

Budget Special 2010



Corporate and business budget update

The Chancellor announced a pre-election budget with few surprises. The budget focussed on supporting small businesses, and a small number of helpful measures were announced which will be welcomed by businesses and their owners.

This corporate and business update focuses on the impact of the 2010 budget on businesses and also summarises some of the changes announced in the 2009 pre-budget report which come into effect from April 2010.

Tax rates

The main rate of corporation tax and the small companies rate are unchanged from 1 April 2010, remaining at 28% and 21% respectively. The threshold for small companies remains at £300,000.

National Insurance Contribution rates are also unchanged for 2009/10.

However pre-announced changes take effect from 6 April 2011 when rates will increase by 1%, with employees paying a main rate of 12% and an additional rate of 2%, the self employed starting on 9% with an additional rate of 2% and employers paying 13.8%.

Associated company rules

The rules governing which companies are associated for the purposes of determining a company's rate of corporation tax are to be amended. Finance Bill 2011 will legislate to amend the rules relating to associated persons as they apply to establishing who controls a company.

No changes will be made to other aspects of associated companies. This will be primarily of interest to companies who currently have or might have associates where the question of who controls those companies is not clear cut.

Business rates

In a move designed to appeal to small businesses, eligible businesses occupying properties with rateable values of up to £6,000 will pay no business rates for one year from October 2010, with further reductions for business premises with rateable values between £6,000 and £12,000.

Capital allowances

In a move which will be welcomed by small businesses, the annual investment allowance, which gives 100% tax relief on qualifying capital expenditure, has been increased from £50,000 to £100,000. This has effect from 1 April 2010 for companies and 6 April 2010 for unincorporated businesses.

First year allowances of 100% are introduced for business expenditure on new (not second hand) electric vans. This applies for a period of five years from 1 April 2010 for companies and 6 April 2010 for unincorporated businesses.

Employee benefits

The support for low emission cars continues with a reduction in the benefits charge for employees and directors provided with a zero or low emission company car for personal use.

The taxable benefit of electric cars or vans is reduced to nil with effect from 6 April 2010. From the same date the taxable benefit of cars with emissions of 75g per kilometre or less will be calculated at a reduced rate of 5% of list price. These changes apply to the tax charge on both employee and employer.

Extension to entrepreneur's relief

The lifetime limit on gains qualifying for entrepreneur's relief will increase from £1 million to £2 million with effect for disposals on or after 6 April 2010. Gains attracting entrepreneur's relief will continue to be subject to capital gains tax at an effective rate of 10%.

No additional relief is available for gains made before 6 April 2010 in excess of £1 million which would otherwise be eligible for entrepreneur's relief. It will therefore be advantageous in some cases to delay disposals due to take place in the next few weeks until after 6 April 2010.

Enterprise Investment Scheme and Venture Capital Trusts

A number of changes to the Enterprise Investment Scheme (EIS) and the Venture Capital Trust scheme (VCT) will be introduced with effect from the date they are legislated (likely to be early in the next parliament).

VCTs will no longer be required to be included in the official UK list. Instead they will be able to be listed on markets across the EU or the EEA. There are also changes to the nature of the investments a VCT can hold, including changes allowing VCTs to include certain types of preference share capital.

For both VCTs and EIS the qualifying trade will no longer be required to be carried on wholly or mainly in the UK. For shares issued on or after the date of the legislation it will be sufficient that the issuing company has a permanent establishment in the UK.

Further provisions will exclude shares from qualifying as EIS or VCT investments if they would reasonably qualify as an 'enterprise in difficulty' under EC guidance.

Enterprise management incentives

Further legislation will be introduced under which companies offering employees share options under the Enterprise Management Incentives (EMI) scheme are no longer required to operate wholly and mainly in the UK. For EMI options granted on or after 6 April 2010, a company will need only a permanent establishment in the UK.

This opens up opportunities for companies operating in the UK and overseas which were previously prevented from operating an EMI scheme and may now wish to consider whether this might be useful.

Share incentive plans and employee benefit trusts

The budget signals the government's intention to close the opportunities offered by certain employee remuneration arrangements.

Anti avoidance legislation directed at share incentive plans (SIPs) is introduced with immediate effect. This is designed to deny a corporation tax deduction where artificial arrangements are entered into, and to assist in withdrawing SIP approval where the value of SIP shares is manipulated.

The budget also announced that the government intends to tackle the use of trusts and other vehicles, typically employee benefit trusts, to avoid tax.

Consortium relief

The rules governing consortium relief for companies will be amended under future legislation to be introduced early in the next parliament. The amendments are as follows:

Currently only companies within the scope of UK corporation tax are able to pass on losses to UK companies which they hold a consortium interest in. Under the amended legislation consortium companies resident in the EEA will also be able to pass loss relief on to UK resident companies.

The rules will be amended so that a consortium company's losses can only be passed on to a member to the extent that that member has an active involvement or effective control of the consortium company.

This second amendment is designed to prevent artificial arrangements using different share classes which do not reflect actual control, and should not concern the majority of consortia.

Capital distributions

Legislation will be put in place to ensure that distributions received by UK companies are treated as income and therefore exempt from corporation tax, except in the case of specific exemptions. This will apply even though the distribution may be capital in nature.

This is intended to bring the legislation in line with HMRC's long standing practice of only treating distributions specifically excluded from income as capital and therefore taxable.

The legislation will have retrospective effect, though it will be possible to elect not to apply the legislation retrospectively.

Worldwide debt cap amendments

The budget confirmed that changes are to be made to the worldwide debt cap legislation announced in November 2009. This is a measure introduced to prevent UK companies in a worldwide group from claiming excessive tax relief on UK financing costs, where these exceed the financing costs of the worldwide group.

The further amendments announced in the budget are limited changes designed to ensure that the legislation operates as intended.

Time to pay

The budget announces an extension to the HMRC Time to Pay initiative, under which business experiencing cash flow difficulties are granted additional time to meet tax liabilities.

It is worth noting that with effect from April 2010 a business applying for additional time to pay a debt of £1 million or more will be required to engage, at its own expense, a suitably qualified professional to prepare an 'Independent Business Review' in support of the application.

This budget summary is provided for general information only and is not intended to constitute professional advice. Any opinions stated should not be relied upon. Readers should seek professional advice before taking any action based on this budget summary.

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