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2013

Budget Insight

Brought to you by the CCH team of experienced tax writers, Budget Insight 2013 delivers expert opinion and a unique commentary on this year's Budget changes.

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Introduction

A Budget for an "aspiration nation"

Leaving tax aside for the moment, you have to admire George Osborne just for showing up on Budget day. After all, last year's Budget did not go well. First, all the good stuff was leaked to the press before he'd even had time to rehearse his speech. Second, and I suspect this one came as a surprise, his plans to tax pasties and grannies were not well received. Third, he was then required to perform more u-turns than a contestant on Strictly Come Dancing. And fourth? Let's just end with the word 'omnishambles'. All in all, it was a bad day at the office for the Chancellor.

So did this one go any better? I suspect the Evening Standard story has some way to go yet, and the debt and growth figures are disappointing to say the least, but there was some good news in the Chancellor's Budget for an 'aspiration nation'. There is money for infrastructure, big changes to childcare support and pensions and a ground-breaking package to get the housing market moving again. It remains to be seen whether #DowngradedChancellor will trend (although if not it was still a nice try Ed).

And that's before we get onto tax. The increase in the personal allowance to £10,000 from April 2014 will grab the headlines but the £2,000 cut in employers NICs may do more to get the economy moving again. Then we have the reduction in the main rate of corporation tax to 20 per cent from April 2015. True, a reduction in the headline rate of corporation tax has become an annual event but this one has the added benefit of doing away with the small profits rate, marginal relief and those awful associated companies rules. A more competitive and simpler tax regime will result.

There is also much to like in the raft of other measures intended to encourage entrepreneurial activity, including the extended CGT holiday for the Seed Enterprise Investment Scheme. The losers, once again, are the avoiders and the evaders. There will be new avoidance measures targeting the abuse of partnerships, close company loans and loss buying. If that wasn't bad enough for the promoters of avoidance schemes, they can also expect to be named and shamed at some point in the future. I think the Government's position on this one is fairly clear.

Stephen Relf, BA, MPhil, ACA, CTA

Stephen joined CCH in 2008 and now leads our team of tax writers.

He started his career at PwC before joining RMT where he specialised in the tax affairs of owner-managed businesses. After that he joined Northern Rock working on the group's corporation tax affairs and gaining valuable experience in areas of tax of interest to large businesses.

Stephen is a member of CIOT's Corporate Taxes Sub-Committee. As well as working on a number of CCH titles he's also a regular contributor to the tax press.

Personal Tax

The Chancellor had to balance efforts to promote growth with little room for manoeuvre in his Budget. Whilst he was careful to dampen down any expectations of big personal tax giveaways he has announced measures that will win him some positive headlines for working families.

Personal allowances

The personal allowance for 2013–14 had already been announced at the Autumn Statement at £9,440. The Chancellor has now taken the last step in accelerating the planned rise in the personal allowance to £10,000 from April 2014. This was partly a reaction to the opposition's plan to reintroduce the starter rate of income tax that Gordon Brown abolished and will reduce the impact of the earlier decision to withdraw the higher age allowance for those reaching 65 from April 2013. However, the increase in the personal allowance is aimed at the lower paid so higher-rate taxpayers will not receive any benefit as the basic rate threshold will fall to £31,865 from 2014 pushing more people into the 40 per cent band.

Childcare voucher scheme

We had the announcement ahead of the Budget that the Government will consult on bringing in a new childcare voucher scheme to end the 'luck of the draw' system in place at the moment where only employees whose employer is part of the scheme can access the system. More details on how this will work have been disclosed. From Autumn 2015, working parents will be able to claim up to £1,200 a year in childcare costs for each child under fire. The aim is to extend this to children under 12 by 2020.

Families will be able to open an online account and have their payments 'topped up' by the Government. For every 80p they pay in, the Government will put in 20p up to the annual limit per child, this is equivalent to the basic rate of income tax. To qualify, both parents living in the household must be working, not receiving tax credits or Universal Credit and neither earning over £150,000.

