

# Budget 2009

**Budget report - 22 April 2009...**for business owner managers, the 2009 Budget is probably not going to be one that is fondly remembered. There are some “good news” items - the return of first year allowances, no immediate increase in corporation tax rates, the extension of the loss carry back provisions are examples. However, on the horizon are big increases in personal taxes, including a substantial rise in the tax on dividends - these are covered in our private briefing.

Will the measures proposed make a difference to our struggling economy?

To help you decide, we have summarised some the items that we feel will be most relevant to our clients below:

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## Capital allowances - first year allowances

**Increased capital allowances will be available on expenditure on general business plant and machinery (P & M) incurred during the 12 month period beginning in April 2009, through the introduction of a new temporary 40% first year allowance (FYA).**

Since 1 April 2008, businesses have been able to claim 100% capital allowances on the first £50,000 spent on eligible assets – known as the annual investment

allowance - and this will still be available. However, businesses that incur expenditure on P & M above this initial £50,000 during 2009/10 will qualify for 40% FYA on the excess. There are some assets that won't qualify for these FYAs, such as cars; long life assets; integral features in properties and leased assets.

For businesses with high levels of P & M expenditure, this is welcome news.

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## Corporation tax rates

The main corporation tax rate will remain at 28% for 2009/10 and 2010/11, and the upper profit threshold that this rate relates to has also remained the same at £ 1.5m. The small companies rate will also remain unchanged at 21% for 2009/10 and again the profit threshold for this rate has remained the same at £300,000. However, it is now proposed that the small companies rate will increase to 22% on 1 April 2010.

## Energy efficient plant - changes to the enhanced capital allowances

Enhanced capital allowances (ECAs) are presently available at 100% on the cost of certain plant and machinery that is either energy or water efficient. Items qualifying for these ECAs are published in an annual list and changes are being made (later this year) to include several new technologies on the list, including uninterruptible power supplies; close control air conditioning and air to water heat pumps.

# Trading losses - extension to carry back rules

**Further to the Chancellor's announcement in the Pre-Budget statement in November, changes have been made to extend the ability to carry back trading losses against earlier years' profits, for both incorporated and unincorporated businesses, up to certain limits.**

These new measures are aimed at helping businesses which incur trading losses. Under the new rules, trading losses can now be carried back 3 years rather than just 1 year, under the proviso that losses are carried back to later years first and, more importantly, that the maximum amount of losses in each year that can be carried back more than one year is £50,000. As before, there is no limit on the amount that can be carried back one year other than the amount of the loss.

These new rules will apply to accounting year ends ending between 24 November 2008 and 23 November 2010 for companies and those ending during the 2008/09 and 2009/10 tax years for unincorporated businesses.

The loss relief rules regarding businesses ceasing to trade and those for unincorporated start up businesses are unaffected by these new rules.

**The loss carry back provisions may enable businesses to get tax repayments from earlier years.**

## The business payment support service

The business payment support service was introduced last year and is aimed at helping businesses spread their payments if they are struggling to meet their liability to either income tax, corporation tax, national insurance/PAYE or VAT.

The Chancellor has confirmed that where businesses are due to pay tax based on the previous year's profits and are likely to make losses in the current year, those losses can be taken into account when agreeing the level of payments to be made. This will only help in relation to corporation tax and income tax.

## Companies receiving foreign dividends

**New rules are being introduced which will change how companies receiving foreign dividends are taxed and these new rules will broadly apply to dividends received after 1 July 2009.**

Currently, foreign dividends received are subject to corporation tax, with a credit being given for any foreign tax withheld on the dividend and (for shareholdings above 10%) for foreign tax paid on the underlying profits.

The new rules will treat foreign dividends received in the same way as UK dividends and both UK and foreign dividends will generally be exempt from corporation tax. There will be some exceptions and also some anti-avoidance provisions.

## Changes to company car benefit tax rules

Legislation will be introduced in the 2009 Finance Bill to set the company car tax rates for 2011/12 and subsequent years and also to abolish the £80,000 maximum car price cap from 2011/12.

