HAZLEWOODS LLP

BUSINESS ADVISERS & CHARTERED ACCOUNTANTS

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# Budget update

24 March 2010

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# OVERVIEW

*A Budget for the Polls?*

Alistair Darling delivered his final Budget before the UK goes to the polls, possibly in as little as six weeks time. Despite the fact that it was predicted to be a short Budget, with another surely to come following the General Election, the Chancellor managed to keep his speech going for a lengthy 60 minutes. But what, if anything, was said?

A large proportion of his speech was aimed at the economy in general and, on a positive side, things are not as bad as he had previously anticipated. Public sector borrowing is £11 billion down on predicted figures, with the aim for that to be halved within the next four years.

Growth is budgeted as being 1% to 1.5% for 2010, and 3% to 3.5% in 2011, the latter being a downward revision from the Chancellor's previous figures.

The focus of the Budget was said to be to keep the economy moving in the right direction. This is to be achieved by no immediate cuts to overall public sector spending, forcing RBS and Lloyds to lend £94 billion and offering some minor tax breaks to small businesses. The tax breaks are to be paid for by switching funding from other areas and the additional income generated from the tax on banker's bonuses, which has already raised £2 billion, which, according to the Chancellor, is twice more than originally forecast.

One such tax break is the raising of the Annual Investment Allowance from £50,000 to £100,000, which provides 100% tax relief on qualifying capital expenditure in any financial year. Also, the Time to Pay arrangement (allowing taxpayers to spread their tax payments) is to continue for the whole of the next Parliament.

There was good news for Entrepreneurs with a doubling of the relief from £1 million to £2 million, enabling business owners to pay a reduced level of 10% capital gains tax on the first £2 million of gains. More good news was that there was no announcement, "today", of a raise in the main rate of 18% capital gains tax. Who knows what tomorrow may bring.

There was also some positive news for first time home buyers, with exemption from Stamp Duty Land Tax up to £250,000, from midnight, to be funded by a new 5% rate for residential properties over £1m, to be brought in from 2011/12.

Duty on alcohol is to increase by 2% above inflation, whilst cider drinkers were left spluttering with a 10% above inflation rise due to the perceived inequality. The fuel duty raises were staged with 1p rises in April, October and January 2011, which it is anticipated will cost the Treasury £0.5 billion.

The Budget didn't deliver any really bad news, most of it having already been announced in previous Budgets, or Pre Budget Reports. This leaves you with a sense that maybe worse is to come, but that sort of bad news certainly could not be delivered so close to a General Election.

Was this a Budget for the economy, or a Party Political Broadcast Budget? We shall have to wait and see when we go to the polls.

# PERSONAL AND BUSINESS TAX

## Personal

*Individuals*

*Increase in lifetime limit on Entrepreneurs' Relief*

The lifetime allowance will double from £1 million to £2 million for disposals made on or after 6 April 2010.

For gains made before 6 April 2010 the £1 million limit will still apply, but any further qualifying gains will be eligible for relief on up to a further £1 million of those additional gains.

The rules for claiming the relief have not changed and neither has the way in which the calculation of the relief works, namely, gains which qualify for the relief are reduced by the fraction $^4/_9$, leaving the effective rate of capital gains tax at 10%.

*Individual Savings Accounts (ISAs)*

The ISA limit for 2011/12 onwards will increase annually in line with the Retail Prices Index (RPI). If the RPI is negative the ISA limit will be unchanged.

The limit for 2009/10 of £10,200 (with £5,100 being able to be saved in cash) was pre-announced in Budget 2009.

*Restriction of Pensions Tax Relief – Recap on Provisions*

No further announcements were made to the restriction on higher rate income tax relief from 6 April 2011 and the anti-forestalling provisions currently in place.

To recap on the provisions previously announced, from 6 April 2011 the intention is to reduce the higher rate tax relief on pension contributions for individuals with income above £180,000. Tapering provision will also be introduced to reduce the higher rate relief where income is between £150,000 and £180,000.

Anti-forestalling measures were introduced in the Budget 2009 to prevent individuals with income above £150,000 making contributions, in excess of their normal monthly/quarterly pension contributions, in advance of this date. An annual allowance of £20,000 was introduced, which can be as high as £30,000 in certain circumstances.

This income threshold was amended in the pre Budget report in December 2009 which introduced a further income threshold for employees with income of £130,000 or more. The £130,000 is before deduction or relief for pension contributions and charitable donations but where, together with the value of any employer pension contributions, the "total" is £150,000 or over.

The restriction of higher rate tax relief will be made through Self Assessment in the form of an additional tax charge payable by those affected.