The existing voucher scheme, employer-supported childcare will continue for current claimants if they wish to stay in it but will be replaced by the new scheme when phased in. Workplace nurseries will continue unchanged. The new scheme has been criticised for only applying to families where both parents are working and not to stay-at-home parents. Also, higher-rate taxpayers may be better off under the old scheme but only if they joined before 6 April 2011 when less generous relief was brought in.

Seed Enterprise Investment Scheme

This scaled-down version of the Enterprise Investment Scheme was introduced in Finance Act 2012 and will only apply until April 2017. It gives a tax reduction equal to 50 per cent of an investment in qualifying companies of up to £100,000 per tax year. The scheme also granted a capital gains exemption for disposals in 2012–13 where the proceeds were reinvested under Seed EIS. It is perhaps not surprising that the Chancellor has announced an extension of this exemption to 2013–14. No doubt if the economy still fails to respond, it will be extended again.

The opportunity has also been taken to correct a technical error by which a company would be unable to qualify under the scheme if it had been formed by company registration agents.

Trevor Johnson, FTII, AITI, ATT

Trevor has had a long career in tax, starting with five years at the Inland Revenue. His specialisms include the taxation of privately-owned businesses, capital gains, inheritance tax and international aspects of UK taxation.

After working for a number of firms he became tax partner at the Liverpool offices of Ernst & Young in 1988, leaving in 1994 to set up his own tax consultancy. Trevor is a past president and honorary life member of the ATT and continues to serve on their Technical Committee.

Julie Clift, BA, CTA

Julie joined CCH as a senior technical editor in 2003 and has worked on some of our leading tax products including British Tax Reporter, Inheritance Tax Reporter, British Tax Guide and Tax Adviser.

Julie began her career at Arthur Andersen before joining Ernst & Young where she specialised in personal tax issues. She was deputy editor of The Tax Journal before returning to practice as a tax editor in the Deloitte & Touche Tax Policy Group.

Shares to be acquired by 'employee shareholders'

Provisions granting a capital gains exemption for shares acquired by 'employee shareholders' were announced in October last year and included in the draft 2013 Finance Bill. In exchange for agreeing to become employee shareholders, which involved giving up certain rights, they would receive shares in the employer worth at least £2,000. It has now been confirmed that, to give a measure of income tax and National Insurance relief for the employees, they will be deemed to have paid £2,000 for those shares.

Pensions tax relief

In the Autumn Statement it was announced that the lifetime allowance was to be reduced to £1.25m from 6 April 2014. At the same time 'fixed protection 2014', a transitional provision, was proposed to enable those pension rights already in excess of the reduced allowance to retain the benefit of the higher allowance on condition that no further contributions were made, or no further benefits accrued above a specified percentage, after 6 April 2014. The Chancellor has now decided, in addition, to introduce an 'individual protection regime' in next year's Finance Bill. Further details will be made known at that time.

Company car tax rates

Two new percentage bands for ultra-low emission cars have been announced for company cars emitting 0–50g of CO_2 per km (5 per cent) and 51–75g CO_2 per km (9 per cent) for 2015–16. In 2016–17, the appropriate percentages for the 0–50g CO_2 per km band will be 7 per cent; and 11 per cent for the 51–75g CO_2 per km band. This is designed to incentivise the purchase and manufacture of ultra-low emission vehicles in the UK.

Inheritance tax

The Chancellor announced last month that a planned rise in the level at which inheritance tax kicks in would be abandoned until April 2018 to help meet the cost of social care for the elderly. The nil-rate band will therefore remain frozen at £325,000 up to and including 2017–18. Inheritance tax is a very emotive tax, but the reality is that relatively few estates are liable to pay it and it is a tax that can be circumvented quite legitimately by the simple means of giving assets away and then surviving seven years.

Exemption for employment-related loans

Legislation will be introduced in the Finance Bill 2014 to increase the current statutory threshold for the cash equivalent of taxable cheap loans to be treated as earnings of the employment from £5,000 to £10,000 from 6 April 2014. As long as the total outstanding balances on all such loans does not exceed the threshold at any time in a tax year, there is no tax charge.

