TAX
FACULTY

BUDGET REPORT MARCH 2012

TAXline SUPPLEMENT

BUDGET REPORT MARCH 2012

The Budget was delivered on 21 March 2012.

This summary of the Budget measures has been produced by the Tax Faculty's technical team and edited by Jane Moore.

CONTENTS

01	Budget overview	03
02	Budget documents and legislation	05
03	Rates and allowances	05
04	Personal and employment taxes	08
05	Pensions	11
06	Savings and investment	12
07	Business tax	14
08	Company tax	16
09	Property tax and SDLT	19
10	IHT and trusts	19
11	VAT	19
12	Duties	21
13	Environmental taxes	23
14	Anti-avoidance	23
15	HMRC powers and administration	26

TAX FACULTY TEAM

David Heaton
Chairman
+44 (0)113 285 5202
david.heaton@bakertilly.co.uk

Rebecca Benneyworth
Deputy Chairman
+44 (0)1453 761950
rebecca@rebeccabenneyworth.co.uk

Paul Aplin
Chairman Technical Committee
+44 (0)1823 624450
paulaplin@acmole.co.uk

Frank Haskew
Head of Tax Faculty
+44 (0)20 7920 8618
Frank.Haskew@icaew.com

Peter Bickley
+44 (0)20 7920 8430
Peter.Bickley@icaew.com

Paula Clemett
+44 (0)20 7920 8757
Paula.Clemett@icaew.com

Neil Gaskell
+44 (0)1908 248131
Neil.Gaskell@icaew.com

Anita Monteith
+44 (0)20 7920 8743
Anita.Monteith@icaew.com

Jane Moore
+44 (0)20 7920 8722
Jane.Moore@icaew.com

Philippa Stedman
+44 (0)20 7920 8765
Philippa.Stedman@icaew.com

Ian Young
+44 (0)20 7920 8652
Ian.Young@icaew.com

Chrissie O'Connor
Manager
+44 (0)20 7920 8593
Chrissie.O'Connor@icaew.com

Katherine Bassett
+44 (0)20 7920 8483
katherine.bassett@icaew.com

Katerina Timotheou
+44 (0)20 7920 3511
Katerina.Timotheou@icaew.com

CONTACT DETAILS

Tax Faculty
ICAEW
Chartered Accountants' Hall
Moorgate Place
London EC2R 6EA UK

T +44 (0)20 7920 8646
F +44 (0)20 7920 8780
E taxfac@icaew.com

icaew.com/taxfac

The Tax Faculty produces a range of technical information. All items published since January 2000 and selected items prior to that date, can be viewed on the website at icaew.com/taxfac where the information can be found under the heading 'Faculty Publications'.

The views expressed herein are not necessarily shared by the ICAEW Council. Articles and other material are published without responsibility on the part of the publisher or authors for loss occasioned by any person acting or refraining from action as a result of any view expressed therein.

Editor: Jane Moore
Printed by: Hobbs the Printers Ltd,
Totton, Hampshire

© 2012 Tax Faculty

ISSN 978-0-85760-620-4

Copyright. All rights reserved. No part of this work which is covered by copyright, may be reproduced or copied in any form or by any means (including graphic, electronic or mechanical, photocopying, recording, recorded taping or retrieval information systems) without permission of the copyright holder.

Published by
Tax Faculty,
ICAEW
Chartered Accountants' Hall
Moorgate Place
London EC2R 6EA UK
T +44 (0)20 7920 8646
E taxline@icaew.com

01. BUDGET OVERVIEW

AN IMPROVING ECONOMIC BACKGROUND?

It has certainly been a roller coaster ride economically since the Chancellor's 2011 Budget. We have had further crises in the Eurozone, more concerns about a credit crunch, rising unemployment, reductions in growth forecasts including negative GDP in the final quarter of 2011, and inflation hitting 5%. Just to add to the problems, the UK's budget deficit broke through £1 trillion for the first time. It has been a difficult year and the Chancellor's options were limited given the need to protect revenue.

Given this grim backdrop it was no surprise that the Chancellor had to be cautious and deliver a fiscally neutral budget. That said, conditions at the start of 2012 have improved slightly and the measures to tame the deficit appear to be having some success. So on that basis, the Chancellor had rather more reason to be optimistic than might have been expected at the time of the 2011 Autumn Statement. His key policy aims are to increase the UK's sluggish growth, rebalance the economy towards manufacturing and exports, and reduce the budget deficit. The Budget measures were therefore designed to help promote growth while keeping a tight rein on public expenditure. The Chancellor proposes to achieve this by a raft of measures, including a reduction in headline rates of corporation tax and income tax, coupled with a substantial increase in the income tax personal allowance and further measures to tackle tax avoidance.

Time will tell whether the proposals will help to secure a return to steady growth. Growth projections remain very low. The OBR now forecasts 0.8% in 2012/13, up from the previous estimate of 0.7% but a long way below the 2.35% growth it estimated this time last year. Given that UK growth is partly dependent on factors which are outside of the Chancellor's control, for example whether the Eurozone will lurch into yet another crisis, any growth predictions need to be treated with considerable caution.

THE BUDGET DEFICIT

Turning to the budget deficit, the position has improved somewhat since the time of the Autumn Statement. The forecast out-turn for 2011/12 is now just over £1bn lower than forecast in autumn 2011. However, there is no room for complacency: borrowing increased by more than expected in February 2012 and it remains a tall order to reduce the deficit.

'The Budget measures were designed to help promote growth while keeping a tight rein on public expenditure.'

CORPORATION TAX

On the tax measures, the Chancellor set out a plan to reduce further the main rate of corporation tax: it will come down to 24% (rather than 25% as announced previously) from April 2012. After that it will be reduced in 1% steps to be 22% from April 2014. The Chancellor said he intends to bring it down to 20% but no timescale was given for that. The small profits corporation tax rate remains at 20%.

TAX SIMPLIFICATION

As for tax simplification – not a Budget goes by these days without the Chancellor saying he will simplify the tax system. This was a bold claim given that the draft Finance Bill clauses published in December 2011 stretched to over 1,100 pages, admittedly including accompanying explanatory notes. Make no mistake, the Finance Act 2012, due to be published as a Bill on 29 March 2012, will be long and complicated.

The Chancellor announced that the Government will look to implement the proposals of the Office for Tax Simplification (OTS), in particular the small business proposals. These include adopting the OTS's recommendation for small businesses to adopt a cash basis for their tax returns. However, the OTS suggested that businesses should only be able to use this basis if their turnover is less than £30,000, whereas the Chancellor has said that the limit might be set at the VAT threshold of £77,000. The latter figure will be welcomed by some but is likely to be controversial, not least because of the potential for it to be abused with the consequent risks to revenue.

TAX AVOIDANCE

The war on tax avoidance continues with a number of further measures, some of them announced previously. As widely expected, the Government has decided to introduce a general anti-abuse rule (GAAR). The Government has stamp duty land tax (SDLT) avoidance clearly in its sights. The Chancellor warned property investors that he would be willing to take retrospective action to block schemes that currently seek to avoid

'The outlook has certainly improved in recent months, but there remains a long way to go to get the nation's finances back on track.'

the 5% SDLT on transfers of property, usually by using offshore companies and sub-sale relief. This warning was all the more stark given that there will now be a 7% SDLT charge for properties worth more than £2m. A sale of a £2m property will thus see an SDLT charge of £140,000.

The Chancellor also went further than this, signifying that there will be a consultation on a new annual charge on properties over this figure and a potential CGT charge on gains made from properties owned through a company.

HELPING THE LOWER PAID … BUT NOT PENSIONERS

The Chancellor was again keen to set himself up as the champion of hard-working families, with further increases in the income tax personal allowance to £8,105 for 2012/13 (as previously announced) and £9,205 for 2013/14.

However, there is a rebalancing of personal allowances away from higher rates for those over 65 – these will be frozen at 2012/13 levels for those who currently receive them and abolished for those not yet entitled to them. The rates will be frozen until such time as the personal allowance catches up, so that at some future date all taxpayers will have the same personal allowance.

Dubbed the 'granny tax', the abolition of age-related allowances is already causing some furore in the media. Although the OTS has put these allowances at the top of its list of areas which need simplification, it was a surprise that the Chancellor should go ahead with a firm policy at this stage, without waiting for the more detailed consideration in the second stage of the OTS review of pensioner taxation.

AND THE HIGHER PAID … BUT NOT 'TYCOONS'

The Chancellor announced that the 50p additional tax rate will be reduced to 45% from 2013. This was a sensitive policy decision, but the justification was that it was uncompetitive and HMRC's study into how much it raised showed that receipts from it were far lower than expected. Given this decision, it appeared surprising that the change was not made from April 2012, as taxpayers will now be seeing how they can legitimately defer income from 2012/13 to 2013/14, thereby reducing tax receipts for the coming year.

However, the Chancellor has also announced a potential restriction on tax reliefs that can be claimed by higher earners, dubbed by some commentators a 'tycoon tax'. For anyone seeking to claim more than £50,000 in tax reliefs, the maximum amount they will be able to claim will be the greater of £50,000 and 25% of their income. Thus a taxpayer with an income of £200,000 will only be able to offset tax reliefs up to £50,000, leaving £150,000 still subject to income tax. This is potentially a major change to the UK tax system and it is far from clear what tax reliefs would be included. For example, will the restriction apply to the use of losses genuinely incurred in a failed commercial venture?

The final blow for the relatively higher paid is the new income tax charge on those with income over £50,000 who receive child benefit. Essentially this is means-testing of child benefit, though in a convoluted way and without making the benefit itself taxable. Although the new charge has been designed to avoid the 'cliff edge' in the original policy proposal, which would have withdrawn child benefit in full for those paying higher-rate tax, we suspect that many taxpayers will struggle to understand how it works – and the administrative problems of implementing it will be considerable.

CONCLUSION

In conclusion, this Budget was aimed at encouraging growth, with the key focus being a reduction in the main corporation tax rate and the 50p income tax rate. However, given that the financial climate remains extremely challenging, the Chancellor's scope for radical action on rates was limited. It remains to be seen if these measures will have the desired effect and help to foster growth. The outlook has certainly improved in recent months, but there remains a long way to go to get the nation's finances back on track.

02. BUDGET DOCUMENTS AND LEGISLATION

The main Budget documents this year are the Red Book and the *Overview of Tax Legislation and Rates*. The Treasury has published a full transcript of the Chancellor's speech.

