LexisNexis

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Budget Summary

22nd April 2009

Note: *It must be remembered that these proposals are subject to amendment during the passage of the Finance Bill.*

PERSONAL TAXATION	2009/10	2008/09
Personal allowance		
general	£6,475	£6,035
aged 65 or over in year of assessment	£9,490	£9,030
aged 75 or over in year of assessment	£9,640	£9,180
age allowance income limit	£22,900	£21,800
minimum where income exceeds limit	£6,475	£6,035
Married couple's allowance (10% relief)		
either partner born before 6 April 1935	N/A	£6,535
either partner aged 75 or over in year of assessment	£6,965	£6,625
age allowance income limit	£22,900	£21,800
minimum where income exceeds limit	£2,670	£2,540
Blind person's allowance	£1,890	£1,800
Income tax rates		
Starting savings rate	10%	10%
on income up to	£2,440*	£2,320*
Basic rate	20%	20%
on taxable income up to	£37,400	£34,800
Higher rate	40%	40%
on taxable income over	£37,400	£34,800
Lower rate on dividend income	10%	10%
Higher rate on dividend income	32.5%	32.5%
Pension schemes allowances		
Annual allowance	£245,000	£235,000
Lifetime allowance	£1,750,000	£1,650,000

*Starting rate applies only to savings income. If taxable non-savings income is above this limit, the starting rate is not applicable.

COMPANY TAXATION	FY2009	FY2008
Corporation tax rates		
All companies (except below)	28%	28%
Companies with small profits	21%	21%
— 21% rate limit	£300,000	£300,000
— marginal relief limit	£1,500,000	£1,500,000
— marginal relief fraction	7/400	7/400
— marginal rate	29.75%	29.75%

For certain profits from oil activities, the full rate and small profits rate are 30% and 19% respectively for both years, the marginal relief fraction is 11/400 and the marginal rate is 32.75%.

CAPITAL GAINS TAX	2009/10	2008/09
Rate — general	18%*	18%*
— trustees and personal representatives	18%*	18%*
General exemption limit	£10,100	£9,600

*subject to available reliefs

INHERITANCE TAX	Transfers after 5/4/2009
Threshold	£325,000
(previously £312,000 for transfers after 5 April 2008)	
Death rate	40%

VAT	
Standard rate 1 Dec 2008 to 31 Dec 2009	15%
Standard rate 1 Jan 2010 to 31 Mar 2010	17.5%
Registration threshold after 30 April 2009	£68,000
(previously £67,000 after 31 March 2008)	

NATIONAL INSURANCE 2009/10

(2008/09 in brackets where different)

Class 1 contributions

Not contracted out

The employee contribution is 11% of earnings between £110 (£105) and £844 (£770) p.w. plus 1% of all earnings above £844 (£770) p.w. The employer contribution is 12.8% of all earnings in excess of the first £110 (£105) p.w.

Contracted out

The 'not contracted out' rates for employees are reduced on the band of earnings from £110 (£105) p.w. to £770 p.w. by 1.6%. For employers, they are reduced on the band of earnings from £110 (£105) p.w. to £770 p.w. by 3.7% for employees in salary-related schemes or 1.4% for employees in money purchase schemes. In addition, there is an employee rebate of 1.6% and an employer rebate of 3.7% or 1.4%, as appropriate, on earnings from £95 (£90) p.w. up to £110 (£105) p.w.

Class 1A and 1B contributions		12.8%
Class 2 contributions		
Flat weekly rate	£2.40	(£2.30)
Exemption limit	£5,075	(£4,825)
Class 3 contributions		
Flat weekly rate	£12.05	(£8.10)

Class 4 contributions

8% on the band of profits between £5,715 (£5,435) and £43,875 (£40,040) *plus* 1% on all profits above £43,875 (£40,040).

ADMINISTRATION OF TAX

Review of HMRC Powers, Deterrents and Safeguards: Payments, Repayments and Debt

The following provisions will be introduced:

- instalment payment schemes will be available to individuals and companies who either wish to spread their tax payments over time or who have not been able to pay the tax they owe on time; and
- HMRC will have a third party information power to require businesses and companies to supply contact details for tax debtors with whom HMRC have lost contact.

The introduction of managed payment plans (MPPs) is intended to help taxpayers with their cash flow by allowing them to spread their income or corporation tax payments equally over a period straddling the normal due dates. The plans will be voluntary and late payments under the plan will not be liable to interest or penalties. The relevant legislation will have effect on and after the date of Royal Assent to the Finance Act, but in practice, MPPs will not be introduced before April 2011 to allow time for HMRC to make changes to their computer and accounting systems.

HMRC will be able to collect small tax debts through the PAYE system, thus allowing taxpayers to spread their debt repayments and reducing HMRC's collection costs. Existing safeguards which limit the amounts that can be collected in this way will be preserved. The new system is likely to begin from April 2012.

New Reporting Requirements for Tax Defaulters

From a date to be announced, HMRC will require those who have incurred a penalty for deliberate understatement in respect of tax of £5,000 or more to provide more information about their tax affairs for up to 5 years, to ensure they have proper systems in place to be able to make a correct tax return. They will be required to submit returns showing more detailed business accounts information, detailing the amount and nature of any balancing adjustments within the accounts.