Business Tax

National Insurance contributions (NICs)

From April 2014 all businesses and charities will be entitled to a maximum £2,000 annual allowance to offset against their NIC bill. This much heralded cut in the so-called 'jobs tax' is to be welcomed, but sadly with no further information available we are in the dark about how it will work in practice. The Government will be consulting with relevant parties on this proposed allowance and hope to introduce legislation later in the year.

At the moment self-employed workers pay their income tax and Class 4 NICs through the self- assessment system and then pay their Class 2 NICs separately. The Government are going to consult on whether Class 2 NICs can also be collected through the self-assessment system. No date has been set for when this potential simplification may be implemented.

Simpler income tax

As previously announced, legislation is being introduced to enable small businesses to use a 'cash basis' and to deduct certain simplified flat rate business expenses from April 2013. The following three key changes have been made to the draft legislation:

(1) businesses using the cash basis will continue to use that basis until their circumstances change so that the cash basis is no longer suitable for them;

(2) businesses using the cash basis will not have to use the simplified flat rate expenses for their cars; and

(3) the legislation is to be simplified.

These changes will go some way to addressing people's concerns about what was intended to be a simplification of the tax system, but we await the amended draft legislation for the detail.

Corporation tax rates

As speculated in our 2012 Autumn Statement coverage, the Chancellor has announced that the main rate of corporation tax and the small profits rate will align at the current small profits rate of 20 per cent from 1 April 2015. The main rate of corporation tax is currently 24 per cent and, as announced in the 2012 Autumn Statement, is falling to 23 per cent from 1 April 2013 and down again to 21 per cent from 1 April 2014. This alignment of rates is clearly good news for companies with profits of more than £1.5 million who currently pay the main rate of corporation tax. It is probably even better news for those companies with profits between £300,000 and £1.5 million as they will no longer have to pay corporation tax at the marginal rate and perhaps even more significantly will not have to deal with the complicated associated companies' rules.

The rate reduction is being offset for banks by an increase in the full rate of the bank levy to 0.142 per cent and the half rate to 0.071 per cent from 1 January 2014.

R&D tax credits reform: above the line

An above the line (ATL) R&D credit is being introduced for non-SMEs for qualifying expenditure incurred on or after 1 April 2013. The Chancellor has announced that the ATL credit will be introduced at 10 per cent, instead of the previously announced 9.1 per cent.

Meg Wilson, BA, ATT, CTA

Meg joined CCH as a full-time tax writer in September 2012.

She qualified as a Chartered Tax Adviser in 1999 and has worked for HLB Kidsons (now Baker Tilly), KPMG and Hazlewoods, a top 40 firm in Gloucestershire. At Hazlewoods Meg was Tax Development Manager, responsible for the efficient running of the tax team and the external promotion of its services. This included writing internal and external tax newsletters and client factsheets and managing the firm's annual Budget coverage.

I find it so much easier to conduct a search and to find the information I'm looking for using the CCH service. It delivers usable results much more quickly.

Keith Mason

Tax Partner – Barnes Roffe

Read the case study

Capital allowances

First year allowances (FYAs) for energy–saving technologies and the renewable heat incentive for Northern Ireland Finance Act 2012 introduced legislation in Great Britain from April 2012 stopping expenditure on plant and machinery that receives feed-in tariffs or renewable heat incentive (RHI) payments from also qualifying for enhanced capital allowances (ECAs). As the RHI scheme was introduced in Northern Ireland in November 2012, a measure will be included in the Finance Bill 2013 to ensure the same rules will apply in Northern Ireland from April 2013.

Capital allowances for railway assets and ships

The Finance Bill 2013 will remove the current general exclusions to FYAs for expenditure incurred on either ships or railway assets. The measure will apply to qualifying expenditure incurred on or after 1 April 2013.

Update of the enhanced capital allowances schemes for energy-saving and environmentally beneficial (water efficient) technologies

Since the introduction of these enhanced capital allowances schemes, the lists of technologies and products covered by the schemes are updated annually to ensure that only the most efficient products can benefit. Subject to State aid approval, the new lists will be effective from a date to be appointed by Treasury Order which will be made prior to Parliament’s summer 2013 recess. Any businesses looking to use the enhanced capital allowances schemes need to review the relevant lists carefully to ensure that particular technologies and products qualify.