As most people will know, company car benefits are based on the CO<sub>2</sub> emissions of the car and are calculated by applying the appropriate percentage to the list price of the car, where the appropriate percentage is based on the CO<sub>2</sub> emissions of the car. The percentage ranges from 15% to 35%, although there is a lower rate of 10% for low emission cars and 9% for electrically propelled cars. Diesel cars usually have a 3% supplementary charge.

The lower threshold figure of 15% will reduce from 135g/km to 130g/km in 2010/11 and 125g/km in 2011/12. This means that the income tax charge suffered on cars at these lower levels will potentially increase.

The removal of the £80,000 cap may significantly increase the benefit in kind charge for some employees with prestige cars.

## Connected companies - release of intercompany trade debts

From Budget day, changes are being made to correct an anomaly that may have previously occurred when intercompany trade debts are released or written off.

Under the old rules, a company writing off a connected company trade debt may not have got a deduction for the release of the debt, but the company released from the debt may have been taxed on the release. The new rules correct this anomaly and make sure the company being released from the debt is not charged to tax, where the release is after 22 April 2009.

## Cars bought by businesses - changes to tax relief

It was announced in last year's Budget that changes would be made to the way that tax relief is calculated on cars bought by businesses and that the focus will be on the CO<sub>2</sub> emissions of the car.

Historically the percentage of capital allowances available on the cost of a car were based on its price and the allowances were restricted for so called "expensive cars" costing more than £12,000. From April 2009, the rate of capital allowances will be based on the CO<sub>2</sub> emissions and the

£12,000 limit will be abolished. Cars with CO<sub>2</sub> emissions of more than 160g/km will have allowances of 10% per annum (on a reducing basis). Cars with emissions of 160g/km or less will have allowances available at 20% per annum. Transitional rules for expensive cars acquired before April 2009 will apply for the next 5 years.

The rules regarding the amount of car lease rental payments that are tax deductible will also change. From April 2009, 15% of the payments will not be deductible for cars with CO<sub>2</sub> emissions exceeding 160g/km.

## Changes to the corporate venturing scheme

New measures are being introduced that relax the time limits for the expenditure of money received by companies through the corporate venturing schemes (CVS). These measures will apply from Budget day.

Under the CVS, a company investing in the newly issued share capital of other qualifying companies can claim 20% corporation tax relief on the amount invested, subject to certain conditions. Previously, the recipient company had to expend 80% of the funds received within 12 months and the balance within a further 12 months. This time period is now being relaxed with the funds just having to be fully expended within 2 years.

## Yorkshire & Humberside

Leeds city-region is to be a pilot (along with Manchester) in a new scheme to pass down from central government greater control over housing, regeneration, transport and development, in a similar way to the powers given to London. This is tied in to shares of the larger investment funds announced, especially in connection with new technologies, and the universities are expected to play a major role.

## VAT

**Last year in an attempt to help the economy, the Chancellor reduced the standard rate of VAT down from 17.5% to 15% until 31 December 2009.**

No further changes to the rate have been announced and hence the rate will revert back to 17.5% from 15% with effect from 1 January 2010. To stop any abuse of

the lower rate before the increase, measures have been announced that are aimed at preventing any advantage being gained.

Other VAT changes include an increase in the Registration threshold by £1,000 to £68,000 from 1 May 2009; the modernisation of cross border trading over a 3 year period from 1

January 2010 (encompassing changes to the place of supply rules for services and quarterly EC Sales Lists) and a simplification of the "option to tax" procedure for reclaiming VAT on commercial property. These simplified rules now mean businesses will be less likely to have to contact HMRC to obtain prior permission to opt to tax and reclaim the VAT.

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## Closure of tax avoidance schemes

As usual the Chancellor has used the Budget as an opportunity to close several tax avoidance schemes that have been brought to them under the disclosure rules introduced a few years ago, including schemes involving foreign exchange gains and losses; offshore dividends where double taxation relief is claimed; large intercompany convertibles and derivative contracts; increased tax relief using sale and leaseback and disguised interest schemes.

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## Construction industry - false self employed status

It was announced that there would be a period of consultation to find a long-term solution to the issue of "false self-employed status". Further details are to follow.

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