exchange. This is to be extended to any EU or EEA regulated market. In addition, the requirement that 30 percent of a VCT's qualifying holdings must be ordinary shares will be increased to 70 percent of the VCT's qualifying holdings and the shares may carry certain preferential rights to dividends.

Currently, companies qualifying for EIS or VCT investment must have a qualifying trade carried on wholly or mainly in the UK. This is to be replaced with a requirement that the company issuing the shares must simply have a permanent establishment in the UK.

Companies will no longer qualify for EIS or VCT investment if it is reasonable to assume that they would be treated as an enterprise in difficulty under European Commission guidelines.

Who is affected

Investors in companies qualifying for EIS reliefs and VCTs.

Companies looking for capital from investors via EIS and VCT reliefs.

VCTs and their promoters.

Timing

The new rules will have effect from the date that a Finance Bill to be introduced as soon as possible in the next Parliament receives Royal Assent. The change to eligible shares for VCTs will not affect funds raised by the VCT before that date.

Our view

These changes are welcome as they will enable the EIS and VCT schemes to retain their approved status from the European Commission under State Aid rules.

Companies with their main trade outside the UK will now be able to qualify for this relief, enabling investors and VCTs to invest in a wide range of eligible companies.

Sale of Lessor Companies – Option to Elect

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Relatively minor changes are to be made to the rules (which were announced in the December 2009 Pre-Budget Report) enabling a leasing company to elect out of the charge on change of ownership. This is commonly known as the “Schedule 10” charge albeit the provisions are now found at Chapter 3 of Part 9 CTA 2010.

The election involves ring-fencing the leasing business after a change in ownership such that tax reliefs may not be surrendered by or to it and capital allowances may not be claimed by it on any new assets it may acquire.

Who is affected

Companies leasing plant & machinery where there is a change of ownership of the company and the company elects out of “Schedule 10”. In this context the changes apply only to very specific circumstances.

Timing

Changes that benefit the taxpayer have effect from 9 December 2009. The other measures apply with effect from 24 March 2010.

Our view

The ability to elect out of “Schedule 10” is only ever likely to be attractive to a small minority of companies given the existing ring-fence restrictions.

The further changes tighten up the position, ruling out certain planning which HMRC perceived to be avoidance and making one relieving clarification.

Corporation tax main rates

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The main rate of corporation tax will remain unchanged at 28 percent.

The main rate of corporation tax for companies' ring fence profits will remain at 30 percent.

Who is affected

Companies with profits above the upper limit (£1.5 million), companies that are part of a group with profits above the upper limit and companies with ring fence profits from oil extraction and oil rights in the UK and UK Continental Shelf.

Timing

The rates applying from 1 April 2010 were set last year in sections 7 and 8 of FA 2009. The measure confirms that these rates will remain in force from 1 April 2011.

Our view

As expected, no change.

Corporation tax small profits rate

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The small profits rate of corporation tax for all profits, apart from ring fence profits, will remain unchanged at 21%. The marginal relief fraction for non ring fence profits will remain at 7/400.

The small profits rate of corporation tax for companies' ring fence profits will remain at 19% and the marginal relief fraction for ring fence profits will remain at 11/400.

Who is affected

Companies with profits chargeable to corporation tax below the lower limit (£300,000), companies with corporation tax profits between the lower limit and upper limit (£1.5million), and companies with ring fence profits from oil extraction and oil rights in the UK and UK Continental Shelf.

Timing

The measure confirms that the current rates will remain in force from 1 April 2010.

Our view

As expected, no change.

Changes in Accounting Standards

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The International Accounting Standards Board is in the process of replacing IAS 39 (Financial Instruments: Recognition and Measurement). The project will run for a number of years. The first part of the replacement standard (IFRS 9), dealing with the classification and measurement of financial assets, was published in late 2009. However, this has not been adopted by the EU and so is not yet available for UK incorporated companies. Further phases of the project will deal with the classification and measurement of financial liabilities, impairment methodology and hedge accounting.

It is likely that these changes to international accounting standards will necessitate changes to legislation dealing with loan relationships and derivative contracts.

HMRC have previously announced that legislation will be included in the 2010 Finance Bill to allow regulations to be made to amend the loan relationships and derivative contracts legislation where necessary.

HMRC is consulting with the existing IAS 39 working party on any changes to legislation that might be necessary. Any regulations made under the new powers are similarly expected to be subject to consultation.

Who is affected

Companies likely to adopt IAS 9 in their individual legal entity accounts, particularly early adopters.

Timing

Any regulations made under the new powers will come into force on or after the date that the 2010 Finance Bill receives Royal Assent. Where a change in an accounting standard is effective prior to this date, the regulations may have retrospective effect.

Our view

The project to replace IAS 39 will require amendments to existing loan relationship and derivative contract legislation and we fully support HMRC's approach to consulting on any necessary changes. Specific details will only become available as the IAS 39 project progresses, which is likely to be a number of years.

Harmonisation of interest

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

A consultation document containing draft legislation on the harmonisation of rules for interest on late payments and repayments of corporation tax and petroleum revenue tax ("PRT") was published with the Pre-Budget Report in December 2009.

HMRC have now published their response. The comments were broadly favourable and the proposals will be introduced with only minor amendments. The main features are:

- The overall framework is consistent with that introduced for other taxes;
- Special rules apply for corporation tax where losses, non-trading loan relationship deficits or excess unrelieved foreign tax are carried back to an earlier period, and in relation to tax charged on loans to participators by close companies;
- No interest is charged or paid in respect of times at which an underpayment of corporation tax for one period is offset by an overpayment for a different period;
- There is no change to the existing legislation for interest on quarterly instalments of corporation tax;
- Where a repayment of PRT arises from a claim for loss carry-back, repayment interest is capped by reference to the difference between 60 percent of the amount of the allowable loss and the amount of the repayment.

Who is affected

Companies subject to corporation tax and/or PRT.

Timing

Legislation is to be included in a Finance Bill to be introduced as soon as possible in the next Parliament. Implementation is unlikely to be earlier than 2013–14.

Our view

The proposals are as expected and are generally uncontroversial although the PRT interest changes have a negative impact as historically repayment and underpayment interest rates were the same and this harmonisation will introduce a differential.

Anti-avoidance: Transactions in securities

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The existing anti-avoidance legislation dealing with transactions in securities will be replaced following consultation by HMRC over the past year. The replacement legislation will:

- apply to securities in close companies (including overseas companies) which is a wider definition than previously;
- clarify how the tax advantage is to be quantified;
- introduce a new exemption covering fundamental changes in ownership;
- remove obsolete tests covering transactions where avoidance opportunities no longer arise.

Who is affected

Individuals who have transactions in securities including sale of shares.

Timing

Legislation will be introduced in Finance Bill 2010 to have effect 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

This is the conclusion of a wider consultation by HMRC over the past year. It is disappointing that draft legislation has not been published at the time of the Budget, since with anti-avoidance legislation the detail is particularly important. The introduction of a new exemption covering fundamental changes in ownership will provide some certainty that this legislation will not apply to certain straight forward sales of companies. However, the expansion of qualifying companies to include close

companies, including overseas companies, will bring into scope a large number of private equity portfolio companies which previously may have been outside the scope of the legislation. The new income tax advantage test is likely to increase uncertainty initially around the application of this legislation to particular transactions.

Small business rate relief

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The measure is intended to alleviate the costs of starting and running a small business.

The Government will fund a temporary increase in the level of small business rate relief, so that eligible small businesses occupying properties with rateable values up to £6,000 will pay no business rates for one year from October 2010. In addition, small businesses benefitting from the rate relief taper (rateable values up to £12,000) will receive significant reductions. It is estimated that over 500,000 small businesses across England will benefit.

Who is affected

Eligible small businesses.

Timing

From October 2010 for one year.

Our view

This is a welcome but modest relief to support growth in the current downturn.

Indirect Tax



Gary Harley
Head of Indirect Tax

From 1 November 2010, the UK will replace the current zero rating for emissions allowance trading with a reverse charge. The zero rating was introduced as an emergency measure to combat VAT fraud in the trading of these allowances (despite the fact that generally it is impossible to increase the scope of zero rating by comparison to the position as at 1 January 1991). However, now that the EU has reached agreement on the reverse charge provisions, the zero rate can be withdrawn and replaced.

The UK's postal service exemption will be narrowed from 31 January 2011. Following the TNT case and so that UK law is in line with EU provisions Royal Mail (the UK's only public postal provider) will only exempt the services it provides in its capacity as universal service provider. Negotiated business contracts will become taxable. This will impact on business users of Royal Mail for whom VAT is a cost (banks etc), but will increase Royal Mail's own recovery rate on its VATable costs. However some of the VAT charge may have to be absorbed by Royal Mail in respect of contracts with exempt customers and this would offset any benefit.

Revenue protection legislation will be introduced to ensure that any taxable persons with mixed use assets that have used the Lennartz accounting regime to recover the VAT on the non business element of the asset must continue to account for output tax on the non business use of the asset if they do not wish to unravel the Lennartz mechanism. This is in spite of the change of policy in January 2010 which states that there is no longer any deemed supply on which VAT is due, as any use of the asset for purposes that the taxable person was set up to carry out is now use for the purpose of the business and so Lennartz only applies where the use is business and private. With effect from January 2011 Lennartz will be removed in totality for immoveable property, boats and aircraft, and input VAT incurred on these will have to be apportioned

instead although that apportionment will be capable of adjustment where private use changes.

Following infringement proceedings against the UK, our definition of zero rated aircraft will change from 1 September 2010 to bring it in line with EU law. The weight and design tests will go and zero rating will apply to any supply of aircraft used for reward chiefly on international routes and spares for these. Supplies to State institutions are unaffected.