The Red Book summarises the Budget announcements and policy decisions, and includes the forecasts from the Office for Budget Responsibility. The *Overview of Tax Legislation and Rates* (the Overview Document) contains all the detailed tax information. The first two chapters provide short summaries of all the measures. The contents of the Overview Document are:

- Chapter 1 – details of all the tax measures which will be legislated in Finance Bill 2012 (FB 2012) or will otherwise come into effect in 2012/13.
- Chapter 2 – proposed tax changes announced in Budget 2012 to be legislated in Finance Bill 2013 (FB 2013) or other future legislation.
- Annex A – Tax Information and Impact Notes (TIINs) which give more detail of individual tax measures.
- Annex B – tables of tax rates and allowances.

The Tax Faculty's Budget summary refers to the numbered paragraphs in Chapters 1 and 2 of the Overview Document.

This year's Finance Bill will be published on 29 March 2012. Although generally referred to as Finance Bill 2012 its correct title is in fact Finance (No 4) Bill, being the fourth Finance Bill in this Parliament.

Much of the FB 2012 material has been published in draft and consulted upon beforehand. In many cases the legislation which will be included in the Bill has not changed since it was published in draft. The Budget material contains nothing new about these measures and we have not covered them in our summary. A full list of them is in para 1.69 of the Overview Document.

03. RATES AND ALLOWANCES

The main rates and allowances for 2012/13 are summarised in the table on pages 6–7.

This section highlights the changes announced in the Budget, including those which will apply for 2013/14 and subsequent years.

PERSONAL TAX RATES AND ALLOWANCES (PARAS 1.3, 1.5 AND 1.6)

The Budget includes a number of changes to income tax allowances and rates, including a big rise in the personal allowance, the unexpected abolition of age-related allowances, and a drop in the additional tax rate to 45% – all to apply from 2013/14. There have been no changes to the 2012/13 rates and allowances previously announced.

The basic personal allowance will be £8,105 for 2012/13. For 2013/14 the personal allowance will rise to £9,205. This is an increase of £1,100: a big step towards the Government's goal of raising the personal allowance to £10,000. The increase in the 2013/14 allowance is expected to lift an additional 840,000 people out of income tax altogether.

Those aged 65 and over are currently entitled to higher, age-related personal allowances. The allowances for 2012/13 have already been announced and will be £10,500 for those aged 65 and over and £10,660 for those aged 75 and over.

From 2013/14 the age-related allowances will be frozen at their 2012/13 levels for those who are already receiving them. The allowances will be kept at the frozen levels until they align with the basic personal allowance. Age-related allowances will be abolished for those who reach 65 on or after 6 April 2013.

The Office of Tax Simplification (OTS) in its March 2012 interim report on pensioner taxation recommended that age-related allowances should be simplified. The tapered withdrawal of age-related allowances for those on higher incomes (over £25,400 in 2012/13) can be confusing, and also many older people do not claim these allowances because they do not realise they are entitled to them. The Budget change does have the benefit of simplifying things, especially as the gap between the basic personal allowance and age-related allowances narrows.

RATES AND ALLOWANCES 2012/13

INCOME TAX RATES

Basic rate	20%
On income up to	£34,370
Higher rate	40%
On income between	£34,371–£150,000
Additional rate	50%
On income over	£150,000
Starting rate for savings income	10%
On income within first	£2,710
Lower dividend rate	10%
Higher dividend rate	32.5%
Additional dividend rate	42.5%
Trust rate	50%
Trust rate on dividends	42.5%

INCOME TAX ALLOWANCES

	£
Personal allowance (age under 65)	8,105
Personal allowance (age 65–74)	10,500
Personal allowance (age 75+)	10,660
Married couple's allowance	7,705
Married couple's allowance minimum amount	2,960
Income limit for personal allowance	100,000
Income limit for age-related allowances	25,400
Blind person's allowance	2,100

PENSIONS

Annual allowance	£50,000
Lifetime allowance	£1.5m

NATIONAL INSURANCE

Rates are per week unless stated

Lower earnings limit, primary Class 1	£107
Upper earnings limit, primary Class 1	£817
Upper Accruals Point	£770
Primary threshold	£146
Secondary threshold	£144
Employees' primary Class 1 rate	
Between PT and UEL	12%
Above UEL	2%
Employee's contracted-out rebate	
Salary-related schemes	1.4%
Money-purchase schemes	abolished
Married women's reduced rate	5.85%
Employers' secondary Class 1 rate	13.8%
Employers' contracted-out rebate	
Salary-related schemes	3.4%
Money-purchase schemes	abolished
Class 1A rate on employer-provided benefits	13.8%
Class 2 rate	£2.65
Class 2 small earnings exception (year)	£5,595
Special Class 2 rate for share fishermen	£3.30
Special Class 2 rate for volunteer development workers	£5.35
Class 3 rate	£13.25
Class 4 lower profits limit (year)	£7,605
Class 4 upper profits limit (year)	£42,475
Class 4 rate between lower and upper profits limit	9%
Class 4 rate above upper profits limit	2%

TAX CREDITS

Working tax credit	£
Basic element	1,920
Couple and lone parent element	1,950
30 hour element	790
Disabled worker element	2,790
Severe disability element	1,190
50-plus element (16–29 hours)	abolished
50-plus element (30+ hours)	abolished

Childcare element of the WTC	
Maximum eligible cost	
For one child	£175 per week
For two or more children	£300 per week
Eligible costs covered	70%

Child tax credit	£
Family element	545
Child element	2,690
Disabled child element	2,950
Severely disabled child element	1,190

Income thresholds and withdrawal rates	
First income threshold	£6,420
First withdrawal rate	41%
Second income threshold	abolished
Second withdrawal rate	41%
First threshold for those entitled to CTC only	£15,860
Income disregard	£10,000
Income fall disregard	£2,500

CORPORATION TAX

For financial year 1 April 2012 to 31 March 2013	
Main rate	24%
Small companies' rate	20%
Upper profits limit	£1.5m
Lower profits limit	£300,000
Effective marginal rate	25%
Marginal rate fraction	1/100

CAPITAL GAINS TAX

Standard rate	18%
Higher rate and trust rate	28%
Annual exemption	
For individuals, PRs and some trustees	£10,600
For most trustees	£5,300
Entrepreneurs' relief rate	10%
Entrepreneurs' relief lifetime limit of gains	£10m

INHERITANCE TAX

Rate	40%
Nil rate band	£325,000

VAT

Standard rate of VAT	20%
Reduced rate	5%
Registration threshold	£77,000
Deregistration limit	£75,000
Threshold for annual accounting and cash accounting	£1.35m

However, it is a surprise that the Government should go ahead now with definite plans to freeze/abolish these allowances, without the more detailed consideration which is planned in the second stage of the OTS project.

There do not appear to be any plans to change or abolish the married couple's allowance which is available to those born before 6 April 1935.

The income tax rates and thresholds for 2012/13 have not changed from those previously announced.

For 2013/14, the higher-rate income tax threshold will be reduced to £32,245. Basic rate and higher rate tax will remain at 20% and 40% respectively.

However, in a move which had been widely expected, the 50% additional rate of tax has gone. But the Chancellor has not abolished the additional rate completely – it will be 45% from 2013/14. The threshold for the additional rate remains at £150,000. Evidence shows that the 50% rate is not raising as much tax as expected and is putting off those who might otherwise invest or live in the UK.

Finally, in 2013/14 the upper limits for National Insurance contributions will be aligned with the higher-rate threshold and will be £41,450 (ie the sum of the personal allowance £9,205 and basic rate band £32,245). This applies to the Upper Earnings Limit for Class 1 NICs and the Upper Profits Limit for Class 4 NICs.

CORPORATION TAX (PARA 1.19)

The main rate of corporation tax, already scheduled to decrease to 25% from 1 April 2012, will in fact go down to 24%. In future it will decrease by 1% a year until it reaches 22% from April 2014. The small profits rate remains at 20%.

VAT (PARA 1.18)

The annual turnover threshold for VAT registration will go up from £73,000 to £77,000 from April 2012. The deregistration turnover limit will go up from £71,000 to £75,000.

04. PERSONAL AND EMPLOYMENT TAXES

CHILD BENEFIT FOR HIGHER EARNERS (PARA 1.12)

The Chancellor has at long last explained how child benefit will in effect be means-tested. He announced in autumn 2010 that child benefit would be withdrawn from higher-rate taxpayers from 2013.

Child benefit will continue to be paid as a universal benefit and will not be made taxable. Instead, there will be an income tax charge which has the effect of tapering away the benefit for those with income over £50,000, until it is completely cancelled out once income reaches £60,000.

The new charge applies where a taxpayer has 'adjusted net income' over £50,000 in a tax year and either they or their partner is receiving child benefit for that year. If both partners have adjusted net income over £50,000, the partner with the higher income is liable for the charge. The income tax charge will apply at a rate of 1% of the full child benefit award for each £100 of income between £50,000 and £60,000.

Adjusted net income is a person's total taxable income after adjusting for items such as trading losses, pension contributions and payments under Gift Aid. A partnership for this purpose is similar to the tax credits definition of a couple, ie it includes married couples and civil partners, and also those living together as though they were married or civil partners.

Child benefit claimants will be able to decide not to receive the benefit if they or their partner do not wish to pay the new charge.

This measure comes into effect on 7 January 2013. For the tax year 2012/13, the first year of the charge, the amount of income taken into account will be the full amount of income for 2012/13 and the amount of child benefit will be that paid in the period from 7 January 2013 to the end of the tax year.

We suspect that many taxpayers will find it difficult to understand how this rather convoluted new income tax charge will apply to them. But if the calculation is difficult, the administration will be even more of a challenge.

We are told that the charge will be collected via PAYE or self assessment. If it is done via PAYE, it is hard to see how the adjusted net income can be accurately

determined before the end of the tax year in order to work out the charge. And if via self assessment, it surely will put many taxpayers back into self assessment when the trend over recent years has been to take them out. And what will happen when a couple breaks up, or a new one forms, during the tax year? We can see many complications ahead.

WITHDRAWING A NOTICE TO FILE A TAX RETURN (PARA 2.63)

HMRC will be consulting later this year on legislation to enable it to withdraw a notice to file a self assessment tax return in appropriate cases. Under the new late-filing penalty system, penalty notices are automatically generated when returns are not filed by the due date. As was seen earlier this year, this can result in penalties being imposed on taxpayers who have no need to be in self assessment. The problem was resolved this year by HMRC contacting taxpayers to see if they needed to be in the system, and if they did not HMRC cancelled the return and removed the penalty. We assume that the new legislation will allow HMRC to withdraw a notice to file at an earlier date. Legislation will be in FB 2013.

REFORM OF THE TAXATION OF NON-DOMICILED INDIVIDUALS (PARA 1.11)

In last year's Budget a number of reforms to the taxation of non-domiciled individuals were put forward for consultation. Following the consultation draft legislation was issued on 6 December 2011. We commented on this legislation in TAXREP 3/12 and it will be included in FB 2012. The changes come into effect from 6 April 2012 and will:

- Remove the tax charge when non-domiciled individuals remit foreign income and gains to the UK for the purpose of commercial investment in a qualifying business.

