HAZLEWOODS LLP

BUSINESS ADVISERS & CHARTERED ACCOUNTANTS

Budget update

2009

Contents

INTRODUCTION 2

HEADLINES 3

INDIVIDUALS

Changes to Personal Tax Rates 4
Pensions 4
Taxation of Personal Dividends 4
Non Residents and Personal Allowances 5
Residence and Domicile 5
Enterprise Investment Scheme (EIS) Corporate Venturing Scheme (CVS) and Venture Capital Trusts (VCT) 5
Tax Reclaims 6
Trusts 6
Individual Savings Accounts (ISAs) 6
Child Trust Fund 6
Furnished Holiday Lets 6

BUSINESS

Capital Allowances
– Plant and Machinery – temporary First Year Allowances 7
– Expensive cars – costing more than £12,000 7
Carry back of losses 7

Employment Issues

Changes to Company Car Tax 8
Living Accommodation 8

Corporate

Corporation Tax Measures 8
Taxation of Foreign Profits 8
Company Loan Relationships 8

Other Issues

Stamp Duty Land Tax 9
VAT
– Registration/De-Registration 9
– Fuel Scale Charge 9
– Children's Car Seat Bases 9
– Simplifying the Option to Tax Procedure 10
– Use of Margin Scheme for vehicle sales 10
– Change in VAT Rate, and Anti-Forestalling Legislation 10
– Cross-Border VAT Changes 2010 11
HMRC Administration
– Spreading Tax Payments 11
– Penalties and Interest 11

Darling – Robin Hood in Disguise?

Alistair Darling's second, and most difficult, Budget, laid bare the extent of the recession that has hit the UK and tried to find ways of steering us out of the economic gloom.

With an expected economic shrinkage of 3.5% for 2009, the Chancellor predicted growth of 1.25% in 2010 and 3.5% in 2011. There will be much debate in the coming weeks as to whether there is justification for such optimism and if not, what will be the impact on the condition of the UK's finances. Stimulus is still undoubtedly needed for the UK economy to begin its recovery and Mr Darling announced a number of measures aimed at providing the necessary kick start.

The Government is to provide support to the economy to protect 500,000 jobs and will guarantee jobs or training for any individuals under the age of 25 who have been out of work for more than twelve months.

The Housing market will be assisted through the extension of the Stamp Duty Land Tax holiday for properties up to £175,000 to 31 December 2009, although most people prior to the Budget were calling for an increase to £1m. In addition, the Government's banks are going to provide an extra £20 billion to increase the availability of mortgage credit.

Businesses had a boost with the increase in capital allowances from 20% to 40%.

Of course, all support comes at a price and tax rises were inevitable. In the Pre Budget Report in November, the Chancellor announced the implementation of a new 45% income tax rate from 6 April 2011 for those earning over £150,000 per year, with a two stage process for the tapering of personal allowances for those over £100,000.

In his Budget, Mr Darling announced that the new rate would be 50% and, rather than a two stage tapering of personal allowances, it would be a one stage process, such that those earning in excess of approximately £113,000, will not be entitled to any personal allowance at all. What is more, these new measures are to take effect from 6 April 2010. The effect of the tapering of personal allowances means that the highest effective rate of tax is actually 60% for those earning between £100,000 and £113,000 per year.

In addition to the above, the Chancellor announced the removal of higher rate tax relief on pension contributions for those earning above £150,000 from 6 April 2011.

The maximum amount that can be invested in ISA's is to increase from £7,200 to £10,200, of which £5,100 can be in cash. The new limits apply from 6 April 2009 for the over 50s and for everyone from 6 April 2010.

This was never going to be a Budget full of giveaways because the Government does not have flexibility or capacity. In reverting to the tactics of Robin Hood, they are increasing their tax take from the wealthy to assist in the recovery of the economy and lessen the burden on the rest.