Contents

VAT: Reverse Charge for Emissions Allowances	70
VAT: Change to Zero-Rating of ‘Qualifying’ Aircraft	71
VAT: Postal services	73
VAT: Lennartz accounting: Restricting application and securing revenue	74
VAT: Place of supply of gas, heat and cooling	76
VAT: Changes in fuel scale charges	78
VAT: Increased turnover thresholds for registration and deregistration	79
Insurance Premium Tax Premium Splitting	81
Hydrocarbon Oils: Duty Rates	83
Increase in rates of duty on tobacco products	85
Alcohol: Duty Rates	86
Alcohol Duty: Definition of cider	88
Excise: Changes to Bingo Duty, Amusement Machine Licence Duty and Gaming Duty	89
Review of HMRC Powers, Deterrents and Safeguards: Excise modernisation and compliance checks	91
Landfill tax: standard rate	92
Landfill tax: Landfill Communities Fund	93
Landfill tax: Criteria for determining material to be subject to the lower rate	94
Climate Change Levy: Change in Rates	95
Aggregates levy: rate increase	96
Aggregates levy: Northern Ireland Credit Scheme	97
Air Passenger Duty: Duty Rates	98

Landline Duty	100
Review of HMRC powers, deterrents and safeguards: penalties for late filing of returns and payment of tax	101

VAT: Reverse Charge for Emissions Allowances

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Following widespread concern about fraud in the carbon trading markets, the UK responded by introducing legislation to zero rate the supply of emissions allowances with effect from 31 July 2009. This was described as an interim measure until an EU-wide solution was implemented. The zero rate currently applies to any transaction in EU emissions allowances and transferable units issued pursuant to the Kyoto Protocol.

The European Commission put forward a proposal to provide Member States with the option to apply a reverse charge.

The budget measures introduce this reverse charge for the supplies of emissions allowances and will replace the interim zero rate introduced last year.

Who is affected

This will affect the sellers and purchasers of emissions allowances.

Timing

The new reverse charge for emissions allowances will have effect from 1 November 2010.

Our view

Following European agreement on the optional reverse charge in March, it was widely expected that the UK would replace its zero rating. The change from a zero rated supply to reverse charge will have no absolute VAT impact assuming the recipient is able to recover the VAT in full. Businesses may need to make minor accounting and reporting changes to reflect the change from a zero rated to a reverse charge supply.

VAT: Change to Zero-Rating of ‘Qualifying’ Aircraft

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Changes are being made to the qualifying criteria for the zero-rating of aircraft, aircraft parts and certain services relating to aircraft. The change will bring UK legislation in line with over-arching EU legislation.

Currently, UK VAT law permits zero-rating where the take-off weight of the aircraft is not less than 8,000kg (provided the aircraft has not been adapted for recreational or pleasure use). EU law stipulates that zero-rating should only be permissible for aircraft which operate ‘for reward’ and ‘chiefly on international routes’. Following this change, UK law will align with the EU definition.

The measure is likely to be broadly neutral for most airlines. Any VAT which becomes chargeable on aircraft which are used mainly on domestic routes is likely to be recoverable in full by the airline. Aircraft which are currently below 8,000kg in take-off weight, and so are currently subject to VAT, will be eligible for zero-rating under the new rules if they meet the new qualifying criteria.

Who is affected

Airlines and suppliers of aircraft parts as well as certain services relating to aircraft (including the leasing of aircraft). The change will not affect the VAT treatment of supplies of aircraft to state institutions.

Timing

The new rules will take effect from 1 September 2010.

Our view

The changes bring UK law into line with EU legislation and the new UK provisions will now be very similar to the zero-rating eligibility criteria in other EU member states. The precise criteria for determining how ‘chiefly on international routes’ should be defined have yet to be

published so the extent of any new 'compliance burden' is presently unclear.

VAT: Postal services

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Currently the conveyance of postal packets and services connected to the conveyance of postal packets by the Universal Service Provider (USP) is exempt. The USP is in practice the Royal Mail, including Parcelforce.

Following the changes, VAT will be applied to “services that the USP is not required to make under a licence duty, and services provided on terms and conditions that **have been freely negotiated**”.

However, social mail, including stamped mail, remains exempt from VAT, so private individuals should largely be unaffected.

Who is affected

The addition of VAT to these services, subject to the corresponding recovery of VAT on the associated costs, potentially increases the cost of postal services to business customers who cannot recover all the VAT they pay. However, the impact upon fully taxable customers is expected to be neutral and individuals should be largely unaffected.

Timing

The measure will be introduced on 31st January 2011.

Our view

This change effectively implements the ECJ’s decision in TNT. It puts Royal Mail on a level footing in relation to VAT with the public companies providing similar postal services. However, at the same time it will allow Royal Mail to recover VAT on its costs associated with such supplies in full.

VAT: Lennartz accounting: Restricting application and securing revenue

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Until a recent ECJ case, taxable persons were able to use 'Lennartz accounting' to treat all the VAT incurred on mixed use capital assets as input tax and then account for output VAT on the cost of putting the asset to non business or private use over an agreed life of five or ten years.

Since 22 January 2010, any use of the asset for activities that the taxable person was set up to do, even if these are non business, has been viewed as use of the asset for the purposes of the business, meaning Lennartz cannot apply. Lennartz was limited to assets where the mixed use was business and private. It was therefore suggested that this change meant there could be no ongoing liability, after 22 January, to account for output tax on non business use. Regulations will be introduced to ensure that this VAT still has to be declared.

Additionally new regulations will be introduced, in line with EU changes, to block Lennartz accounting in totality for immovable property, boats and aircraft. VAT recovery will be restricted to the business element, taking account of partial exemption. The Capital Goods Scheme will be amended to allow for adjustment where private use changes in subsequent years.

Who is affected

Charities with non business use of assets that have used Lennartz and taxable persons with private use of property, boats and aircraft.

Timing

The Lennartz revenue protection regulations will be deemed always to have had effect. The other changes apply from 1 January 2011.

Our view

We support HMRC's need to protect revenue, but the technical basis of the rules remains unclear. If there is no supply, and no amount purporting to be VAT has been charged, it is hard to see how a debt to HMRC is created. The other changes were expected in view of the EU changes to Lennartz recently announced.

VAT: Place of supply of gas, heat and cooling

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The place of supply of wholesale supplies of heating and cooling supplied within a distribution network is to change in line with the VAT treatment of the wholesale trading of natural gas and electricity.

The existing rules for natural gas are to be amended so that all wholesale supplies of natural gas within a pipe network (historically, only gas within the natural gas distribution network was a qualifying supply) will be included in the simplification whereby the place of supply is determined by the where the wholesale customer is established.

The existing rules will no longer apply where the relevant pipe is not located in the EU and the relevant pipe is not connected to an EU pipeline. Such supplies will now be outside the scope of VAT.

Relief from import VAT is also being extended so that relief from import VAT will now apply to all natural gas imported via a network, including liquefied natural gas by tanker.

Who is affected

Wholesale suppliers and purchasers of gas, heating and cooling within distribution pipes and networks. Importers of Natural Gas

Timing

The new rules will take effect from 1 January 2011.

Our view

These changes are in line with the proposal first presented by the European Commission in November 2007.

The amendments are largely designed to clarify what is included within the special place of supply rules for natural gas (Articles 38 & 39 of the EU Directive 2006/112).

These rules have widely been considered to have been badly worded in their original form. In some cases they could have led to the distortion of competition where supplies of natural gas were not made wholly within a natural gas distribution network, i.e. imported into the EU on a vessel, then fed into a pipe network. There was also historic uncertainty where wholesale sales were made in (and transported by) a privately owned distribution network.

These rules are good news for the industry and provide a certain degree of clarity. However, there is still likely to be some uncertainty over the correct VAT treatment in two key areas:

- Whether the import of untreated natural gas from exploration sites such as the North Sea continental shelf qualify for import relief given that this product is a mixture of natural gas and condensate
- Which non EU pipes are considered to be 'connected' to an EU pipe network and what evidence will be required to determine that there is no 'connection'.

VAT: Changes in fuel scale charges

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

This measure will amend the VAT scale charges for taxing private use of road fuel to reflect changes in fuel prices. It will also amend the table of CO2 bands to maintain alignment with those used for direct tax purposes.

A scale charge is a way of accounting for output tax on road fuel purchased by a business that is then put to private use. By using the scale charge, businesses can recover all the VAT charged on road fuel without having to split their mileage between business and private use.

Who is affected

Businesses which recover input tax on fuel used for private motoring.

Timing

Businesses must use the new scale charges from the start of their next prescribed accounting period beginning on or after 1 May 2010.

HMRC Notice 700/64 VAT: Motoring Expenses will be updated in due course.

Our view

This is an expected change and reflects the continued importance of reducing the UK's CO2 emissions.

VAT: Increased turnover thresholds for registration and deregistration

Impact on taxpayer			
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The issue

The measure increases the annual taxable turnover threshold which determines whether a person must be registered for VAT from £68,000 to £70,000.

The annual taxable turnover threshold which determines whether a person may apply for deregistration will be increased from £66,000 to £68,000. The existing conditions for determining entitlement or liability to deregistration remain unchanged.

The registration and deregistration threshold for relevant acquisitions from other European Union Member States will also be increased from £68,000 to £70,000.

Schedules 1 and 3 to the Value Added Tax Act 1994 have been amended by a Statutory Instrument laid on Budget day to give effect to these changes.

Who is affected

Businesses and individuals whose taxable turnover is close to the current VAT thresholds for registration and deregistration.

Timing

The new registration and deregistration thresholds will have effect from 1 April 2010.

Our view

This annual measure continues to help the small number of businesses and individuals who are close to the existing VAT registration threshold. Some businesses trading below this level consider it to be beneficial to

be VAT registered. However the tax and administrative benefit of not having to register can benefit businesses and individuals. The increasing of these thresholds in real terms helps maintain the scope of this simplification measure.

Insurance Premium Tax Premium Splitting

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The 2009 Pre-Budget Report announced new anti-avoidance legislation to be introduced in the Finance Bill 2010 to restrict the circumstances in which fees charged to private insured individuals in relation to a taxable insurance contract may be treated as outside the scope of IPT.

Following discussions between HMRC and the industry, this draft legislation has been amended to take account of industry concerns that the new legislation went wider than intended.

New sub-sections 1AA to 1AE will be added to Section 72, Finance Act 1994 which lays down the definition of 'insurance premium' on which IPT is applied.

The new legislation seeks to tax policy arrangement (and similar) fees charged to an individual who takes out a taxable insurance contract in a personal capacity and was required to enter into a separate contract as a condition of entering into the contract of insurance or would have been unlikely to have entered into this separate contract without also entering into the taxable insurance contract. Such amounts will be subject to IPT where they are charged under a separate contract or the terms of this contract are not open to negotiation.

Sub-section 1AE sets out that the fee charged to the individual under the taxable insurance contract has to be arrived at without a comprehensive assessment of the individual's risk-affecting circumstances having been undertaken.

Who is affected

Insurance intermediaries who sell taxable insurance products covering the personal risks of private individuals and the insurers that underwrite such policies.

Timing

The new rules will take effect from 24 March 2010 and replace the Pre-Budget Report announcement.

