Budget 2010

BUDGET NOTES

24 March 2010

Budget Notes contain technical information additional to the press notices issued by HM Treasury with the Budget. They are not the same as press notices, which are primarily used as brief explanations of new policy for the media, but rather contain additional, more detailed information on the changes to tax law announced in the Budget. As such they are designed to assist businesses that may be immediately affected by the changes, and to provide more technical information to those with a specialist interest such as tax consultants and advisers, City financial institutions and local HM Revenue & Customs offices. This information is also published on the Treasury and HM Revenue & Customs internet sites. Contact details for each note were correct at the time of publication. Please refer to HMRC's individual web versions as these are updated as required.

CONTENTS:

HM Revenue & Customs

HM REVENUE & CUSTOMS PRESS OFFICE

Press enquiries: 020 7147 2328 / 0798 / 2333 (Business Tax Desk)
020 7147 2318 / 0051/ 2331 (Individuals Desk)
020 7147 0052 / 0394 (Family & Law Enforcement Desk)
07860 359544 (Out of hours)

GOVERNMENT DEPARTMENT INTERNET SITES

Further information and all published documents relating to the Budget may be found on the Internet at the following addresses:

HM Treasury: www.hm-treasury.gov.uk

HM Revenue & Customs: www.hmrc.gov.uk

HM Revenue & Customs

HM Revenue
& Customs

INCOME TAX RATES, RATE LIMITS AND PERSONAL ALLOWANCES FOR 2010-11

Who is likely to be affected?

1. Income tax payers.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to set the basic rate of income tax at 20 per cent, the higher rate at 40 per cent and the additional rate at 50 per cent. The Finance Bill will also set the amounts of personal allowances, the starting rate limit for savings and the basic rate limit as announced at the 2009 Pre-Budget Report (PBR).

Operative date

3. The rates, basic rate limit and personal allowances will have effect on and after 6 April 2010.

Current law and proposed revisions

4. The charge to income tax, the basic, higher and, from 2010-11, the additional rates of income tax are provided for annually in the Finance Act (FA). The provisions for income tax and the basic and higher rates for 2009-10 are in section 1 of FA 2009.

5. The 20 per cent basic rate applies to taxable income up to the basic rate limit of £37,400. The 40 per cent higher rate applies to taxable income above £37,400.

6. Existing legislation requires the Government to increase personal allowances and rate limits by secondary legislation where the Retail Prices Index (RPI) increases. The Income Tax (Indexation) (No. 3) Order 2008 set the personal allowances and basic rate limit for 2009-10. Subsequently, the amounts of the basic rate limit and the personal allowance in the Order were over-ridden by sections 2 and 3 of FA 2009.

7. There are no parallel provisions to set the personal allowances or rate limits should the RPI fall. Therefore, for 2010-11 these amounts will be set in the Finance Bill at their 2009-10 amounts as announced at the 2009 PBR.

8. The basic rate of income tax will remain at 20 per cent and the higher rate will remain at 40 per cent. The additional rate will be set at 50 per cent. The basic rate limit will remain at £37,400 and the additional rate will apply to taxable income above £150,000 as provided for by section 10 of the Income Tax Act 2007 (ITA).

9. The limit for the 10 per cent starting rate for savings will remain at £2,440.

10. The personal allowances will remain at their existing amounts. The personal allowance for those under 65 will remain at £6,475, the personal allowance for those aged 65 to 74 will remain at £9,490 and the personal allowance for those aged 75 and over will remain at £9,640. The amount of the personal allowance will be gradually withdrawn for all individuals (regardless of age) with incomes above £100,000 as provided for by section 35 of ITA. The rate of reduction will be £1 of personal allowance for every £2 of income above the £100,000 limit.

Further advice

11. If you have any questions about this change, please contact Paul Thomas on 020 7147 2479 (email: paul.thomas@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

BANK PAYROLL TAX

Who is likely to be affected?

1. Banks, certain financial businesses and holding companies in banking groups (defined in the legislation), building societies, certain financial businesses and holding companies in building society groups and UK branches of foreign banks ("a taxable company") that award relevant remuneration ("a bonus") exceeding £25,000 to a relevant banking employee directly or through an intermediary.

General description of the measure

2. Following the announcement in the 2009 Pre-Budget Report (PBR), legislation in Finance Bill 2010 will introduce a new tax, the bank payroll tax (BPT). It will be payable by a taxable company on bonuses if and to the extent that bonuses awarded by the taxable company exceed £25,000. The rate of BPT will be set at 50 per cent. A taxable company will also be liable to BPT where the bonus entitlement arises in respect of banking services performed for the taxable company regardless of who awards the bonus.

3. A Technical Note and draft clauses were published at the 2009 PBR. A number of changes have been made to the draft clauses. The main changes are:
   - clarification of the scope of the legislation in connection with when relevant remuneration is taken to be "awarded" during the chargeable period;
   - clarification of the scope of the legislation in connection with the definition of "taxable company";
   - introduction of a 60 day rule for relevant banking employees; and
   - inclusion of detailed machinery provisions for the assessment and the collection of BPT. These include provisions for penalties and interest.

Operative date

4. BPT will have effect from 12.30 pm on 9 December 2009 until 5 April 2010 for all discretionary and contractual bonus awards. There is an exception for contractual bonus entitlements where the payer has no discretion as to the amount of the bonus because of a contractual obligation existing at the time of the Chancellor's announcement.

Current law and proposed revisions

5. BPT applies to bonuses comprising money, money's worth, benefits and loans. Where the bonus includes money's worth or a benefit, the amount of remuneration for the purposes of BPT is the higher of market value or the cost of providing it.

6. A bonus is subject to BPT where it is awarded to a relevant employee, or where a contractual obligation to pay or provide the bonus arises, during the chargeable period (9 December 2009 to 5 April 2010 inclusive). For the purpose of the legislation, a contractual obligation arises only at the point at which a bonus is fixed, or capable of being fixed, without the exercise of discretion by any person.

7. For the purposes of BPT, a "relevant banking employee" is someone whose duties comprise of a banking employment and who is either resident in the UK in the tax year 2009-10 or performs his or her duties wholly or partly in the UK. A "banking employment" is one where the duties are wholly or mainly concerned, whether directly or indirectly, with certain activities regulated by the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 or activities which are not so regulated but which consist of the lending of money or of dealing in currency or commodities as principal.

8. Where an obligation to pay or provide remuneration at intervals arises within the chargeable period, and that remuneration is capable of becoming fixed without the exercise of discretion, any amount relating to performance or similar considerations only after the chargeable period will not be subject to BPT. This means that no performance related pay that relates only to periods after the chargeable period will be within the scope of the tax.

9. The legislation includes provisions that make clear that where the duties of the banking employment are performed by an employee who visited the UK for no more than 60 days in the 2009-10 tax year, that employee will not fall within the definition of a "relevant banking employee" and BPT will not apply to "relevant remuneration" awarded to that employee.