- Increase the annual remittance basis charge from £30,000 to £50,000 for those non-domiciles who have been resident in the UK in 12 or more of the last 14 tax years and who wish to retain access to the remittance basis of taxation.

- Reduce the complexity of some aspects of the existing remittance basis rules. The current measures include simplifying the nominated income rules; removing all sums within foreign currency bank accounts from the scope of CGT; and removing the tax charge where an exempt asset is brought to the UK and subsequently sold, where in addition any capital gain realised on the sale of the asset will be treated as a foreign chargeable gain.

In the response document to the consultation the Government indicated that it will consider extending the new incentive for business investment to partnerships. We believe that including partnerships would lead to significant additional investment into the UK, and we support the extension. The Government is also considering further simplifications to the remittance basis rules which include removing the charge to tax on inadvertent remittances and excluding minor grandchildren from the 'relevant person' definition. Any changes will be considered for legislation in FB 2013.

STATUTORY RESIDENCE TEST (PARA 2.4)

In the 2011 Budget the Government announced its intention to introduce a statutory residence test (SRT) to be effective from 6 April 2012. The Tax Faculty, and other tax professionals, welcomed this. A consultation document was issued in June 2011 and we commented on this in TAXREP 48/11. We were disappointed by the decision to delay the introduction of the SRT to 6 April 2013, although we appreciated that it was important to get the detail right.

A summary of responses to the 2011 consultation and draft legislation for further consultation will be published in the spring.

ORDINARY RESIDENCE (PARA 2.5)

The Government announced that it will abolish ordinary residence for tax purposes but will retain overseas workday relief and put it on a statutory footing. This follows the consultation last summer on the SRT. The 2011 consultation document put forward two options: the first option is the one that has been adopted, the second was to retain ordinary residence and create a statutory definition. In TAXREP 48/11 the Tax Faculty supported option 1.

The abolition of ordinary residence would only apply to tax legislation and there is no intention to amend the definition used for the purposes of liability to National Insurance contributions.

A summary of responses to the 2011 consultation together with draft legislation for further consultation will be published with the proposals for the SRT. It is intended that the provisions will be implemented from 6 April 2013.

STATEMENT OF PRACTICE 1/09 (PARA 2.6)
Statement of Practice 1/09 (SP 1/09) provides an administrative easement for employees who are resident but not ordinarily resident in the UK, have a single contract of employment covering both UK and overseas duties and are taxed on the remittance basis. It allows such individuals to calculate their UK tax liability on their employment income by apportioning the total income they receive in the year with reference to the number of UK workdays compared to overseas workdays. Employment income attributable to duties performed outside the UK is not subject to UK tax provided it remains overseas.

The decision to put SP 1/09 on a statutory footing was announced in the 2011 consultation on the *Reform of the taxation of non-domiciled individuals* and we commented on the proposals in TAXREP 49/11. Further details and draft legislation for consultation will be published in the spring with the details of the SRT. It is intended that the legislation will be in FB 2013 and will be effective form 6 April 2013. SP 1/09 will remain in force for 2012/13.

TRANSFER OF ASSETS ABROAD AND GAINS ON ASSETS HELD BY FOREIGN COMPANIES (PARA 2.17)
The legislation on transfer of assets abroad at ss 714 to 751, Income Tax Act 2007 and on the attribution of gains to members of non-resident companies at s 13, Taxation of Chargeable Gains Act 1992 were enacted to prevent individuals from avoiding tax by holding assets through non-resident structures. In February 2011 the European Commission requested that the UK amend the transfer of assets abroad legislation on the basis that it was disproportionate.

In meetings with HMRC the Inheritance Tax and Trusts working group, part of the Tax Faculty's Private Client Committee, have voiced their concerns over the effect of both of these provisions. The Government has announced that there will be amendments in FB 2013 following the publication of a consultation document and draft legislation. The changes, which the Government says are unlikely to be to a taxpayer's disadvantage, will have retrospective effect to 6 April 2012, but a taxpayer may elect for the new rules to apply from 6 April 2013. We look forward to seeing the details.

GLASGOW 2014 COMMONWEALTH GAMES TAX EXEMPTION (PARA 2.10)
As announced in January 2012 the Government will include in FB 2013 an exemption from UK taxation for money earned by non-resident athletes who compete at this event. This mirrors a similar exemption in place for London 2012.

RESETTLEMENT PAYMENTS MADE TO MPS (PARA 1.15)
From 1 April 2012, the MPs Expenses Scheme administered by the Independent Parliamentary Standards Authority (IPSA) will include provision to make a resettlement payment to any MP who involuntarily leaves Parliament after that date. Resettlement payments, calculated at one calendar month's salary for each completed year of service up to a maximum of six months, are available to MPs who stand at a general election but are not re-elected.

Section 291, Income Tax (Earnings and Pensions) Act 2003 will be amended to exempt from income tax any such payments, subject to a £30,000 limit. The amendment ensures that these resettlement payments made by IPSA are treated in the same way as similar grants previously paid under the House of Commons Members' Allowance Scheme.

EXPENSES OF MEMBERS OF DEVOLVED ADMINISTRATIONS (PARA 2.11)
Legislation in FB 2013 will formalise the income tax treatment of travel and accommodation expenses incurred by members of devolved administrations. A new tax exemption will be introduced for travel expenses incurred by spouses or partners of devolved administration members where they share caring responsibilities for a dependant. These changes will come into effect from 6 April 2013.

PERSONAL INDEPENDENCE PAYMENT TAX RELIEFS (PARA 2.23)
The personal independence payment (PIP) is a state benefit which will replace disability living allowance (DLA) from 2013/14. A number of tax reliefs are available to people in receipt of DLA. The Government will publish draft legislation in the autumn on how those reliefs will apply to PIP claimants, and to help inform decisions in relation to trusts for vulnerable and disabled people, will consult over the summer on how they are best defined.

COMPANY CAR TAX RATES (PARAS 1.13 AND PARA 2.12)

In 2014/15 the appropriate percentage for company cars emitting more than 75g of carbon dioxide per kilometre will be increased by 1% to a maximum of 35%.

In both 2015/16 and 2016/17, the appropriate percentages of the list price subject to tax will increase by 2%, to a maximum of 37%.

From April 2015, the five-year exemption for zero-carbon cars and the lower rate for ultra-low emission cars will come to an end (as legislated in FA 2010).

From April 2016, the three percentage point diesel supplement will be removed, so diesel cars will be subject to the same level of tax as petrol cars.

In 2015/16 the appropriate percentage for zero-emission and all low carbon cars emitting less than 95g of carbon dioxide per kilometre will be 13%. It will increase by 2% in 2016/17.

CAR AND VAN FUEL BENEFIT CHARGE (PARA 1.14)

The car fuel benefit charge multiplier will be increased from £18,800 to £20,200 for 2012/13. In 2013/14 the multiplier will increase by 2% above the rate of inflation (based on RPI).

The van fuel benefit charge multiplier will be frozen at £550 for 2012/13. In 2013/14 it will increase by inflation (to be legislated in autumn 2012).

Annex B of the Overview Document included tables showing company car tax appropriate percentages.

INCOME TAX AND NICS OPERATIONAL INTEGRATION (PARA 2.24)

The Government announced in Budget 2011 that it would consult on the options, stages and timing of reforms to integrate the operation of income tax and NICs. Since then, it has issued a call for evidence, to which we responded in TAXREP 54/11, published a response and set out an indicative timetable for reform in *Integrating the operation of income tax and National Insurance contributions: Next steps.*

Following detailed work over recent months with interested parties including ICAEW, the Government will consult shortly after Budget 2012 on a broad range of options for employee, employer and self-employed NICs.

05. PENSIONS

STATE PENSION CHANGES

The state pension will rise to £107.45 per week for 2012/13.

The state pension age (SPA) is already rising. The Chancellor announced that the SPA will be automatically reviewed to take into account increasing life-spans – paving the way for yet more increases in future. Details will be published later this year.

The Government proposes to reform the state pension into a single-tier pension for future pensioners.

INCOME TAX ADDITIONAL RATE – CONSEQUENTIAL CHANGES (PARA 1.4)

As a consequence of the reduction in the additional rate of income tax from 50% to 45% in 2013/14, the charge on benefits paid to persons other than individuals under an employer-financed retirement benefits scheme will reduce from 50% to 45% in 2013/14.

PENSIONS TAX RELIEF (PARA 2.13)

Legislation in FB 2013 will amend the rules which currently allow employers to pay pension contributions into their employees' family members' pensions as part of their employees' remuneration package, to remove the tax and NICs advantages from these arrangements.

A regulation-making power will be introduced to allow changes to be made to the lifetime allowance fixed protection legislation. Technical improvements will also be made to the annual allowance rules through secondary legislation.

ABOLITION OF CONTRACTING OUT FOR MONEY PURCHASE SCHEMES (COMPS) (PARA 2.14)

Contracting out of NIC through a defined contribution (ie a money purchase) scheme will be abolished from 6 April 2012. This will mean that reduced rates of NIC will no longer apply. FB 2013 will make changes to bring tax legislation into line with National Insurance legislation.

BRIDGING PENSIONS (PARA 2.15)

Legislation will be introduced in FB 2013 to amend the pensions tax legislation for bridging pensions to reflect the changes in state pension age. A power will also be created so that regulations can be made changing the tax rules on bridging pensions to fit with any further changes to state pension rules.

A bridging pension is a supplementary pension paid by an occupational pension scheme to a member who retires and starts drawing a scheme pension before reaching state pension age. This is designed to ensure that members receive a regular income from the date they retire. When the member reaches state pension age, their occupational scheme pension is reduced by the amount of the state pension.

QROPS (PARA 2.16)

Changes in primary legislation will be introduced in FB 2013 to strengthen reporting requirements and powers of exclusion for the Qualifying Recognised Overseas Pensions Schemes (QROPS) regime. This will support the changes in secondary legislation published for consultation on 6 December 2011.

The Government also announced that where the country or territory in which a QROPS is established makes legislation or otherwise creates or uses a pension scheme to provide tax advantages that are not intended or available under the QROPS rules, the relevant types of pension scheme in those countries or territories will be excluded from being QROPS.

ANTI-AVOIDANCE – EMPLOYER ASSET-BACKED PENSION CONTRIBUTIONS (PARA 1.16)

On 29 November 2011, the Government announced that legislation would be introduced with immediate effect to change the tax rules in relation to employer asset-backed pension contributions. The objective is to ensure that the tax relief given to employers using such arrangements reflects accurately the total payments the employer makes to the pension scheme, whether directly or through a special purpose vehicle such as a partnership.