Our view

This measure arose following HMRC's Business Brief issued in August 2009 in the wake of the Homeserve Membership Limited (Homeserve) High Court decision of 18 June 2009. The Brief made clear HMRC's intention to address what it perceived as unacceptable IPT avoidance where fees are charged in place of what would ordinarily be taxable insurance premium.

The new measures may have significant impact for insurance intermediaries who currently charge administration fees in relation to personal lines insurance in the UK and for the insurers who ultimately declare and pay the tax. Such businesses may need to amend their processes and systems to ensure that the IPT on affected fees is correctly charged and reported.

Hydrocarbon Oils: Duty Rates

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

In last year's Budget the Chancellor announced an increase by two pence per litre (ppl) from 1 September 2009, and one ppl increases in real terms each year from 2010 to 2013. However, the Chancellor has confirmed that this year's planned increase will be phased in over the course of the year. The actual increase from 1 April will be one ppl with a further one ppl from 1 October and the remainder in January 2011.

There will also be increases to non road fuels, bio fuels for road use, biofuels, bioethanol and natural gas used for road fuel which will also be phased in over the year. The increase in duty on aviation gasoline by 3.78 ppl to 38.35 ppl will take effect on 1 April 2010.

Who is affected

Manufacturers, importers, distributors, retailers and consumers of fuel products.

Timing

The new rates will take effect from the dates detailed above.

Our view

There have been a number of increases in fuel duty rates in recent years, including a two ppl increase only as recently as last September. The Chancellor has and continues to target fuel duty as a means to both raise revenue and reduce CO2 emissions. However, given the volatility of fuel prices and its impact on business, fuel duty increases have been postponed before. For example, the planned two ppl increase for April 2008 was delayed until the December of that year by which time pump prices fell by over 20 ppl from their summer peaks.

The phasing in of the increases will assist a wide range of businesses. As well as businesses in the hydrocarbon sector, this delay will help any businesses to whom fuel and transport are a cost. However this is a delay in increase, not a cancellation. With no guarantee that pump

prices will fall, this measure is only likely to provide temporary respite from the full increase in fuel duty.

Increase in rates of duty on tobacco products

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Legislation will be introduced in the Finance Bill to increase the rates of duty on tobacco products imported into the UK or manufactured in the UK, by one percent in real terms.

This will result in the following changes being made to the duty rates on tobacco products:

- cigarettes: an amount equal to 24 percent of the retail price plus £119.03 per thousand cigarettes;
- cigars: £180.28 per kilogram;
- hand-rolling tobacco: £129.59 per kilogram; and
- other smoking tobacco and chewing tobacco: £79.26 per kilogram.

Who is affected

This rate increase will affect manufacturers, importers, wholesalers, retailers and consumers of tobacco products.

Timing

The increase takes effect at 6pm on 24 March.

Our view

This change is in line with expectations. Annual Government revenues from duty on cigarettes were estimated to have risen above £8bn in 2009 for the first time since 1997, and if trends continue, the increase is likely to keep them at that level.

Alcohol: Duty Rates

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Legislation will be introduced to provide for the proposed increases on duty rates for alcohol. Duty rates for all still ciders, and sparkling cider exceeding 1.2 percent alcohol by volume (abv) but not exceeding 5.5 percent abv, will increase by ten percent above inflation. Duty rates for other forms of alcohol will increase by two percent in real terms.

The 2008 Budget Report introduced what is referred to as the alcohol duty accelerator which stated that alcohol duty rates will increase by two percent above the rate of inflation in future years in order to ensure that alcohol duties keep pace with rising incomes.

Budget Notice 61 states that this year's changes will have the following impact on retail prices equivalent to:

- 36 pence on a 70cl bottle of spirits @ 37.5 percent abv
- 2 pence on a pint of beer
- 5 pence on a litre of still cider
- 9 pence on a 75cl bottle of sparkling cider
- 10 pence on a 75cl bottle of wine or made-wine
- 12 pence on a 75cl bottle of sparkling wine.

Who is affected

This will affect manufacturers, importers, distributors, retailers and consumers of alcoholic beverages.

Timing

The new rates will take effect from 29 March 2010.

Our view

The increase in duty rate on cider was not previously announced. Whilst the other increases are in line with expectations, all these increases will be unpopular with business. Alcohol duty rates were increased by six percent in real terms in the budget of 2008 and a further two percent in last year's budget. Furthermore, increases in

alcohol duties on 1 December 2008 introduced to offset the temporary VAT rate decrease were not reversed when the standard rate of VAT reverted back to 17.5 percent on 1 January 2010.

Alcohol Duty: Definition of cider

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

HMRC is bringing in a power to amend the definition of cider for duty purposes.

Who is affected

Manufacturers, importers, distributors, retailers and consumers of cider and perry.

Timing

The new powers will take effect from Royal Assent of the Finance Bill.

Our view

Cider enjoys a duty rate significantly lower than other alcoholic beverages when measured in terms of alcohol by volume and made-wine excise categories attract significantly higher duty rates.

Whether certain apple or pear based beverages are considered cider or made-wine could be open to dispute based on the current definition. We suspect that HMRC is seeking to ensure that the definition of cider is narrower so that some such beverages then fall into the category of made-wine and so attract the higher duty.

Excise: Changes to Bingo Duty, Amusement Machine Licence Duty and Gaming Duty

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Several changes have been announced as follows:

- reduction in the rate of bingo duty from 22 percent to 20 percent
- increase in amusement machine licence duty (AMLD) in line with inflation
- increase in the gross gaming yield (GGY) bandings for gaming duty in line with inflation

Who is affected

Casinos, bingo clubs and providers of gaming machines for play in the UK.

Timing

The changes will take effect as follows:

- the new rate for bingo duty will take effect for accounting periods beginning on or after 29 March 2010
- the increase in AMLD will have effect for any licence applications received at HMRC accounting centre after 4pm on 26 March 2010
- the increase in the GGY bandings have effect for accounting periods starting on or after 1 April 2010

Our view

The bingo duty reduction was announced in the 2009 Pre-Budget Report. Whilst the industry will welcome the 2 percent reduction in bingo

duty, in our view the industry will consider that this does not go far enough to redress the increases announced last year.

Review of HMRC Powers, Deterrents and Safeguards: Excise modernisation and compliance checks

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

This measure updates the compliance checking framework for excise duties, including modernising information and inspection powers, and aligning record-keeping rules and claims and assessment time limits with changes made to other taxes and duties.

Who is affected

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

Timing

Time limits for making assessments and claims need a transitional period and are not expected to become fully operative before 1 April 2012. Treasury Orders will bring changes into effect and specify the operative date – record-keeping changes and amendments to information and inspection powers are expected to take effect from 1 April 2011.

Our view

These changes modernise and align excise rules more closely with rules on other taxes and duties and were consulted about and expected.

Landfill tax: standard rate

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

As previously announced, the standard rate of landfill tax will rise by £8 per tonne to £56 per tonne in 2011.

The Chancellor also announced that landfill tax will continue to rise by £8 per tonne each year until 2014-15 (ie one year more than had previously been announced). This will bring the standard rate to £80 per tonne.

Who is affected

Landfill site operators.

Timing

The rise to £56 per tonne will come into force on 1 April 2011.

Our view

This is an expected but significant increase to the cost base of landfill site operators. As more waste is recycled rather than landfilled, site operators are increasingly being penalised for landfilling material for which there is still no better, practical environmental option.

Landfill tax: Landfill Communities Fund

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The maximum percentage of their annual landfill tax bill claimable as a credit by site operators making contributions to environmental bodies under the Landfill Communities Fund (LCF) will decrease from 6 percent to 5.5 percent.

Who is affected

Landfill site operators.

Timing

The measure will take effect on 1 April 2010.

Our view

This change is not unexpected. It will not reduce the maximum value of the LCF because the rate of landfill tax is increasing and if site operators continue to contribute at the same level it is predicted that the LCF will increase in value from £72 million in 2009-10 to £74.25 million in 2010-11.

From the site operator's perspective, however, there will be a real decrease in the proportion of its annual landfill tax bill that can be clawed back as a tax credit if contributions are made to environmental bodies.

Landfill tax: Criteria for determining material to be subject to the lower rate

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

A new provision will be introduced in the Finance Bill requiring HMRC to publish the criteria that HM Treasury use to decide which materials qualify for the lower rate of landfill tax.

HM Treasury will then apply these criteria when deciding what qualifies for the lower rate for disposals made, or treated as made, on or after 1 October 2010. A new Treasury Order will be published if required to reflect any changes.

Who is affected

Landfill site operators.

Timing

Disposals made, or treated as made, on or after 1 October 2010.

Our view

This change has come about as a result of the Landfill Tax Consultation exercise announced in Budget 2009.

The impact on site operators will only become clear once HMRC publish the criteria that HM Treasury use and the review is completed.

Whilst it is likely that a number of waste streams will no longer qualify for the lower rate of tax, it is also possible that some materials which are currently higher rated will benefit from the lower rate after October.

Climate Change Levy: Change in Rates

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Climate Change Levy ('CCL') rates are to be increased broadly in line with inflation.

The new rates will be as follows:

- Electricity - £0.00485 per kw/h;
- Gas - £0.00169 per kw/h;
- Liquid petroleum or other hydrocarbon gas - £0.01083 per kilogram; and
- Any other taxable commodity - £0.01321 per kilogram.

Who is affected

Suppliers of electricity, gas and other types of energy to business consumers.

Timing

The new rates will come into force from 1 April 2011.

Our view

This is an expected increase to rates in line with inflation. Energy suppliers will be required to ensure that they implement the rate change.

Aggregates levy: rate increase

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The rate of aggregates levy is to increase from £2 per tonne to £2.10 per tonne.

Who is affected

Aggregates producers.

Timing

The rate increase will take effect on 1 April 2011.

Our view

This increase is not unexpected but is likely to be unwelcome as it represents a cost which aggregates producers will have to absorb.

Aggregates levy: Northern Ireland Credit Scheme

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The credit scheme grants an 80 percent tax credit to aggregate producers in Northern Ireland who meet certain conditions. The scheme is due to cease on 1 April 2011 but this measure extends the scheme for a further ten years to 1 April 2021.

Who is affected

Producers of aggregates in Northern Ireland.

Timing

The scheme will be extended to 31 March 2021.

Our view

This is good news for aggregates businesses in Northern Ireland who would otherwise be disadvantaged by the fact that quarry companies in Ireland, on the other side of a land border, do not have to pay an aggregates levy.