10. BPT applies to arrangements where an individual provides banking services through an intermediary or a bonus is provided through an intermediary. It is payable on or before 31 August 2010. BPT does not affect income tax or National Insurance liabilities of bank employees and is not taken into consideration when calculating the taxable company's profit or loss for corporation tax (CT) or income tax purposes.

11. The published legislation narrows the scope of the definition of a UK resident bank and a relevant foreign bank in a number of ways.

12. Companies (or in the case of company partners, partnerships in which they are partners) that do not carry out deposit-taking in the UK and which, in the course of their trade, carry on activities consisting wholly or mainly of one or more of the other activities regulated by the Financial Services Authority (FSA) as specified in the draft legislation ("relevant regulated activities") other than deposit-taking will only be within the definition of a UK resident bank or a relevant foreign bank where the firm:
    - is a BIPRU730k firm and a BIPRU full scope investment firm (within the relevant FSA definitions); and
    - has a capital resources requirement of at least £100 million in the period of account ending no later than the end of the chargeable period.

    The legislation provides for the aggregation of capital resources in certain circumstances in respect of other firms within the group and in the case of certain partnerships.

13. Furthermore the list of companies specifically excluded from the definition of a UK resident bank and a relevant foreign bank has been expanded to ensure that the following firms are excluded:
    - firms that are Insurance Special Purpose Vehicles within the definition in section 431(2) of the Income and Corporation Taxes Act 1988;
    - firms that are Exempt BIPRU commodities firms (as defined in the FSA Handbook); and
    - firms that do not carry out relevant regulated activities otherwise than:
        - as a manager of a pension scheme;
        - on behalf of an insurance company in the same group;
        - in respect of asset management activities (which are one or more of being the operator of a collective investment scheme, being a discretionary investment manager wholly in respect of third party clients, or being an authorised corporate director (all these terms are defined in the FSA Handbook));
        - for the purposes of trading in commodities and commodity derivatives; and
        - for the purposes of trading in contracts for differences (CFDs) as principal with retail clients, or of trading in CFDs with another party to enable the firm or that other party to trade in CFDs with retail clients. Where an insignificant proportion of such CFDs are not with retail clients the exemption will still apply.

14. The definition of a "banking group" now excludes any group, where at least 90 per cent of the trading income in the last period of account of the group ending no later than 5 April 2010 is derived from insurance, asset management and related activities or non-financial activities (or a combination thereof). Any UK resident bank or relevant foreign bank within the group will still be a taxable company for the purposes of BPT.

15. The legislation includes provisions for the collection and management of BPT and will provide that all "taxable companies" will be required to submit a return by 31 August 2010. The provisions will enable HM Revenue & Customs (HMRC) to publish requirements as to the information to be contained in the return, the form in which it must be made, and how it must be delivered.

16. The intention is that a return must set out, amongst other things, that BPT is payable or confirmation that no BPT is payable. Penalties will apply to late filed or incorrect returns. The provisions will also set out that payment of BPT must be made by 31 August 2010. HMRC will have the power to publish requirements as to the method of payment. The intention is that payment will be made electronically using the Clearing House Automated Payment System (CHAPS). Interest and penalties will apply to late payments. Taxable companies will have the ability to amend their return and HMRC will have powers to enquire into a return and to issue determinations and assessments where a self assessment of BPT is not made or believed to be insufficient. These powers are broadly similar to those currently available in respect of CT.

Further advice

17. Banks that have a HMRC Customer Relationship Manager should contact them if they require information not covered by the published material.

18. Information about this measure is available on the HMRC website at http://www.hmrc.gov.uk/pbr2009/bank-payroll.htm

19. If you have any questions about this change, please email pbr2009.taxteam@hmrc.gsi.gov.uk or telephone 020 7147 0110. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

CORPORATION TAX MAIN RATES

Who is likely to be affected?

1. Companies with profits above the upper limit (currently £1.5 million), companies that are part of a group with profits above the upper limit, and companies with profits from oil extraction and oil rights in the UK and the UK Continental Shelf ("ring fence profits").

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to set the main rate of corporation tax (CT) at 28 per cent on and after 1 April 2011.

3. The main rate of CT for companies' ring fence profits will remain at 30 per cent on and after 1 April 2011.

Operative date

4. These rates will have effect on and after 1 April 2011.

Current law and proposed revisions

5. The charge to CT is found in the Corporation Tax Act 2009 (CTA) and the rates of CT are legislated annually in the Finance Act (FA). The current provisions for the rates of CT can be found at sections 7 and 8 of FA 2009.

6. Where companies have profits of more than £1.5 million the whole of those profits are chargeable to the main rate of CT. Section 7 of FA 2009 sets the main rate at 28 per cent for companies with profits other than ring fence profits and at 30 per cent for companies with ring fence profits.

7. The main rate of CT will remain at 28 per cent and the main rate of CT for ring fence profits will remain at 30 per cent.

Further advice

8. If you have any questions about this change, please contact Simon Moulden on 020 7147 2629 (email: simon.moulden@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

CORPORATION TAX SMALL PROFITS RATE

Who is likely to be affected?

1. Companies with profits chargeable to corporation tax (CT) below the lower limit (currently £300,000), companies with CT profits between the lower limit and the upper limit (currently £1.5 million), and companies with profits from oil extraction and oil rights in the UK and the UK Continental Shelf ("ring fence profits").

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to keep the small profits rate for all profits, apart from ring fence profits, at 21 per cent from 1 April 2010 and keep the fraction used in smoothing the difference between the main rate of CT and the small profits rate ("marginal relief") at 7/400.

3. The small profits rate for ring fence profits will remain at 19 per cent from 1 April 2010 and the marginal relief fraction for ring fence profits will remain at 11/400.

Operative date

4. The measure will have effect on and after 1 April 2010.

Current law and proposed revisions

5. The rates of CT are legislated annually in the Finance Act (FA). The current provisions for the rates of CT can be found at sections 7 and 8 of FA 2009.

6. The current rules at section 18 of the Corporation Tax Act 2010 (CTA) provide that where a company is not a close investment-holding company and its CT profits (other than ring fence profits) do not exceed the lower limit (currently £300,000), those profits are taxed at the lower rate of CT, known as the "small profits rate" (currently 21 per cent).

7. Legislation will be introduced in Finance Bill 2010 to maintain the small profits rate at 21 per cent for non-ring fence profits. The small profits rate for ring fence profits will also remain at 19 per cent for the financial year 2010-11.

8. Section 19(2) of CTA entitles companies with a profit of between £300,000 and £1.5 million to marginal relief from tax computed at the main rate. The marginal relief fraction used in calculating this relief is currently 7/400 for non-ring fence profits and 11/400 for ring fence profits.

9. As there is no change to the small profits rate, the marginal relief fraction for non-ring fence profits will remain at 7/400 and for ring fence profits the fraction will also remain at 11/400.

10. The upper and lower limits for the small profits rate are set at section 24 of CTA. These will remain unchanged.

Further advice

11. If you have any questions about this change, please contact Simon Moulden on 020 7147 2629 (email: simon.moulden@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

CAPITAL DISTRIBUTIONS

Who is likely to be affected?