On 22 February 2012, the Government published further legislation, again with immediate effect, so that upfront relief will not be given unless the total of all asset-backed payments to the pension scheme are to be of fixed amounts at the outset. Additional changes and changes to structured finance tax legislation have now been announced with effect from 21 March 2012.

Details of these changes and those previously announced are available in a technical note ***Employer Asset-backed Pension Contributions*** published on Budget Day and a TIIN published with draft legislation on 22 February 2012.

06. SAVINGS AND INVESTMENT

SEED ENTERPRISE INVESTMENT SCHEME (PARA 1.7)

Details of the proposals for a new seed enterprise investment scheme (SEIS) were announced in the Autumn Statement 2011 alongside draft legislation. The Tax Faculty, working with the Corporate Finance Faculty, submitted extensive comments on these proposals. We are very pleased that our most fundamental points were taken and have been reflected in the revised version of the scheme.

Changes have been made to the legislation to allow companies to:

- qualify if they have subsidiaries;
- determine eligibility by reference to the age of any trade rather than the age of the company;
- remove reference to the holdings of other entities in calculating asset and employee tests;
- allow previous (but not current) employees to qualify; and
- allow directors who have qualified under SEIS to continue to qualify under the enterprise investment scheme (EIS), subject to time limits.

The SEIS relief will apply to investments made on or after 6 April 2012.

Legislation will be included in FB 2012. Assuming this follows the drafts published last year, the SEIS will:

- Apply to smaller companies, those with 25 or fewer employees and assets of up to £200,000, which are carrying on or preparing to carry on a new business.
- Give income tax relief worth 50% of the amount invested to individual investors with a stake of not more than 30% in such companies, including directors who invest in their companies.
- Apply to subscriptions for shares, using the same definition of eligible shares as EIS (which it is proposed will be widened in FB 2012).
- Apply to an annual amount of investment of £100,000 per investor, with unused annual amounts able to be carried back to the previous year, as under EIS.

- Provide for relief within an overall tax favoured investment limit of £150,000 for the company. To give the greatest degree of flexibility, this will be a cumulative limit, not an annual limit.

- Provide for an exemption from CGT on gains on shares within the scope of the SEIS.

For the first year of the new scheme, the Government will offer a capital gains tax holiday, so that gains realised on the disposal of assets in 2012/13 that are invested through SEIS in the same year will be exempt from CGT.

HMRC has already published detailed guidance to assist investors and companies seeking finance. We had commented that the rules were over complex and we were concerned that the level of relief was disproportionate to the potential cost of advice which would be needed. We welcome this guidance and hope that it will be enhanced when the details of the relief are published in FB 2012.

EIS AND VCT RELIEFS (PARAS 1.8 AND 1.9)

Qualifying shares and subscription limit changes

As announced in Budget 2011, legislation will be introduced in FB 2012 to make simplifications to the enterprise investment scheme (EIS) and to venture capital trusts (VCTs). This will remove some restrictions on qualifying shares and types of investor.

For shares issued on or after 1 April 2012 the £1m limit on investment by a VCT in a single company (except for companies in a partnership or joint venture) will no longer apply.

For shares issued on or after 6 April 2012, the £500 minimum subscription for EIS will no longer apply.

New disqualifying arrangements test

As part of a change to target both EIS and VCTs reliefs at what are considered to be riskier investments, the Government will also introduce a new disqualifying arrangements test for the schemes to exclude companies set up for the purpose of accessing relief, and will exclude investment in some feed-in tariff businesses. Monies used to acquire shares in another company will not be regarded as being 'employed' for the purposes of a qualifying business activity.

Increases to thresholds

As previously announced, the EIS annual investment limit for individuals will be increased to £1m from 6 April 2012. This measure has already received the necessary State aid approval.

The annual investment limit for qualifying companies will also be increased to £5m for shares issued on or after 6 April 2012. The annual investment limit will take account of any other risk capital aid received, and VCTs will be prohibited from making any investment which breaches that limit.

The company size threshold will also be increased:

- The employee limit will increase to 250 (from 50).

- The size threshold for gross assets will increase to £15m before investment and £16m after (currently £7m before and £8m after).

Legislation will be in FB 2012. This is subject to State aid approval and will take effect through Treasury appointed day orders.

ENTERPRISE MANAGEMENT INCENTIVES (PARAS 1.10, 2.8 AND 2.9)

The limit on the value of shares over which options may be held by an employee under the enterprise management incentive scheme (EMI) will increase from £120,000 to £250,000. The change will be made by statutory instrument, as soon as possible subject to State aid approval, and will apply in respect of EMI options granted on or after the date set out in the statutory instrument.

In addition, by the end of 2012 HMRC will have developed the guidance and resources it makes available to start-up companies wishing to use EMI.

Further changes are also being planned to be brought forward in FB 2013, although State aid approval will again be required.

The intention is that gains made on shares acquired through exercising EMI options on or after 6 April 2012 will be eligible for capital gains tax entrepreneurs' relief.

There will also be consultation on ways to extend access to EMI for academics who are employed by a qualifying company.

COMMUNITY INVESTMENT TAX RELIEF (PARA 2.22)

There will be a relaxation of the requirements that currently place conditions on the speed with which Community Development Finance Initiatives must on-lend the funding they receive, and new rules to allow investors to carry unused relief forward. This will apply from April 2013.

REAL ESTATE INVESTMENT TRUSTS (PARA 2.39)

A consultation has been announced in connection with the real estate investment trusts (REITs) regime. It will focus specifically on:

- the role that REITs can play in supporting the social housing sector; and
- whether to change the treatment of income received by a REIT when it invests in another REIT.

Any legislation will be in FB 2013. In addition there will be legislation in FB 2012 to enact the Budget 2011 proposals to support entry to and investment in REITs.

SIMPLIFICATION OF SHARE SCHEMES (RED BOOK PARA 2.45)

The Government will consider the recommendations of the OTS's Review of tax rules for tax-advantaged employee share schemes, published in March 2012, and will consult on how to take these forward.

INCOME TAX RULES ON INTEREST (PARA 2.19)

Consultation is to take place on changes to the income tax rules on the taxation of interest and interest-like returns and the rules on the deduction of tax at source. Currently banks and building societies are required to deduct tax at 20% from interest before it is paid unless they hold a form R85 from the account-holder stating that they are a non-taxpayer. The deduction at source rules are being extended in FB 2012 to include interest paid on new qualifying time deposits so that tax is deducted at source. Previously they fell outside the definition of 'relevant deposits' and interest was paid gross. There is no indication in the Budget notes of what further changes there might be. Any legislation will be in FB 2013.

07. BUSINESS TAX

TAX SIMPLIFICATION FOR SMALL BUSINESSES (PARA 2.32)

In a paper published alongside the main Budget pack, *Making tax easier, quicker and simpler for small business,* the Exchequer Secretary to the Treasury David Gauke restates the Government's aim for a tax system that is simple to understand and easy to comply with, setting out plans for improvements over the next three years. This is definitely a marathon rather than a sprint. The proposals are described in more detail below.

SIMPLER INCOME TAX FOR SMALLER BUSINESSES

At the end of February 2012, the OTS published its final report, *Small business tax review: simpler income tax for the smallest businesses,* in which it recommends a simpler way to calculate the taxable profits of nano businesses. Its proposals are aimed at the very smallest unincorporated businesses, and it defines a nano business as one:

- with turnover below £30,000;
- with little or no capital investment;
- not normally registered for VAT; and
- probably with no employees.

The OTS committee, experienced business people, accountants, tax specialists and academics, who helped develop these ideas, recognised that there would be difficulties with introducing any such new system. For example, there would need to be flexibility for businesses with fluctuating profits. It suggested receipts and payments accounting for businesses with turnover up to £30,000, with a ceiling of £40,000 as the business grows before it would need to use traditional computations instead. Not all the committee members agreed with all the proposals and we expected the Chancellor would announce a full and thorough consultation to flush out the problems.

The Chancellor clearly liked the ideas and has launched a consultation. However, he seems set on a scheme which could be used voluntarily by businesses with turnover of up to £77,000 (the current VAT threshold). This seems rather larger than the OTS recommended. The Tax Faculty will be responding when we have considered the details more carefully.

There will also be consultation on a system of flat rate expense deductions for items such as business use of a car or home. These might be available for use independently of the cash basis for other aspects of calculating taxable profits.

MAKING DISINCORPORATION EASIER

The OTS also recommended that it should be easier for businesses to move out of corporation tax. The Government will consult on how this could be achieved.

ONLINE SERVICES IN THE PIPELINE

Alongside the main Budget documents, HMRC published a paper, *Making tax easier, quicker and simpler for small business*. This contains further details about the changes being proposed for how taxable profits of small businesses are calculated. However, there are a number of other, administrative changes in prospect.

HMRC has been developing an online Business Tax Dashboard. This will be launched in April 2012 and will enable SMEs to view their current liabilities and payments for self assessment or corporation tax, VAT and PAYE for employers.

Also from April, there will be a single online tax registration form available through HMRC's new Online Tax Registration Service. New businesses incorporating online with Companies House will, if they wish, be able to register for corporation tax at the same time.

The VAT registration process will be available online from October 2012, and by April 2013 the turnaround time for most businesses to get their new VAT number will be three days.

There is a lot more besides. From April there will be a tax ready reckoner to help the self-employed work out how much to set aside for their tax liability, and some record-keeping apps for smart phones are being developed. Wider use of email communication with HMRC is also expected to be rolled out.

PERSONAL SERVICE COMPANIES AND IR35 (PARA 2.61)

In last year's Budget, the Chancellor asked HMRC to establish an IR35 forum whose task it was to make improvements in the way IR35 is administered and to remove much of the uncertainty experienced by people working through personal service companies.

The Red Book at paragraph 2.207 states:

> 'The Government will introduce a package of measures to tackle avoidance through the use of personal service companies and to make the IR35 legislation easier to understand for those who are genuinely in business.'

We know that the forum has been working on changes to HMRC's processes for administering IR35 enquiry cases, together with some guidance to help business owners identify whether they are in or out of the IR35 club.

It now seems that more changes are coming, targeted at those who are indeed more correctly treated as employees. There will be consultation on new rules to be implemented in FB 2013, which will require:

> 'Office holders/controlling persons who are integral to the running of an organisation to have PAYE and NICs deducted at source by the organisation by which they are engaged.'

The definition of a controlling person will form part of the consultation, but it will be someone who is integral to the running of the organisation and has a degree of control over it. If they are operating through a personal service company they would currently be subject to the IR35 rules. Making the engaging organisation pay the employer NICs and account for PAYE and employee NICs will be a big change.