With an election looming next year, the Government will be hoping that the announcements in this Budget will be sufficient to provide the necessary stimulus to achieve victory. Whether this happens remains to be seen……………………

HEADLINES

- Proposed 45% income tax rate which was to be introduced in April 2011 is to be increased to 50% and introduced a year early in April 2010.
- From April 2011 pensions tax relief will be tapered down to 20% for those on incomes greater than £150,000.
- For those on incomes over £100,000 the personal allowance will be tapered from April 2010, so that those earning over approximately £113,000 will receive no personal allowances at all.
- The 3 year £50,000 carry back of current year businesses tax losses extended to November 2010.
- Doubling of main capital allowance writing down allowance from 20% to 40% for 2009/10.
- ISA annual investment limit (was £7,200) to go up to £10,200 to be introduced for over 50 year olds this year and for everyone else next tax year.
- Stamp Duty Land Tax exemption on residential properties under £175,000 has been extended from 2 September 2009 to the end of 2009.
- £2,000 discount to be given until March 2010 to people who trade in a car more than 10 years old for a new car.
- Measures to be introduced to close tax avoidance schemes with a potential saving of £1bn per year.
- Alcohol and tobacco duties increased by 2% from midnight and 6pm respectively on 22 April 2009.
- Fuel duty to increase by 2p/litre from September and 1p above indexation each April for the next 4 years.
- Child element of child tax credit to increase by £20 from April 2010.
- Statutory redundancy increased from £350 to £380 per week.
- New penalty regime for late filing of income and corporate tax returns.

INDIVIDUALS

Changes to Personal Tax Rates

With effect from 6 April 2010 a new top rate of income tax will be introduced of 50% (currently 40%) for those with taxable income greater than £150,000. Where the taxable income in excess of £150,000 is dividends, the tax rate will increase to 42.5% (currently 32.5%)

In addition, personal allowances for those with taxable income over £100,000 will be reduced by £1 for every £2 above the threshold, such that those earning over approximately £113,000, will have no personal allowances available.

Whilst the published new top rate is 50%, due to the tapering of personal allowances, those earning between £100,000 and approximately £113,000 will suffer an effective rate of 60%.

These changes replace those announced in the 2008 Pre Budget Report whereby the top rate of tax was to be 45% from 6 April 2011, and the personal allowance reduction was split such that 50% was tapered on income over £100,000 and the remainder tapered on income over £150,000.

Pensions – limiting tax relief for high income individuals

From 6 April 2011, the intention is to taper tax relief on pension contributions, for people with taxable income of £150,000 or more, so that those earning in excess of £180,000 will be restricted to tax relief at the basic rate only.

The restriction will apply where the 'normal regular pattern' of contributions change and the total pension contributions exceed £20,000 per annum. However, any normal, regular ongoing pension contributions that were in place before 22 April 2009, whatever their value, will not be impacted.

From the limited information released, it appears as though, if regular pension payments are less than £20,000, additional contributions up to £20,000 can be made and still obtain higher rate relief. The tapering would seem to start after that point.

Individuals will need to make the adjustment in the form of a tax charge through their self assessment tax return, which effectively negates the tax relief which has been allowed.

Anti avoidance provisions will apply from 22 April 2009 to prevent individuals increasing their pension contributions in excess of their normal regular pattern.

Consultation is to be entered into prior to implementation when more details are certain to be released.

Normal, regular ongoing pension contributions are those paid quarterly or more frequently and at a rate that does not increase.

Taxation of Personal Dividends

Following on from changes in the 2008 Budget the non-payable tax credit will be available from 22 April 2009 to individuals receiving dividends from non-UK resident companies where the individual owns a 10% or greater shareholding in the company.

The tax credit will only be available if the company is resident in a qualifying territory – broadly a country with which the UK has a double tax treaty including a non discrimination article.

Similar changes are being introduced for all shareholders receiving dividends from offshore funds provided the fund has no more than 60% of its assets in interest bearing form.

Non Residents and Personal Allowances

A non UK resident can currently claim personal allowances provided they are a Commonwealth citizen. This will be withdrawn with effect from 6 April 2010, although a personal allowance will still be available for many by other means, such as a double tax treaty.

Residence and Domicile

Further changes have been made to the rules introduced in April 2008 for those who are resident but not domiciled, or not ordinarily resident in the UK.