Air Passenger Duty: Duty Rates

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The Pre-Budget Report 2008 announced that increases would be introduced to the Air Passenger Duty ('APD') rates. There are eight rates of APD. These comprise a reduced and standard rate for four different Bands. The current and new rates applicable from 1 November 2010 are:

Destination band, and approximate distance in miles from London	In the lowest class of travel (reduced rate)		In other than the lowest class of travel* (standard rate)	
	Current	From 1 Nov 2010	Current	From 1 Nov 2010
Band A (0 - 2000)	£11	£12	£22	£24
Band B (2001 – 4000)	£45	£60	£90	£120
Band C (4001 – 6000)	£50	£75	£100	£150
Band D (over 6000)	£55	£85	£110	£170

Who is affected

Airlines, travel agents and air passengers.

Timing

The new rules will have effect in relation to passenger transport on or after 1 November 2010.

Our view

These increases were announced in the Pre-Budget Report in 2008 and were therefore expected. However, the size of the increases is significantly above inflation and is likely to have a negative impact on the airline and travel industry.

Landline Duty

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

A new Landline Duty was announced in the Pre-Budget Report in December 2009. The 50 pence a month duty is planned to help fund the roll-out of Next Generation Broadband Access to 90 percent of Britain by 2017. The Budget Notice confirms that the Finance Bill will be used to provide the primary legislation for the new duty.

Who is affected

Owners of local loops, wholesalers, retailers and end users of local loops. A local loop is defined as “the physical circuit connecting a network termination point to a public electronic communications network”. The duty will apply when a local loop is made available for use and will be payable by the owner of the loop.

Timing

As previously announced the duty has effect on or after 1 October 2010.

Our view

It is expected that that the owners of the loops will pass on the duty down the supply chain. On the basis that businesses will not want to incur the cost, the majority if not all of the duty is likely to be passed on to customers. Therefore increases in costs to the final consumer are expected whilst businesses in the supply chain will be faced with the administrative burden of the new duty. HMRC also used the Budget to release the responses to its earlier consultation.

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

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

This measure will complete the reform of the penalty regimes for late filing of tax returns and late payment of tax. The reform began when legislation for certain taxes was enacted in the Finance Act 2009 including income tax, corporation tax, inheritance tax and other direct taxes.

The late filing and late payment penalty models are broadly similar. These are designed to encourage filing and payment by the correct dates by introducing an escalating series of penalties depending upon 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.

Who is affected

Taxpayers who do not file their tax returns on time or pay their tax liabilities in full and on time for:

- VAT and insurance premium tax
- Aggregates levy, climate change levy and landfill tax
- Air passenger duty, alcoholic liquor duties, tobacco products duty, hydrocarbon oil duties, general betting duty, pool betting duty, bingo duty, lottery duty, gaming duty and remote gaming duty
- Other excise duties

Timing

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. This will also allow for the substantial education and preparatory period that will be necessary for both taxpayers and their agents. The new provisions will be brought into effect by Treasury Orders which will specify the dates from which they have effect.

Our view

The extension of the penalties for late filing of returns and payment is another example of the harmonisation of penalties across taxes. Businesses who currently file and pay their returns on time should be unaffected.

Employee Issues



Ian Hopkinson
Head of Employee Tax

Budget 2010 mainly confirmed earlier proposals from previous Budgets and Pre-Budget Reports. It confirmed the:

- tapering of the basic personal allowance for individuals with 'adjusted net income' over £100,000 per annum, Their personal allowance will be reduced by £1 for every £2 in excess of £100,000 up until the maximum reduction of the full amount of the personal allowance.
- introduction of a new higher rate of tax of 50 percent on incomes over £150,000 from 6 April 2010.
- restriction of the amount of tax relief available on pension contributions for employees with income over £150,000 and those with income of £130,000 or more who also have income of over £150,000 when employer pension contributions are included.

Employees earning over £150,000 will, therefore, face a combined highest rate of tax and National Insurance of 51 percent, with much restricted capacity to shelter income through tax relief on pension contributions.

The 50 percent income tax rate will be one of the highest headline rates in Europe and stands in stark contrast to the 18 percent capital gains tax rate which, perhaps surprisingly, remains unchanged. Indeed, this difference in rates means that HMRC approved share scheme arrangements (e.g. Company Share Option Plans, SAYE schemes etc) are likely to become much more attractive.

Further anti-avoidance measures have been announced, including specific measures concerning equity remuneration arrangements and a requirement for employers with a history of PAYE non compliance to provide a security in respect of future payments. The Budget statements also contain previously notified changes around workplace canteens and tidying up of rules regarding employer provided childcare.

The Bank Payroll Tax is now expected to raise £2billion, which the Chancellor said was more than twice the amount originally forecast and is almost 4 times the amount he mentioned in his announcement in December. The tax is due to be paid by 31 August 2010. Although no extension of the tax past 5 April 2010 was announced, the Chancellor expressed support for a "Bank Levy" but stressed International co-ordinated action is required and going alone could damage the UK as a financial centre. The Government will formally consult on draft regulations to require enhanced disclosure of remuneration and consider strengthening executive remuneration control by shareholders.

Although, higher earning employees will bear the cost of the various changes this will also translate into higher costs for employers where international assignees are posted to the UK under tax-equalisation arrangements. The danger remains that international businesses will reflect on whether the UK is the right place to be investing capital and resources.

Contents

Bank Payroll Tax	106
Restricting pensions tax relief	108
Pensions: lifetime and annual allowances	110
Pensions: introduction of automatic enrolment and 'NEST'	111
Employee share plan measures	112
Taxable Benefit Charges on Zero Emission Vehicles and Low Emission Cars	114
Salary Sacrifice – Workplace Canteens	115
Employer supported childcare: relaxation of 'available generally' condition	116
Earnings paid through trusts or other entities	117
The Remittance Basis: Relevant Person	118
Time to pay arrangements	119
Security for Payment of PAYE	120

Bank Payroll Tax

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The Government announced their intention in the 2009 Pre-Budget Report to introduce a new Bank Payroll Tax (BPT) to apply to bonuses and other relevant remuneration awarded to banking employees of banks, building societies, certain financial businesses and holding companies in banking and building society groups and UK branches of foreign banks ("taxable companies"). It applies at a rate of 50 percent and the cost is not allowable for corporation tax purposes.

Draft legislation was published at the time of the Pre-Budget Report and HMRC subsequently issued clarification on a number of points by way of further statements and a series of Questions & Answers. Numbers of representations were made on the draft legislation and the Government has now confirmed the changes that they intend to reflect in the final form of the legislation.

The main changes include clarification on when relevant remuneration is treated as being "awarded" and on the definition of "taxable company". The definition of "banking group" also now excludes any group where at least 90% of the trading income in the last period of account ending no later than 5 April 2010 is derived from insurance, asset management and related activities or non-financial activities (or a combination). But any company within the group may still be a taxable company for BPT purposes if it falls within the definition on its own.

HMRC will have the power to publish requirements on how BPT is to be paid, the information to be contained in the BPT return, the form in which the return must be made and how it should be delivered. The intention is that BPT is paid electronically by CHAPS. Taxable companies will have the ability to amend their BPT returns and HMRC will have the power to enquire into returns, issue determinations and assessments as they consider necessary, in a similar way as applies for corporation tax).

Who is affected

The BPT applies to taxable companies that award relevant remuneration during the chargeable period.

Timing

The BPT applies for the chargeable period 9 December 2009 to 5 April 2010. Payment is due by 31 August 2010.

Our view

The Budget announcement confirms HMRC's position on a number of points which have previously been the subject of informal consultation. However, many issues still remain unresolved, not least which employees are within the BPT net (determined by whether or not their duties are wholly or mainly concerned, directly or indirectly with relevant regulated activities) and the position of those employees who came to the UK in 2009/10 but are paid split bonuses for service pre/post-arrival in the UK.

The position of credit card companies is also yet to be clarified and custody banks are still lobbying for an exemption.

Overall, it has been difficult to obtain more detailed information on the scope of the BPT on a timely basis from HMRC, notwithstanding that HMRC has sought to cover a number of basic points in their Questions & Answers. The detail is clearly crucial and our view is that clarification "after the event" is not a satisfactory basis on which to have introduced such a fundamental legislative change.

Restricting pensions tax relief

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Pensions tax relief will be restricted for those with gross income of £150,000 and above from tax year 2011/12 onwards. A taper will apply for those on incomes between £150,000 and £180,000, gradually reducing tax relief on pension contributions until it is restricted to the basic rate. This restriction will apply to the individual's contributions and to any pension benefit funded by the individual's employer. The rate of tax relief will be determined by where individuals lie on the taper.

The value of employers' contributions will be assessed on a sliding scale according to the member's age and scheme retirement age.

The restriction of tax relief will be delivered through self-assessment, with a new high income excess relief charge payable by those affected.

Who is affected

Those affected will be individuals with:

- gross income of at least £150,000; and
- relevant income of at least £130,000.

"Gross income" includes both the personal and employer pension contributions to registered pension schemes.

"Relevant income" is essentially pre-tax income, i.e. there is no deduction for personal contributions, but employer pension contributions are not included. Salary sacrifice arrangements for pension contributions entered into after 21 April 2009 will not reduce relevant income.

Timing

The new rules will take effect from 6 April 2011

Our view

Whilst we understand the policy objective of these measures, we believe the complexity of the provisions will mean in practice the legislation is

either unworkable as the necessary information isn't available or will add significant burden to employers and result in widespread inadvertent breaches. The alternative approach of reducing the existing annual allowance would have been administratively simpler and fairer and would have operated within the existing registered pension schemes tax framework.

Pensions: lifetime and annual allowances

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The rates of the pensions lifetime allowance and annual allowance will be frozen at their 2010/11 rates for the next five years (i.e. up to and including tax year 2015/16).

The lifetime allowance restricts the value of savings an individual can accrue on a tax-favoured basis in registered pension schemes over their lifetime. The annual allowance similarly restricts the value of tax-favoured accrual in respect of each tax year.

Who is affected

This will affect those accruing large benefits in registered pension schemes.

Timing

The first year of the freeze will be 2011/12.

Our view

Freezing of these allowances means a reduction in real terms in the tax-favoured pension savings an individual can make. By failing to offer a consistent and reliable uprating basis for the allowances, the measure will also tend to further undermine confidence in the stability of the registered pension schemes tax regime.