CAPITAL ALLOWANCES – FIXTURES (PARA 1.24)

As announced at Budget 2011 and following publication of draft clauses for FB 2012, a purchaser of a fixture will have to comply with certain conditions in order to claim capital allowances.

The owner of a business will have to pool the value of his expenditure on fixtures, if he wants to pass on an entitlement to claim to another person. This may be done at any time before a subsequent transfer (so before a business is sold).

The seller and purchaser should, within two years of the sale of fixtures, adopt or invoke one of the two existing procedures to fix their agreement about the value of the fixtures.

The first procedure is the ss 198–199, Capital Allowances Act 2003 facility for the seller and purchaser to jointly elect, within two years of a sale, for any part

of the sale price to be attributed to fixtures (subject always to the cap of the seller's original cost). Of course, either the seller or the purchaser could still insist on a just and reasonable apportionment of the sale value of a property to its fixtures.

If the parties cannot reach an agreement, they can refer the matter to the First-tier Tribunal for an independent determination, which the Government proposes to adjust so that it may be invoked by either party, if the matter appears material to the liability to tax of either. If the parties are unable to agree, the requirement would be that the purchaser would have to invoke this procedure within two years, if they wanted to claim (in other words, it would not matter if the tribunal took longer than this to determine the question).

BUSINESS PREMISES RENOVATION ALLOWANCE (BPRA) (PARA 1.22)

As announced in Budget 2012, from April 2012 the BPRA scheme will be extended for a further five years to April 2017. Changes will also be made to the scheme to ensure continuing compliance with State aid rules. The changes will be made in secondary legislation.

CAPITAL ALLOWANCES – ENTERPRISE ZONES (PARA 1.23)

As announced in the Autumn Statement 2011, legislation in FB 2012 will provide 100% first-year allowances for trading companies investing in plant or machinery for use primarily in designated assisted areas within Enterprise Zones. Following consultation, changes have been made to ensure the scheme is State aid compliant.

FIRST-YEAR CAPITAL ALLOWANCES FOR LOW EMISSION CARS (PARA 2.29)

Legislation in FB 2013 will extend the 100% first-year capital allowance for businesses purchasing low emission cars for two years beyond the current expiry date of 31 March 2013, except for leased cars. The qualifying threshold will also be reduced to 95g/km driven from the same date, to match EU emissions targets for 2015.

CAPITAL ALLOWANCES – EMISSIONS THRESHOLD FOR A MAIN RATE CAR (PARA 2.30)

Currently, cars with emission levels between 110g/km and 160g/km go into the main capital allowances pool and are eligible for a 20% writing down allowance (18% from 1 or 6 April 2012).

From 1 (or 6) April 2013 the upper threshold for a main rate car will be reduced to 130g/km, to match EU emissions targets for 2020. The lease rental restriction will also be changed in line with this. These changes will be in FB 2013.

EXPENDITURE ON ENVIRONMENTALLY BENEFICIAL PLANT OR MACHINERY (PARA 2.31)

Legislation will be introduced in FB 2013 to extend the availability of first-year tax credits for companies surrendering losses attributable to their expenditure on designated energy-saving or environmentally beneficial plant or machinery for a further five years from 1 April 2013.

FIRST-YEAR CAPITAL ALLOWANCES FOR GAS REFUELLING EQUIPMENT (PARA 2.28)

Legislation will be introduced in FB 2013 to extend the 100% first year capital allowance for plant and machinery used in gas, biogas and hydrogen refuelling stations for two years beyond the current expiry date, to 31 March 2015.

ENHANCED CAPITAL ALLOWANCES – ENERGY SAVING TECHNOLOGIES (PARA 1.33)

The energy saving enhanced capital allowance will be updated to include a new technology category: heat pump driven air curtains. This is subject to State aid approval.

08. COMPANY TAX

CORPORATION TAX MAIN RATES (PARAS 1.19 AND 2.25))

The main headline rate of corporation tax is to be reduced from 26% to 24% from April 2012. This is a 2% reduction in the main headline rate rather than 1% as previously announced, with further 1% reductions, in accordance with previous announcements, over the next two years so that the rate will be 22% from April 2014.

Readers may recall the difficulties companies had filing some corporation tax returns last year. This followed the Chancellor's surprise amendment to the expected rate of corporation tax for the financial year 2011, announced in his 2011 Budget statement. Companies with years ended after 31 March 2011 were unable to file returns until HMRC had updated its computer system for the 26% main rate (we had expected it to be 27%). This meant waiting until October 2011 to file returns online.

HMRC has been preparing a work-around in case a surprise rate change happened again this year – as it has. We were told that the necessary changes should be implemented by July 2012. This will mean a short delay for some companies, which would like to file soon after their year ends, but it is unavoidable. The risks of fiddling with the IT system without considerable testing are just too great. We will post more details about this on our weekly newswire in due course.

The small profits rate of corporation tax remains at 20% where it has been since April 2011. For a stand-alone company the small profits rate applies for profits up to £300,000. The new marginal rate, for profits between £300,000 and £1.5m, will be 25%. These profit limits are reduced for associated companies.

CFC REFORM (PARA 1.20)

The new controlled foreign companies (CFC) regime will be introduced in FB 2013. It will target only those situations where there has been an artificial diversion of profits from the UK and then will only target those profits that have actually been diverted. In very broad terms the new regime is designed to catch situations where key business activities take place in the UK but the profits arising from those activities are accounted for in the CFC.

The new rules will apply to accounting periods of CFCs beginning on or after 1 January 2013.

The key to the new regime is going to be the Gateway test. Where a CFC's profits fall within the Gateway provisions and are not otherwise excluded by the entry conditions, safe harbours and exemptions, they will be apportioned to the UK and taxed on any UK-resident company with a 25% assessable interest in the CFC. The CFC charge will be reduced by a credit for any foreign tax attributable to the apportioned profits and by the offset of relevant UK reliefs.

The Gateway provisions in the draft clauses published on 6 December 2011 were extraordinary complex and would have been very difficult to apply in practice. Revised draft clauses were published on 29 February 2012 and there may be further changes to the provisions which appear in FB 2012 itself. The Tax Faculty commented on both versions of the Gateway provisions in TAXREP 70/11 and TAXREP 15/12. In our view the provisions still need further improvement and we anticipate, and hope, that there will be further changes during the passage of the Bill through Parliament.

The new regime will also include a favourable finance company exemption, which will normally result in 75% of the profits from overseas intragroup financing being exempt (producing an effective UK tax rate on such profits of 5.5% from 2014), and full exemption will be available in certain circumstances.

PATENT BOX (PARA 1.21)

The patent box will allow companies to elect to apply a 10% rate of corporation tax to that part of a UK company's profits attributable to the holding of a qualifying patent or an exclusive licence to use a patent. As set out in earlier consultations a formulaic approach will be adopted to determine the relevant patent profits.

The regime will begin from 1 April 2013 for new and existing patents and it will be phased in over a five year period. It will apply to qualifying patents granted by the UK and European Patent Offices and the Government intends to extend it to patents granted by other EU member countries with similar patent arrangements to the UK. It would appear that the regime will not apply to patents granted by the US or Japanese patent offices.

R&D TAX CREDITS (PARA 2.26)

The Government is to bring in an above the line (ATL) credit for large companies incurring expenditure on qualifying research and development (R&D). This will make the credit more visible and increase its incentive effect.

The essence of such a credit is that it is convertible to cash in some way without depending on the company's tax situation. Previously the benefit of the R&D tax credit for large companies was in the form of an increased deduction from taxable profits, which produced no immediate benefit to a company that was in a loss-making position. By making the credit receivable in a cash form instead, loss-making companies will see an immediate benefit from the R&D incentive.

The measure is also likely to be of interest to internationally-owned companies carrying out R&D in the UK which may previously have been put off claiming UK R&D tax relief by the knock-on effects to their double tax relief computations.

It has been confirmed that the rate will be set at a level of at least 9.1% of qualifying expenditure before tax, effectively confirming there will be no fall in the value of the relief compared to the current regime. The detailed rules and the specific rates of the credit remain to be

established and the Government will shortly commence a consultation on these points. This consultation will lead to new legislation to be included in FB 2013. The Chancellor has indicated previously that the credit will be introduced from April 2013.

It is anticipated that the ATL credit for large companies will run in parallel with the existing R&D tax credit regime for small or medium enterprises and the more generous benefits available under this regime will not be reduced

CORPORATION TAX RELIEFS FOR THE CREATIVE SECTOR (PARA 2.27)

Corporation tax reliefs are to be introduced for the production of culturally British video games, television animation programmes and high end television productions.

Consultation on the detail will take place over the summer with legislation in FB 2013 to take effect from 1 April 2013.

This relief is dependent on EU State aid approval being given for the proposals.

BANK LEVY (PARA 1.25)

The rate of bank levy is to be increased to 0.105% from 1 January 2013 to take account of the reduction in the rate of corporation tax and ensure that the bank levy continues to raise £2.5bn as was the intention announced in Budget 2011.

BANKS – TAX TREATMENT OF REGULATORY CAPITAL (PARA 1.26)

Enabling legislation will be included in FB 2012 so that regulations can be issued dealing with the tax treatment of regulatory capital instruments issued under Basel III and the EU Capital Requirements Directive IV. A TIIN will be published when the draft regulations are issued.

LIFE INSURANCE SECTOR (PARAS 1.29 AND 1.30)

As a consequence of the adoption of the EU Solvency II Directive there are to be wholesale changes to the corporation tax regime for life insurance companies from 1 January 2013 and these have been the subject of consultation over the past two years.

The changes are intended to simplify the taxation of life insurance companies by bringing their taxation more in line with other companies and aligning it more closely with the commercial realities of life insurance business.

There would appear to be remaining difficulties with some of the proposed changes and these will have to be ironed out before the Finance Bill receives Royal Assent in the summer. There is also a revised targeted anti-avoidance rule which comes into effect on 21 March 2012 and appears to be more reasonable than what was previously proposed.

Under Solvency II claims equalisation reserves will no longer be required and they are to be taxed over a six year period subject to an election for the untaxed balance to be brought into charge to tax with immediate effect.

OIL AND GAS SECTOR (PARAS 1.31, 1.32 AND 2.38)

The Government will provide greater certainty on decommissioning tax relief by introducing legislation in 2013 to give it statutory authority to sign contracts with companies operating in the UK and UK continental shelf to provide assurance on the relief that they will receive when decommissioning assets. There will be consultation over the coming months on the detail of this proposal.

There are to be increases in some field allowances which are designed to encourage marginal investments and these new measures will, to a certain extent, counter the impact of the increase from 20% to 32% in the supplementary charge to corporation tax which was introduced last year.