The following changes will be backdated to apply from 6 April 2008:

- No self assessment tax return will be required in the UK if overseas employment income is less than £10,000 and bank interest is less than £100, all of which is taxed overseas
- Assets purchased from foreign employment income and foreign chargeable gains, as well as relevant foreign income, can be brought to the UK without triggering a liability to UK tax.
- No claim will be required to use the remittance basis where unremitted foreign income and gains are less than £2,000 in any tax year. A claim will, however, be required if the arising basis is to be used.
- A claim will also not be required where UK income or gains are less than £100 which has been taxed in the UK, and no remittances are made to the UK in the year.
- For gift aid purposes the £30,000 remittance basis charge will count as tax paid by the donor when a charity is reclaiming tax on gifts.

Enterprise Investment Scheme (EIS), Corporate Venturing Scheme (CVS) and Venture Capital Trusts (VCT)

Currently, EIS investors can carry back income tax relief to an earlier year provided the investment is made before 6 October, subject to a limit of half the subscriptions in that period, up to an overall limit of £50,000 subscribed.

With effect from 6 April 2009 these restrictions will be lifted and relief can be carried back one year subject to an increased maximum of £500,000 subscribed.

From 22 April 2009 any share for share exchange of an EIS holding will no longer give rise to a gain or loss on the EIS shares, although any gain deferred will come back into charge.

From 22 April 2009 the rules on the use of funds raised by EIS, CVS and VCT qualifying companies will be relaxed so that all money must be employed within two years of the date of the share issue. Previously the rules stipulated 80% must be employed within one year and the balance within two years.

Tax Reclaims

With effect from 6 April 2010 the time limits for claiming a repayment of tax as a result of an error or mistake will decrease to four years from the end of the period for which the return was made.

Trusts

With effect from 6 April 2010 the trust rate of income tax will increase to 42.5% for dividend income, and will be 50% for all other income.

Individual Savings Accounts – increasing the limits

The Individual Savings Accounts (ISAs) subscription limit will increase by £3,000 from £7,200 to £10,200.

The cash and stocks/shares elements will both increase by £1,500 from £3,600 to £5,100.

Individuals aged 50 or above, will benefit from this increase from 6 October 2009, whilst all other individuals will have to wait until 6 April 2010.

Child Trust Fund – payments for disabled children

As a reminder, every eligible child born on or after 1 September 2002 has a Child Trust Fund account into which family and friends can contribute up to £1,200 each year.

In addition, a contribution of £100 per annum, rising to £200 per annum for severely disabled children, will be made by the Government from April 2010 for children in receipt of Disability Living Allowance at any point during 2009/10.

Furnished Holiday Lets

Furnished holiday lets within the UK have, to date, enjoyed many tax benefits, including Business Property Relief for inheritance tax purposes, ability to offset losses against other income and lower capital gains tax rates on disposal.

As the benefits have only been available for UK properties, it has been announced that the legislation may not be compliant with European Law. As a result, the Government is allowing the beneficial treatment referred to above to apply to all furnished holiday lets within the European Economic Area until 2010/11, at which point the rules will be repealed in full.

Therefore, it is the Government's current intention to remove the tax benefits of furnished holiday lets completely, even for those properties within the UK, from 2010/11. As a result, it may be advisable to consider your tax position, if you currently hold furnished holiday lets.

BUSINESS

Capital Allowances

Plant and Machinery – temporary First Year Allowances

Where qualifying expenditure on plant and machinery exceeds the Annual Investment Allowance (£50,000), a temporary 40% First Year Allowance (FYA) will be available to all businesses, on the excess expenditure for 2009/10 only.

As with previous and existing FYAs, there are exceptions where the expenditure will not qualify, such as 'special rate' expenditure (including long life assets and integral features), expenditure on cars and assets for leasing.

Expensive Cars – costing more than £12,000

New rules will have effect for expenditure incurred, or leases entered into, on or after 1 April 2009 for companies, and on or after 6 April 2009 for unincorporated businesses.

Cars will in future be allocated to the appropriate capital allowances pool, depending on their Carbon Dioxide (CO_2) emissions, on which a Writing Down Allowance (WDA) can be claimed as follows:

CO_2 emissions are greater than 160g/km	10% pool
CO_2 emissions of 160g/km or less	20% pool

Cars that have an element of non-business use within an unincorporated business will continue to be in single asset pools to enable the private use adjustment to be made, with the rate of WDA being determined by the car's CO_2 emissions.