Low emissions vehicles

The 100 per cent allowance (FYA) for expenditure incurred on cars with low CO_2 emissions and electrically propelled cars is to be extended by three years to 31 March 2018. However, at the same time, the CO_2 emissions threshold below which vehicles are eligible for the FYA will be reduced from 95g/km to 75g/km. The complementary 100 per cent FYA for gas refuelling equipment will also be extended to 31 March 2018. These measures are due to be introduced in the Finance Bill 2015.

Foreign currency assets and corporate chargeable gains

It was announced at Budget 2012 that relevant companies would be required to compute their chargeable gains and losses on disposals of shares in their functional currency. This will be extended to cover disposals of ships, aircraft and interests in shares. The measure will be included in the Finance Bill 2013 and will take effect shortly after Royal Assent.

Decommissioning: increasing tax certainty for oil and gas investment in the UKCS

The Government will be able to enter into contracts with oil and gas companies to guarantee the basis on which tax relief for decommissioning will be available. Legislation will be included in the Finance Bill 2013 to enable the Government to meet its obligations under those contracts. This legislation was published in draft in December 2012 but a number of small changes will be made to ensure that the legislation operates as intended.

Corporation tax: deferring payment of exit charges

Companies which cease to be resident in the UK as a consequence of the transfer of their place of management to another EU or EEA member state will be able to opt for deferred payment arrangements in respect of exit charges. It has been announced that this will extend to the corporation tax attributable to the revaluation of trading stock. Further, a UK permanent establishment of an EU/EEA-resident company will be able to defer payment of corporation tax attributable to unrealised gains on assets which cease to be held for the purposes of a UK trade.

Legislation giving effect to these changes will be included in the Finance Bill 2013 and will take effect from 11 December 2012.

Controlled foreign companies (CFC) regime

A new regime for CFCs was introduced by Finance Act 2012 and it applies for accounting periods beginning on or after 1 January 2013. The Finance Bill 2013 will include legislation to counter two tax planning opportunities and to make a number of small changes to ensure the rules work as intended. The amendments will have effect from 1 January 2013 in line with the commencement date for the new CFC rules.

Investment trust companies (ITCs)

Legislation will be introduced in the Finance Bill 2013 to remove an unintended consequence of changes to the tax rules for ITCs. This measure will ensure that ancillary activities will not prevent a company from being capable of being approved as an ITC. It will have effect for accounting periods commencing on or after 1 January 2012.

In addition, secondary legislation to provide an exception to the income distribution requirement for ITCs will be published for consultation in spring 2013. The changes are expected to take effect for accounting periods commencing on or after 1 July 2013.

Offshore funds amendments

Secondary legislation will be introduced to address certain technical issues in the operation of the Offshore Funds (Tax) Regulations 2009. The changes will ensure that UK investors in offshore funds are taxed in a similar way to investors in equivalent UK funds. The majority of the changes are expected to take effect by 30 June 2013.

Shale gas: tax incentives to encourage investment

The Government will consult on tax measures to encourage the exploration and production of shale gas with a view to including legislation in the Finance Bill 2014.

Consultation on tax support to the visual effects industry

The Government will consult on options to provide tax relief to the visual effects industry. It is not clear what form this will take although it may be that it is drafted along similar lines to the new reliefs for the creative sector to be introduced by the Finance Bill 2013.

Review of loan relationships and derivative contracts

The Government will consult on modernising the legislation governing the taxation of loan relationships and derivative contracts with a view to providing simpler and fairer tax treatment, minimising the scope for abuse, reducing uncertainty and improving structural and legislative clarity as well as reducing administrative burdens.

Value Added Tax

Scale charge revised

The fuel scale charges are revised with effect from 1 May 2013. As already announced, legislation in the Finance Bill 2013 will amend the way that the law sets out the scale charges and will provide for their annual revalorisation.

Registration and de-registration thresholds increased

The following changes take place from 1 April 2013:

- the taxable turnover threshold which determines whether a person must be registered for VAT, increases from £77,000 to £79,000;
- the taxable turnover threshold which determines whether a person may apply for de-registration increases from £75,000 to £77,000; and
- the registration and de-registration threshold for relevant acquisitions from other member states increases from £77,000 to £79,000.