## *Pension Schemes – Lifetime Allowance and Annual Allowance from 6 April 2011*

The 2010/11 lifetime allowance will be £1.8 million and the annual allowance will be £255,000. These rates are to be fixed for a further 5 tax years, ie up to and including 2015/16.

## *Enterprise Investment Scheme (EIS) and Venture Capital Trust (VCT)*

Four changes have been introduced that will affect investors under EIS and VCT schemes.

### *EIS and VCT Schemes*

New legislation will exclude shares in a company from qualifying for EIS or VCT relief, if it is reasonable to assume that the company would be treated as an "enterprise in difficulty".

Currently, for a company to have its shares qualify for EIS or VCT relief, they must operate "wholly or mainly" in the UK. This will be replaced with a requirement that they must have a "permanent establishment" in the UK.

### *VCT Schemes*

Historically the shares making up a VCT's ordinary share capital had to be included in the official UK list throughout the relevant accounting year. This is to be relaxed so as to require the shares to be traded on any EU regulated market.

The current legislation stipulates that at least 30% of the VCT's qualifying holding is represented by holdings of eligible shares. New legislation will increase the eligible shareholding requirement to 70%, but will change the definition of eligible shares. The new definition will include shares which may carry certain preferential rights to dividends.

## *Trusts*

### *Settlor-interested Trusts*

At the moment settlors can receive repayments of tax on trust income, if they pay income tax at a lower rate than the trustees. For repayments relating to income tax chargeable on or after 6 April 2010, settlors will have to pass any such repayments onto the trustees. The payments to the trustees will be ignored for inheritance tax purposes.

# PERSONAL AND BUSINESS TAX

## Business

*Capital Allowances*

*Plant and Machinery – Increase in Amount of Annual Investment Allowance (AIA)*

Since April 2008 most businesses, regardless of size, have been able to claim AIA on up to £50,000 of expenditure on plant and machinery. With effect from 1 April 2010 (for businesses subject to corporation tax) and 6 April 2010 (for those subject to income tax) this will be increased to £100,000.

Businesses are able to claim AIA in respect of their expenditure on both general and "special rate" plant and machinery. The AIA is effectively a 100% allowance for qualifying expenditure. The AIA is available for most plant or machinery, but there are certain exceptions, the main one being expenditure on cars.

Where a business has an accounting period which spans the operative date, the maximum amount allowed will be pro-rated between the two limits.

Anti-avoidance legislation will disallow property loss relief against general taxable income, to the extent that the loss is attributable to the AIA.

*Enhanced Capital Allowances for Energy-Saving and Water Efficient Technologies*

This affects businesses purchasing designated plant and machinery which is energy efficient, reduces water usage or improves water quality. Two schemes exist which provide 100% first year allowances for certain expenditure. The Budget announces amendments to the lists of technologies covered by the schemes.

Two new technologies have been added, (Permanent Magnet Synchronous Motors and Biomass fired warm air heaters), whilst two will be removed, (Compact heat exchangers and liquid pressure amplification). In addition, the criteria for taps and showers will be tightened!

*Zero-emission Goods Vehicles – 100% First Year Allowances*

Business expenditure on new and unused zero-emission goods vehicles will enjoy a 100% first year allowance for purchases after 1 April 2010 (for corporation tax) and 6 April 2011 (for income tax). A zero-emission goods vehicle is defined as a vehicle that cannot produce CO2 emissions when driven and is designed primarily for the conveyance of goods.

# INHERITANCE TAX

*Inheritance Tax Relief – Nil Rate Band*

The Nil Rate Band for inheritance tax will again be frozen at £325,000 to cover the tax years 2011/12 to 2014/15. No other changes were announced.

# CORPORATE TAX

*Release of Loans to Participators in a Close Company*

With immediate effect, corporation tax relief will be denied for any release or write off of a loan to a participator (essentially a shareholder) in a close company. A close company is one that has five or fewer participators.

The income tax treatment on the person who benefits from the released or written off loan has not changed, they will continue to be treated as having received a dividend distribution and taxed accordingly.

*Corporation Tax Measures*

The Budget confirmed that corporation tax rates are to remain unchanged, the full rate will remain at 28% and the small companies' rate will remain at 21 % on and after 1 April 2010. The latter represents an extension to the deferral on increasing the rate to 22%.

# EMPLOYEES

*Enterprise Management Incentives (EMI)*

A change has been announced relating to the qualifying conditions for a company to offer share options to their employees under EMI.