There will be specific anti-avoidance rules to prevent the generation of balancing allowances by selling cars in a single asset pool at less than market value.

A more simplified disallowance flat rate of 15% for car lease rental payments will only be applied to cars with CO_2 emissions exceeding 160g/km. The old rules (whereby the disallowance is linked to list price) will still apply for those leases entered into before April 2009 and will run until the end of the lease.

Motor cycles will be excluded from the definition of cars and will not be subject to these rules. Expenditure incurred from April 2009 will qualify, where appropriate, for the 100% Annual Investment Allowance, FYA as a short life asset.

Carry Back of Losses

The availability of the three year loss carry back as announced in the 2008 Pre Budget Report has been extended by one year.

In addition to the existing unlimited offset against profits of the previous year, up to a further £50,000 of unused losses may be carried back to reduce taxable profits reported in the two previous years to trigger a tax repayment.

For companies, this applies to trading losses made in accounting periods ending between 24 November 2008 and 23 November 2010. For unincorporated businesses it applies to trading losses made in tax years 2008-09 and 2009-10.

The loss carry-back extension will provide tax repayments that could be a welcome cash boost for businesses whose financial performance has suffered in the economic downturn. Businesses that expect to report tax losses should look to take up this opportunity and seek professional advice as soon as possible.

Employment Issues

Changes to Company Car Tax from 6 April 2011

- The £80,000 list price ceiling will be removed
- The lower CO_2 emissions threshold will reduce by 5g/km to 125g/km
- The reductions given for electric/petrol hybrid cars and cars propelled by bi-fuels, road fuel gas and bioethanol will be abolished.

Living Accommodation provided by reason of employment – payment of lease premiums

To stop attempts to avoid the payment of tax on the benefit of living accommodation that involve a lease premium, where such a payment is made in respect of a lease of ten years or less, the same tax treatment will follow as if the lease premium were actually rent paid.

Corporate

Corporation Tax Measures

The Budget confirmed that corporation tax rates are to remain unchanged: the full rate will remain at 28% on and after 1 April 2010, and the small companies' rate will remain at 21 per cent on and after 1 April 2009.

Taxation of Foreign Profits

As expected, the Government intends to bring forward legislation amending various aspects of the tax treatment of foreign activities of UK companies and groups. The key proposed changes are:

- Provide an exemption from corporation tax for most dividends received from overseas companies on or after 1 July 2009 (currently foreign dividends received by UK companies are taxable, although credit is given for overseas tax suffered), and
- Introduce some changes to the 'Controlled Foreign Companies' rules for accounting periods starting on or after 1 July 2009.

The dividend exemption in particular is to be welcomed and will simplify the UK tax affairs of many companies.

Company Loan Relationships – connected companies

Amendments are proposed to two aspects of the legislation governing company loan relationships:

- The first change resolves a mismatch in treatment between debtor and creditor companies when a trade debt is released.

  Where the release is between companies that are connected (i.e. under common control), the current legislation denies relief to the company foregoing the debt but can give a tax charge in the company which has the debt released. The proposed rule change, effective from 22 April 2009, will prevent such a tax charge arising.
- The second change concerns the 'late interest' rules affecting the timing of tax deductions for interest payable between connected parties.

Currently interest payments to connected parties that are outside the loan relationships rules are only tax deductible when the interest is actually paid, rather than when the interest expense is recognised in the accounts. For accounting periods beginning on or after 1 April 2009, it is proposed that this rule be relaxed and only applied if the recipient of the interest is resident in a 'non-qualifying' territory (in most cases, a tax haven). It is also proposed that a similar change be made to the rules concerning finance charges on deeply discounted securities.

Other Issues

Stamp Duty Land Tax (SDLT)

An announcement was made in September 2008 to introduce a holiday from Stamp Duty Land Tax (SDLT) which exempted any acquisition of residential property of not more than £175,000 until 2 September 2009. The Budget extended this holiday to 31 December 2009. From 1 January 2010 the nil rate exemption will return to £125,000.