GROUPING RULES – CHANGE TO EQUITY RULE (PARA 1.27)

From 21 March 2012 loans from unconnected lenders that are convertible into shares will not be treated as share capital and so will no longer have an impact on whether the borrowing company and its parent company form a group for group relief purposes.

09. PROPERTY TAX AND SDLT

SDLT ON PROPERTY OVER £2M (PARA 1.51))

Stamp duty land tax (SDLT) will be charged at 7% where the chargeable consideration for a residential property is more than £2m. This applies to transactions where the effective date (normally the date of completion) is on or after 22 March 2012. Legislation will be in FB 2012.

SDLT ANTI-AVOIDANCE MEASURES

These are covered in the Anti-avoidance section.

10. IHT AND TRUSTS

IHT – SPOUSES AND CIVIL PARTNERS DOMICILED OUTSIDE THE UK (PARA 2.18)

The The Government will consult on legislation to increase from £55,000 the IHT-exempt amount that a UK-domiciled individual can transfer to their non-UK domiciled spouse or civil partner.

The Government similarly proposes to allow individuals who are domiciled outside the UK and who have a UK-domiciled spouse or civil partner to elect to be treated as domiciled in the UK for the purposes of IHT. Legislation will be in FB 2013.

TRUSTS – CAPITAL SUMS DEEMED TO BE INCOME OF SETTLOR (PARA 1.4)

As a consequence of the reduction in the additional rate of income tax in 2013/14, where capital sums are deemed to be income of a settlor, the rate of tax taken as paid by the trustees will also reduce from 50% to 45% from 2013/14.

HERITAGE MAINTENANCE FUNDS (PARA 2.20)

There will be legislation in FB 2013, retrospective to April 2012, to ease a restriction for trusts that are heritage maintenance funds (HMFs) and which have deferred capital gains tax charges arising from the re-settlement of assets from one HMF to another.

PERIODIC IHT CHARGES ON TRUSTS (PARA 2.21)

Trusts which fall into the relevant property regime are subject to a 10-yearly periodic charge on the value of the trust property and an exit charge which may apply when capital is appointed to beneficiaries from the trust. The calculations can be complicated and there is to be consultation on simplifying these charges, with legislation in FB 2013.

ANTI-AVOIDANCE – IHT AND OFFSHORE TRUSTS (PARA 1.60)

Legislation will be introduced in FB 2012 to amend, with effect from 21 March 2012, the excluded property and settled property provisions to close an avoidance scheme involving the acquisition of interests in offshore trusts by UK-domiciled individuals. The changes will ensure that any reduction in the value of a person's estate as a result of the arrangements is charged to inheritance tax. The changes will largely replicate the tax treatment that a UK-domiciled individual using such a scheme would incur if the assets within the offshore trust had instead been transferred to a UK trust.

ANTI-AVOIDANCE – INCOME TAX AND CORPORATE SETTLOR-INTERESTED TRUSTS (PARA 1.61)

Legislation will be introduced in FB 2012 to amend, with effect from 21 March 2012, the settlements legislation (Pt 5, Ch 5, Income Tax (Trading and Other Income) Act 2005) in order to close an avoidance scheme involving corporate settlors. The changes will confirm that income which arises under a settlement and originates from any settlor who is not an individual is not treated as that of the settlor.

11. VAT

VAT TURNOVER THRESHOLDS FOR REGISTRATION AND DEREGISTRATION (PARA 1.48)

The following changes apply from 1 April 2012:

- The annual taxable turnover threshold, which determines whether a person must be registered for VAT, will be raised from £73,000 to £77,000.
- The taxable turnover threshold, which determines whether a person may apply for deregistration, will be increased from £71,000 to £75,000.
- The registration and deregistration limits for relevant acquisitions from other EU member states will also be increased from £73,000 to £77,000.

The simplified reporting requirement (three-line accounts) for the income tax self assessment return will continue to be aligned with the VAT registration threshold.

VAT – CORRECTING ANOMALIES AND CLOSING LOOPHOLES (PARA 1.47)

There are several areas that have been identified where existing VAT liabilities have been increasingly subject to challenge. In an attempt to clarify the position and remove differing VAT rates being applied to similar supplies, VAT at the standard rate of 20% will be applied to the items listed below with effect from 1 October 2012.

A consultation on the draft legislation and transitional arrangements was published on 21 March 2012. Anti-forestalling provisions will be introduced in FB 2012 to apply from 21 March 2012.

Provision of self-storage facilities

All self-storage charges will be standard-rated, regardless of whether or not the provider has opted to tax the land on which the storage facilities are made available.

Approved alterations to listed buildings

Changes will result in:

- all building materials and construction services supplied in the course of an approved alteration to a protected building becoming subject to VAT at the standard rate; and
- a narrowing of the circumstances in which the first sale or long lease by a developer of a substantially-reconstructed protected building can be zero-rated, so that only buildings reconstructed from a shell continue to benefit from the zero rate.

The VAT treatment of approved alterations to protected buildings will therefore become consistent with their repair and maintenance.

There will be transitional arrangements so that where a contract was entered into before 21 March 2012, or in the case of a substantial reconstruction at least 10% (measured by reference to cost) of the reconstruction of the protected building was completed before 21 March 2012, then:

- any supply of building materials made from 21 March 2012 as a result of that contract can continue to be zero-rated until 20 March 2013; and
- the first grant of the completed building can be zero-rated until 20 March 2013.

Sale of hot food, with the exception of freshly baked bread

A simpler and more objective test based on whether the food is above ambient air temperature at the time it is provided to the customer will be introduced. All food, other than freshly baked bread, will be subject to VAT at the standard rate when sold above the ambient air temperature.

Cold food consumed on the supplier's premises

The definition of 'premises' for catering purposes will be amended to make it clear that areas adjacent to a retailer as well as areas that are shared with other retailers will be included.

Sports drinks

The sale of sports nutrition drinks that are marketed as products that enhance physical performance, accelerate recovery after exercise or build bulk will become standard-rated in line with other soft drinks.

Holiday caravans

Sales of holiday and leisure caravans will be subject to VAT at the standard rate, while preserving the zero rate for the sale of residential caravans. Touring caravans that are less than seven metres long are already standard-rated. Only caravans that are designed and constructed for continuous year-round occupation will be zero-rated.

Rental of hairdressers' chairs

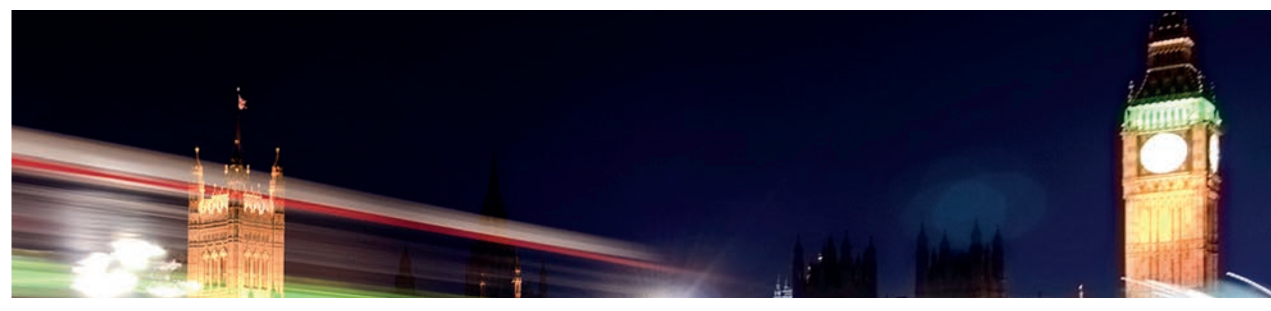
The VAT liability of the rental of a chair by a salon to a hairdresser will be clarified as subject to VAT at the standard rate in all cases and will not be capable of treatment as an exempt right over land.

RELIEF FOR EUROPEAN RESEARCH INFRASTRUCTURE CONSORTIA (PARA 1.50)

Secondary legislation will be introduced in autumn 2012 to provide VAT relief to European Research Infrastructure Consortia.

CHARITABLE BUILDINGS (PARA 2.47)

Charitable buildings will be withdrawn from the scope of the VAT-reduced rate for the supply and installation of energy-saving materials. The reduced rate of VAT will continue to apply to the supply and installation of energy-saving materials in residential accommodation, including accommodation operated by charities. Legislation will be introduced in FB 2013.



REVALORISATION OF ROAD FUEL SCALE CHARGES (PARA 1.49)

A statutory instrument laid on 21 March 2012 will revalorise the VAT fuel scale charges with effect from 1 May 2012. The fuel scale charges are published in Annex B of the Overview Document.

ZERO RATE FOR ADAPTED MOTOR VEHICLES AND BOATS FOR WHEELCHAIR USERS (PARA 2.48)

A voluntary disclosure scheme is to be introduced to gather further information about the use of the VAT zero rate relief on the supply of motor vehicles and boats adapted for use by wheelchair users. The relief is open to wide interpretation, difficult for suppliers to administer and vulnerable to abuse.

AMENDMENT TO ROAD FUEL SCALE CHARGES (PARA 2.49)

The Government will consult on legislation to be introduced in FB 2013 to give effect to extra-statutory concessions relating to fuel scale charges and withdraw a concession relating to partially exempt businesses. It is also proposed that the way in which the annual revalorisation is carried out will be simplified and that revalorised fuel scale charges will be set out in an annual public notice having the force of law instead of an annual statutory instrument.

REFUNDS FOR NHS BODIES (PARA 2.50)

Following changes to be introduced by the Health and Social Care Bill, the Government will introduce legislation in FB 2013 to include certain NHS bodies within the Section 41 VAT Refund Scheme.

VAT INVOICING RULES (PARA 2.51)

Following changes made by the EU Invoicing Directive, there will be minor changes to simplify the UK VAT invoicing rules, with effect from 1 January 2013.

UNIVERSAL CREDIT CONSEQUENTIAL CHANGES TO VAT (PARA 2.52)

The rules governing the VAT zero and reduced rates will be amended to ensure claimants of universal credit (UC) get the same VAT relief as those who are claiming the benefits that the UC replaces. These changes will be introduced by statutory instrument with effect from 1 April 2013.

EXEMPTION FOR PROVIDERS OF EDUCATION (PARA 2.53)

The Government will consult on and review the VAT exemption for providers of education, particularly at university degree level, to ensure that commercial universities are treated fairly.

FREIGHT TRANSPORT SERVICES PERFORMED WHOLLY OUTSIDE THE EU (PARA 2.54)

The Government will formalise the temporary arrangements under which supplies of freight transport and related services taking place wholly outside the EU are not liable to UK VAT when performed for UK businesses and charities, by introducing secondary legislation in autumn 2012.