This measure amends the requirement that a company granting qualifying EMI options to its employees must operate "wholly or mainly" in the UK. The change will now require the company to have a "permanent establishment" in the UK.

Permanent establishment means that a company has a fixed place of business from which the business is wholly or partly carried on.

# VAT

*Registration/Deregistration*

The registration and deregistration thresholds are to be increased by £2,000 to £70,000 and £68,000 respectively, with effect from 1 April 2010.

*Fuel Scale Charge*

The figures for the amount of output VAT to account for, in respect of fuel provided for private motoring, are shown on our "Tax Facts" card.

*Place of Supply of Gas, Heat and Cooling*

The Reverse Charge rules are to be extended to cover supplies of natural gas, heat and cooling received by UK businesses from suppliers outside the UK. The new rules will apply from 1 January 2011.

*Postal Services*

From 31 January 2011 certain postal services will become liable to VAT at the standard rate. The current VAT-exemption will only apply to those services made by a Universal Service Provider ("USP") (currently Royal Mail Holdings PLC) pursuant to a licence duty. Where services are provided which are not required under a licence duty (such as those made by Parcelforce), or on terms and conditions which have been freely negotiated, standard-rate VAT will be applicable.

*Lennartz Accounting: Restricting Application and Securing Revenue*

From 1 January 2011, Lennartz Accounting will not be available in respect of immovable property, boats and aircraft. Where there will be both business and private use of the asset, VAT recovery will be restricted to the business use of the asset, and the taxpayer will no longer have the option of recovering VAT in full, up front and then accounting for output tax on any subsequent private use of the asset.

# STAMP DUTY LAND TAX (SDLT)

*Incentive for First Time Buyers*

The current rate of SDLT for residential purchases of between £125,000 and £250,000 is 1%. As an incentive to first time buyers, a relief from SDLT has been introduced for any purchases between 25 March 2010 and 24 March 2012 of residential property up to £250,000.

The new relief will apply where the purchaser or all purchasers are first time buyers and intend to occupy the property as their only or main home.

*A New Top Rate of SDLT*

From 6 April 2011 all purchases of residential property where the consideration exceeds £1 million will be subject to SDLT at 5%.

# TAX ADMINISTRATION

## Anti-Avoidance

Anti avoidance rules are to be introduced on or after 24 March 2010, to target specific plans revolving around:

- Share Incentive Plans (SIPs)
- Company Share Option Plans (CSOPs)

The specific areas targeted are seen as an abuse of the reliefs available and the anti avoidance rules will not affect the 'normal' use of these plans.

*Transactions in Securities*

Changes that will provide clearer legislation targeted more effectively at arrangements involving income tax avoidance. Fewer corporate transactions should therefore require formal HMRC clearance.

The effect of the legislation continues to be to counteract the income tax advantage.

*Disclosure of Tax Avoidance Schemes*

Changes will ensure that HMRC continues to obtain early information about avoidance risks and that there are sufficient sanctions to penalise those who do not comply with the regime.

# PENALTIES

*Extension of Penalties for Late Filing of Returns and Payment of Tax*

There will be a complete reform of the penalty regimes for the late filing of tax returns and late payment of tax, including VAT, which is an extension of the existing reform already in place for income tax, corporation tax, inheritance tax and other direct taxes.

The late filing and late payment penalties are broadly similar – they are designed to encourage filing and payments by the correct dates by introducing an escalating series of penalties depending on the number of failures within a set penalty period. Further penalties will arise if there is a prolonged delay in filing returns or paying the tax due.

# TAX ADMINISTRATION

*Extension of Penalties for Late Filing of Returns and Payment of Tax (continued)*

***A summary of the penalties are:***

Penalties for **late filing** of returns

- £100 immediate penalty, whether or not the tax has been paid
- The penalty starts a 1 year penalty period
- The fixed penalty increases by £100 for each subsequent failure within this 1 year penalty period, up to a maximum of £400 – the penalty period is also extended
- If any of the failures are prolonged, then additional penalties of 5% of the tax on the relevant return are charged at 6 and 12 months from the date of the failure
- If by failing to make a return the taxpayer is deliberately withholding information from HMRC and penalties of up to 100% of the tax due may be chargeable.

Penalties for **late payments**

- No penalty arises but it starts a 1 year penalty period
- A 2% penalty of unpaid tax will be applied to any subsequent failures in this 1 year penalty period and also extends the penalty period
- A third failure within the penalty period will result in a 3% penalty of unpaid tax, up to a maximum of 4% for further failures.
- If any of the failures are prolonged, then additional penalties of 5% of the unpaid tax are charged at 6 and 12 months from the date of the failure.


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