1. UK companies in receipt of distributions.

General description of the measure

2. This measure will put beyond doubt the corporation tax (CT) treatment of certain distributions received by UK companies.

3. The new legislation will mean that distributions will not be prevented from falling within the distribution exemption regime at Part 9A of the Corporation Tax Act 2009 because they are capital in nature.

4. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

5. The legislation will have retrospective effect. UK companies will be able to elect for the legislation not to apply retrospectively.

Current law and proposed revisions

6. Legislation was introduced in the Finance Act (FA) 2009 which has the effect of exempting most distributions received by UK companies from CT. Distributions other than capital distributions paid by UK resident companies (UK distributions) have been exempt distributions for many years. The legislation extended the exemption to foreign distributions but not to distributions of a capital nature.

7. HM Revenue and Customs' (HMRC) long standing practice has been to treat UK distributions as being of an income nature subject only to some specific exceptions. Clarification of the law made in the Income Tax (Trading and Other Income) Act 2005 made this treatment impossible to sustain. This development went unnoticed, and HMRC did not change its practice until after the introduction of the exemption regime in FA 2009.

8. The new legislation will simplify the distribution exemption regime by making it unnecessary to consider difficult boundary issues between income and capital. It will allow HMRC to revert to its previous practice whereby only distributions specifically excluded from income are treated as capital.

Further advice

9. If you have any questions about this change, please contact Andrew Page on 020 7147 2673 (email: andrew.page@hmrc.gsi.gov.uk) or Steve Denyer on 020 7147 0330 (email: stephen.denyer@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

RELIEF FOR INTEREST: AMENDMENTS TO THE "WORLDWIDE DEBT CAP" LEGISLATION

Who is likely to be affected?

1. Groups of companies – but not groups that consist wholly of small or medium-sized enterprises.

General description of the measure

2. The "worldwide debt" cap was introduced last year to guard against excessive debt funding of UK companies. The legislation, which has now been rewritten into Part 7 of the Taxation (International and Other Provisions) Act 2010, does this by restricting relief for UK financing costs where these exceed the financing costs of the worldwide group.

3. In November 2009, the Financial Secretary to the Treasury announced a number of changes to the legislation to be made in Finance Bill 2010. These changes have come about as a result of consultation with business, and will ensure that certain aspects of the debt cap work as originally intended. Since the 2009 Pre-Budget Report (PBR), consultation has brought to light some further areas where changes are to be made.

4. The Government intends to legislate these changes in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

5. The debt cap legislation as a whole applies to periods of account of the worldwide group beginning on or after 1 January 2010, and with one exception the changes will apply from that date. The exception is the extension of the scope of "relevant assets" and "relevant liabilities" for the gateway test (see paragraph 8 below), where groups may elect for the change to apply only prospectively.

Current law and proposed revisions

6. Two of the further changes now being made relate specifically to securitisations. Where a group includes securitisation companies that are within the special corporation tax (CT) regime for securitisation companies, the "available amount" (the financing costs of the group as a whole) is computed as if the results of the securitisation companies were not included in the group's consolidated accounts. This is complementary to the provision already announced, which excludes securitisation companies from the computation of UK financing costs and income.

7. Furthermore, the legislation will include a power to make regulations that will enable a company involved in capital market arrangements, and which incurs an additional CT liability as a result of the debt cap, to transfer that liability to another company in the group.

8. The other changes that are being made are as follows:
   - the assets and liabilities of companies that are taken into account for the “gateway test” will include long-term arrangements that have the economic effect of loans and which give rise to an interest-like return, even where these do not have the legal form of loans;
   - it will be made clear that a limited liability partnership cannot be the ultimate parent of a group of companies for debt cap purposes; and
   - distributions made by industrial and provident societies, which are normally treated as interest for tax purposes, will be excluded from the financing expenses of such companies.

Further advice

9. Changes to the worldwide debt cap rules announced in 2009 were summarised in PBR Note 04 and draft legislation embodying these changes was published at PBR. These documents are available at www.hmrc.gov.uk/pbr2009

10. If you have any questions about these changes, please contact Sue Davies on 020 7147 2565 (email: sue.davies2@hmrc.gsi.gov.uk) or Lesley Hamilton on 020 7147 2564 (email: lesley.hamilton@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

CHANGES IN ACCOUNTING STANDARDS

Who is likely to be affected?

1. Companies for which the accounting standards on financial instruments, such as loans and derivatives, have a significant impact on the computation of profits and losses for corporation tax (CT). Smaller companies that have adopted the Financial Reporting Standard for Smaller Entities are less likely to be affected.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to allow regulations to be made to amend the CT rules on loan relationships and derivative contracts, where it is necessary to change tax rules as a consequence of a change in accounting standards.

Operative date

3. The legislation will allow regulations to come into force on or after the date that Finance Bill 2010 receives Royal Assent. However, where a change of accounting treatment is effective in an accounting period beginning before that date, such regulations may apply retrospectively.

Current law and proposed revisions

4. The CT rules on loan relationships and derivative contracts in Part 5 and Part 7 of the Corporation Tax Act 2009 (CTA) contain a number of regulation-making powers. However, these powers will not permit the type of amendments to those rules that are likely to be needed to cater for the extensive changes to accounting standards that the International Accounting Standards Board (IASB) are currently making as part of its project to develop new financial reporting standards for financial instruments.

5. New powers will be inserted into Part 5 and Part 7 of CTA which will permit regulations to be made amending the tax rules in those Parts, where, as a consequence of a "change in accounting standards" there is a "relevant accounting change". A "change in accounting standards" refers to the issue, revocation or amendment of an accounting standard by the IASB or the UK Accounting Standards Board. A "relevant accounting change" is a change in the way a company recognises in its accounts the amounts that are brought into charge for tax purposes.

6. Regulations made under these powers will be subject to the affirmative procedure for passing secondary legislation. The first set of regulations to be made under this power will cover tax changes consequent on the new International Financial Reporting Standard 9, dealing with the classification and measure of financial assets, published in November 2009.

Further advice

7. If you have any questions about this change, please contact Sue Davies on 020 7147 2565 (email: sue.davies2@hmrc.gsi.gov.uk) or Tony Sadler on 020 7147 2608 (email: tony.sadler@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

NORTH SEA FISCAL REGIME: REINVESTMENT RELIEF

Who is likely to be affected?

1. Oil and gas companies that operate in the UK or on the UK Continental Shelf (UKCS).

General description of the measure

2. Budget 2009 announced a package of measures that were introduced in the Finance Act (FA) 2009 to provide support through the UK oil and gas fiscal regime for investment in the UK and UKCS. This measure will make a small change to one of these measures.

3. FA 2009 provided that chargeable gains would not arise in some circumstances where disposal proceeds are reinvested in new oil trade assets and the disposal and acquisition qualify for rollover relief. The measure ensures this reinvestment relief can apply as intended in a group context when the company making the reinvestment is not the company making the disposal.

4. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

5. The change will have effect in relation to disposals made on or after 24 March 2010.

Current law and proposed revisions

6. The FA 2009 legislation was intended to apply in a group context where the disposal is made by one company in a group and the acquisition is made by another company in the same group, but a technical oversight prevents the legislation from applying in such circumstances. The legislation will now be amended so that it can apply as intended.