New Offshore Disclosure Opportunity

The Chancellor has announced a new disclosure opportunity (NDO) for UK residents with unpaid tax connected to an offshore account. The NDO will run from autumn 2009 until March 2010 and taxpayers who take up this opportunity will be expected to pay the tax due, together with interest and a penalty. The level of penalty which will apply will be announced before the scheme starts, but is likely to be lower than that which applies under the normal rules.

HMRC are also seeking to issue notices to financial institutions requiring them to provide information about offshore account holders.

Reclaiming Income Tax, Capital Gains Tax and Corporation Tax Overpayments

The rules relating to error and mistake relief will be amended, with effect for claims made on or after 1 April 2010, as follows:

- the requirements that the overpayment must be the result of a mistake in a return and that it must be made under an assessment will be removed;
- the current restriction on the right of appeal will be removed – claimants will be able to appeal to the courts; and
- the grounds and time limits for a claim will be set out.

Currently HMRC must determine what amount, if any, is just and reasonable to repay and no repayment will be made where the return followed the general practice at the time it was made, or where the mistake was governed by another statutory claim. Under the new rules, HMRC will only be liable to repay an amount where it is provided for by legislation, and the claimant will be able to determine the amount to be repaid, subject to HMRC's right to enquire into the claim within the enquiry window.

Penalties for Late Filing of Returns and Late Payment of Tax

A new, aligned penalty regime will apply to the late filing of returns and late payment of tax for IT, CT, PAYE, NIC, the construction industry scheme (CIS), stamp duty land tax, stamp duty reserve tax, IHT, pension schemes and petroleum revenue tax. The rules provide for a proportionate response, ranging from removal of penalties where a time to pay arrangement has been agreed to significantly higher penalties for prolonged and repeated delay. Penalties will apply whether the obligation is annual or occasional. The regime will not apply to tax credits.

A large number of different penalty and surcharge regimes which currently apply and which are specific to individual taxes, will be repealed. Key elements are as follows.

Penalties for late filing:

- a fixed penalty due immediately after the filing date whether or not the tax has been paid;
- daily penalties of £10 per day, for a maximum of 90 days for returns that are more than 3 months late;
- penalty of 5% of the tax due for prolonged failures;
- higher penalties of 70% of the tax due where the failure continues after 12 months and information has deliberately been withheld.

Penalties for late payment:

- 5% of the amount of tax unpaid 1 month after the due date;
- further penalties of 5% of any amounts still unpaid at 6 and 12 months;
- late payment penalties may be suspended where the taxpayer agrees a time to pay arrangement with HMRC.

There are similar penalties for late filing of CIS returns and for late payment of taxes and deductions collected through the PAYE system.

Taxpayers will have the right of appeal against all penalties and there is explicit provision for an appeal on the grounds of reasonable excuse. A penalty does not have to be paid before an appeal can be made.

Implementation of the new regime will be staged over a number of years, starting with penalties for payment of in-year PAYE from April 2010. Treasury orders will specify the date from which the provisions have effect.

Interest Harmonisation

The current range of different interest regimes for overpaid and late paid tax will be replaced by a single harmonised regime for all the taxes and duties administered by HMRC. For those taxes where HMRC currently charge and pay interest, rates will be aligned by Treasury order which will have effect shortly after Royal Assent. Interest on late payments of in-year PAYE is expected to be introduced, using a risk-based approach, from April 2010. Implementation of harmonisation requires changes to HMRC's computer systems and will be staged over a number of years.

Interest on late paid tax will be charged from the date that tax was due to be paid until the actual date of payment and HMRC will pay interest on tax overpaid from the date it was due to be paid (or actual date of payment if later) until the date of repayment.

The rate of interest on late paid tax will differ from that on overpaid tax, but for each there will be a single rate of simple interest, and regulations will establish the basis for calculating and applying the rates.

Rates will be implemented automatically based on the Bank of England base rate, and changes to rates will be made within 13 working days after any change in the bank rate.

Quarterly instalments payments (QIPs) for companies will be outside this scheme and different rates will continue to apply (although alignment will apply).

HMRC Charter

HMRC will be required by legislation to prepare and maintain a charter which will set out the standards of behaviour and values to which HMRC will aspire in dealing with taxpayers. They will also be required to report, on an annual basis, on how well they are meeting those standards. The charter must be in place by 31 December 2009 and HMRC propose to launch it by the autumn.

The existence of a charter has been the subject of consultation over some months and it was confirmed in November 2008 that this would be given legislative backing.

PERSONAL TAXATION

Income Tax Changes for 2010/11 Onwards

For 2010/11 onwards the basic personal allowance will be reduced for those with adjusted net incomes over £100,000, and an additional higher rate of income tax of 50% will apply to taxable income above £150,000. The personal allowance will be reduced by £1 for every £2 by which adjusted net income exceeds £100,000. This measure replaces the changes announced in the November 2008 Pre-Budget Report.

Dividends that would otherwise be taxable at the new 50% rate will be taxable at a new dividend additional rate of 42.5%. The trust rate will be increased from 40% to 50% and the dividend trust rate will be increased from 32.5% to 42.5%.

This measure includes powers to vary the income tax rates applying to registered pension schemes to take account of the new additional higher rate.