Pensions: introduction of automatic enrolment and 'NEST'

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

From 2012, employers will start having to automatically enrol their employees into either their own (qualifying) pension scheme or the Government's new National Employment Savings Trust (NEST).

Adjustments will be made to the pensions tax regime to allow NEST to be treated as a registered pension scheme. Further minor changes will prevent unintended tax penalties arising in the course of the wider automatic enrolment process.

The tax charge on borrowing linked to the cost of establishing and operating a registered pension scheme will be removed, subject to conditions.

Who is affected

These changes are designed to ensure that NEST operates as intended within the overall framework of the registered pensions tax regime.

Timing

NEST and the automatic enrolment regime will be introduced from 2012.

Our view

These are sensible technical measures.

Employee share plan measures

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Anti-avoidance measures are being introduced relating to certain approved employee share plans. In addition, the Government intends to consult during 2010 on employment-related securities which use “geared growth arrangements” with a view to ensuring that income from employment is taxed as income and not capital.

The anti-avoidance measures will prevent the use of HMRC approved Company Share Option Plans (‘CSOPs’) in subsidiaries of listed companies. This measure is designed, in particular, to prevent the delivery of rewards above the normal CSOP limit through the use of geared growth shares but will mean that all companies with CSOPs will need to review, and many will need to amend their rules by 23 September 2010 to comply with the new definition of eligible shares to maintain approved status for options granted after that date.

They will also prevent the use of HMRC approved Share Incentive Plans (‘SIPs’) to obtain a corporation tax deduction on the purchase of shares from existing shareholders where the value of those shares is not passed to employees because of transactions which reduce the value of the SIP shares. There is a corresponding strengthening of the rules whereby approval of a SIP can be withdrawn.

In addition, a modification of the rules governing who can set up a qualifying Enterprise Management Incentive (‘EMI’) scheme to comply with EU State aid guidelines is also confirmed. Previously, the requirement was that one or more group companies was carrying on a qualifying trade wholly or mainly in the UK. This is to be replaced with the requirement that the company, or at least one group company in a group of companies, which is carrying on a qualifying trade, must have a permanent establishment for tax purposes in the UK.

Who is affected

Companies with CSOPs and companies claiming a corporation tax deduction for contributions to SIPs, in certain circumstances.

Companies and groups with overseas trades setting up EMI schemes.

Timing

The CSOP measures affect options granted on or after 24 March 2010 and the SIP measures are similarly effective for payments made or alterations to share capital or share rights taking place on or after 24 March 2010. Although companies have a transitional period until 23 September 2010 to amend their CSOP rules to maintain approved status, options granted over unlisted subsidiary shares during the transitional period will not qualify for income tax exemption on exercise. Options granted prior to 24 March 2010 will, however, qualify for exemption provided the other CSOP requirements are met

The EMI amendment will be effective for EMI options granted on or after Royal Assent.

Our view

The changes to the CSOP rules will, on the basis of the current draft legislation, prevent CSOPs being put in place in any subsidiary including those which are being prepared for a separate IPO and could also catch joint venture companies where a listed company has control. This seems very unfortunate in cases where there is no avoidance intent.

Other “geared growth arrangements” are not currently affected but it remains to be seen what changes to the employment-related securities legislation will result from the planned consultation in 2010 and the extension of the Disclosure of Tax Avoidance Schemes (DTAS) rules on employment schemes and income into capital schemes.

The SIP changes are intended to block artificial arrangements which strip value from the SIP shares relative to the value of other shares before they are distributed to employees. They should not affect commercial payments or transactions affecting the SIP shares or the rights attached to them where the main purpose was not to obtain a corporate tax deduction.

The EMI simplification will be helpful for companies that have interests in the UK and overseas.

Taxable Benefit Charges on Zero Emission Vehicles and Low Emission Cars

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

As announced last year, changes will be made to the taxable benefit charge for cars and vans which cannot produce CO2 engine emissions so that from 6 April 2010 there will be no charge and no fuel benefit charge. There will also be a revised definition of a qualifying low emissions car and a reduced charge of 5 percent for cars which have an ultra low CO2 emission, defined as emissions of 75g per kilometre or less.

Who is affected

Employers providing company cars and vans and the employees who use them.

Timing

The new rules will take effect from 6 April 2010 until 5 April 2015.

Our view

This should increase the attractiveness of electric cars. The benefits of ultra low emission vehicles will only be available from 2012 as they become available to company car fleets.

Salary Sacrifice – Workplace Canteens

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The Government confirmed that the provision of free or subsidised meals by employers via a salary sacrifice or flexible benefit arrangement will be subject to tax and NIC.

The workplace meal canteens exemption will continue to apply where the conditions are met and a salary sacrifice or flexible benefit arrangement is not in place.

Who is affected

Employers and employees participating in a workplace canteen arrangement via a salary sacrifice or flexible benefit arrangement.

Timing

From 6 April 2011.

Our view

This provides clarity on the legislative position going forward from 6 April 2011. The period of grace is welcome in terms of allowing employers time to unwind existing arrangements. HMRC is presently challenging certain salary sacrifice arrangements operated in conjunction with proximity cards. Our view is that, properly implemented, such arrangements should be tax effective so that from an HMRC perspective we can see the need for the legislation now being enacted!

Employer supported childcare: relaxation of ‘available generally’ condition

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Where salary sacrifice arrangements have been introduced some employers have excluded employees with earnings at or near the National Minimum Wage.

Where such arrangements are made without being “available generally” to all employees, the exemption from being a chargeable benefit will not apply and the provision of childcare will be taxable.

The Government now plans to relax the ‘available generally’ condition in respect of low-paid employees so that the exemption from taxability will apply to salary sacrifice arrangements for childcare vouchers or directly contracted childcare.

Who is affected

Employers with low paid employees who have been providing a childcare support via a salary sacrifice arrangement.

Timing

This applies retrospectively for the tax year 2005/06 and subsequent tax years.

Our view

This provides some much welcomed clarity around an area that has impacted the design of salary sacrifice arrangements.

Earnings paid through trusts or other entities

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The Government has announced that it will be looking at ways to prevent what they see as attempts to avoid tax and (National Insurance Contributions) NICs or avoiding restrictions on pensions relief on payments of remuneration through the use of trusts or other intermediaries such as Employee Benefit Trusts (EBTs).

The Government will consider options for tackling perceived avoidance with the intention of introducing any necessary legislation to take effect from 6 April 2011.

Who is affected

Employers who use trusts or other entities to remunerate staff and the employees who benefit from such entities.

Timing

The new legislation to be introduced will be effective from 6 April 2011.

Our view

We think it is important that the Government makes clear what perceived avoidance they are looking to tackle as soon as possible. Otherwise employers who have no wish to get involved in avoidance arrangements are left in an uncertain position on whether they are, or may be, impacted. Employers need a certain framework from which they can work in order to make their policy decisions around pay and pensions.

The Remittance Basis: Relevant Person

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The Government introduced sweeping changes to the taxation of non-UK domiciled individuals (“non-doms”) in Finance Act 2008. Among the changes was the introduction of the concept of a relevant person. Relevant persons can be deemed to make remittances of non-UK income of non-domiciled individuals.

A “relevant person” includes someone who is defined as being close family as well as certain close companies, and their subsidiaries, and trusts. The legislation is to be amended to clarify that subsidiaries of non-resident companies, which would be close companies if they were UK resident, are included in the definition.

Who is affected

The change will affect non-domiciled individuals. It will mainly affect those with complex structures outside the UK, but may also affect those making investments in non-listed companies outside the UK.

Timing

The new definition of relevant person will apply from 6 April 2010.

Our view

The very complex legislation was introduced in a tight time-frame with very little opportunity for proper consultation. As a consequence, this is the second change which has been needed to the definition of relevant person.

This is a fairly technical change to the definition of a technical term. This need for a second change to the definition in as many Finance Acts underlines the need for proper detailed consultation before the introduction of complex legislation.

Time to pay arrangements

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

HMRC's Business Payment Support Service was set up on 24 November 2008. It is designed to provide help for businesses and individuals having difficulty in paying their tax liabilities, for example, by arranging for payments to be made over an agreed period.

At the Budget 2009, the Chancellor announced an extension to the service. From 22 April 2009, any viable business anticipating making a trading loss in the current tax year would be able to have the anticipated loss taken into account as part of any rescheduling of its Corporation Tax or Income Tax payments. This new measure meant businesses would no longer have to wait for the end of their accounting period to have the loss taken into account in calculating what they have to pay.

HMRC will continue to offer time to pay arrangements for all viable businesses having difficulty in meeting their tax obligations.

Who is affected

All tax-paying businesses and individuals in a potential current year loss position.

Timing

The measure extends the present arrangements indefinitely.

Our view

The service is said to have provided flexible time to pay arrangements for over 200,000 businesses since being introduced and its extension is therefore a welcome and sensible move in the current climate.

Security for Payment of PAYE

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Employers who operate a Pay As You Earn (PAYE) Scheme but have an historic record of serious non compliance in respect of payments of income tax and National Insurance Contributions (NIC) will be required to provide a financial security where HMRC believe that there is a serious risk of a loss of income to the Exchequer. The amount of the security is likely to be set by HMRC in light of the potential liabilities arising. The new measure introduces a new criminal offence of failing to provide a security which may result in a fine of up to £5,000. The details of these provisions will be subject to consultation.

Who is affected

Employers who have an historic record of serious non compliance in respect of accounting for income tax and NIC; this could be in respect of either late payments or non payment.

Timing

It is intended that these measures will be introduced with effect from 6 April 2011.

Our view

Similar arrangements are already in place from a VAT perspective. We anticipate that similar to the VAT provisions already in place, only businesses who purposefully seek to avoid making payments of income tax and NIC will be affected by any new legislation introduced. It is important to note that this is not aimed at businesses who are genuinely suffering from financial difficulties. In such cases businesses should consider whether time to pay arrangements will be appropriate.

Personal Tax



David Kilshaw
Head of Private Client

For individuals, the 2010 Budget contained few surprises. The budget for individuals was very like the last winter – it was mainly freezing.

Despite much speculation there has been no increase to the capital gains tax rate of 18%. Indeed in contrast, the Chancellor announced a doubling of Entrepreneurs relief so that for those who qualify the first £2 million of capital gain will now be taxed at 10%.

As pre-announced at the time of the pre-budget the income tax rates will be the same in 2010/11 as in 2009/10, with the addition of the 50% rate which will apply to income in excess of £150,000 (42.5% on dividends in the top band). The trust rate of tax will be increased to 50%.