Further advice

7. If you have any questions about this change please contact Hugh Hedges on 020 7438 6576 (email: hugh.hedges@hmrc.gsi.gov.uk) or Paul Philip on 020 7438 6993 (email: paul.philip@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

CAPITAL ALLOWANCES: PLANT AND MACHINERY: INCREASE IN THE AMOUNT OF THE ANNUAL INVESTMENT ALLOWANCE

Who is likely to be affected?

1. Businesses investing more than £50,000 a year in plant or machinery.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to double the maximum amount of the annual investment allowance (AIA) from the current limit of £50,000 to a new limit of £100,000.

3. The AIA is currently available to:
   - any individual carrying on a qualifying activity (this includes trades, professions, vocations, ordinary property businesses and individuals having an employment or office);
   - any partnership consisting only of individuals; and
   - any company (subject to the limitations indicated below).

4. Anti-avoidance legislation will also be introduced alongside this change to disallow property loss relief against general income to the extent that the loss is attributable to the AIA. This restriction will apply to losses arising as a result of relevant tax avoidance arrangements (see paragraph 16).

Operative dates

5. The increase will have effect for expenditure incurred on or after 1 April 2010, for businesses within the charge to corporation tax (CT), and on or after 6 April 2010, for businesses within the charge to income tax.

6. The anti-avoidance legislation (described below at paragraph 16) will apply to losses arising as a result of certain arrangements entered into on or after 24 March 2010.

Current law and proposed revisions

7. Capital allowances allow businesses to write off the costs of certain capital assets, such as plant and machinery, against their taxable income. They take the place of commercial depreciation which is not allowed for tax. The main rate of writing-down allowance is 20 per cent per annum for general plant and machinery, and 10 per cent per annum for "special rate" plant and machinery. Both rates operate on a reducing balance basis.

8. Since 1 April 2008 (CT) or 6 April 2008 (income tax) most businesses, regardless of size, have been able to claim the AIA on up to £50,000 of their expenditure each year on plant and machinery (subject to certain exclusions, mentioned at paragraph 15 below).

9. Businesses are able to claim the AIA in respect of their expenditure on both general and "special rate" plant and machinery. The AIA is effectively a 100 per cent allowance that applies to qualifying expenditure up to an annual limit or cap. Where businesses spend more than the annual limit, any additional expenditure is dealt with in the normal capital allowances regime, entering either the main rate or the special rate pool, where it will attract writing-down allowances at the 20 per cent or 10 per cent rate respectively.

10. With effect from 1 April 2010 (CT) or 6 April 2010 (income tax) the maximum amount of the AIA will be increased from £50,000 to £100,000 a year for expenditure incurred on or after that date.

11. Where a business has a chargeable period that spans the operative date of the increase, the maximum allowance for that business's transitional chargeable period is the sum of:
    - the AIA entitlement, based on the previous £50,000 annual cap for the portion of a year falling before the relevant operative date; and
    - the AIA entitlement, based on the new £100,000 cap for the portion of a year falling on or after the relevant operative date.

12. For example, a company with a calendar year chargeable period from 1 January 2010 to 31 December 2010 would calculate its maximum AIA entitlement based on:
    (a) the proportion of a year from 1 January 2010 to 31 March 2010, that is, 3/12 x £50,000 = £12,500; and
    (b) the proportion of a year from 1 April 2010 to 31 December 2010, that is 9/12 x £100,000 = £75,000.
    The company's maximum AIA for this transitional chargeable period would therefore be the total of (a) + (b) = £12,500 + £75,000 = £87,500.

13. Furthermore, in the part of the chargeable period falling before 1 April 2010, only a maximum of £50,000 of the company's expenditure would be covered, whereas for the chargeable period as a whole, up to £87,500 of its expenditure would be covered (whether the whole had been incurred on or after 1 April 2010, or part - up to a maximum of £50,000 - had been incurred before that date).

14. The rules about entitlement to an AIA (for example, in relation to companies that fall within the company law definition of a group, or when businesses under common control are regarded as "related" for AIA purposes), are contained in sections 51A to N of the Capital Allowances Act 2001 (CAA).

15. The AIA is available for most expenditure on plant or machinery, but there are certain exceptions, set out in section 38B of CAA, the main exception being expenditure on cars. Furthermore, the AIA is not available where transactions are entered into where the main purpose or one of the main purposes is to enable a person to obtain an AIA to which they would not otherwise have been entitled (section 218A of CAA).

New anti-avoidance rule

16. Anti-avoidance legislation will also be introduced to disallow property loss relief against general income (in terms of Chapter 4 of Part 4 of the Income Tax Act 2007) to the extent that the loss is attributable to the AIA. This restriction will apply to losses arising as a result of relevant tax avoidance arrangements entered into on or after 24 March 2010 and, where this legislation applies, the loss will be treated as attributable to the AIA before anything else, including any other capital allowance. In this context, "relevant tax avoidance arrangements" means arrangements where the main purpose or one of the main purposes is the obtaining of a reduction in tax liability by means of property loss relief against general income, and ones to which the person claiming the relief is a party.

Further advice

17. If you have any questions about this change please email: joy.guthrie@hmrc.gsi.gov.uk or malcolm.smith3@hmrc.gsi.gov.uk or telephone 020 7147 2610. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

CAPITAL ALLOWANCES: PLANT AND MACHINERY: CUSHION GAS

Who is likely to be affected?

1. Businesses operating gas storage facilities and lessors of cushion gas.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to treat:
   - all leases of cushion gas as funding leases; and
   - all expenditure on cushion gas as special rate expenditure, qualifying for writing-down allowances (WDAs) at 10 per cent a year.

Operative date

3. The provision in relation to leases of cushion gas will apply to leases commencing on or after 1 April 2010, except where there is a contract for the lease before that date, and the contract is unconditional or, if conditional, the conditions have been met and no terms remain to be agreed.

4. The provision in relation to the rate of WDAs on cushion gas will apply to expenditure incurred on or after 1 April 2010.

Current law and proposed revisions

5. Capital allowances allow businesses to deduct the costs of capital assets, such as plant and machinery, against their taxable income. They take the place of commercial depreciation which is not allowed for tax. The main rate of WDA is 20 per cent a year, for general plant and machinery, and 10 per cent a year, for “special rate” plant and machinery.

6. At Budget 2009 the Government announced that capital expenditure on cushion gas that functions as plant in a gas storage facility qualifies for plant and machinery capital allowances, but said it would discuss, with the industry, certain technical and revenue protection issues arising from this treatment.

<u>Funding leases of cushion gas</u>

7. In 2006, legislation was introduced taxing longer leases (broadly more than five years) that function as financing transactions (“long funding leases”), by reference to their commercial substance rather than their legal form. As it is accepted that cushion gas in a gas storage facility constitutes plant, it may be leased under a plant and machinery lease.