SMALL CABLE-BASED TRANSPORTATION SYSTEMS (PARA 2.55)

The rate of VAT applicable to the carriage of passengers on small cable-based transport will be reduced from 20% to 5% with effect from 2013. This will apply where vehicles carry fewer than 10 people each, as transport in larger vehicles is zero-rated. This reduction will be evaluated after three years. Consultation on implementation, impact, administrative burdens and proposals for evaluation will take place in summer 2012.

12. DUTIES

ALCOHOL DUTY RATES (PARA 1.34)

Duty rates for all alcoholic drinks are to be raised by 2% above the rate of inflation (based on RPI) with effect from 26 March 2012.

BLACK BEER – REPEAL OF RELIEF

The relief from excise duty of a particular type of beer is to be repealed with effect from 1 April 2013. The product, known as Black Beer in the UK, has an original gravity of 1,200 degrees or more and is a concentrated beverage made from malt.

ALCOHOL FRAUD (PARA 2.42)

The Government will consult on alcohol anti-fraud measures, including the introduction of fiscal marks for beer, supply chain legislation and a licensing scheme for wholesale alcohol dealers. Any legislation will be introduced in a future Finance Bill.

TOBACCO DUTY RATES (PARA 1.35)
Duty rates for all tobacco products are to be increased by 5% above the rate of inflation (based on RPI) from 18:00 on 21 March 2012.

HERBAL SMOKING PRODUCTS (PARA 2.43)
The tax treatment of legally available herbal smoking products is to be brought in line with the treatment of those containing tobacco. A consultation will be published shortly and legislation will be in FB 2013.

MACHINE GAMES DUTY (PARA 1.36)
The taxation of gaming machines is to be reformed through the introduction of machine games duty (MGD) with effect from 1 February 2013. MGD will be charged on the net takings from playing dutiable machine games, being those where customers hope to win a cash prize worth more than they stake.

Where MGD is payable, it will replace both amusement machine licence duty (AMLD) and VAT. There will be two rates of MGD. The lower 5% will apply to machines with maximum stakes of 10p and maximum cash prizes of £8, and the standard 20% rate will apply to all other dutiable machine games.

Supplies relating to the playing of dutiable machine games will become exempt from VAT with effect from 1 February 2013.

AMUSEMENT MACHINE LICENCE DUTY (AMLD) AND GAMING DUTY (PARA 1.37)
AMLD is to be increased in line with inflation and the gross gaming yield (GGY) bandings for gaming duty are to be raised, both in line with inflation (based on RPI). These changes will affect casinos and anyone who provides a gaming machine for play in the UK.

The new AMLD rates will be charged for any licence applications that are received by HMRC after 16:00 on 23 March 2012. The GGY bandings used to calculate gaming duty must be used for any accounting periods starting on or after 1 April 2012.

REMOTE GAMBLING (PARA 2.40)
A place of consumption based taxation regime is to be introduced for remote gambling. Under the revised taxation regime, operators will pay tax on gambling profits generated from customers in the UK, whether the supplier is in the UK or elsewhere. A consultation on detailed design characteristics will follow soon.

Legislation will be introduced in a future finance bill and the measure is planned to be introduced in December 2014, although the implementation date will be kept under review.

COMBINED BINGO (PARA 2.41)
It is proposed to relax the current bingo duty arrangements for combined bingo involving non-UK participants. An informal consultation will start in June and any legislation will be introduced in FB 2013.

AVIATION TAX – RATES (PARA 2.44)
Air passenger duty (APD) rates will be increased in line with RPI from 1 April 2013.

APD – DEVOLUTION OF RATE TO NORTHERN IRELAND (PARA 1.38)
As announced on 21 February 2012, legislation will be introduced in FB 2012 to devolve power to the Northern Ireland Assembly to set APD rates for direct long haul flights departing from Northern Ireland.

RED DIESEL IN PRIVATE PLEASURE CRAFT (PARA 1.39)
With effect from 1 April 2012, a declaration will have to be made at the time red diesel is purchased for use in private pleasure craft to include an acknowledgement that any restrictions and prohibitions under the national laws of another member state on the use of fuel for propelling private pleasure craft outside UK waters are not affected by UK provisions.

VEHICLE EXCISE DUTY (VED) RATES (PARA 1.40)
VED rates are to be increased in line with RPI with effect from 1 April 2012, apart from VED rates for heavy goods vehicles which will be frozen in 2012/13.

VEHICLE EXCISE DUTY (VED) ADMINISTRATION (PARA 2.45)
The Government will introduce legislation in FB 2013 to:

- extend the amount of time that a tax disc does not have to be displayed following the payment of tax from five working days to 14 days; and
- allow additional days on nil-rate VED licences, to deregulate licensing for vehicle leasing businesses.

CUSTOMS AND EXCISE MODERNISATION (PARA 2.67)

Following consultation, the Government will update legislation in relation to detention and definition of goods and the size of penalties for smuggling on ships. Legislation will be in FB 2013.

13. ENVIRONMENTAL TAXES

AGGREGATES LEVY RATE (PARA 2.46)

At Budget 2011, the Government announced that the rate of aggregates levy would increase from £2.00 to £2.10 per tonne from 1 April 2012. It has now decided to delay the increase until 1 April 2013 to avoid putting additional pressure on the aggregates industry in Northern Ireland.

CARBON PRICE SUPPORT RATES (PARA 1.41)

Budget 2011 announced the introduction on 1 April 2013 of a carbon price floor for the power sector. The carbon price floor is intended to encourage additional investment in low-carbon power generation by providing greater support and certainty to the power price. The first tranche of primary legislation was introduced in FA 2011.

The measures introduced by Budget 2012 include a number of changes to the price floor. This follows consultation and the issue of draft legislation in December 2011, the additional provisions will be included in FB 2012 with subsequent secondary legislation following Royal Assent to FA 2012. They will have effect from 1 April 2013.

The carbon price support (CPS) rates for 2014/15 and indicative CPS rates for 2015/16 and 2016/17 have also been announced.

CLIMATE CHANGE LEVY RATES (PARA 1.42)

The rates of climate change levy (CCL) are being increased in line with RPI.

CLIMATE CHANGE LEVY – INDIRECT SUPPLIES OF COMBINED HEAT AND POWER ELECTRICITY (PARA 1.43)

Budget 2011 announced the Government's intention to withdraw the exemption from CCL for supplies of electricity generated in a combined heat and power (CHP) station that are made by an electricity utility to business energy consumers with effect from 1 April 2013.

Regulators will no longer issue levy exemption certificates (LECs) for electricity generated in CHP stations after 1 April 2013. However, electricity utilities will be able to continue to allocate any CHP LECs they acquired before that date until 31 March 2018 to allow time to use up their CHP LEC stocks. The policy objective behind the change is to remove an exemption that was administratively complex and costly to the taxpayer. Legislation will be in FB 2012 with subsequent secondary legislation.

RATES OF LANDFILL TAX (PARA 1.44)

The standard rate of landfill tax (LFT) is due to be increased from £56/tonne to £64/tonne from 1 April 2012. Budget 2012 announces a further increase to £72/tonne from 1 April 2013. The lower rate of LFT will remain frozen at £2.50/tonne.

LANDFILL TAX –SCOTTISH LANDFILL SITES (PARA 1.45)

As previously announced the Government will introduce retrospective legislation in FB 2012 to correct the definition of a landfill site in Scotland for the purposes of LFT. The legislation will have retrospective effect back to 21 March 2000 and will bring LFT legislation in Scotland into line with the rest of the UK.

LANDFILL COMMUNITIES FUND (PARA 1.46)

Budget 2012 confirmed that the value of the landfill communities fund for 2012/13 will remain at £78.1m. The cap on contributions that landfill site operators can make to environmental bodies is to be reduced from 6.2% to 5.6% of their annual tax liability.

14. ANTI-AVOIDANCE

THE GENERAL STRATEGIC APPROACH

At the time of Budget 2011 the Government published Tackling tax avoidance which proposed a more strategic approach to tax avoidance with a focus on prevention, detection and counteraction.

One of the issues raised at that time was whether it was going to be beneficial to introduce a General Anti-Avoidance Rule (GAAR) in the UK. The Government subsequently established the Aaronson Review which reported back to the Government with its conclusions in November 2011. The Government has accepted the recommendations of the Aaronson Report and it will introduce a GAAR in FB 2013 after a formal consultation

later this year. The Government has decided to call it a General Anti-Abuse, rather than Anti-Avoidance, Rule.

In terms of counteraction the Government is going to identify particular areas where there are systemic risks to the system. In summer 2011 it looked at, and consulted on, income tax losses and unauthorised investment trusts. We responded to those consultations with TAXREPs 62/11 and 63/11 respectively.

The intention at the time of Budget 2011 was that progress on these consultations would be reported in Budget 2012 with draft legislation in autumn 2012 and specific legislation in FB 2013.

THE BUDGET 2012 STATEMENT
The Government seems to have somewhat pre-empted the conclusion of the income tax loss consultation by announcing in Budget 2012 a cap on unlimited tax reliefs which is going to go further than restricting relief for income tax losses and could limit the benefit from other reliefs, such as Gift Aid. This is likely to cause some controversy.

The Government is also going to consult further on authorised investment trusts with a view to legislation in FB 2013.

Budget 2012 also included specific proposals to prevent avoidance of SDLT and in his Budget speech the Chancellor stated:

> 'If you buy a property in Britain and it is used for residential purposes, then we will expect stamp duty to be paid. That is the clear intention of Parliament.
>
> **I will not hesitate to move swiftly, without notice and retrospectively if inappropriate ways around these new rules are found.**' [our emphasis]

We have set out below the Budget proposals in relation to SDLT, as in addition to an increase in the SDLT rate to 7% for properties costing more than £2m there are a number of anti-avoidance provision proposed, or to be consulted on.

There are also quite a number of further anti-avoidance provisions which are covered in the latter part of this section.

GENERAL ANTI-ABUSE RULE (GAAR) (PARA 2.58)
The Government has accepted the recommendations of the Aaronson Report and intends to bring in legislation in FB 2013 to introduce a General Anti-Abuse Rule.

During the summer the Government will consult on new draft legislation, the establishment of an advisory panel and the development of full explanatory guidance. The GAAR will also extend to SDLT.

SDLT (PARAS 1.51, 1.52, 1.59 AND 2.56)
The basic SDLT charge on the purchase of expensive properties costing more than £2m will increase from 5% to 7%. This will apply to contracts entered into on or after 22 March 2012.

In addition a higher 15% rate will apply to the acquisition of such properties if they are acquired by certain types of non-natural persons, which are defined to include 'companies, collective investment schemes (including unit trusts), and partnerships in which a non-natural person is a partner'.