Income tax allowances and thresholds for 2010/11 have been frozen at 2009/10 levels, but the personal allowance will be tapered away by £1 for £2 of income where income exceeds £100,000. This freezing of rates and allowances is against a background of a 3.7% rise in RPI from February 2009 to 2010. This means that freezing rate bands and allowances will bring more people into the tax net and more people into the higher rate tax threshold for the first time.

For 2010/11 the NIC rates and thresholds will, with two minor exceptions remain unchanged from the 2009/10 figures. However, from 6 April 2011 the main rates of Class 1 and Class 4 NIC will be 12% and 9% respectively; and the higher rate of Class 1 and Class 4 NIC will be increased to 2%.

The increase in NIC, coupled with the new 50% income tax rate will produce an effective marginal tax rate of 52% on some earnings from 6 April 2011.

More high earners will see tax relief on their pension contributions reduce as the Government has confirmed that the restrictions from April 2011 will potentially affect anyone with income of £130,000 or more. Those with income (including the value of employer pension contributions) over £180,000 will have relief restricted to the basic rate.

The complex anti fore-stalling rules already apply to restrict tax relief on “new” pension contributions for those with income of £130,000 or more. And of course, bankers will see their discretionary bonuses subjected to a 50 percent levy.

The announcement that the Chancellor is freezing the inheritance tax nil rate band from 6 April 2010 and for the next four years at £325,000 means the IHT headache is returning for middle England householders. Since 1997, the IHT starting point has increased by only 51 per cent compared with an increase in house prices of over 130 per cent for the UK as a whole.

The one hope of spring amongst all this freezing is the scrapping of Stamp Duty on home purchases by first time buyers under £250,000 which will surely give a welcome boost to a flagging house market. However, this incentive will have to be paid for by those acquiring property worth more than £1 million for whom Stamp Duty will rise to 5%.

Contents

Income Tax Rates, Rate Limits and Personal Allowances	125
Capital Gains Tax: Increase in Lifetime Limit on Entrepreneurs' Relief	127
Inheritance Tax – Freezing of Nil Rate Band	128
Anti-avoidance: Transactions in securities	129
Tackling offshore tax evasion	131
Stamp duty land tax rates and thresholds: Purchasers of residential property at over £1 million	133
Stamp duty land tax rates and thresholds: First time buyers	134
Stamp duty land tax partnerships	135
Extending UK charity tax reliefs to certain organisations in Europe	136
Restricting pensions tax relief	138
Pensions: lifetime and annual allowances	140
Pensions: introduction of automatic enrolment and 'NEST'	141
Earnings paid through trusts or other entities	142
Employer supported childcare: relaxation of 'available generally' condition	143
Disclosure of Tax Avoidance Schemes	144
The Remittance Basis: Relevant Person	146
Tax Repayments to Settlers of Settlor-Interested Trusts	147
Life Insurance Policies: Deficiency Relief	148
Time to pay arrangements	150
Increase in Annual Investment Allowance ('AIA')	151

Changes to Venture Capital Schemes	152
Release of loans to participators in close companies	154
Insurance – Financial Services Compensation Scheme	155
Indexing Individual Savings Account Limits from 2011	156
Payments to Special Guardians and carers looking after children under a residence order	157

Income Tax Rates, Rate Limits and Personal Allowances

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

As previously announced, changes are to apply to the top rate of income tax and to access to personal allowances from 6 April 2010.

- There will be a higher rate of 50 percent to apply to taxable income above £150,000.
- The basic personal allowance for income tax will be gradually reduced to nil for individuals with taxable incomes above £100,000. The gradual reduction will work by a £1 reduction in the available personal allowance for every £2 of taxable income above £100,000.
- The trust rate will be increased to 50 percent and dividend rate to 42.5 percent.

The level at which the higher rate income tax band of 40 percent starts for tax year 2010/11 will remain at taxable income of £37,400. Similarly the lower rate bands and allowances will also be frozen.

Who is affected

This is relevant for all taxpayers, but those with incomes over £100,000 in particular.

Timing

The changes will apply from 6 April 2010 as previously announced.

Our view

It is disappointing that the mechanism for the gradual reduction to the personal allowances remains unchanged, as this gives rise to an effective 60 percent marginal rate of tax for incomes in the range of £100,000 to £112,950.

The retention of the lower and basic rates bands and allowances at 2009/10 levels is an unwelcome move as earnings growth will mean that more individuals become liable to higher rate tax.

Capital Gains Tax: Increase in Lifetime Limit on Entrepreneurs' Relief

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The lifetime limit on gains qualifying for Entrepreneurs' Relief has been doubled from £1million to £2million. Tax payers who have already used the £1million lifetime limit will be able to benefit from the increased threshold and receive and apply the relief to another £1million of qualifying gains after 5 April 2010.

Who is affected

Individuals and trustees of settlements who have qualifying gains.

Timing

The change has effect for disposals on or after 6 April 2010.

Our view

It is refreshing to see a positive change to the taxation of entrepreneurial shareholders who will now be able to benefit from an additional £80,000 tax saving under the new limit bringing the total value of the relief to £160,000.

It is disappointing that the relief has not been extended to cover EMI share option holders.

It is also important to note that the qualifying criteria have not been relaxed and therefore to qualify for the relief individuals broadly need to hold 5 percent of the voting rights and rights to assets on a winding up in an unquoted trading company for which they work. They also have to have held the shares for at least a year.

Inheritance Tax – Freezing of Nil Rate Band

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The Chancellor announced in his Pre-Budget Report last December that the Inheritance Tax Nil Rate Band would be frozen at £325,000 for the 2010/11 tax year. It had been due to increase to £350,000.

The Nil Rate Band will now remain frozen at £325,000 for the tax years 2011/12 to 2014/15.

Who is affected

In broad terms the extension of the Nil Rate Band freezing will apply to individuals whose assets are worth more than £325,000, and who die or make a lifetime chargeable transfer between 6 April 2011 and 5 April 2014.

It will also apply to many “relevant property” trusts – broadly discretionary trusts and life interest trusts dating from after 22 March 2006.

Timing

The new rules will take effect from 6 April 2011, and will last until 5 April 2015.

Our view

The reduction in the Nil Rate Band from £350,000 to £325,000 for 2010/11 will potentially cost the estate of an affected individual who dies in that tax year an extra £10,000 in Inheritance Tax.

If the RPI increase in each year were to be 3%, then the nil rate band proposed before the Pre-Budget Report would have been around £396,000 in 2014/15. This would mean the extra inheritance tax for an affected individual who dies in that tax year will be around £28,000.

Anti-avoidance: Transactions in securities

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The existing anti-avoidance legislation dealing with transactions in securities will be replaced following consultation by HMRC over the past year. The replacement legislation will:

- apply to securities in close companies (including overseas companies) which is a wider definition than previously;
- clarify how the tax advantage is to be quantified;
- introduce a new exemption covering fundamental changes in ownership;
- remove obsolete tests covering transactions where avoidance opportunities no longer arise.

Who is affected

Individuals who have transactions in securities including sale of shares.

Timing

Legislation will be introduced in Finance Bill 2010 to have effect 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

This is the conclusion of a wider consultation by HMRC over the past year. It is disappointing that draft legislation has not been published at the time of the Budget, since with anti-avoidance legislation the detail is particularly important. The introduction of a new exemption covering fundamental changes in ownership will provide some certainty that this legislation will not apply to certain straight forward sales of companies. However, the expansion of qualifying companies to include close

companies, including overseas companies, will bring into scope a large number of private equity portfolio companies which previously may have been outside the scope of the legislation. The new income tax advantage test is likely to increase uncertainty initially around the application of this legislation to particular transactions.

Tackling offshore tax evasion

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

A consultation document published with the Pre-Budget Report in December 2009 set out a number of proposals for tackling offshore tax evasion by individuals:

1. Amendments to the penalty rules so that all penalties for offshore non-compliance would be charged at the levels applying to deliberate non-compliance.
2. A requirement for individuals to notify HMRC of bank accounts which they hold in certain offshore jurisdictions.
3. The document also sought views on the reform of disclosure requirements for other offshore financial structures such as non-resident trusts.

HMRC have now published a summary of responses to this document and brought forward revised proposals as follows:

1. In place of the previous proposals on penalties, HMRC now propose an alternative measure under which penalties for income tax and capital gains tax would depend on the jurisdiction in which the undeclared or understated income or gains arise. The existing penalty scale would continue to apply for income or gains arising in the UK or in offshore jurisdictions which have an automatic exchange of tax information on savings with the UK. For jurisdictions which exchange information with the UK only on request, the scale would be increased by 50 percent, and for jurisdictions having no exchange of information provision, the scale would be doubled. This means that the maximum penalty in relation to such jurisdictions, in cases of deliberate understatement with concealment, would be 200 percent of the potential lost revenue.
2. The proposal for requiring notification of bank accounts is not being taken forward at present.
3. HMRC will carry out further exploratory work over the coming months on information and disclosure requirements for offshore

assets and will undertake further consultation if legislation is found to be necessary in this area.

Who is affected

Individuals who have income or gains arising in overseas jurisdictions which do not have automatic exchange of tax information with the UK may be affected by the new penalty provisions.

If the review of information and disclosure requirements leads to legislation in the future, this may also affect financial intermediaries and professionals who deal with non-resident trusts and other offshore structures.

Timing

Legislation implementing the new penalty structure will be brought forward in Finance Bill 2010 for implementation in respect of tax periods from 1 April 2011.

Our view

Compared with the original proposals, the revised penalty measures appear easier for taxpayers to understand and may be less likely to create unfairness in particular cases. However, the three-tier structure of territories appears complex if territories change their arrangements. It is unclear whether it will be more effective in deterring offshore non-compliance than the present arrangements.

The decision to shelve the proposal for notification of offshore bank accounts seems sensible as this would have imposed additional burdens on the compliant while having little effect on the non-compliant.

Stamp duty land tax rates and thresholds: Purchasers of residential property at over £1 million

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The top stamp duty land tax rate will increase from 4 percent to 5 percent for purchases of residential property for over £1 million.

Who is affected

Those buying residences for more than £1million.

Timing

The new rate will apply to purchases completing on or after 6 April 2011.

Our view

It is unusual for such a rate change not to have immediate application given the distorting effect pre-announced rate increases have on the market. However, this may be intentional given the purpose behind the recent year-long increase in the nil band for residential property and the new two year £250,000 nil band for first time buyers.