However, cushion gas is different from most other plant and machinery in that it does not wear out. It would, therefore, have been possible to write very long operating leases of cushion gas, without ever triggering the application of the long funding lease rules. This could have meant that leases of cushion gas would have been taxed by reference to their legal form, rather than commercial substance, which would have been at variance with the 2006 reforms.

8. To prevent this effect, the new legislation will treat all leases of cushion gas as funding leases with effect from 1 April 2010. This will ensure that, where cushion gas is leased for more than five years, the lessor will be taxed by reference to the commercial substance, rather than the legal form, and the lessee if tax resident in the UK will have the option to claim the capital allowances.

9. With effect from 1 April 2010, any lessee of cushion gas under a funding lease will have the choice of either claiming a deduction for the lease rentals in accordance with the accounting treatment, or of opting to claim capital allowances with a restricted deduction in respect of the lease rentals.

Rate of WDAs

10. A new category of "special rate expenditure" was introduced in 2008. This category includes expenditure on "long-life assets" (assets that are expected to have a useful economic life, when new, of at least 25 years) and certain other assets (for example, "integral features" of a building) that have, on average, a longer economic life than the generality of plant and machinery. In general, the 10 per cent rate of WDA is considered to be more appropriate for expenditure in the "special rate" category than the general, 20 per cent rate.

11. As cushion gas does not wear out or necessarily lose its value by the mere passing of time, the Government has decided that the 10 per cent "special rate" of WDA is the more appropriate rate for expenditure on an unusual asset of this kind. The new legislation will, therefore, specify that expenditure on cushion gas will be a further type of special rate expenditure in order to fix the rate of WDA at 10 per cent a year.

Further advice

12. If you have any questions about this change, please email joy.guthrie@hmrc.gsi.gov.uk or malcolm.smith3@hmrc.gsi.gov.uk or telephone 020 7147 2610. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

ENHANCED CAPITAL ALLOWANCES FOR ENERGY-SAVING AND WATER EFFICIENT (ENVIRONMENTALLY BENEFICIAL) TECHNOLOGIES

Who is likely to be affected?

1. Businesses purchasing designated plant and machinery which is energy efficient, reduces water use or improves water quality.

General description of the measure

2. The Energy Saving and Water Efficient (environmentally beneficial) Enhanced Capital Allowance (ECA) schemes allow businesses investing in designated technologies that reduce energy consumption, save water or improve water quality to write off 100 per cent of the cost against the taxable profits of the period during which the investment was made.

3. This measure amends the lists of technologies covered by the schemes.

Operative date

4. The changes to the schemes will have effect on and after a date to be appointed by Treasury Order to be made prior to the summer 2010 Parliamentary recess.

Current law and proposed revisions

5. Capital expenditure by business on plant and machinery normally qualifies for tax relief by way of capital allowances, usually given at the rate of 20 per cent a year on a reducing balance basis.

6. Two schemes exist that provide 100 per cent first year allowances for expenditure on certain energy-saving and water efficient technologies. The qualifying technologies are published in the Lists: the Energy Technology Criteria List and Water Technology Criteria List. Every year these lists are reviewed by the Department of Energy and Climate Change (DECC) and the Department for Environment, Food and Rural Affairs (Defra) respectively, to ensure that the qualifying technologies, and the criteria that technologies must meet if they are to qualify for the relief, are still relevant.

7. Following this year's review, the energy efficient scheme List will be revised to include two new sub-technologies: Permanent Magnet Synchronous Motors and Biomass fired warm air heaters. One existing technology (Compact heat exchangers) and one sub-technology (Liquid pressure amplification) will be removed. The criteria for taps and showers

in the Water Efficient scheme will be tightened. Minor housekeeping changes will also be made to the existing criteria of both schemes.

8. All revisions will be incorporated in new Lists which will be published later in 2010 by DECC and Defra. Once these have been published, a Treasury Order links them to the schemes. The Lists are available on the internet at www.eca.gov.uk.

Further advice

9. If you have any questions about this change, please contact Nick Williams on 020 7147 2541 (email: nicholas.williams@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

VENTURE CAPITAL SCHEMES

Who is likely to be affected?

1. Investors under the Enterprise Investment Scheme (EIS) and Venture Capital Trust (VCT) schemes, companies receiving investment under the schemes and VCTs themselves.

General description of the measure

2. This measure will make the final four changes to the EIS and VCT schemes agreed with the European Commission as a condition for their approval by the Commission as approved State aids.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. The changes generally will have effect on and after the date that the legislation receives Royal Assent, with the exception of the definition of eligible shares for VCTs, which will not affect monies raised by the VCT before that date.

Current law and proposed revisions

<u>VCTs only</u>

5. The current legislation at section 274 of the Income Tax Act 2007 (ITA) requires the shares making up a VCT's ordinary share capital to be included in the official UK list throughout the relevant accounting period. This will be replaced with a requirement that the shares instead be admitted for trading on any EU regulated market. The effect is that VCTs will be able to be listed on markets throughout the EU/European Economic Area (EEA). The European Commission publishes a list of all regulated markets in the Official Journal of the European Union at least annually, and the list of regulated markets is also available on its website.

6. The current legislation at section 274 of ITA requires that at least 30 per cent of the VCT's qualifying holdings is represented throughout the relevant accounting period by holdings of eligible shares. Section 285(3) of ITA defines "eligible shares" for this purpose. The new legislation will increase the eligible shares holdings requirement to 70 per cent, but will also change the definition of "eligible shares" to allow VCTs to include shares which may carry certain preferential rights to dividends.

7. The new legislation will exclude shares in a company from qualifying for the purposes of the EIS or VCT legislation if it is reasonable to assume that the company would be treated as an “enterprise in difficulty” for the purposes of the European Commission’s Rescue and Restructuring Guidelines, published in the Official Journal at OJC 2004/C 244/02, at section 2.1.

8. The current legislation, at sections 179 (for EIS) and 291 (for VCTs) of ITA requires that there is a qualifying trade carried on wholly or mainly in the UK. For shares issued on or after the commencement date of the legislation, the requirement will be that the company issuing the shares must simply have a permanent establishment in the UK.

9. “Permanent establishment” will be defined based on Article 5 of the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention on Income and Capital. It is intended that the definition will be published in full in secondary legislation to be made after the date that the primary legislation receives Royal Assent.

10. Regulations will also be made at this time to update Statutory Instrument 2004/2199 to reflect the new conditions concerning eligible shares.

Further advice

11. If you have any questions about this change, please contact Kathryn Robertson on 020 7147 2589 (email: kathryn.robertson@hmrc.gsi.gov.uk), David Harris on 020 7147 2562 (email: david.harris@hmrc.gsi.gov.uk) or Des Ryan on 020 7147 0818 (email: des.ryan@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

ENTERPRISE MANAGEMENT INCENTIVES

Who is likely to be affected?

1. Companies wishing to offer share options to their employees under Enterprise Management Incentives (EMI).

General description of the measure

2. This measure amends the requirement that a company granting qualifying EMI options to its employees must operate “wholly or mainly” in the UK. A company granting EMI options will now be required instead to have a “permanent establishment” in the UK.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. The change will have effect in respect of EMI options granted on or after the date that the legislation receives Royal Assent.

