

Pre-Budget 2009

Pre-budget report - 9 December 2009...Speculation was rife prior to the pre-budget report (PBR) this year that capital gains tax couldn't possibly remain at only 10 or 18% as alongside a 50% higher rate of income tax. Also, further anti-avoidance legislation was widely anticipated to counter those companies making large contributions into "employee benefit" trusts to avoid corporation tax and/or income tax.

On the face of it, none of this speculation has been justified at this Stage and, when reading through the detail, there is not a huge amount that warrants reporting from this year's PBR, there is of course another budget due in March providing a further opportunity for changes. However, we have summarised the key points here that we believe will be of general interest to our clients and professional contacts. Naturally, if there is anything that you would like further information on, or you would like to explore how any of the measures may specifically affect you, please get in touch with your usual Sagars contact or any of the team members featured in this publication.

Pensions – yet more changes

We recently distributed one of our TNT e-publications to clarify the position in relation to pension contributions and tax relief – well, it's changed again!

We expressed concerns about company pension contributions – in particular whether a company pension contribution made on or after 22 April 2009 could be added to an employee's earnings as a deemed salary sacrifice, thus resulting in a personal tax charge on the employee.

With his pre-budget report the Chancellor has clarified that where an employee has earnings below £130,000, company pension contributions do not need to be taken into account – it seems that if income is consistently

below £130k a year, the company can potentially (for the time being at least) make large pension contributions on behalf of the employee without the individual suffering a tax charge subject to the application of rules about deemed salary sacrifice in some cases. Where an employee earns over £150k, any company contribution must be taken into consideration and the employee is likely to suffer a tax charge. Where an individual's earnings fall between the £130k and £150k limits, the company pension contribution must be included and, if this addition takes them over the £150k level, there will be a personal tax charge.

If you have any concerns about whether you will be affected by these rules, you must take specific advice before making any decisions or taking action regarding your pension.

National Insurance (NIC) changes - all rates to increase

It was previously announced previously that NIC would increase by 0.5% from 6 April 2011. This has changed and there will now be a 1% increase instead. Employer, employee and self employed contributions will all increase by 1%. This means that, taking NIC into consideration, the top rate of tax will effectively be 52%. Measures will however be introduced to limit the impact on those with earnings of less than £20,000.

Business payment support

Whilst reports indicate that HMRC are getting tougher, the Chancellor announced that the business payment support facility would be extended indefinitely - good news if you need to negotiate some time to pay your tax.

Company cars and vans - go electric!

The company car tax rates applying from 6 April 2012 have been announced and the levels of CO2 emissions for all bands will be reduced by 5g CO2 per km.

This means that to qualify for the lowest company car tax rate of 10%, cars will only be permitted to have emissions of up to 99g/km.

From 6 April 2010, employees provided with electric company cars will benefit from a 0% car tax rate for a period of five years - the current rate is 9%. Similarly, any drivers of electric company vans will have any benefit in kind charge that they may have suffered reduced to 0% from the same five year period.

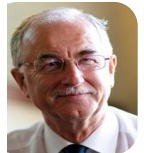
Where employees who drive company cars or vans have fuel provided, the taxable amount for calculating the benefit in kind will rise to £18,000 (from £16,900) for cars from 6 April 2010 and to £550 (from £500) for vans from the same date.

The fuel benefit for cars is calculated by multiplying the company car tax rate (a percentage depending on CO2 emissions) by the taxable amount (£18,000 from 6 April 2010).

Continuing the "green" theme further, it is intended (once EU state aid approval has been obtained) to introduce a 100% capital allowance for businesses acquiring new electric vans on or after 1 April 2010 (companies) or 6 April 2010 (businesses).

For most company car drivers these changes are likely to increase the taxable benefit in kind, but there is a clear incentive for businesses to "go electric" and encourage their employees to do so too with a new company electric car or van!

If you are interested in exploring this further, please contact Philip Lidgitt on 0113 297 6747 or email p.lidgitt@sagars.co.uk



Equitable liability - lobbying works!

One point to note (which has caused a relatively large amount of consternation within the tax profession and lobbying on the taxpayers behalf) is that the concept of equitable liability will be put into statute. Previously it was covered in a concession which HMRC was to withdraw. The implementation date for this legislation has not been announced.

This is quite a complex area but to summarise it in broad terms; Previously if you were very behind with your tax affairs, HMRC could

issue estimated assessments and chase you for the amount of tax they estimated - even if it was clearly excessive.