Tax Relief for Pension Contributions

It has been announced that, for 2011/12 onwards, for individuals with taxable income of £150,000 or more, tax relief on pension contributions will be restricted to the basic rate of tax only.

There will be legislation to deter individuals from forestalling this change by increasing their pension savings in excess of their normal regular pattern prior to that restriction taking effect. Anyone with taxable income of less than £150,000 for 2011/12, and for each of the preceding two tax years, will not be affected by any of these changes.

Non-residents and Personal Reliefs

For 2010/11 onwards, the entitlement to UK personal allowances and reliefs will be withdrawn for non-residents who would otherwise qualify for them *solely* by virtue of their being Commonwealth citizens. Many of those affected will still be able to obtain these allowances and reliefs by virtue of double tax treaties.

Employer-provided Living Accommodation

Employees who are provided with living accommodation by their employer on short-term leases where a lease premium is paid upfront with a low rent have avoided tax. From 22 April 2009 leases entered into or extended that are for a duration of 10 years or less will have the lease premium spread over the duration of the lease and taxed along with the rent paid less any amount made good by the employee. These rules do not apply to leases relating to a property used mainly for business purposes and partly for the domestic use of the employee.

Changes to Company Car Tax from 2011/12

From 2011/12:

- the lower threshold emissions figure will be 125g/km;
- the £80,000 list price cap will be abolished;
- the appropriate percentage for electrically-propelled cars will be 9% (a simplification as this is effectively the current position, albeit achieved indirectly);
- the reductions for: electric/petrol hybrids; cars propelled by bi-fuels, road fuel gas or bioethanol; and Euro IV standard diesel cars registered before 1 January 2006 will all be abolished – thus changing the focus to concentrate solely on the emissions figure.

Financial Services Compensation Scheme (FSCS): Accrued Interest

New measures will ensure that amounts representing accrued interest, paid by the FSCS as part of compensation payments to customers of defaulting financial institutions, will be within the charge to income tax.

The legislation will ensure that customers are in the same position as if the accrued interest had been paid by the defaulting financial institution itself.

The measures will apply to payments made by the FSCS after 5 October 2008.

Remittance Basis

Finance Act 2008 made very significant changes from 6 April 2008 to the remittance basis of taxation which enables UK resident individuals who are either non-UK domiciled or not ordinarily resident in the UK to be taxed only on income and gains remitted to the UK. Some further (more minor) changes are to be made to the remittance basis regime. They can be briefly summarised as follows and, except where otherwise stated, apply with backdated effect from 6 April 2008.

- The obligation to file a UK tax return will be removed from certain employees with overseas employment income of less than £10,000 and overseas bank interest of less than £100 all of which is subject to foreign tax.
- The range of exempt property (i.e. property that can be remitted without a tax charge) is extended to include property purchased out of overseas employment income and chargeable gains.
- No claim is required to use the remittance basis if the individual's unremitted foreign income and gains amount to less than £2,000 in the tax year. The rules will be amended to make it clear that such an individual will be treated as having used the remittance basis unless he notifies HMRC that he wishes to be taxed other than on the remittance basis. Also, the situations where an individual need not claim will be extended to cover cases where he has total UK income or gains of no more than £100 which have been taxed in the UK and makes no remittances to the UK in that tax year.
- Certain transitional rules will be amended so that they operate as intended.
- From 22 April 2009, legislation will be introduced to clarify the interaction between the remittance basis regime and the tax rules which apply to settlements in which the settlor has an interest.
- Where an individual pays the £30,000 charge for using the remittance basis, this will count as tax paid for the purposes of Gift Aid relief.
- Certain additional anti-avoidance rules are to be introduced from 22 April 2009.

The Government will give statutory effect to Statement of Practice 1/09 in Finance Act 2010. (This Statement sets out how HMRC treat transfers made from an offshore account which contains only the income relating to a single employment contract, and how earnings should be apportioned between UK and non-UK employment where an employee is taxed on the remittance basis.)

BUSINESS TAX

Carry-back of Business Losses

The period to which businesses can carry back their trading losses is to be extended temporarily. The extended carry-back will apply to losses sustained by unincorporated businesses in 2008/09 and 2009/10 and by companies in accounting periods ending between 24 November 2008 and 23 November 2010. For unincorporated businesses, it applies equally to losses sustained in a profession or vocation.

The new proposals will enable losses to be carried back 3 years instead of 1. However, the amount that can be carried back more than 1 year is limited in total to £50,000, and it can only be set against taxable profits from the same trade. A separate £50,000 cap applies to each year's loss. The set-off must be made against later years' profits in priority to earlier years' profits.

Plant and Machinery: Temporary First-Year Allowance

A new, temporary 40% first-year allowance (FYA) will apply to expenditure on plant and machinery that would otherwise be allocated to the main pool because it is expenditure in excess of the £50,000 cap for the annual investment allowance. Expenditure on certain assets, including long-life assets, integral features, cars and assets for leasing will be excluded.

The 40% FYA will be available, for expenditure incurred in the period of 12 months from 1 April 2009 for corporation tax and 6 April 2009 for income tax, to any company, partnership or individual carrying on a 'qualifying activity'.