Current law and proposed revisions

5. Paragraphs 13 to 15 of Schedule 5 to the Income Tax (Earnings and Pensions) Act 2003 require that, in the case of a single company granting EMI options to its employees, that company must carry on a trade “wholly or mainly” in the UK or, in the case of a parent company, at least one company in the group must be carrying on a “qualifying trade” (within the meaning of the legislation) “wholly or mainly” in the UK.

6. To ensure EMI complies with EU State aid guidelines, the present rule will be amended. In future, a single company wishing to grant EMI options must have a “permanent establishment” in the UK. Alternatively in the case of a parent company, at least one company in the group that is carrying on a “qualifying trade” within the meaning of the legislation must have a “permanent establishment” in the UK.

7. “Permanent establishment” has the same meaning as in section 148 of the Finance Act 2003.

Further advice

8. If you have any questions about this change, please contact Andrew Ellis on 020 7147 2658 (email: shareschemes@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

SALE OF LESSOR COMPANIES: OPTION TO ELECT

Who is likely to be affected?

1. Companies carrying on a business of leasing plant or machinery.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to offer an option to elect for an alternative treatment under Chapters 3 and 4 of Part 9 of the Corporation Tax Act 2010 (formerly Schedule 10 to the Finance Act (FA) 2006, the "Sale of Lessor Companies" legislation) when a lessor company is sold. Draft legislation to achieve this was published at the 2009 Pre-Budget Report (PBR). This draft legislation will now be amended to ensure that the election operates fairly and that the full amount of tax will be collected on the profits of the leasing business following the sale.

Operative date

3. The measure was brought into effect on and after 9 December 2009. Changes that benefit the taxpayer will have effect on and after 9 December 2009, other changes will have effect on and after 24 March 2010.

Current law and proposed revisions

4. The Sale of Lessor Companies legislation prevents a loss of tax when a lessor company changes hands. It does this by calculating a charge and matching relief designed to recoup the tax timing benefit enjoyed by the selling group and returning it to the buying group.

5. Draft legislation published at PBR offers companies the opportunity to opt for an alternative treatment that recoups the tax timing benefit, by isolating the profits of the business following the sale of the company as an alternative to an immediate charge.

6. Following discussions with the industry, changes will be made to the draft legislation to preserve entitlement to capital allowances on expenditure in some circumstances, and to ensure that the legislation will operate fairly when the lessor company is a controlled foreign company or leases ships into tonnage tax.

7. A further change will address a flaw in the draft that allowed a lessor company owned by a consortium to contrive to end the period during which profits are isolated without the tax timing benefit being recouped in full.

Further advice

8. A revised draft of the legislation and an explanatory note have been published today on the HM Revenue & Customs website.

9. If you have any questions about this change, please contact Jo Brindley on 020 7147 2571 (email: jo.brindley@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

RELEASE OF LOANS TO PARTICIPATORS IN CLOSE COMPANIES

Who is likely to be affected?

1. Close companies that release or write-off a loan or advance of money made to a relevant person who is a participator in that company or an associate of such a participator.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to deny a corporation tax (CT) deduction for the amount of the release or write-off.

Operative date

3. The measure has effect for debt (or part debt) releases or write-offs on or after 24 March 2010.

Current law and proposed revisions

4. Close companies are defined in Chapter 2 of Part 10 of the Corporation Tax Act 2010 (CTA). In general a company is a close company if it is under the control of five or fewer participators. A participator is a person “having a share or interest in the capital or income of the company” and includes amongst others, loan creditors and persons with the right to acquire share capital or voting rights in the company as well as possessors of share capital in the company.

5. When a close company makes a loan or advances money to a relevant person who is a participator in the company or an associate of a participator, section 455 of CTA imposes a charge equivalent to CT on that company. A relevant person is either an individual, or a company receiving a loan or advance in a fiduciary or representative capacity.

6. Under the CT rules governing corporate debt (the “loan relationships” rules) the company may be entitled (subject to anti-avoidance rules) to a full deduction against its CT liability. Broadly, these rules provide that the taxable and relievable credits and debits brought into account arising to a company under its loan relationships are those arising under generally accepted accounting practice (GAAP). A loan released or written off will normally give rise to an expense recognised in the company’s accounts under GAAP.

7. This measure prohibits any deduction being brought into account for loan relationship purposes for the release or write off of such a loan (in whole or in part) on or after 24 March 2010.

8. The income tax treatment on the person to whom the released or written off loan was made is at Chapter 6 of Part 4 of the Income Tax (Trading and Other Income) Act 2005. Broadly, that person is treated as if they had received a distribution. This treatment is unaffected by this measure.

Further advice

9. If you have any questions about this change, please contact Mark Lafone on 020 7147 2602 (email: mark.lafone@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

RISK TRANSFER SCHEMES

Who is likely to be affected?

1. Large multinational groups of companies in the financial sector.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to include a regulation-making power in the legislation relating to risk transfer schemes announced at the 2009 Pre-Budget Report.

Operative date

3. The regulation-making power will be brought in alongside the provisions relating to risk transfer schemes. The commencement date for these provisions is 1 April 2010 but transitional provisions will apply for schemes that straddle this date. Any regulations made under this power will have effect from the date laid.

Current law and proposed revisions

4. The legislation relating to risk transfer schemes covers financial instruments that are treated for tax purposes as loan relationships or derivative contracts. The regulation-making power will allow regulations to be laid to extend the scope of those provisions to cover other instruments held on trading account by financial traders. This power could be used in the event that financial companies seek to enter into risk transfer schemes that do not involve loan relationships and/or derivative contracts, but instead seek to get around the legislation by using different instruments.

5. Any regulations made under this power will be subject to the negative resolution procedure.

Further advice

6. If you have any questions about this change, please contact Aidan Reilly on 020 7147 2575 (email: aidan.reilly@hmrc.gsi.gov.uk) or Paul Gilham on 0207 147 2619 (email: paul.gilham@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

COUNTERING DOUBLE TAX RELIEF AVOIDANCE

Who is likely to be affected?

1. Banks and financial institutions using avoidance schemes to receive double tax relief (DTR) where they have not suffered the cost of the foreign tax.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to confirm a person may only deduct foreign tax from any foreign income where that person has included the foreign tax in his taxable income. Legislation will also be introduced to reaffirm the scope of the targeted DTR anti-avoidance rule.

3. Regulations will be made and laid to amend the manufactured overseas dividend (MOD) regulations. In particular, changes will be made to the offset rules to stop financial traders effectively obtaining relief for foreign tax twice. There will be consequential amendments to certain other provisions in the regulations that could be exploited in similar ways.

Operative date

4. The amendments to primary legislation will have effect for foreign tax paid or payable on or after 1 April 2010, as regards corporation tax, and 6 April 2010, as regards income tax and capital gains tax.

5. The amendments to secondary legislation have been laid today and have effect in relation to MODs paid or treated as paid 21 days after 24 March 2010.