This 15% charge will apply to transactions where the effective date is 21 March 2012 or later. The TIIN states that there will be transitional rules that will apply to transactions that would otherwise be within the higher rate charge but where the contract was completed and signed by all parties to the transaction on or before 21 March 2012.

The increase in the SDLT rate to 7% is anticipated to bring in £150m in 2012/13 rising to £300m in 2016/17 while the 15% rate is anticipated to bring in £65m in each tax year from 2013/14 onwards.

There is also going to be a technical change to block marketed avoidance schemes which involved the acquisition of a property and the immediate sub-sale of an option for a third party to acquire that property. This particular change will have immediate effect from 21 March 2012.

There will be a consultation over the summer on the introduction of an annual charge on properties over £2m owned by certain non-natural persons with a view to legislation in FB 2013.

CGT CHARGE ON NON-RESIDENT NON-NATURAL PERSONS (PARA 2.7)
There is to be consultation over the summer on the introduction of a CGT charge on residential property owned by non-resident, non-natural persons with a view to legislation in FB 2013 This consultation will be in conjunction with the SDLT annual charge consultation mentioned above.

CAP ON UNLIMITED TAX RELIEFS (PARA 2.3)

This announcement is causing considerable speculation and concern. The information published so far has been very brief. The proposal as stated is that legislation will be introduced in FB 2013 to apply a cap on income tax reliefs claimed by individuals from 6 April 2013. The cap will apply only to reliefs which are currently unlimited. For anyone seeking to claim more than £50,000 in reliefs, a cap will be set at 25% of income (or £50,000, whichever is greater). Draft legislation will be published for consultation later this year.

We responded to the consultation in summer 2011, in TAXREP 62/11, when the consultation was limited to the use of loss reliefs. The current proposal seems much wider. We understand the main reliefs likely to be restricted are loss reliefs, charitable giving and qualifying loan interest. It will not affect reliefs that are already capped. We also understand that gift aid and gifts of qualifying property to charity will be included, although the Government says (para 1.193) that it will look at ways to ensure that this will not impact significantly on charities that depend on large donations.

DEBT BUY-BACKS (PARA 1.54)

The Government announced on 27 February 2012 that it would introduce legislation, some of which would be backdated to 1 December 2011, to prevent a bank buying back its issued debt that was trading at a discount to the issue price in such a way that it would prevent the release, and thus the taxation, of the discount.

The Red Book estimates that this measure will save the Government £395m in 2012/13 which makes it one of the most important anti-avoidance measures in the Budget.

CORPORATE INVESTORS IN AUTHORISED INVESTMENT FUNDS (AIFS) (PARA 1.55)

This anti-avoidance measure was also announced on 27 February 2012 and legislation in FB 2012 will have effect from that date to prevent taxpayers from being able to create repayable tax credits with distributions received from an AIF where no underlying tax had been paid.

MANUFACTURED PAYMENTS (PARA 2.59)

This confirms the announcement on 15 September 2011 that legislation in FB 2012 will prevent companies from taking advantage of the manufactured overseas dividends rules to obtain repayment, or set off, of income tax that the UK Exchequer does not receive.

There is also going to be a consultation during the summer on policy in this area under the counter-action arm of the Government's more strategic approach to anti-avoidance.

POST-CESSATION TRADE AND PROPERTY RELIEF (PARA 1.56)

The Government announced on 12 January 2012 that, with immediate effect, it would block artificial arrangements whereby traders and others who have ceased their business, but then incur expenses or fail to recover their trade debts, seek to set those 'losses' against their other income.

PROPERTY BUSINESS LOSS RELIEFS (PARA 1.57)

Following the announcement on 13 March 2012 there will be legislation in FB 2012 to prevent property business relief being given where allowable agricultural expenses arise from arrangements entered into in which the main purpose, or one of the main purposes, is to obtain a tax reduction.

OTHER ANTI-AVOIDANCE MEASURES (PARAS 1.62–1.65)

The following anti-avoidance measures were also included in the Budget announcements:

- Capital allowances: changes to anti-avoidance rules for plant and machinery.
- Sale of lessor companies.
- Plant or machinery leasing.
- Life insurance: income tax avoidance.
- Site restoration payments.

FORTHCOMING CONSULTATIONS (PARAS 1.66, 2.36 AND 2.60)

In addition to the consultation on manufactured payments mentioned in the paragraph above there are also going to be consultations on:

- Disclosure of tax avoidance schemes – extension of hallmarks.
- Unauthorised unit trusts with legislation in FB 2013.
- Simplification of the capital gains rules where companies use a non-sterling functional currency.

15. HMRC POWERS AND ADMINISTRATION

PAYE LATE PAYMENT AND FILING PENALTIES (PARA 2.64)

HMRC will consult before the summer on new models for late payment and late filing penalties under Real Time Information (RTI). Legislation will be in FB 2013.

Live pilots for RTI in which real employers will be submitting real employee data will be starting in April 2012 with the first employers due to be mandated between April and October 2013, the commencement date of the new universal credit which relies on RTI data. The Tax Faculty is engaged in discussions with HMRC about RTI.

COMMUNITY AMATEUR SPORTS CLUBS AND GIFT AID (PARAS 1.17 AND 1.18)

Legislation will be introduced in FB 2012 to ensure that Community Amateur Sports Clubs (CASCs) do not need to amend their constitutions to retain their status, to reflect new management and location conditions, and to allow CASCs to make Gift Aid repayment claims.

The measures will amend the CASC and Gift Aid legislation to ensure it operates as originally intended. At the moment HMRC is registering CASCs and allowing Gift Aid repayments on a concessionary basis. The amendment will put both points on a statutory basis and will apply with retrospective effect from 1 April 2010 in relation to Gift Aid and 6 April 2010 in relation to Gift Aid claims.

An existing extra-statutory concession allows charitable companies and CASCs to make claims for repayment of Gift Aid outside a tax return. This practice will be put on a statutory footing for claims made on or after 6 April 2012.

TAX AGENTS – DISHONEST CONDUCT (PARA 1.68)

The Government confirmed that it will implement proposals to impose civil sanctions on dishonest tax agents. Draft clauses on this measure were published in December 2011, on which the Tax Faculty commented in TAXREP 10/12. The measures will now be included in FB 2012.

In brief the measures:

- allow HMRC to access an agent's working papers, but this is subject to approval from the tribunal to which the agent can appeal;
- impose a financial penalty on a dishonest agent of up to £50,000 but with mitigation depending upon the cooperation of the agent; and
- allow HMRC to publish the details of agents who have been penalised ('naming and shaming').

These measures, which stem from the review of HMRC's powers begun in 2005, have been through a number of changes since the first consultation document in 2008 and the notorious draft legislation published in February 2010. The latter was universally condemned as potentially targeting ordinary tax planning with no element of dishonesty and for the wide definition of agent which could have included advice received from a friend down the pub.

The latest version of the legislation is now properly targeted. It will only apply to dishonest conduct and HMRC will have to convince a tribunal of that for the provisions to apply. It will not therefore apply to professional agents such as ICAEW members working within the professional code of conduct. As a professional body with a public interest remit to promote high standards among our members, we support HMRC's aim of tackling dishonesty, wherever it arises in the tax system.

However, it will be essential that these provisions are only invoked against agents who are clearly dishonest and not threatened against honest agents who make mistakes. We therefore welcome the clear rights of appeal which should help to minimise any risk that these provisions might be used inappropriately. We also welcome the announcement that a third party organisation whose details HMRC intends to publish to identify the agent penalised now has the explicit right to make representations. For example, a professional firm may have discovered that an employee was acting dishonestly to reduce clients' tax bills and immediately sacked the person agent responsible. However, the firm might still be named as the place where the dishonest agent (ie employee in this case) worked. This could be unfair given that publication might destroy the firm's business even though it acted quickly and properly when the dishonesty was discovered.

UK/SWITZERLAND AGREEMENT (PARA 1.67)

Legislation in FB 2012 will give effect to the Agreement between the UK and Switzerland on cooperation in tax matters that was signed on 6 October 2011. A Protocol was signed on 20 March 2012, as a result of which two changes have been made to the Agreement which will be reflected in the legislation.

- Firstly, from when the Agreement takes effect, where a retention is made under the 2004 Agreement between the EU and Switzerland on the Taxation of Savings, a separate tax finality payment is made which together with the retention achieves an outcome equivalent to the single withholding rate under the October Agreement.
- There is a provision for a levy on the assets of an individual who dies on or after 1 January 2013.

SIMPLIFICATION OF REGULATORY PENALTIES (PARA 2.62)

Following consultation in June 2011, the Government intends to introduce a new power in FB 2013 to increase the value of fixed penalties in line with inflation. In addition, a small number of defunct penalties will be repealed. The Government has decided that the benefits of simplifying regulatory penalties are not sufficient to justify the cost of major reform.

INFORMATION POWERS (PARA 2.65)

The Government announced on 8 February 2012 that it has agreed to work with the governments of France, Germany, Italy and Spain to facilitate exchange of information between financial institutions and the US Internal Revenue Service for the purposes of the US Foreign Account Tax Compliance Act, which aims to combat cross-border tax evasion. HMRC will consult with the financial institutions affected about how this can be done, with a view to legislation in FB 2013.

CRIMINAL INVESTIGATIONS (PARA 2.66)

Legislation will be introduced in FB 2013 to allow HMRC officers undertaking criminal investigations into direct tax or tax credits offences to seize suspected criminal cash under the Proceeds of Crime Act 2002 (POCA) and exercise POCA search and seizure warrants. This will bring the powers into line with those for indirect taxes and duties.

CLEAR DIRECTION IN TAXING TIMES

Tax Faculty members keep up to date with our timely guidance, information and support. Our members enjoy:

TAXline – monthly journal with practical points, news and briefings

TAXline Tax Practice – detailed guidance on current topics

TAXline Tax Planning – annual review of important tax developments

Referral Scheme – expert advice by members for members is only a phone call away. A nominal fee applies

Events and networking opportunities – Tax Faculty CPD Club helps you keep up to date in the company of fellow tax professionals

Why not join us? To find out more about what we can do for you visit our website icaew.com/jointax

ICAEW is a professional membership organisation, supporting over 138,000 chartered accountants around the world. Through our technical knowledge, skills and expertise, we provide insight and leadership to the global accountancy and finance profession.

Our members provide financial knowledge and guidance based on the highest professional, technical and ethical standards. We develop and support individuals, organisations and communities to help them achieve long-term, sustainable economic value.

Because of us, people can do business with confidence.

Tax Faculty
ICAEW
Chartered Accountants' Hall
Moorgate Place London
EC2R 6EA UK

T +44 (0)20 7920 8646
E taxfac@icaew.com
icaew.com/taxfac

linkedin.com – find icaew
twitter.com/icaew
facebook.com/icaew

TECDIG10744 04/12