Tax Relief for Business Expenditure on Cars

A car costing over £12,000 has until now been required to be placed in a single asset pool for capital allowances purposes. Writing-down allowances (WDAs) are available at 20% but cannot exceed £3,000 per annum for each such car. These were known as the 'expensive car' rules. The expensive car rules are abolished for expenditure incurred on or after 1 April 2009 for companies and 6 April 2009 for non-corporate businesses. Instead, all new qualifying expenditure on cars used exclusively for the business will go either into the main 20% pool or into the special rate 10% pool. This will be determined by the level of the car's carbon dioxide emissions. Cars with emissions over 160g/km will go into the special rate pool. Cars with an element of non-business use will continue not to be pooled but will attract only the 10% special rate of WDAs if their emissions exceed 160g/km. These rules will not apply to motor cycles, which will instead become eligible for the annual investment allowance, first-year allowances and short-life asset treatment. Expenditure incurred *before* 1 April/6 April 2009 on cars costing over £12,000 will continue to be subject to the previous rules for a transitional period of about 5 years. At the end of the transitional period, any remaining written-down value will be transferred to the main pool.

Where a car worth more than £12,000 is leased rather than purchased, there were rules restricting the amount of lease rentals deductible in computing business profits. These are also abolished, in this case where the lease period begins on or after 1 April/6 April 2009. Instead, only 85% of the expenditure on leasing a car with carbon dioxide emissions above 160g/km will be deductible. Where there is a chain of leases, this restriction will apply only to lease rental payments made by one lessee in the chain. There will be no restriction where the car is made available to the business for a period of no more than 45 consecutive days or if the business sub-hires the car to a customer for a period of more than 45 consecutive days (except where the business makes cars available to its employees or to the employees of a connected person). Lease periods or sub-hire periods may be aggregated in determining whether the period exceeds 45 days. There will be no restriction on the deduction of expenditure on the leasing of a car with lower emissions or of a motor cycle.

CORPORATION TAX

Corporation Tax Main Rates

There is to be no change in the main rates of corporation tax. The main rate of 28% for financial year 2009, commencing on 1 April 2009, was fixed in FA 2008. The Finance Bill will set the main rate for financial year 2010 at 28%. The main rate for ring fence oil industry profits was fixed at 30% for financial year 2009 and will remain at 30% for financial year 2010.

Corporation Tax Small Companies' Rate

There is no change in the small companies' rate of corporation tax. The Finance Bill will set the rate for financial year 2009 at 21% and the fraction used in calculating marginal relief will be unchanged at 7/400. The November 2008 Pre-Budget Report announced that an increase in the small companies' rate to 22%, originally planned to take effect from 1 April 2009, would be deferred until 1 April 2010.

The small companies' rate for ring fence oil industry profits will be unchanged at 19% for financial year 2009, and the marginal relief fraction for such profits will remain at 11/400.

Taxation of Foreign Profits

The treatment of foreign profits will be amended so that:

- distributions from foreign companies received on or after 1 July 2009 will largely be exempt from CT;
- finance expense payable by UK companies in accounting periods beginning on or after 1 January 2010 will be subject to a cap equal to the group consolidated gross finance expense;
- with effect broadly for accounting periods starting on or after 1 July 2009 the CFC (superior and non-local) holding company exemptions and acceptable distribution policy exemption will be removed; and
- with effect for transactions undertaken on or after 1 July 2009 the Treasury consents rules are replaced by a post-transaction reporting requirement in relation, broadly, to transactions in excess of £100 million.

Draft anti-avoidance legislation in relation to loan relationships and derivative contracts, published on 9 December 2008, will not now be included in Finance Bill 2009.

Loan Relationships: Connected Companies

Two changes are to be made to the loan relationships rules in relation to connected companies:

- where a trade debt is released, the debtor company will no longer be chargeable on the resultant 'profit' (this will apply to releases on or after 22 April 2009);
- there will be a relaxation of the 'late interest rule' so that, broadly, it will only apply where the creditor is resident in a 'non-qualifying territory' (with the proviso that any abuse will result in anti-avoidance provisions).

This applies for accounting periods beginning on or after 1 April 2009, subject to transitional rules.

Groups: Reallocation of Chargeable Gains

From the date that Finance Act 2009 receives Royal Assent, companies will be able to elect to transfer a capital gain or a loss to another group company irrespective of whether the gain or loss is realised on a disposal to a third party.

This is a simplification of the current provisions contained in TCGA 1992, s 171A which previously only applied if there was a disposal to a third party and operated by deeming an asset to have been transferred intra-group prior to a disposal to a third party. This meant that the election could not be made for certain types of gains and losses (e.g. those arising on a negligible value claim).

These provisions will make it easier for groups to match gains and losses on the disposal of chargeable assets without the need to transfer ownership within the group.

Group Relief: Preference Shares

Where groups of companies issue particular types of preference share capital to external investors, provisions will be introduced in FA 2009 to ensure that such companies can still claim and surrender group relief within their group. These rules will, broadly, apply for accounting periods that commenced on or after 1 January 2008.

Tax Elected Funds

A new regime for UK authorised investment funds and their investors, to be introduced by secondary legislation with effect from 1 September 2009, will treat the investor as having invested directly in the underlying assets where the fund meets certain conditions and makes an election.