Research exemption withdrawn

From 1 August 2013, secondary legislation will withdraw the VAT exemption for business research supplied by one eligible body to another. This follows the European Commission notifying the UK that its exemption for business supplies of research between eligible bodies does not comply with EU law as a result of the ruling in EC Commission v Germany (Case C-287/00) [2003] BVC 11 .

Consultation announced on Retail Export Scheme

There is due to be consultation on redesigning the Retail Export Scheme (tax-free shopping). This scheme allows refunds of VAT on goods bought in the UK by non-EU visitors who export those goods in their personal luggage.

The consultation will focus on changes that make the scheme easier to use and understand, reduce the scope for error, improve compliance and protect revenue. One option is to introduce a digital scheme.

Exports by persons with no business establishment

There is due to be consultation on zero-rating of certain supplies of goods for export outside the EU. Zero-rating will apply to sales to persons, who are VAT-registered in the UK but have no business establishment in the UK, where they arrange for the export of the goods to a non-EU destination. Current UK law applies VAT to such transactions and is not compatible with EU law. Also, a minor housekeeping change will be made on zero-rating of goods dispatched to other member states to amend an outdated reference to excise law.

Stanley Dencher, BCom, FCA, CTA (Fellow), AIIT

Stanley was a practitioner for nine years before joining CCH as a technical editor in 1984, working primarily on VAT publications. He wrote Personal Trading Losses and is co-author of Company Cars, both published by CCH.

For many years Stanley presented tax seminars for the ICAEW and CIOT and for training organisations all over the UK.

Changes to place of supply rules

Legislation in the Finance Bill 2014 will charge VAT on intra-EU 'business to consumer' supplies of telecommunications, broadcasting and e-services in the member state in which the consumer is located. These services are currently taxed in the member state in which the business is established. The changes will take effect from 1 January 2015 and implement EU legislation into UK legislation, ensuring that these services are taxed in the member state of consumption. To save the need for businesses affected by these changes to register for VAT in other member states, a 'Mini One Stop Shop' will be introduced from 1 January 2015, which is an IT system that enables businesses to register only in the UK, but to account for VAT due in other member states using a single return.

Refunds by manufacturers

Legislation in the Finance Bill 2014 will enable regulations to be made that will allow manufacturers to reduce their VAT payments to take account of refunds they make directly to final customers. These could be adjustments to VAT to reflect refunds made as a result of faulty or damaged products or customer dissatisfaction.

Refunds for Health Research Authority

Legislation in the Finance Bill 2014 will include the Health Research Authority and Health Education England within VATA 1994, s. 41 to ensure that these bodies can claim VAT refunds.

Exemption for commercial entities supplying education

There has been consultation on extending the education exemption to commercial entities who supply 'university degree level' education. The consultation has identified significant concerns. Thus, alternative options are being developed, which will also cover possible changes to the exemption for further education. There will be further consultation later this year.

VAT measures unchanged following consultation

Draft legislation on the following matters has already been published for consultation, as a result of which no major changes have made to the provisions to be introduced in the Finance Bill 2013:

- reduced-rating for energy-saving materials in charitable buildings; and
- VAT refunds for NHS bodies.

Stamp Taxes

Two stamp tax charges are to be abolished, from 2014. The Chancellor contrasted the first of these to the imposition of the new Financial Transactions Tax (FTT) that is being promoted by certain EU member states.

Stamp duty on junior shares

The Government announced its intention, following consultation, to abolish stamp duty on shares quoted on growth markets such as the Alternative Investment Market (AIM) and the ISDX Growth Market.

Stamp duty reserve tax on unit trusts and OEICs

The SDRT charge on unit trusts and open-ended investment companies in Finance Act 1999, Sch. 19 is also to be abolished. This is the legislation that effectively charges to tax surrenders of units, but with a proportionate reduction in the charge if the units surrendered in a relevant period exceed the number of new units issued; in effect the charge applies to the extent surrenders are matched by new units issued in such period.

