



tax | Budget newsletter march 2011

team contacts



Andrew Jupp
Head of Tax
020 7969 5508
ajupp@haysmacintyre.com



Graham Elliott
VAT Partner
020 7969 5610
gelliott@haysmacintyre.com



Anne Gregory-Jones
Partner
020 7969 5520
agregory-jones@haysmacintyre.com



Nigel Landsman
Partner
020 7969 5549
nlandsman@haysmacintyre.com



Neil Simpson
Partner
020 7969 5512
nsimpson@haysmacintyre.com

Welcome to our analysis of the Chancellor's Budget. A Budget which he described as "reforming the national economy and for ensuring growth and jobs for the future". At a time when there are job losses and spending cuts he probably had no alternative.

Overall the Budget is fiscally neutral, meaning no overall increase or decrease in taxes. But, of course, there will be winners and losers and the devil will be in the detail.

Much of what was announced was already known. The draft Finance Bill was published last December and there have been numerous leaks in recent days. And in a number of areas there is to be further consultation before detailed legislation will be announced.

By far the most radical announcement was that there is to be consultation on aligning national insurance and income tax. But there is a downside for governments, as people become more aware of the 'true' rate of tax on income.

So for a Budget which is tax neutral there is a lot to digest. Surprisingly, the documents issued by the Treasury following the Budget do not give as much detail as we have become used to, and we will have to wait for the Finance Bill before we know all the intricacies. Nevertheless, we hope this analysis helps you to understand the main changes as we see them.

Andrew Jupp
Head of Tax

BUSINESS TAX CHANGES

Corporation Tax Rates

The main rate of corporation tax is reduced by a further 1% (in addition to the 1% reduction previously announced) to 26% from 1 April 2011. Further reductions of 1% are to be made in each of the three successive financial years reducing to 23% from 1 April 2014.

As previously announced the small companies rate of corporation tax is reduced to 20% with effect from 1 April next.

Intellectual Property

The rate of the enhanced deduction against profits available for research and development expenditure incurred by small and medium sized enterprises will increase from 175% to 200% in 2011-12 and will increase further to 225% from 2012-13.

Enterprise Zones

A new generation of 21 Enterprise Zones (EZs) are to be launched from 2012-13. In addition to non-tax incentives, businesses moving into an EZ will be eligible for 100% business rate discounts for 5 years.

The government is to consider in a limited number of cases the scope for introducing enhanced capital allowances to support EZs in assisted areas where there is a strong focus on high value manufacturing.

Entrepreneurs' Relief

The lifetime limit on gains qualifying for Entrepreneurs' Relief is increased from £5m to £10m with respect to qualifying disposals on or after 6 April 2011.

Capital Allowances

As previously announced, writing down allowances with respect to plant and machinery will be reduced to 18% (from 20%) and the Annual Investment Allowance will be reduced to £25,000 (from £100,000) both measures taking effect from April 2012.

The current short life asset "cut off" period for qualifying expenditure on plant and machinery will be increased to 8 years from the end of the chargeable period in which the expenditure is incurred (currently 4 years). The measure will have effect for expenditure incurred on or after April 2011.

The Government is to extend the Business Premises Renovation Allowance for a further 5 years from 2012.

Taxation of Foreign Profits

As previously announced a package of improvements to the current Controlled Foreign Company (CFC) rules is to be introduced for accounting periods beginning on or after 1 January 2011. Full CFC reform is to be introduced in 2012. The new rules will include a finance company partial exemption that in broad terms will result in an effective UK tax rate of one-quarter of the main rate (5.75% in 2014) on profits derived from overseas group financing arrangements. A Consultation Document with details of the new CFC rules is to be published in May 2011.

An opt-in exemption from corporation tax on the profits from foreign branches of UK companies is to be introduced, available for accounting periods beginning on or after the date the Finance Bill 2011 receives Royal Assent.

Corporate Capital Gains Simplification

Measures previously announced include simplification of the value shifting rules, the "pre-entry" capital loss provisions and rules dealing with degrouping charges. Measures are also to be introduced to simplify the "associated company" rules to ensure that companies can only be associated through the attribution of rights between connected individuals where there is substantial commercial interdependence between the companies concerned.