A tax elected fund will be required to make distributions of dividends and interest out of its income. UK dividend income will remain non-taxable in the fund and a deduction will be available to the fund for other income that is distributed as interest.

Authorised Investment Funds and Investors in Equivalent Offshore Funds

Secondary legislation is to be introduced in order to give authorised investment funds (AIFs), and UK investors in equivalent offshore funds meeting certain conditions, certainty that transactions appearing on a 'white list' will not be treated as trading transactions for tax purposes. There will be measures to ensure that financial traders cannot shelter profits by routing them through an AIF or an equivalent offshore fund. The new rules will apply for AIFs from 1 September 2009 and for equivalent offshore funds from 1 December 2009.

Investment Trust Companies

A new regime is to be introduced for investment trust companies (ITCs) investing in interest-bearing assets and their shareholders. In broad terms the shareholder's tax position will be the same as it would have been had he or she invested directly in the assets.

The ITC will remain liable to corporation tax on interest income, but will be able to opt to receive a deduction for any interest distributed. The new regime will be introduced by regulations and will apply for interest distributions on or after 1 September 2009.

Real Estate Investment Trusts: Amendments

The Finance Bill will include changes intended to clarify the legislation relating to real estate investment trusts (REITs). The existing legislation relating to the 'balance of business asset' test, whereby a REIT has to have 75% of its assets involved in the property rental business, will be amended to provide an accounting-based definition for all REITs. The legislation will also be amended to clarify the provisions relating to the apportionment of funds where an asset has been partly used for a property rental business and partly for non-rental purposes. There will also be changes governing the requirements which have to be met before a company can become a REIT. The changes will apply from 22 April 2009.

Corporation Tax: Agreements to Forgo Tax Reliefs

Legislation will be introduced to ensure that companies entering into arrangements to forgo tax losses or other reliefs (for instance, under the asset protection scheme) do not benefit from the automatic operation of those reliefs under the Corporation Tax Acts. This will apply to qualifying arrangements entered into on or after 22 April 2009.

SAVINGS AND INVESTMENTS

Individual Savings Accounts (ISAs)

The ISA limit will be raised to £10,200, of which up to £5,100 can be saved in cash (the current limits are £7,200 and £3,600 respectively).

The new limits will apply:

- for people aged 50 and over, with effect from 6 October 2009; and
- for all investors, with effect from 6 April 2010.

The ISA Regulations will be amended by statutory instrument to reflect the changes.

Dividends from Foreign Companies

Where an individual receives a dividend from a non-UK resident company, he is currently entitled to a tax credit only if his shareholding in the company is less than 10% of its issued share capital. The tax credit operates in a similar manner to tax credits attached to dividends from UK companies; it can reduce a tax liability but it cannot be repaid. From 22 April 2009, individuals with shareholdings of 10% or more in receipt of dividends from non-UK resident companies will also be entitled to a tax credit, but only if the source country is a 'qualifying territory'. A territory is a 'qualifying territory' if it has a double taxation agreement with the UK with a non-discrimination article.

The legislation will include anti-avoidance measures to deter abuse. These will include a targeted anti-avoidance rule to deny a tax credit if the dividend is, in fact, from a non-qualifying territory but is re-routed via a qualifying territory.

Improvements to the Venture Capital Schemes

For employment of money invested, a more relaxed time limit of 2 years, or 2 years from the commencement of the qualifying activity, will be introduced. The new limit will apply, broadly, from 22 April 2009 and will affect the enterprise investment scheme (EIS), corporate venturing scheme, and the venture capital trust scheme.

Further measures affect only the EIS:

- the requirement to use money from the issue of shares of the same class issued on the same day as EIS shares within the same time limit will be removed with effect in relation to shares issued on or after 22 April 2009;
- restrictions on the carry-back of relief to the previous year will be removed (subject to the overall cap on subscriptions of £500,000) for 2009/10 and subsequent years;
- an anomaly preventing relief from CGT under the share-for-share exchange rules will be removed in relation to new holdings issued on or after 22 April 2009.

Save As You Earn (SAYE) Simplification

With effect from 29 April 2009 legislation will be introduced to transfer the process of specifying bonus rates and early leaver interest rates on SAYE savings and of authorising savings providers from HM Treasury to HMRC. HMRC will also be able to specify by notice of withdrawal or variation that prior bonus rates will be valid even where the new rates have come into effect and will modernise the advisory process with the banks and building societies.

Distributions from Offshore Funds

From 22 April 2009, individuals in receipt of dividends from corporate offshore funds will be entitled to a tax credit. This will not, however, be the case where the offshore fund holds more than 60% of its assets in interest-bearing (or economically similar) form. In such a case, a distribution will be treated in the hands of a UK individual investor as a payment of yearly interest. This means that no tax credit will be available and that the tax rates applying to the distribution will be those that apply to interest.

This change will not affect the taxation of UK investors in offshore funds that are transparent for the purposes of tax on income; in these cases the investor is taxed on his share of the underlying fund income and by reference to the type of income received by the fund.

CHARITIES

Substantial Donors to Charity

The threshold by reference to which a donor to a charity is treated as a substantial donor is to be increased. Certain transactions between a charity and such a donor result in a tax charge on the charity. With effect on and after 23 April 2009, a donor who makes tax-relievable donations to a charity of £25,000 or more in a 12-month period or £150,000 or more in a period of 6 years will be treated as a substantial donor.