The return to £125,000 will also resurrect the £150,000 threshold for properties in a disadvantaged area, which has been temporarily suspended whilst the £175,000 holiday is in force.

The effective date is normally the date of completion, not the date of exchange of contracts. However, the effective date may be earlier than the date of completion if the contract is "substantially performed", for example, if the purchaser takes possession or pays the purchase price in advance of completion.

VAT

Registration / Deregistration

The registration and deregistration thresholds are increased by £1,000 to £68,000 and £66,000 respectively with effect from 1 May 2009.

Fuel Scale Charge

The figures for the amount of output VAT to account for fuel provided for private motoring are shown on our "Tax Facts" card. They come into effect in the first VAT return period beginning on or after 1 May 2009.

Children's Car Seat Bases

The reduced rate of VAT currently applicable to children's car seats will be extended to include bases for such seats, with effect from 1 July 2009. This measure, which responds to vigorous campaigning by the Baby Products Association, removes an obvious anomaly in VAT treatment.

Simplifying the Option to Tax Procedure

Where a business wishes to opt to tax land or a property of which VAT-exempt supplies have previously been made, it must firstly obtain HMRC's permission to do so unless one of the Automatic Permission Conditions (APC's) set out in Notice 742A is satisfied. From 1 May 2009, one of the existing APC's is to be withdrawn and replaced by a new APC which, according to HMRC, "should apply to more taxpayers than the APC it replaces", thus allowing more taxpayers to opt to tax without needing to obtain prior permission. Further details are to be published in an Information Sheet. However, the sting is at the end of the relevant Budget Note, where there is reference to two further informal concessions currently operated by HMRC, which allow taxpayers, on opting to tax, to recover more VAT than would be allowed by a strict interpretation of VAT law. HMRC claim that operation of these concessions "complicates the procedure for opting to tax" – thus one is to be withdrawn in full, the other partly, from 1 May 2010.

Use of Margin Scheme for vehicle sales when incomplete records have been kept

The current concessionary arrangement which allows dealers in second-hand vehicles to account for VAT on either the purchase price, or half the selling price, of a vehicle for which they do not hold all the necessary margin scheme records will be withdrawn with effect from 1 April 2010. Accordingly, from this date VAT will be due on the full selling price of the vehicle.

Change in VAT Rate, and Anti-Forestalling Legislation

The return to a standard rate of VAT of 17.5% from 1 January 2010 is confirmed. The VAT Act is also to be amended (from Royal Assent) to provide that the standard rate of VAT can be temporarily amended for a period of less than the 12 months which is currently specified in the legislation.

The Budget Notes also announce related legislation, which is effective retrospectively from 25 November 2008, designed to prevent businesses, which are unable to fully recover the VAT which they incur, from benefiting from the lower rate by arranging with the supplier to create a tax point prior to the rate change (by virtue of the supplier raising an invoice or the customer making payment), even though the relevant goods / services will not be delivered / performed until 1 January 2010 or later. A supplementary charge to VAT of 2.5% will arise when one of the following conditions applies:

- The supplier and the customer are connected parties; or
- The supplier funds the purchase of the goods or services, or the grant of the right; or
- A VAT invoice is issued by the supplier where payment is not due for at least 6 months.

In addition, a further measure effective from 31 March 2009, will also create a supplementary VAT charge where a prepayment of more than £100,000 is made prior to the rate change in relation to goods or services to be provided after the change, unless it is normal commercial practice to make such a prepayment.

Cross-Border VAT Changes 2010

New rules to be phased in from 1 January 2010 onwards will change the basic "place of supply" rule for business to business services to where the customer is established (instead of where the supplier is established, as currently). Although there will be a number of exceptions to the basic rule, for most cross border services the business customer will account for VAT using the reverse charge procedure, rather than the supplier charging VAT.

The basic rule for "place of supply" of services to non-business customers will however remain unchanged (i.e. where the supplier is established) although again with exceptions.