Stamp duty land tax rates and thresholds: First time buyers

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The stamp duty land tax nil band has been increased from £125,000 to £250,000 for first time buyers of wholly residential property.

The property must be a freehold or a leasehold with at least 21 years to run and must be occupied by the buyer as their main residence. The buyer must, with limited exceptions, be an individual who has never owned property, either singly or jointly, anywhere in the world before. Where there are joint purchasers, each purchaser must meet the conditions.

Who is affected

First time buyers of residential property.

Timing

The measure takes effect for purchases completing on or after 25 March 2010 and before 25 March 2012.

Our view

A relief that helps people get on the property ladder and stimulates the residential property market is positive.

Stamp duty land tax partnerships

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The anti-avoidance rules for stamp duty land tax (SDLT) are being changed to block certain schemes where special partnership rules within the SDLT code have been used to mitigate the tax payable when UK property is transferred to a partnership.

Who is affected

Those implementing avoidance schemes.

Timing

The new rules take effect for transactions from 24 March 2010 subject to transitional provisions where contracts are in place before that date.

Our view

It is unsurprising that further anti-avoidance provisions have been introduced. Nevertheless, it is unfortunate that what is already a complicated statutory code is made yet more complex and there is the possibility that the tax analysis of other commercial transactions may be thrown into doubt given the wide-ranging scope of the anti-avoidance provision and the lack of clarity as to whether it applies in particular circumstances.

Extending UK charity tax reliefs to certain organisations in Europe

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Currently UK charitable tax exemptions and reliefs are only available to UK charities. Non-UK charities are therefore unable to benefit from these exemptions and reliefs. In addition, UK taxpayers are unable to obtain tax relief on donations to non-UK charities.

Legislation is to be introduced to extend UK charitable tax exemptions and reliefs to certain organisations which are equivalent to UK charities and Community Amateur Sports Clubs (CASCs) in the EU, Norway and Iceland. This will require a new definition of charity for UK tax purposes. The new definition of charity will include a requirement for UK charities and EU organisations to demonstrate that their trustees, directors and managers are “fit and proper”.

HMRC will also introduce a number of other reforms relating to the existing rules and the Gift Aid regime, in particular:

- Rules regarding payments by UK charities to bodies outside the UK will be strengthened;
- Charities will have to apply donations received under Payroll Giving for charitable purposes only to claim a tax exemption; and
- Changes will be made to current Gift Aid reclaim procedures and new notification procedures for new charities wishing to claim tax on Gift Aid donations will be introduced.

Who is affected

UK charities and Community Amateur Sports Clubs; organisations based in the EU, Norway or Iceland which meet the UK definition of a charity; trustees, directors and managers of such organisations; and donors to UK and non-UK charities

Timing

The new definition of a charity will apply to donations made by individuals on or after 6 April 2010. The changes relating to donations received under Payroll Giving and payments made by UK charities to non-UK bodies will apply from 24 March 2010.

The other new rules will mostly have effect later in 2010/11, subject to a commencement order.

Our view

The vast majority of existing UK charities will be unaffected by these changes.

For new UK charities and non-UK charities it will be necessary to meet the new definition of a 'charity' in order to benefit from UK charitable tax reliefs and exemptions.

For non-UK charities that are able to satisfy the new definition of charity this is a positive move, as income that would previously have been taxable in the UK may now be exempt. These charities will also now be able to reclaim tax from HMRC on eligible Gift Aid donations, i.e. donations from UK and non-UK donors where sufficient UK tax is paid by the donor.

This is also a positive move for UK donors who can obtain tax relief for donations to charities in the EU, Norway and Iceland, providing the donation qualifies under the existing Gift Aid rules. Importantly, HMRC have confirmed that they will consider claims by UK donors for relief on donations to EU charities from the date of the ECJ Persche case (27 January 2009) on a case by case basis.

Restricting pensions tax relief

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Pensions tax relief will be restricted for those with gross incomes of £150,000 and above from tax year 2011/12 onwards. A taper will apply for those on incomes between £150,000 and £180,000, gradually reducing tax relief on pension contributions until it is restricted to the basic rate. This restriction will apply to the individual's contributions and to any pension benefit funded by the individual's employer. The rate of tax relief will be determined by where individuals lie on the taper.

The value of employers' contributions will be assessed on a sliding scale according to the member's age and scheme retirement age.

The restriction of tax relief will be delivered through self-assessment, with a new high income excess relief charge payable by those affected.

Who is affected

Those affected will be individuals with:

- gross income of at least £150,000; and
- relevant income of at least £130,000.

"Gross income" includes both the personal and employer pension contributions to registered pension schemes.

"Relevant income" is essentially pre-tax income, i.e. there is no deduction for personal contributions, but it does not include employer pension contributions. Salary sacrifice arrangements for pension contributions entered into after 21 April 2009 will not reduce relevant income.

Timing

The new rules will take effect from 6 April 2011

Our view

Whilst we understand the policy objective of these measures, we believe the suggested method of raising tax will produce regulation that is either

unworkable due to the unavailability of the necessary information or so complex as to significantly burden employers and generate widespread inadvertent breaches. The alternative approach of reducing the existing annual allowance would have been administratively far simpler, fairer and would have operated within the existing registered pension schemes tax framework.

Pensions: lifetime and annual allowances

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The rates of the pensions lifetime allowance and annual allowance will be frozen at their 2010/11 rates for the next five years (i.e. up to and including tax year 2015/16).

The lifetime allowance restricts the value of savings an individual can accrue on a tax-favoured basis in registered pension schemes over their lifetime. The annual allowance similarly restricts the value of tax-favoured accrual in respect of each tax year.

Who is affected

This will affect those accruing large benefits in registered pension schemes.

Timing

The first year of the freeze will be 2011/12.

Our view

Freezing of these allowances means a reduction in real terms in the tax-favoured pension savings an individual can make. By failing to offer a consistent and reliable uprating basis for the allowances, the measure will also tend to further undermine confidence in the stability of the registered pension schemes tax regime.

Pensions: introduction of automatic enrolment and 'NEST'

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

From 2012, employers will start having to automatically enrol their employees into either their own (qualifying) pension scheme or the Government's new National Employment Savings Trust (NEST).

Adjustments will be made to the pensions tax regime to allow NEST to be treated as a registered pension scheme. Further minor changes will prevent unintended tax penalties arising in the course of the wider automatic enrolment process.

The tax charge on borrowing linked to the cost of establishing and operating a registered pension scheme will be removed, subject to conditions.

Who is affected

These changes are designed to ensure that NEST operates as intended within the overall framework of the registered pensions tax regime.

Timing

NEST and the automatic enrolment regime will be introduced from 2012.

Our view

These are sensible technical measures.

Earnings paid through trusts or other entities

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The Government has announced that it will be looking at ways to prevent what they see as attempts to avoid tax and (National Insurance Contributions) NICs or avoiding restrictions on pensions relief on payments of remuneration through the use of trusts or other intermediaries such as Employee Benefit Trusts (EBTs).

The Government will consider options for tackling perceived avoidance with the intention of introducing any necessary legislation to take effect from 6 April 2011.

Who is affected

Employers who use trusts or other entities to remunerate staff and the employees who benefit from such entities.

Timing

The new legislation to be introduced will be effective from 6 April 2011.

Our view

We think it is important that the Government makes clear what perceived avoidance they are looking to tackle as soon as possible. Otherwise employers who have no wish to get involved in avoidance arrangements are left in an uncertain position on whether they are, or may be, impacted. Employers need a certain framework from which they can work in order to make their policy decisions around pay and pensions.

Employer supported childcare: relaxation of ‘available generally’ condition

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Where salary sacrifice arrangements have been introduced some employers have excluded employees with earnings at or near the National Minimum Wage.

Where such arrangements are made without being “available generally” to all employees, the exemption from being a chargeable benefit will not apply and the provision of childcare will be taxable.

The Government now plans to relax the ‘available generally’ condition in respect of low-paid employees so that the exemption from taxability will apply to salary sacrifice arrangements for childcare vouchers or directly contracted childcare.

Who is affected

Employers with low paid employees who have been providing a childcare support via a salary sacrifice arrangement.

Timing

This applies retrospectively for the tax year 2005/06 and subsequent tax years.

Our view

This provides some much welcomed clarity around an area that has impacted the design of salary sacrifice arrangements.

Disclosure of Tax Avoidance Schemes

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The Disclosure of Tax Avoidance Schemes regime was introduced in 2004 and imposes obligations on promoters and users of tax avoidance schemes which have certain "hallmarks". A promoter is required to disclose details of the scheme to HMRC within certain time limits. A taxpayer who expects to obtain a tax advantage from the scheme is required to notify HMRC of its use either on their tax return or by filing a separate form identifying, by means of a Scheme Reference Number, the planning they have undertaken.

On 9 December 2009 the Government announced a consultation aimed at extending and strengthening the existing Disclosure of Tax Avoidance Schemes regime. The consultation document proposed significant extensions to the hallmarks and increased penalties for failure to comply with the rules. The proposed draft legislation and regulations in the consultation document were wider than the specific issues identified.

Today the Government announced that it is exploring how inheritance tax charges applying to trusts can be brought within the disclosure regime.

Who is affected

All taxpayers who implement disclosable planning.

Timing

The amendments to the existing regime are expected to come into effect in autumn 2010.

Our view

The proposals are, for the most part, targeted at specific areas that HMRC perceive to be high risk. The introduction of new hallmarks and the widening of some existing hallmarks will inevitably lead to more disclosures being made. This will impact on the number of taxpayers required to notify Scheme Reference Numbers to HMRC adding to their compliance burden.

The Finance Bill will contain provisions extending the existing regime. More information should be available over the next few weeks once the Finance Bill is published. Other measures will be introduced by Regulation and HMRC will have further discussions with business about the detail of the package of regulations. This ongoing consultation is encouraging to see.

It is hoped that any moves to bring inheritance tax within the disclosure regime will be subject to consultation.

The Remittance Basis: Relevant Person

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The Government introduced sweeping changes to the taxation of non-UK domiciled individuals (“non-doms”) in Finance Act 2008. Among the changes was the introduction of the concept of a relevant person. Relevant persons can be deemed to make remittances of non-UK income of non-domiciled individuals.

A “relevant person” includes someone who is defined as being close family as well as certain close companies, and their subsidiaries, and trusts. The legislation is to be amended to clarify that subsidiaries of non-resident companies, which would be close companies if they were UK resident, are included in the definition.