INHERITANCE TAX

Extension of Agricultural Property and Woodlands Relief

Finance Bill 2009 will introduce legislation to extend inheritance tax (IHT) agricultural property relief and woodlands relief from 22 April 2009 onwards to property in the European Economic Area (EEA). Any IHT due or paid from 23 April 2003 will become eligible for relief by claim from 21 April 2010. Property qualifying for this extended IHT relief will also qualify for capital gains tax hold-over relief, as will disposals of such agricultural property in the past including property farmed by a person other than the owner. Claims for hold-over relief relating to 2003/04 can be made until 31 January 2010 and for the years 2004/05 and 2005/06 prior to 1 April 2010.

ANTI-AVOIDANCE

Corporate Transparency: Personal Tax Accountability of Senior Accounting Officers of Large Companies

New obligations on the senior accounting officers of large companies (i.e. companies other than those defined as small or medium-sized in the Companies Act 2006) will be introduced with effect for accounting reference periods beginning on or after the date of Royal Assent to Finance Act 2009. Senior accounting officers must:

- take reasonable steps to establish and monitor accounting systems that are adequate for the purposes of tax reporting; and
- certify annually that the accounting systems in place are so adequate, or if not to specify the nature of any inadequacies and confirm that they have been notified to the company auditors.

Large companies will have to notify HMRC of the identity of the senior accounting officer.

The new obligations will be supported by penalties for careless or deliberate failures or inaccuracies: such penalties will be applicable to the senior accounting officer personally and to the company.

Publishing the Names of Deliberate Tax Defaulters

HMRC will be able to publish the names and details of all those who are penalised for serious defaults leading to a loss of tax of more than £25,000.

The measure will apply to individuals, businesses and companies who are penalised for deliberate or deliberate and concealed defaults, but will not affect those who make an unprompted disclosure, or full prompted disclosure.

In addition to the normal right of appeal against all aspects of a penalty, taxpayers will be informed prior to publication and will be able to make representations to HMRC. Details will be published quarterly within 1 year of the penalty becoming final and will be removed from publication 1 year later.

The measure will be brought into effect from a date to be announced by Treasury Order.

Foreign Exchange Losses: Targeted Anti-avoidance Rule

In relation to companies that hold investments in ‘foreign operations’ – subsidiaries or other business enterprises that operate in a different currency to the company – a number of tax avoidance schemes have been disclosed to HMRC that abuse the provisions for ‘foreign exchange (forex) matching’. Finance Bill 2009 will aim to stop such schemes by providing that exchange gains or losses on borrowings or currency derivatives can only be ‘matched’ if they do not arise from tax avoidance arrangements. The measures will apply to company accounting periods beginning on or after 22 April 2009. Where an accounting period straddles 22 April 2009, it will apply only to exchange gains or losses arising between 22 April 2009 and the end of the period.

Transfers of Income Streams

The Finance Bill will include legislation intended to ensure that receipts which are derived from a right to receive income, and which are an economic substitute for income, will be taxed as income for the purposes of corporation tax and income tax. The legislation will apply to transfers of income taking place on or after 22 April 2009. It will not apply in relation to sales of income that arise from loan relationships or derivative contracts, where that income would have been subject to any exclusions under those rules. There will be provisions to exclude amounts which are already taxed as income, or where the transfer of the income is by way of security. Where the transferee is a company, it will be taxable only on its accounting profit from acquiring the income stream.

Disguised Interest

The Finance Bill will include legislation to provide that returns from arrangements which produce amounts which are economically equivalent to interest will be treated in the same way as interest for the purposes of corporation tax. The legislation will generally apply to arrangements to which a company becomes party on or after 22 April 2009, but will also apply to certain arrangements in place before that date that are within the scope of existing ‘disguised interest’ legislation which is to be repealed. There will be exclusions from the legislation where the return arises to a company purely from an increase in the value of shares that it holds in a connected company, and it is reasonable to assume that it is not a ‘main purpose’ of the arrangements to secure that the return is not charged to tax as income.

Financial Arrangements

Two schemes that have been notified to HMRC under the avoidance disclosure rules will be tackled by legislation introduced by Finance Bill 2009. In the first, intra-group finance is arranged under the terms of a bond that is highly likely to convert into shares of the issuing company. The debtor company accrues a deduction for a finance cost that is greater than the finance return that the creditor company brings into account. In the second, a company ‘derecognises’ in its accounts a derivative contract that is carried at fair value with the result that profits arising to the company on the contract fall out of account for tax purposes. The legislation has effect for debits and credits arising on or after 22 April 2009.

Interest Relief

The Finance Bill will include legislation intended to block schemes whereby the provisions which allow individuals to claim relief for interest payments on loans used to invest in partnerships or close companies are used in avoidance arrangements which purport to guarantee that the borrower will be able to make a profit as a result of the availability of the relief. The legislation will deny relief for interest which is paid as part of an arrangement that seems almost certain to allow the investor to exit the arrangement with more money than was originally invested, where the investor’s main purpose in being party to the arrangements is to secure that result. The legislation will apply to interest payments made on or after 19 March 2009.