Security for PAYE and NIC

From April 2012 HMRC will be able to require employers to provide security where there is a serious risk that PAYE and NIC will not be paid.

Employer-supported childcare

Tax relief will be restricted so higher or additional rate taxpayers receive the same equivalent benefit as basic rate taxpayers on the provision of childcare vouchers or directly-contracted childcare by employers.

PERSONAL TAXES

Future of National Insurance

Perhaps the biggest headline of this year's budget is the Chancellor's announcement that he is beginning consultation on the merger of income tax and National Insurance. Few details are known so far, although there was an indication that pensioners, who are currently exempt from NIC, would not pay more if the merger goes ahead.

Income tax rates and personal allowances

The government has announced a goal of increasing the tax-free personal allowance to £10,000 by 2015. From April 2011 it will be increased by £1,000 to £7,475. From April 2012 it will be increased by a further £630 to £8,105.

The £1,000 increase will be offset by a reduction in the higher rate tax threshold so that higher and additional rate taxpayers do not benefit. No similar change applies to April 2012 so this constitutes a tax cut for higher earners.

National Insurance rates increase by 1% across the board for employees, employers and the self-employed with effect from 6 April 2011.

The Inheritance Tax nil rate band will be frozen at £325,000 until 2015. A reduced rate of 36% will be introduced from April 2012 for estates where 10% or more of the value is left to charity.

From April 2011 the ISA subscription rate will increase to £10,680 of which half can be put into a cash ISA.

The annual exempt amount for Capital Gains Tax will increase to £10,600 from April 2011.

Tax and National Insurance rate bands are increased annually by inflation. However from April 2012 the government has announced that the Consumer Prices Index (CPI) will be used instead of the Retail Prices Index (RPI). In February 2011 CPI was 1.1% lower than RPI so tax bands and allowances will increase more slowly in the future.

Changes affecting non-domiciled taxpayers and non-residents

The existing £30,000 charge for non UK domiciled taxpayers electing to be taxed on the remittance basis and who have lived here for 7 of the last 9 tax years will be increased to £50,000 where the taxpayers has lived in the UK for 12 years.

A consultation will take place in the summer with the intention of introducing a statutory test for tax resident status from April 2012.

Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCT)

Tax relief on EIS investments will be harmonised with VCT, so that they both qualify for 30% income tax relief. This change takes effect for shares issued after 5 April 2011. Other changes will be introduced from April 2012 to increase the size of companies that can qualify to those with fewer than 250 employees, those with gross assets of less than £15m, increase the maximum investment to £10m and increase the amount an individual can invest to £1m per annum. These subsequent changes require approval under EU state aid rules.

Junior ISA

Cash or stocks and shares ISAs will be made available to UK resident children under the age of 18 who do not already have a Child Trust Fund. Entitlement to CTF accounts ceased on 3 January 2011, so Junior ISAs will be available to all children born since then. Children born before the introduction of the CTF will also be eligible. The accounts are due to commence from October 2011.

Pensions

The reform of pension contributions announced in autumn 2010 will take effect from April 2011. Tax relief on annual contributions will be restricted to £50,000 although unused relief can be carried forward and offset in future years.

Approved Mileage Allowance Payments

The maximum tax-free allowance for business mileage paid to an employee will increase to 45p per mile for the first 10,000 miles from April 2011. Mileage over 10,000 miles will remain the same at 25p. If employers pay less than 45p/25p the employee can claim the difference in their personal tax return.

ANTI-AVOIDANCE MEASURES

Disguised Remuneration

As previously announced the government is to introduce legislation imposing a new income tax charge to apply to third party arrangements used by employers to provide what in substance is a reward to employees. The charge is to be based on the full benefit of the sum of money paid or assets provided. The amount will be treated as a payment of employment income and the employer will be required to account for PAYE and NIC accordingly. These provisions will have effect from 6 April 2011.