Current law and proposed revisions

6. These amendments deal with three aspects of the DTR and MOD rules.

<u>Deduction for foreign tax</u>

7. Under current law, where foreign tax is paid and no credit is claimed then DTR may be given as a deduction to reduce the foreign income assessable to UK tax. The provision is aimed at situations where a person is taxed on more income than he receives. For example, if a company is required to bring gross income of 100 into its tax computation following a net receipt of 85, the provision will reduce the taxable income by the amount of foreign tax borne, i.e. 15.

8. HM Revenue & Customs has identified a scheme where a person effectively claims double relief for foreign tax. The company only brings the net income into its computation in the first place but then also seeks to use the provision to deduct the foreign tax again.

9. The amendment will ensure that a person may only deduct foreign tax where that person has included the foreign tax in his taxable income.

<u>Targeted DTR anti-avoidance rule</u>

10. One of the conditions for the targeted anti-avoidance rule to apply is that there is a prescribed scheme. One of the prescribed schemes deals with arrangements where a person claims a credit for foreign tax that is negated elsewhere. The amendment will remove an unnecessary hurdle that the foreign tax is paid or payable by the person claiming credit.

11. Another prescribed scheme deals with circumstances where a person who is a party to an arrangement takes a step, or omits a step, and the effect is to increase a DTR claim. The amendment ensures that the provision can apply whether the steps are taken before or after the scheme is implemented.

<u>MOD rules</u>

12. Where a company has suffered foreign tax on a foreign dividend, it can claim relief by way of a credit or deduction. Alternatively, certain financial traders can use the MOD rules to offset the foreign tax against a liability to pay tax due on a MOD it pays. The intention of the DTR and MOD rules is to ensure that only one of the three routes to relief is available. The amendments to the MOD regulations are designed to combat schemes which effectively try to claim two reliefs, once under the offset rules and another by not including in taxable income the gross amount of income received.

13. Certain provisions have also been identified in the regulations which prescribe that DTR will be available in certain circumstances. These will be amended to clarify that the relief is available only if the gross amount of the dividend or MOD is included in taxable income.

Further advice

14. If you have any questions about the changes, contact Giles Horridge on 020 7147 2654 (email: giles.horridge@hmrc.gsi.gov.uk) or Richard Rogers on 020 7147 2625 (email: richard.rogers@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

INSURANCE PREMIUM TAX: PREMIUM SPLITTING

Who may be affected?

1. Businesses that charge fees to an insured person in connection with contracts of insurance.

General description of the measure

2. Insurance premium tax (IPT) is paid by an insurer on the premium charged under a taxable insurance contract, which includes any commissions or fees unless they are charged to the insured under a separate contract. The 2009 Pre-Budget Report (PBR) announced that legislation would be introduced in Finance Bill 2010 to prevent avoidance involving fees charged under separate contracts and draft legislation to close this loophole was published for comment. In light of further discussion with industry representatives, the draft legislation has been refined to better target the avoidance and replaces the measure announced at PBR.

Operative date

3. The amended legislation will have effect for fee payments received on or after 24 March 2010. Such payments will now form part of the premium from which the insurer will be required to account for IPT in line with normal IPT accounting procedures.

Current law and proposed revisions

4. The provisions relating to IPT are contained within the Finance Act (FA) 1994. Section 72 of FA 1994 will be changed under primary legislation to exclude fees charged in connection with arrangements that meet the following conditions:
   - the insured is an individual who enters into the insurance contract in a personal capacity, i.e. the insured is not a limited company, charity or other organisation or an individual buying insurance for the purpose of their business;
   - the insured is required to enter into the relevant contract as a condition of entering into the taxable insurance contract, or would be unlikely to enter into the relevant contract without also entering into the insurance contract;
   - the terms and the price of the relevant contract are not negotiable by the insured; and
   - the amount charged to the insured under the taxable insurance contract is arrived at without a comprehensive assessment of the individual circumstances of the insured which might affect the level of risk.

5. This measure does not apply to insurance bought by businesses as avoidance has not been seen in this sector of the market. However, powers to make any necessary changes by secondary legislation are included in the legislation and HM Revenue & Customs (HMRC) will keep the situation under review. Consideration will be given to an extension of the scope of the provision at some time in the future should there be any evidence of the avoidance moving into other areas.

Further advice

6. Draft legislation and an explanatory note for this measure have been published today on the HMRC website. More detailed guidance will be published there shortly.

7. If you have any immediate questions about this change, please contact David Coppins on 020 7147 3228 (email: david.coppins@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

LIFE INSURANCE COMPANIES: APPORTIONMENT OF INCOME AND GAINS

Who is likely to be affected?

1. Companies carrying out life insurance business who defer recognition of profits from business arising in a non-profit fund and companies who acquire non-profit business by way of a transfer of business.

General description of the measure

2. As announced in the 2009 Pre-Budget Report (PBR), Finance Bill 2010 will modify the apportionment rules to ensure that, when recognised, deferred profits are taxed on an appropriate basis. It has now become clear that the application of the modified rules could be avoided by the transfer of non-profit business from one non-profit fund to another.

3. The Government intends to legislate for an anti-avoidance rule in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. The measure will have effect for transfers of business which take place on or after 24 March 2010.

Current law and proposed revisions

5. Where a life insurance company writes more than one type of insurance business, apportionment rules are used in determining the profits from each type of business. For non-profit funds this apportionment is on the basis of the liabilities to policyholders for each type of business in the fund.

6. The regulatory return, which is used as the starting point for determining life insurance business profits, allows companies to defer recognition of profits in a non-profit fund and this deferral is effective for tax purposes. The deferral has an exchequer cost, but this is largely a matter of timing, in that tax should be paid when the deferred amounts are brought into account.

7. Evidence that the ability to defer profits could lead to tax being avoided altogether led to the announcement at the 2009 PBR that legislation would be introduced to modify the apportionment rules. To ensure that these new rules cannot be circumvented by a transfer of business an anti-avoidance rule will be introduced.

Further advice

8. A Technical Note containing details of the anti-avoidance rule has been published today on the HM Revenue & Customs website.

9. If you have any questions about this change, please contact Carol Johnson on 020 7147 0517 (email: carol.johnson@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

LIFE INSURANCE POLICIES: DEFICIENCY RELIEF

Who is likely to be affected?

1. Individuals who are subject to the additional rate of tax from 2010-11 and who are entitled to deficiency relief on a surrender of their policies on or after 6 April 2010.

General description of the measure

2. This measure will provide that life insurance deficiency relief will be made available to reduce tax due on income subject to the additional rate and dividend additional rate of tax.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

3. The measure will have effect on and after 6 April 2010.

Current law and proposed revisions

4. Sections 539 to 541 of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA) provide a special relief, known as deficiency relief, which may be available to individuals when their life insurance policy, life annuity contract or capital redemption policy comes to an end.

5. Individuals may be entitled to the relief if the tax calculation needed when a policy or contract comes to an end gives a negative result rather than a gain, but taxable gains have arisen earlier in the life of the same policy or contract.