Employment Income Legislation

Employees and former employees are entitled to tax deductions for:

- premiums for insurance indemnifying them against employment-related liabilities such as damages relating to their employment or legal costs incurred in defending against such damages; and
- payments for such liabilities where they are uninsured.

In response to a known avoidance scheme, legislation is to be introduced that will deny such a deduction where the liability in respect of which the deduction would otherwise be due has been paid in connection with arrangements a main purpose of which is the avoidance of tax. The legislation will apply to payments made on or after 12 January 2009, regardless of when the arrangements that resulted in the payments were entered into.

An individual sustaining a loss in an employment or office (an ‘employment loss’) may make a claim for it to be set against general income. In response to known avoidance schemes the legislation is to be amended to deny relief for a loss if, and to the extent that, it is sustained as a result of anything done in pursuance of arrangements a main purpose of which is the avoidance of tax. This will have effect in relation to losses incurred in 2009/10 and subsequent tax years, and also in relation to a loss incurred in 2008/09 if, or to the extent that, it is occasioned by an act or omission occurring on or after 12 January 2009. Where the taxpayer has paid less tax on 31 January 2009 than he should have done, due to an employment loss that now falls to be disallowed, the due date for surcharge purposes is deferred until 1 April 2009, so that no surcharge will be due if the extra tax is paid before 29 April 2009. The legislation will also include protection from penalties where a person has made an employment loss relief claim at any time between 12 January 2009 and 1 April 2009 inclusive and the claim is affected by the new anti-avoidance rule.

Life Insurance Policies

In order to counter schemes that exploit the income tax loss relief rules by using offshore life insurance policies, legislation will be introduced to ensure that income tax losses arising on a chargeable event in connection with such policies do not attract loss relief from 6 April 2009. ITA 2007 will be amended accordingly.

ITA 2007 will also be amended so that transitional provisions will apply to 2008/09 to restrict such claims where on or after 1 April 2009:

- the policy or contract is made;
- terms of an existing policy are amended or a right under it is exercised;
- rights in the policy are assigned to a person claiming a deduction; or
- all or part of the rights become held as security for a debt.

Manufactured Interest

The Finance Bill will include legislation intended to prevent a High Court decision from affecting the tax treatment of payments of manufactured interest. The legislation is intended to ensure that the tax treatment of such payments will follow the treatment of the payments in company accounts prepared in accordance with generally accepted accounting practice. It will apply to deemed payments of manufactured interest made on or after 27 January 2009, but will apply to actual payments of manufactured interest made before as well as on or after that date, in order to ensure that existing practice is followed.

Plant and Machinery Leasing

Legislation, which was announced and published in draft on 13 November 2008, will be introduced in Finance Bill 2009 to counter avoidance involving the leasing of plant or machinery. It will ensure that:

- a business entering into a sale and leaseback or lease and leaseback does not gain more relief than it would have done had it obtained loan finance;
- tax is not avoided when a lessor grants a long funding lease; and
- when a long funding lease ends the lessee has obtained an appropriate amount of relief.

In addition:

- the definitions of sale and leaseback arrangements in existing anti-avoidance legislation will be amended for consistency and to achieve their objective; and
- amendments will be made to ensure initial payments under a lease do not escape taxation and to ensure consistency with the taxation of chargeable gains.

The measure will generally have effect for transactions entered into on or after 13 November 2008; but some aspects of the measure will have effect on or after 22 April 2009.

Real Estate Investment Trusts

The Finance Bill will introduce a power to make regulations that will prevent restructuring within groups of companies from enabling companies to meet the real estate investment trust (REIT) conditions and tests when they would not have done so without that restructuring. The measure will also exclude owner-occupied properties from the regime, and will enable potential REITs with tied premises to enter the regime. The changes will take effect from 22 April 2009.

Double Tax Relief Avoidance

Anti-avoidance provisions will be introduced in relation to:

- banks and manufactured overseas dividends;
- banks and double tax relief credit rules; and
- repayment of foreign tax.

The provisions will take effect on 22 April 2009.

STAMP TAXES

Shared Ownership

Relief from SDLT is available for certain land transactions where the purchaser is a 'registered social landlord' (RSL). RSLs are to be replaced, in England, by 'registered providers of social housing' (RPSHs), a new regime that will be open to profit-making companies.

The relief from SDLT will be extended to include profit-making RPSHs where the purchase is funded with the assistance of public subsidy.

Relief will also be available for purchasers under shared-ownership schemes operated by profit-making RPSHs, where the scheme is assisted by public subsidy. These measures will have effect for land transactions where the effective date is on or after Royal Assent to the Finance Act.

Measures will also be introduced to simplify the SDLT rules relating to the 'Rent to HomeBuy' shared ownership scheme, with effect where the effective date of the grant of the shared ownership lease under the scheme is on or after 22 April 2009.

Temporary Increase in Thresholds

The SDLT 'holiday', announced in September 2008, exempted from SDLT acquisitions of residential property where the chargeable consideration was not more than £175,000. The exemption applied to land transactions where the effective date was between 3 September 2008 and 2 September 2009.

The Finance Bill will raise the starting threshold for SDLT on residential property from £125,000 to £175,000 for land transactions where the effective date is between 22 April 2009 and 31 December 2009. From 1 January 2010 the threshold will revert to £125,000.