Tackling Tax Avoidance

The government has set out in a Budget document "Tackling Tax Avoidance" a programme of works with respect to areas that are viewed to have been subject to repeated attempts at tax avoidance. The first areas for review will be income tax losses and unauthorised Unit Trusts.

Disclosure of Tax Avoidance Schemes (DOTAS)

The government is to consult on proposals to counter the continued marketing and use of what are perceived to be highly aggressive and artificial tax avoidance schemes. The Disclosure Of Tax Avoidance Schemes (DOTAS) regime will be extended to enable the listing of specific tax avoidance schemes so that the subsequent use of such schemes will carry consequences for the user. Options under consideration include a surcharge for late payment of the tax. These measures will be introduced in Finance Bill 2012.

Further refinements are made to the DOTAS regime which is to be extended to inheritance tax with effect from 6 April 2011.

Asset Backed Contributions

The government is to consult on changing tax rules to limit the amount of tax relief available to employers when they make asset back contributions to their defined benefit pension schemes such that the tax relief accurately reflects the increase in fair value of pension plan assets.

VAT

This was a quiet Budget for VAT, which is not surprising given the impact of the announced increase in the VAT rate contained in the last Budget. However, certain changes have been made.

Registration Threshold

There is perhaps a surprisingly generous increase in this from £70k to £73k, effectively keeping pace with consumer inflation. The corresponding deregistration threshold increases to £71k.

Low Value import consignment relief

This was flagged as a possible reform to save our high street DVD and CD vendors from unfair Channel Island competitors. Currently, a personal import of goods is VAT free at values less than £18. This will fall, but only to £15, and only in November 2011. This seems to be a "finger in the dyke". HMRC is going to initiate discussion in the EU as to how to further limit deliberate exploitation of what would normally be a sensible de minimis principle, and will revisit the question in 2012. By then it may be too late.

VAT Group extra statutory concession

A current ESC which allows VAT groups to avoid unfair reverse charges on imports where one of the members is an overseas company, as compared to a company which operates an overseas branch, will be phased out, and replaced by parallel legislation.

Electronic filing

All VAT registered businesses, irrespective of size, will have to file electronically from 1 April 2012.

Fuel Scale charges

These will be increased.

VAT on cost sharing between exempt bodies

We had hoped for real progress on this in time for the Budget, but there has been none. We understand that the issue has been sidetracked by HMRC's wish to determine the cost of introducing the measure. This entirely misses the point that the measure is required under EU law. All the Budget notice says is that consultation will continue. It seems possible that, with such unaccountable delay, we will begin to see litigations commence against HMRC.

Previously announced changes

Supply splitting in respect of zero rated printed material which is ancillary to another supply is to be closed down as announced.

VAT reclaim status for Academies has been announced, but the much needed extra detail on the modus operandi seems not to have been forthcoming.

STAMP DUTY LAND TAX (SDLT)

Mean valuation of house portfolios

Under current SDLT legislation, the value of a portfolio is taken as a whole when determining the rate of SDLT chargeable. This inevitably gives rise to the 4% rate on the package. The government is to introduce a rule that will allow the rate to be determined by the mean price of the properties in the portfolio. For example, ten properties sold at a mean of £300k each will not bear 4% duty on £3m, but will carry 3% only, since the mean value falls below the £500k threshold for the top rate of SDLT (note, the special 5% rate has been ignored for this illustration).

Avoidance clampdown

Legislation will become effective from 24 March 2011 to target three schemes. These target subsale avoidance, such as used in the recent tax tribunal case where the partnership and subsale rules were used together to eliminate SDLT, alternative finance structures (where interest cannot be charged on a loan), and the land exchange rules.

CHARITY GIFT AID

Here the changes were quite dramatic.

Donor Benefit Limits

These are changed at the extreme upper end. Although the 5% link to the donated sum remains, the upper ceiling increases to £2500 from £500, allowing donors of sums between £10k and £50k to be acknowledged in a more appropriate fashion.