Mark Cawthron, LLB, Solicitor, CTA

Mark is a tax lawyer and was formerly a partner in the City office of law firm Pinsent Masons and its predecessor firms from 1990 to 2007 and of the US law firm, Bryan Cave, from 2007 to 2010.

He has wide experience of corporate and business tax fields, particularly in: M&A; corporate finance and corporate restructurings; private equity (for institutional investors and management teams); real estate investment and development; employee share incentives; employment arrangements and their termination; handling disputes with tax authorities.

Anti-avoidance

The Chancellor re-emphasised the Government's commitment to tackling tax avoidance and evasion, referring in his speech to new agreements with the Isle of Man, Guernsey and Jersey, and the Government's leading role (via the G8, OECD and G20) in working towards a modern international taxation system, particularly to deal with the digital economy. Further, an HMRC document 'Our offshore evasion strategy 2013 and beyond 'is released today.

The Budget announcements confirm the introduction of some well-trailed domestic anti- avoidance measures, and a number of new ones, some for Finance Bill 2013 and others for Finance Bill 2014.

In Finance Bill 2013:

General Anti-Abuse Rule ('GAAR')

It is confirmed that the legislation will apply to abusive arrangements undertaken on or after the date of Royal Assent to Finance Bill 2013.

The GAAR will apply to income tax, corporation tax (and amounts treated as corporation tax), CGT, inheritance tax, SDLT, the annual tax on enveloped dwellings and PRT. Separate legislation will be introduced later in 2013 to apply the GAAR to National Insurance contributions.

It will be interesting to see how the GAAR develops. Some voices have suggested advisers will be faced with real uncertainty at where reasonableness ends and abuse begins. Graham Aaronson QC, who led the review body that worked up the GAAR proposal, has asked people to 'wait and see' – he is confident that in practice the GAAR will do its job of tackling the abusive schemes and leaving reasonable tax planning intact.

Trade and property business tax deductions

Targeted anti-avoidance rules ('TAARs') to the income tax and corporation tax provisions governing the relationship between the rules prohibiting and allowing deductions will be introduced. The TAARs will apply where a permissive rule would otherwise allow a deduction in calculating the profits of a trade or property business for an amount which arises from tax avoidance arrangements, and ensure the rules prohibiting a deduction take precedence over those allowing a deduction.

The rules will have effect from 21 December 2012, the date first announced.

Corporation tax deductions for share acquisitions

The legislation in this respect is to be amended to clarify that if relief is given under Corporation Tax Act 2009, Pt. 12, companies may not claim any other CT deduction in relation to the provision of the employee's shares or share options, or in relation to any connected matter, other than where specified. It will also clarify that, other than in specified circumstances, no CT deductions are available in relation to employee share options, or any matter connected with such an option, unless shares are acquired pursuant to that option.

The new rules will apply for accounting periods ending on or after 20 March 2013, irrespective of when shares were awarded or options granted. But a deduction will not be denied where the shares are acquired, or an option to acquire shares lapsed, in either case prior to that date.

Close company loans to participators

Changes are announced to close what HMRC refer to as three 'loopholes' used to attempt to avoid the 25 per cent tax charge on such loans. The changes will:

- charge close companies on loans they make via intermediaries to participators;
- charge close companies on other payments they make via intermediaries to participators; and
- update the repayment rules with an anti-avoidance provision (to prevent repayment followed by withdrawal of a 'new' loan).

The types of 'intermediary' identified include partnerships (including LLPs) in which the close company and at least one partner/member is a relevant person who is a participator (or associate of a participator). The legislation will include 'appropriate exceptions and relief from the charge'. Similar provisions will apply to certain trustees.

The changes will have effect on and after 20 March 2013.

Loss buying

'Loss buying' is described by HMRC as where companies pass the potential to gain access to corporation tax relief to unconnected third parties. The legislation will:

- extend the current rules, in Corporation Tax Act 2010, Pt. 14, to apply to a transfer of ownership of a company that is not a trading company nor one with a property or investment business, which holds non-trading loan relationship deficits and non-trading intangible fixed asset debits and credits;

- amend such rules to apply additionally to the trade of a company that has undergone a change of ownership, if that trade or part-trade is subsequently transferred to a fellow group company; and
- amend the rules in Corporation Tax Act 2010, Pt. 5, to add to the threshold which relevant amounts must exceed before they can be surrendered by way of group relief. The threshold will be amended to include any apportionments of profits under CFC rules made to the surrendering company.