There will be a new requirement from 1 January 2010 for UK businesses providing "reverse charge" services to business customers in other EU member states to provide EC Sales Lists (ESL's) giving details of such supplies (customer's VAT number and value of supplies) for each calendar quarter. Linked to the introduction of ESL's for services there will be certain changes to the time of supply rules for cross-border services. Further legislation to be introduced will significantly reduce the time available for businesses to submit ESL's – from six weeks currently to 14 days for paper and 21 days for electronic submissions. Monthly ESL's will also be required for goods where the quarterly value of relevant sales exceeds £70,000.

Finally, with effect from 1 January 2010, claims by UK businesses for recovery of VAT incurred in other EU member states will be submitted electronically (as part of an EU-wide electronic procedure), and will be processed by HMRC in the UK. Claims can be made up to nine months from the relevant calendar year end (currently six months) and the tax authority will have four months to make the repayment (eight months if further information is requested).

HMRC Administration

Spreading tax payments

Legislation is to be introduced to help individuals and companies who wish to spread their tax payments over time. The law will introduce payment plans to allow payments to be spread equally over a period straddling the normal due dates. There will also be rules to allow HMRC to collect small debts owed to them through the PAYE system. Currently HMRC's computer and accounting systems are unable to cope with the changes, so these measures will not be introduced until April 2011.

Penalties and interest

Whilst HMRC may have celebrated its fourth birthday on 18 April, it has continued to retain many of the differing characteristics that had been inherited from before the merger of the Inland Revenue and Customs & Excise.

The Budget announced an aim to harmonise the treatment of interest and the alignment of the penalty system, although neither will be introduced until HMRC's computer systems have been updated, which will start in April 2010. The more significant of these changes are those relating to penalties.

Penalties for late filing

The new penalty model will apply for Income Tax (IT), Corporation Tax (CT) and Inheritance Tax (IHT) to include:

- £100 penalty immediately after the due date for filing – **whether or not the tax has been paid**
- **Daily penalties of £10 per day** for returns that are more than three months late, running for a maximum of ninety days
- Penalties of 5% of the tax due for prolonged failures
- Higher penalties of 70% of the tax due where a person submits a return over twelve months late.

Some of these are significant changes to the current system, in particular where at present under IT a penalty is reduced to nil if no tax liability arises, or the tax has been paid by the due date.

Penalties for late payment

Again the new system will apply to IT, CT and IHT and include:

- Penalties of 5% of the amount of tax unpaid, generally one month after the payment due date
- Further penalties of 5% of any amounts of tax still unpaid at six and twelve months
- Suspension of late payment penalties where the taxpayer agrees a "time to pay" arrangement with HMRC

The first of these penalties have applied to IT for many years, however it will be new to companies.

Late filing of Construction Industry Scheme (CIS) returns

Whilst the rules will be aligning IT, CT and IHT, the rules for CIS will be different, with:

- A fixed penalty of £100 for failure to submit any return by the filing date
- An additional fixed penalty of £200 if any return is outstanding for more than three months
- Penalties of 5% of deductions due in respect of the return for prolonged failures (over six months and again at twelve months)
- Higher penalties of 70% of the tax due where a person fails to submit a return within twelve months of the due date.

Interest harmonisation

New provisions will replace the current different regimes with a single framework for interest chargeable on late payments, and payable on repayments of overpaid tax.

Interest will be charged from the date the tax was due to be paid to HMRC until the date it is paid. The rate to be applied will be linked to the Bank of England base rate.

Hazlewoods' Tax Team

Hazlewoods' Tax team has over 30 full-time tax experts, offering a wide range of experience in all aspects of corporate, business and personal tax compliance and planning. Our approach to tax advice is pro-active to minimise your overall tax burden. We ensure you know exactly what is due and when, and that all the necessary compliance formalities are met.

Our in-depth knowledge and experience allows us to understand fully our clients' needs and advise accordingly, ensuring that Hazlewoods' high level of personal service is maintained.

- Income Tax
- Corporation Tax
- Inheritance Tax
- Capital Gains Tax
- Share/company/partnership structures
- Employee Benefits and Share Schemes, Options etc
- Remuneration planning
- UK and Overseas Tax Planning
- VAT
- Stamp Duty Land Tax

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