Small Donation Scheme

This measure will take until 2013 to come in, but will allow up to £5k of small donations to be subject to gift aid without documentation. This is regarded as making it likely that "bucket donations" will no longer lose out on gift aid (which has been the biggest reason to date not to donate into a bucket). But the devil will be in the detail.

Online filing and Self Assessment Donate

Online filing will be introduced for gift aid including some clever bells and whistles to relieve the burdens. But the current facility to direct a tax rebate to a charity via self assessment is to be shelved. In our experience this was one of the most misunderstood facilities in any case.

Substantial Donors: Tainted Donations

Work on the replacement for the draconian and unworkable substantial donor rules has proceeded steadily and we are now able to benefit from the much more sensible tainted donations replacement which looks at the motive or purpose of the donor (or, where complicit, the charity as well) and which seeks the tax direct from the donor and only in complicit cases from the charity.

OTHER MEASURES

Measures previously announced are to be introduced dealing with:

- Group mis-matches – tax avoidance involving groups of companies using intra-group loans or derivatives to reduce the group's tax bill.
- Leasing double allowances – to counter avoidance involving the leasing of plant and machinery where taxpayers claim capital allowances twice on one amount of expenditure.
- Loan relationships de-recognition – to prevent avoidance of corporation tax where schemes are introduced under which a company derecognises certain amounts involving loans and derivatives in accounts.
- Sale of lessor companies – amends the sale of lessors anti-avoidance legislation to ensure that it remains effective.
- Degrouping charges – amends the degrouping charge rules to ensure that they operate as intended.

The government has published a protocol on the circumstances in which it will be prepared to announce a change to tax law that has immediate effect, other than at the Budget.

TAX ADMINISTRATION AND CONSULTATION

IR35

The government has decided to retain IR35 in view of the substantial tax revenue at risk and is to achieve simplification by making improvements to the way in which the rules are administered. These improvements are intended to provide greater pre-transaction certainty including a dedicated helpline staffed by specialists. Reviews in this area are to be restricted to high risk cases carried out only by specialists teams.

Office for Tax Simplification Review of Small Business Tax

The OTS is to look at improving tax administration for small businesses with recommendations to be made for Budget 2012.

Tax Transparency

HMRC is to develop and introduce a new online tax calculator and downloadable application by April 2012. This is intended to enable taxpayers to calculate both the annual tax and National Insurance Contributions they can expect to pay and their overall effective tax rate.

Reliefs

Following completion of the OTS review of reliefs the government intends to abolish 7 reliefs with immediate effect with further reliefs to be abolished following a period of consultation in 2012.

about haysmacintyre

haysmacintyre, Chartered Accountants and tax advisers, comprises 24 partners and 160 staff based in Holborn, London. It provides high quality auditing and assurance, business and personal taxation, corporate finance, financial planning and other business support services.

Around 40% of the firm's business is within the corporate sector – small and medium sized enterprises, many of which are in the property, creative industries, hospitality, technology, sports and business services sectors. The firm acts for a number of listed companies and assists new companies raise initial funds on the capital markets and through private equity. 35% of the firm's business is for charitable and not for profit organisations and the remainder is for professional practices and private individuals – whether senior executives, entrepreneurs or those with significant land or wealth at home or overseas.

haysmacintyre is a founding member of MSI Global Alliance (MSI), an international alliance of independent legal and accounting firms, with 250 members in over 100 countries. Further information is available at www.haysmacintyre.com

haysmacintyre

haysmacintyre
Fairfax House
15 Fulwood Place
London
WC1V 6AY

t 020 7969 5500
f 020 7969 5600
e marketing@haysmacintyre.com
w www.haysmacintyre.com
 [@haysmacintyre](https://twitter.com/haysmacintyre)



Disclaimer: This datasheet has been produced by the partners of haysmacintyre and is for private circulation only. Whilst every care has been taken in preparation of this document, it may contain errors for which we cannot be held responsible. In the case of a specific problem, it is recommended that professional advice be sought. The material contained in this datasheet may not be reproduced in whole or in part by any means, without prior permission from haysmacintyre.

If you would like to be removed from our mailing list please email us at marketing@haysmacintyre.com