The changes have effect from 20 March 2013.

Loss buying: targeted loss buying rule

The Government proposes to address arrangements that seek to circumvent the Part 14 loss buying rules above, in certain circumstances, to bring the tax treatment of unrealised loss involved in a transfer between unconnected parties, more closely into line with the long-standing treatment of realised losses.

Three separate rules will be introduced, effective from 20 March 2013, to combat loss buying which, when triggered, will not remove the ability to relieve relevant losses, but just stop their set-off against other profits.

Inheritance tax: limiting the deduction for liabilities

The IHT provisions which allow a deduction from the value of an estate for liabilities owed by the deceased on death, will be amended in the following circumstances:

- a deduction for a liability will only be allowed to the extent that it is repaid to the creditor, unless it is shown that there is a commercial reason for not repaying the liability and it is not left unpaid as part of arrangements to get a tax advantage;
- no deduction will be allowed for a liability to the extent that it has been incurred directly or indirectly to acquire property which is excluded from the charge to IHT. However, where the acquired property has been disposed of or where the liability is greater than the value of the excluded property, the deduction may be allowed providing certain conditions are met.
- where the liability has been incurred to acquire assets on which a relief such as BPR, APR or Woodlands Relief is due, the liability will be taken to reduce the value of those assets that can qualify for relief. The deduction for the loan will be matched against the assets acquired and relief will be restricted to the net value of the assets. Any excess liability will be allowable as a deduction against the estate in general subject to the new rule about unpaid debts.

The new rules will also apply to settled property with the exception that the unpaid liabilities rule will not apply to the calculation of the value of the estate for the purposes of the ten-year anniversary charge.

The measure will have effect for deaths and chargeable transfers on or after the date that Finance Bill 2013 receives Royal Assent.

SDLT avoidance

The Government announced that legislation will be introduced to close down two specific avoidance schemes, and to do so retrospectively. These are schemes which abuse the transfer of rights ('sub-sale') rules, and have been used primarily in residential property transactions. The changes will apply retrospectively to 21 March 2012.

For the subsequent Finance Bill 2014:

Offshore employment intermediaries

The Government will consult on strengthening obligations to ensure the correct income tax and NICs are paid by offshore employment intermediaries, following on a review announced in Autumn Statement 2012. This will be with a view to legislating in Finance Bill 2014.

Partnerships

The Government will consult on measures to:

- remove the presumption of self-employment for LLP partners, to tackle what it sees as the disguising of employment relationships through LLPs; and
- counter the manipulation of profit/loss allocations by partnerships including a company, trust or similar vehicle in order to secure tax advantages.

A consultation document will be issued, with a view to legislating in Finance Bill 2014.

High-risk promoters

The Government will consult on a package of information powers, penalties and other measures, including the possible naming and shaming of high-risk promoters of schemes, with a view to bringing forward legislation in Finance Bill 2014.

Close company loans to participators

The Government will consult on the structure and operation of the tax charge on loans from close companies to their participators. If legislation is found to be needed, it will be included in Finance Bill 2014.

Tax Administration

Stanley Dencher, BCom, FCA, CTA (Fellow), AIIT

PAYE late payment and filing penalties

Legislation will be included in Finance Bill 2013 to encourage compliance with the real time information (RTI) payment and information obligations. The legislation includes late filing penalties and changes to the late payment penalties to ensure they can be charged in-year, with effect from 6 April 2014. It also includes minor changes to the existing inaccuracy penalties, so they can be charged in a way that minimises the burden on employers and HMRC, with effect from the date of Royal Assent to the Finance Bill 2013.

Information powers

Legislation will bring into effect international agreements to improve tax compliance. Primary legislation will be included in Finance Bill 2013. Regulations will implement the UK–US agreement to 'Improve International Tax Compliance and to Implement FATCA'. FATCA is the US law commonly known as the Foreign Account Tax Compliance Act. Further regulations will implement subsequent similar automatic exchange agreements.