Who is affected

The change will affect non-domiciled individuals. It will mainly affect those with complex structures outside the UK, but may also affect those making investments in non-listed companies outside the UK.

Timing

The new definition of relevant person will apply from 6 April 2010.

Our view

The very complex legislation was introduced in a tight time-frame with very little opportunity for proper consultation. As a consequence, this is the second change which has been needed to the definition of relevant person.

This is a fairly technical change to the definition of a technical term. This need for a second change to the definition in as many Finance Acts underlines the need for proper detailed consultation before the introduction of complex legislation.

Tax Repayments to Settlers of Settlor-Interested Trusts

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Where the settlor of a trust is also a beneficiary, he/she is liable to income tax on the trust's income, but receives credit for the tax paid by the trust. From 6 April 2010, the rate of income tax for discretionary trusts will be a flat 50 percent (42.5 percent for dividend income). This will often be higher than the settlor's own income tax rate, and will therefore mean that the settlor receives a tax repayment.

Where the settlor receives a tax repayment in these circumstances, he/she will be required to pay the repayment to the trust. The repayment will not constitute a chargeable transfer for inheritance tax purposes.

Who is affected

Settlers of discretionary trusts if they are within the class of beneficiaries, and if their taxable income is no more than £150,000.

Timing

The new rules will take effect from 6 April 2010.

Our view

There is already a similar provision in the tax legislation, but this extends its scope. There is overall no extra tax payable, for the trust or the settlor.

Life Insurance Policies: Deficiency Relief

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

At present, where higher rate tax payers surrender a life insurance policy which gives rise to a loss (or a “deficiency”), they can have relief for this deficiency in the form of a reduction in their higher rate tax liability for the year in which the deficiency arises. The amount of deficiency that can be relieved is, broadly, restricted to the amount of gains on which the individual policy holder has already been taxed.

This measure extends the relief so that those who pay the new 50 percent tax rate will be entitled to a reduction in the additional rate tax on dividends and other income in priority to their income taxed at 40 percent or the higher dividend rate.

There are also anti-avoidance measures intended to prevent policy holders from making arrangements now to make gains at 40 percent which might later be relieved at 50 percent after the rate rise on 6 April 2010. Where these measures apply the tax relief obtained in respect of the deficiency will be restricted to any tax paid in respect of an earlier gain.

Who is affected

Individuals who are subject to the new 50 percent rate of tax from 6 April 2010 and who are entitled to deficiency relief on a surrender of their policies on or after 6 April 2010.

Timing

The new rules will come into force from 6 April 2010, but the anti-avoidance measures will affect arrangements entered into on or after 22 April 2009.

Our view

It is good to see this relief being extended to include the additional rate of tax, which seems to give a fair result for those who have to pay this new tax rate. We will have to wait for the legislation to know whether the anti-avoidance measures have been sufficiently well targeted to

prevent any doubt for those who have made life insurance gains since 22 April 2009 and for whom tax avoidance was not the main consideration.

Time to pay arrangements

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

HMRC's Business Payment Support Service was set up on 24 November 2008. It is designed to provide help for businesses and individuals having difficulty in paying their tax liabilities, for example, by arranging for payments to be made over an agreed period.

At the Budget 2009, the Chancellor announced an extension to the service. From 22 April 2009, any viable business anticipating making a trading loss in the current tax year would be able to have the anticipated loss taken into account as part of any rescheduling of its Corporation Tax or Income Tax payments. This new measure meant businesses would no longer have to wait for the end of their accounting period to have the loss taken into account in calculating what they have to pay.

HMRC will continue to offer time to pay arrangements for all viable businesses having difficulty in meeting their tax obligations.

Who is affected

All tax-paying businesses and individuals in a potential current year loss position.

Timing

The measure extends the present arrangements indefinitely.

Our view

The service is said to have provided flexible time to pay arrangements for over 200,000 businesses since being introduced and its extension is therefore a welcome and sensible move in the current climate.

Increase in Annual Investment Allowance ('AIA')

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

The 100 percent annual investment allowance ('AIA') will be increased from £50,000 to £100,000 for capital expenditure incurred on plant and machinery. The AIA is available for most expenditure on plant and machinery, subject to certain exceptions.

The Government have also introduced anti-avoidance legislation to disallow property loss relief against general income to the extent that loss is attributable to the AIA. This anti-avoidance will only apply where the main purpose or one of the main purposes of the arrangements is to obtain a reduction in tax liability.

Who is affected

Individuals, partnerships consisting of individuals and companies, irrespective of size, that invest in plant and machinery for the purposes of their qualifying activity. The anti-avoidance legislation will apply to losses arising as a result of arrangements entered into on or after 24 March 2010.

Timing

The new rules will take effect for capital expenditure incurred on or after 1 April 2010 for corporation tax, and 6 April 2010 for income tax.

Our view

The increase in AIA will be welcomed by many businesses, especially the SME sector. However this is to be balanced with the fact that the Government have not extended the temporary 40 percent FYA for capital expenditure on plant and machinery introduced in Finance Act 2009.

Changes to Venture Capital Schemes

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Changes are to be introduced to the Enterprise Investment Scheme (EIS) and Venture Capital Trust (VCT) schemes as agreed with the European Commission as a condition for the schemes retaining State Aid approval.

Currently, VCT's shares are required to be quoted on the official UK list on the London stock exchange. This is to be extended to any EU or EEA regulated market. In addition, the requirement that 30 percent of a VCT's qualifying holdings must be ordinary shares will be increased to 70 percent of the VCT's qualifying holdings and the shares may carry certain preferential rights to dividends.

Currently, companies qualifying for EIS or VCT investment must have a qualifying trade carried on wholly or mainly in the UK. This is to be replaced with a requirement that the company issuing the shares must simply have a permanent establishment in the UK.

Companies will no longer qualify for EIS or VCT investment if it is reasonable to assume that they would be treated as an enterprise in difficulty under European Commission guidelines.

Who is affected

Investors in companies qualifying for EIS reliefs and VCTs.

Companies looking for capital from investors via EIS and VCT reliefs.

VCTs and their promoters.

Timing

The new rules will have effect from the date that a Finance Bill to be introduced as soon as possible in the next Parliament receives Royal Assent. The change to eligible shares for VCTs will not affect funds raised by the VCT before that date.

Our view

These changes are welcome as they will enable the EIS and VCT schemes to retain their approved status from the European Commission under State Aid rules.

Companies with their main trade outside the UK will now be able to qualify for this relief, enabling investors and VCTs to invest in a wide range of eligible companies.

Release of loans to participators in close companies

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

This measure prevents a close company from obtaining a corporation tax deduction under the loan relationship regime where a loan or advance to a participator is written off. This new provision will apply where a charge to tax has previously arisen on the close company when the loan or advance was made to the participator. The participator will remain taxable on the write off.

Who is affected

Close companies making loans to participators.

Timing

Legislation will be introduced in the Finance Bill 2010 and the rules will apply for debt releases or write-offs on or after 24 March 2010.

Our view

This clarifies the tax treatment of the write off of loans to participators by close companies to bring the treatment in line with a payment of a dividend by the close company to its participators.

Insurance – Financial Services Compensation Scheme

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

If the Financial Services Compensation Scheme (“FSCS”) intervenes to protect the policyholders of a life assurance company, it may for example provide financial assistance to the insurer, transfer the policyholders’ rights to another insurer or pay compensation to the policyholder. The pre-election Finance Bill is to include a regulation-making power aimed at ensuring that the tax treatment should broadly be the same as if the FCSC had not intervened.

This matches a similar measure in the Finance Act 2009 for pension savings.

There will be an anti-avoidance rule where there are arrangements made to secure a tax advantage.

Who is affected

Individuals with life assurance products where the FSCS intervenes to protect their interests.

Timing

The legislation will be introduced in the Finance Bill 2010 and will apply from Royal Assent but may have retrospective effect if they do not increase a person’s tax liability.

Our view

This should be broadly welcome as preserving policyholders’ expected outcomes.

Indexing Individual Savings Account Limits from 2011

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The Issue

As announced at Budget 2009, from 6 April 2010 the annual Individual Savings Account (ISA) subscription limits are being increased for all savers to £10,200, of which £5,100 can be saved in cash. ISA limits will be increased in line with the Retail Prices Index (RPI) on an annual basis going forward.

Indexation of the ISA limits for 2011/12 will have effect from 6 April 2011. Indexation of the ISA limits for subsequent tax years will have effect from 6 April of each tax year.

The new limits will be calculated by reference to the RPI for the September before the start of the new tax year and HM Revenue and Customs will announce the new limits at least four months in advance of the start of the tax year in which they apply. Following indexation, the cash ISA limit will be half the value of the stocks and shares ISA limit.

If the RPI is negative, the ISA limits will be unchanged.

Who is affected?

Individuals who invest in ISAs.

Timing

This measure will take effect from April 2011 and will continue over the course of the next Parliament.

Our view

This measure encourages individuals to save and will be welcome for individuals who wish to increase their tax-free savings.

Payments to Special Guardians and carers looking after children under a residence order

Impact on taxpayer			
Positive	Neutral	Negative	Both positive and negative

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The issue

Certain payments to special guardians and certain carers looking after children under a residence order will be exempt from income tax from 6 April 2010.

At present, income from providing care is normally taxed as trading or miscellaneous income. However, there are various income tax reliefs for foster carers, adoptive parents and shared lives carers.

A new income tax exemption will be introduced for special guardians and certain kinship carers in order to tax those who have legal responsibility for a child in a similar way to those who have adopted a child.

As announced in the 2009 Pre-Budget Report, simplified arrangements for adult placement carers are also to be replaced with a new income tax relief for shared lives carers, which will be similar to the current income tax relief for foster carers.

Who is affected

Individuals who care for one or more children placed with them under a special guardianship order or a residence order, where that individual is not the children's parent or step-parent (e.g. certain kinship carers).

Timing

This change will have effect for qualifying payments received on or after 6 April 2010.

Our view

This is a fair measure for those who care for children under guardianship or residence orders. The intention to simplify the income tax treatment of certain payments received by adult placement carers is also welcome.

The Budget Report proposals and other tax changes are summarised on these pages. The Budget Report proposals may, however, be amended significantly before enactment. The content of this communication is intended to provide a general guide to the subject matter and should not be regarded as a basis for ascertaining liability to tax or determining investment strategy in specific circumstances. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

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