Leasehold Enfranchisement

Relief from SDLT, where the freehold of a block of flats is acquired by a 'right to enfranchise' company (RTE) on behalf of the leaseholders, has not been brought into force.

Reference to an RTE company will be removed to allow the relief to be claimed by any nominee or appointee who acquires the freehold of a block of flats on behalf of leaseholders under a statutory right of leasehold enfranchisement, thus enabling the relief to operate as originally envisaged.

The change will have effect for land transactions where the effective date is on or after 22 April 2009.

Stock Lending and Repo Arrangements

New reliefs are to be introduced to disapply certain stamp duty reserve tax (SDRT) charges which would otherwise arise where a stock lending or repo arrangement terminates without the stock having returned to the originator and the termination is a result of the insolvency of one of the parties. In such circumstances, the normal chargeable gains rule treating the non-return of borrowed securities as a disposal will also be disapplied. No stamp duty or SDRT charge will apply where securities are purchased to replace those lost as a result of the insolvency.

These provisions will apply where the insolvency occurs on or after 1 September 2008.

VALUE ADDED TAX

Registration and Deregistration

With effect from 1 May 2009, the VAT registration threshold will be increased from £67,000 to £68,000. The deregistration threshold will be increased from £65,000 to £66,000. The registration and deregistration thresholds for acquisitions from other EU member states will also be increased from £67,000 to £68,000.

Change of Standard Rate

The standard rate of VAT will return to 17.5% from 1 January 2010. The 2008 Pre-Budget Report announced a temporary reduction in the standard rate of VAT to 15% for a 13-month period from 1 December 2008 to 31 December 2009. The reduction was implemented by secondary legislation effective for 12 months. Legislation will be introduced in Finance Bill 2009 for the 15% rate to apply during December 2009 and for the rate to revert to 17.5% on 1 January 2010.

Change of VAT Rate: Anti-Forestalling Legislation

The Finance Bill will include provisions to counter schemes that purport to apply the 15% rate of VAT to goods or services to be supplied on or after the date that the VAT rate returns to 17.5%. The legislation will provide that, in certain circumstances, a supplementary VAT charge of 2.5% will be due on supplies of goods or services on which VAT has been declared at 15%. This will apply where the customer cannot recover all the VAT on the supply and one of the following conditions is met:

- the supplier and customer are connected parties; or
- the supplier funds the purchase of the goods or services (or the grant of the right to receive them); or
- a VAT invoice is issued by the supplier where payment is not due for at least 6 months.

The above provisions have effect on and after 25 November 2008.

A supplementary charge will also apply where a pre-payment of more than £100,000 is made before the rate rise in respect of goods or services (or the grant of a right to receive goods or services) to be provided on or after the date of the rate rise, unless the pre-payment is made in accordance with normal commercial practice in relation to such supplies when no VAT rate increase is expected. This provision will take effect from 31 March 2009, and the supplementary charge will have to be accounted for on the date that the VAT rate reverts to 17.5%.

Opting to Tax Land and Buildings

The procedure for opting to tax supplies of land and buildings, in respect of which taxpayers have made previous exempt supplies, will be simplified with effect from 1 May 2009 with the introduction of a new 'automatic permission condition'. This is intended to allow more taxpayers to opt to tax without seeking prior permission from HMRC. HMRC will also withdraw a related informal extra-statutory concession with effect from 1 May 2010, and will partly regularise another such concession from the same date.

Car Fuel Scale Charges

The scale used to charge VAT on fuel used for private motoring in business cars will be amended from the start of the first VAT period beginning on or after 1 May 2009.

The revised charges are:

CO2 band	*VAT fuel scale charge*		
g/km	*12-month period* £	*3-month period* £	*1-month period* £
120 or less	505	126	42
125	755	189	63
130	755	189	63
135	755	189	63
140	805	201	67
145	855	214	71
150	905	226	75
155	960	239	79
160	1,010	251	83
165	1,060	264	88
170	1,110	276	92
175	1,160	289	96
180	1,210	302	100
185	1,260	314	104
190	1,310	327	109
195	1,360	339	113
200	1,410	352	117
205	1,465	365	121
210	1,515	378	126
215	1,565	390	130
220	1,615	403	134
225	1,665	416	138
230	1,715	428	142
235 or more	1,765	441	147

Emission figures which are not multiples of 5 are rounded down. In the case of bi-fuel cars which have two emission figures, the lower emission figure should be used. For cars with no emission figures, HMRC have prescribed a level of emissions by reference to the engine capacity.

Changes to the Place of Supply Rules in Relation to Cross-Border Services

With effect from various dates commencing with 1 January 2010, a package of measures is being introduced on an EU-wide basis to counter fraud, and to simplify and modernise the VAT system in relation to cross-border supplies of services.

The main changes include:

- the default place of supply in relation to business to business services will be where the customer is established, subject to certain exceptions;
- changes to the time of supply rules in relation to cross-border services;
- UK businesses will be required to submit EC sales lists in respect of services supplied to businesses in other member states, where the customer is required to account for VAT under the reverse charge procedure;
- changes to the procedure by which a business established in one member state may seek a refund of VAT incurred in another.