Data gathering from merchant acquirers

Legislation in the Finance Bill 2013 amends the data-gathering powers from the date of Royal Assent to allow HMRC to issue notices to card payment processors. The notices require them to provide bulk data about businesses accepting credit and debit cards. This data helps identify businesses that are not declaring their full tax liability. The legislation has been revised to cover all institutions that settle card payments to businesses.

Notification by avoidance scheme users

There will be consultation on following up HMRC's victories in avoidance cases. Taxpayers, who have used an avoidance scheme which was defeated in another party's litigation, must acknowledge to HMRC that:

- the case applies to them and so they will amend the return accordingly; or
- they stand by the original return.

A tax-geared penalty would be charged, subject to safeguards, if they failed to take reasonable care. Legislation will be in the Finance Bill 2014.

PAYE coding out

There will be consultation on improving 'coding out', which is collecting tax debts through PAYE. This includes increasing the size of debts that can be recovered through coding out from those with higher incomes.

Scottish rate of income tax

The Finance Bill 2014 will require the National Audit Office to report to the Scottish Parliament annually on HMRC's administration of the Scottish rate of income tax. The Scottish rate was legislated for in the Scotland Act 2012 from April 2016.

Customs civil penalties

There will be consultation on customs civil penalties, in particular to bring them into line with other penalties. Legislation will be included in the Finance Bill 2014.

Tax and Procurement

From 1 April 2013, suppliers to Government will have to certify that they have complied with their tax obligations. A number of criteria apply for this purpose including whether or not the supplier has been involved in a failed tax avoidance scheme. A number of significant changes to the original proposals have been announced including to the controversial look-back period.

Closing Statement

CCH helps you to keep up

So another Budget is over leaving in its wake another set of issues for tax advisers to grapple with. The creation of a single corporation tax rate of 20% from 2015 (enabling us to dispense with the baggage associated with the small profits rate) is clearly a welcome simplification. But it remains an isolated example.

The measures touched upon by the Chancellor range from the over-familiar to the brand new. Several in the latter category are so fresh that the detail is non-existent. So for one possible new CGT exemption all we are given is that it will apply to 'controlling interests of a business' which are sold to 'an employee ownership structure'. No doubt more will be revealed as the proposal weaves its way through the consultation process. And no doubt the original idea will be altered significantly (for the better?) too.

One widely-welcomed development that has (finally) come to the end of that process is the statutory residence test. Many hoped this would simplify as well as codify. This now looks unlikely:

> 'The Government has confirmed that it will proceed with its proposal to enact a comprehensive test of tax residence in a form which, it appears, will be largely unchanged from the draft legislation released in December. This is the most significant change to the law of tax residence in the UK since the introduction of Income Tax in 1798 and of importance to all advisers who are concerned with UK Income Tax, Capital Gains Tax or Inheritance Tax and to anybody who is considering taking up or relinquishing tax residence in the UK, has done so in the past or who, whilst non-resident, maintains connections with the UK. The draft legislation contains many complexities and uncertainties which are traps for the unwary. McKie on Statutory Residence examines the draft legislation in detail, identifying those traps and their practical implications.'
>
> (Simon McKie, co-author of CCH's McKie on Statutory Residence publishing in 2013)

Another long-trailed concept which should make it onto the statute book this year is the Patent Box:

> 'The Patent Box is key to incentivising and rewarding innovative endeavour - every company needs to assess how it can benefit.'
>
> (Julian Hickey, author of CCH's Taxation of Innovation and Intellectual Property publishing in 2013)

Rest assured that at CCH our team of in-house tax writers and our excellent external authors (including the two above) will continue to track and interpret these changes to ensure that you are kept fully aware of the impact on your clients.

Paul Robbins, BA, ACA, CTA

After graduating, Paul worked in the tax departments of two large accounting firms, now absorbed into the Big 4, before joining CCH as a tax writer specialising in corporates.

As well as managing our team of in-house tax writers, Paul is now lead technical editor of the Red Book, the Tax Reporter, Tax Planning Online and the CCH Tax Workflow system. As Tax Content and Innovation Manager he is also responsible for the quality and development of the entire tax information portfolio.

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