Legislation will now be introduced to ensure that, where a taxpayer can prove their liability - subject to certain conditions, HMRC will only be permitted to chase the proper amounts of due tax.

This should not affect you if your tax affairs are up to date or you rely on an appropriate professional adviser to help you.

Bank Payroll Tax

As expected, the Chancellor has announced that where an individual bank employee receives a bonus in excess of £25k, the bank will have to pay a tax of 50% on anything above the £25k.

This tax will not in itself be tax deductible for the bank and there will no doubt be lots of anti-avoidance legislation to ensure that there is no way around this for the banks.

However, this tax only applies to discretionary bonuses and contracted ones are unaffected. An employee's tax position remains unaffected.

Salary sacrifice for a free meal and workplace canteens

There has been an exemption in place to enable employers to provide workplace canteens (or similar arrangements) so that their employees can enjoy free or subsidised meals without an income tax benefit in kind charge.

Because HMRC have become aware of specific schemes being created whereby employees sacrifice salary and are then given free lunches, a restriction will be placed on the tax relief.

However, if you are providing a workplace canteen without it being part of a salary sacrifice arrangement, there is no indication that the tax relief will be removed.

The new rules will take effect from 6 April 2011.

Contact Kate Naylor for more information on 0113 297 6825 or email k.naylor@sagars.co.uk



Research and Development (R&D) - broadening the tax relief

More companies may now be eligible for enhanced tax relief on qualifying R&D spend. Until the PBR, a company undertaking the R&D work needed to own the intellectual property arising from the R&D. Now, for accounting periods ending on or after 9 December 2009 this restriction will be removed.

This means that there may now be scope for additional R&D claims where a company is undertaking R&D on someone else's behalf, broadening the relief to companies who may not have made claims before.

Tax rates and thresholds

Inheritance tax – the nil rate band will be frozen at £325,000 for the tax year from 6 April 2010 (it had been stated previously that it would increase to £350,000).

Income tax – bands and allowances will not increase in 2010/2011 from current levels.

Stamp duty land tax – the lower threshold will revert to £125k (from a temporary £175k) from 1 January 2010.

Corporation tax – the small companies rate of tax will remain at 21% for the year from 1 April 2010 (it was previously scheduled to increase to 22%).

VAT - rate change

As you are no doubt aware, the rate of VAT will return to 17.5% from 15% on 1 January 2010.

VAT - Flat rate scheme

The flat rate scheme provides an optional simplified VAT arrangement for businesses with a turnover up to £150,000.

The flat rate percentages were re-calculated in December 2008 to reflect the temporary reduction in the standard rate of VAT and have now been reworked again. New rates will be implemented on 1 January 2010 which include technical adjustments to reflect more up to date business patterns, meaning that for some sectors, the rates will not simply return to the level set prior to the December 2008 changes. Virtually all sectors will suffer an increase as a result of the increase in the standard rate but some sectors face proportionately bigger increases due to the other adjustments. This is consistent with the approach adopted last year when the standard rate went down.

Perhaps this is an incentive to get your purchases in before 31 December 2009 and send any bills to non VAT registered customers before then too?

John Fisher is our resident VAT consultant and is available to talk to if you wish to further explore how the VAT changes may impact upon you and your business. Please contact John on 0113 297 6901 or email j.fisher@sagars.co.uk

Enterprise investment schemes and venture capital trusts

It has been announced that there will be a new definition of a “small company” for the purposes of applying these reliefs with the aim of focusing the reliefs on smaller high risk businesses. There are some other changes proposed, and draft legislation will follow.

This is something to keep an eye on if you make EIS or VCT investments, or if you are looking for investors under these schemes.

Disclosure of tax avoidance schemes (DOTAS)

Although the DOTAS rules have been around for a while, it was announced in the pre-budget report that stamp duty land tax (SDLT) avoidance schemes in relation to residential property worth at least £1m will also fall under the DOTAS rules. Currently only non residential SDLT schemes have to be disclosed.

This will only affect purchasers of residential properties costing more than £1m who try to avoid or reduce the SDLT charged on their purchase.

Patent box regime

Proposals are being brought in for a new “patent box regime” from April 2013. If this receives approval, the regime would apply a reduced rate of 10% tax for companies with income from patents. It is likely to apply to patents granted after the legislation has been brought in and is subject to consultation.

For companies exploiting patents, the development of this new legislation will be of great interest. It may also be a factor to consider if you are not yet a limited company but could benefit from these rules in future.

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