6. At present, a tax reduction may be due for the year in which the policy comes to an end if the individual has income subject to the higher rate and dividend upper rate of tax. The legislation will extend the relief so that a tax reduction may also be due if the individual has income subject to the additional and dividend additional rates of tax.

7. This measure also provides that deficiency relief triggered by the surrender of a policy on or after 6 April 2010 may be restricted. The restriction will apply if the main purpose of an individual being a party to arrangements is to secure a tax reduction greater than the income tax due on earlier chargeable events that led to the relief. This provision applies to arrangements made on or after 22 April 2009 that culminate in the surrender of the policy on or after 6 April 2010.

Further advice

8. A Technical Note providing further details on this measure has been published today on the HM Revenue & Customs website.

9. If you have any questions about this change, please contact Jon Prothero on 020 7147 2785 (email: jon.prothero@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

FINANCIAL SERVICES COMPENSATION SCHEME INTERVENTIONS IN RELATION TO INSURANCE CONTRACTS

Who is likely to be affected?

1. Policyholders with insurance or annuity contracts and insurers providing those products, where the Financial Services Compensation Scheme (FSCS) intervenes to protect policyholders.

General description of the measure

2. Intervention by the FSCS can include the provision of financial assistance to an insurer, transferring policyholders' rights to another insurer or paying compensation to the policyholder.

3. Legislation will be introduced in Finance Bill 2010 to provide regulation-making powers to ensure that if the FSCS takes action to protect policyholders, there will be broadly the same tax treatment as if the FSCS had not intervened.

Operative date

4. The measure will have effect on and after the date that Finance Bill 2010 receives Royal Assent. Once the regulations have been made, they can apply to an earlier period, provided they do not increase any person's tax liability.

Current law and proposed revisions

5. A wide range of rules apply in connection with taxable and tax advantaged insurance and annuity products. However interventions under the FSCS may give rise to unintended tax consequences, such as the loss of tax advantaged status.

6. Section 74 of the Finance Act 2009 introduced a regulation-making power to address tax impacts arising from FSCS interventions affecting pension saving with insurers.

7. Finance Bill 2010 will introduce a regulation-making power to address tax impacts arising from interventions by the FSCS affecting mainly savings, investments and annuities outside pension schemes.

8. Regulations made using the powers in this measure will ensure that there will be broadly the same tax treatment for the continued cover or resulting payments as if the FSCS had not intervened. The regulations can apply to a period before they are made, provided they do not increase any person's tax liability.

Further advice

9. If you have any questions about this change, please contact Jon Prothero on 020 7147 2785 (email: jon.prothero@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

UK REAL ESTATE INVESTMENT TRUSTS AND STOCK DIVIDENDS

Who is likely to be affected?

1. UK Real Estate Investment Trusts (REITs) and shareholders in UK REITs.

General description of the measure

2. This measure will allow UK REITs to issue stock dividends in lieu of cash dividends in meeting the requirement to distribute 90 per cent of the profits from the property rental business of the REIT.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. The legislation will have effect for property income distributions made on or after the date that it receives Royal Assent.

Current law and proposed revisions

5. The UK REIT legislation was introduced in Part 4 of the Finance Act 2006. This legislation has been rewritten, as part of the Tax Law Rewrite Programme, to Part 12 of the Corporation Tax Act 2010 with effect from 1 April 2010.

6. A UK REIT is a qualifying group or company with a property rental business that elects to join the UK REITs regime. The principal benefit of joining the regime is that the profits and gains arising from the property rental business are exempt from corporation tax.

7. The UK REITs legislation requires that a UK REIT distributes, for each accounting period, 90 per cent of the profits from its property rental business by way of a dividend. This is known as the distribution requirement. The distribution itself is known as a property income distribution.

8. In the hands of the shareholders a property income distribution is taxed as though it was income from property. This is to give investors a return similar to investing in property directly and assists in making the regime cost neutral to the Exchequer.

9. Currently stock dividends do not count as property income distributions and so are not able to be used by UK REITs to meet the distribution requirement.

10. A change to primary legislation will be made to allow UK REITs to issue stock dividends in lieu of cash dividends for the purpose of the distribution requirement. The recipients of stock dividends paid to meet the distribution requirement will be taxed in the same way as the recipients of property income distributions paid in cash.

Further advice

11. If you have any questions about this change, please contact Tony Linehan on 020 7147 0527 (email: tony.linehan@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

STAMP DUTY AND STAMP DUTY RESERVE TAX RELIEF FOR MEMBERS OF CLEARING HOUSES

Who is likely to be affected?

1. Entities that are members of clearing houses, the clearing houses themselves, existing and planned securities trading platforms, and the buyers and sellers of UK securities that want their trades to be cleared.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to make explicit that the power to make regulations to remove multiple charges to stamp duty or stamp duty reserve tax (SDRT), extends to regulations providing relief for members of clearing houses and their nominees.

Operative date

3. The measure will have effect on and after the date that Finance Bill 2010 receives Royal Assent.

Current law and proposed revisions

4. Where transactions in UK securities are cleared through a central counterparty such as a clearing house, a chain of transactions will arise involving exchange members, their nominees, the clearing house itself, and the members and nominees of the clearing house, each of which can potentially give rise to a charge to stamp duty or SDRT for what is essentially a single transaction of sale and purchase. To stop these multiple charges arising, HM Treasury can, under powers contained in sections 116 and 117 of the Finance Act (FA) 1991, make regulations that remove all but the last of them.

5. The powers currently extend to transactions involving an exchange, a member or nominee of an exchange, a nominee of a member of an exchange, a clearing house, or a nominee of a clearing house. Transactions involving members of clearing houses, and nominees of such members, are not, however, explicitly included. The Select Committee on Statutory Instruments (report dated 9 December 2009) suggested that regulations made recently may have gone beyond the scope of the enabling power, and this has resulted in confusion and uncertainty amongst financial market participants.

6. The amendments provide that the power to make regulations under sections 116 and 117 of FA 1991 is extended so that members of clearing houses and their nominees are explicitly to be provided with relief in respect of transactions prescribed in regulations.

7. To provide clarity in respect of regulations that have already been made, the amendments will be regarded as always having had effect.

Further advice

8. If you have any questions about this change, please contact Andrew Hewitt on 020 7147 0092 (email: andrew.hewitt@hmrc.gsi.gov.uk) or Simon English on 020 7147 2808 (email: simon.english@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

STAMP DUTY LAND TAX: RATES AND THRESHOLDS

Who is likely to be affected?

1. Purchasers of residential property at over £1 million.

General description of the measure

2. Legislation in Finance Bill 2010 will introduce a higher stamp duty land tax (SDLT) rate of 5 per cent for purchases of residential property where the consideration exceeds £1 million.

Operative date

3. The new higher rate will apply to residential purchases where the effective date (normally the date of completion) is on or after 6 April 2011.

Current law and proposed revisions

4. At present the highest SDLT rate of 4 per cent applies to purchases where the consideration exceeds £500,000. A measure will be included in Finance Bill 2010 to add a new rate of 5 per cent for transactions in residential property where the consideration for the transaction exceeds £1 million.

Further advice

5. If you have any questions about this change, please contact the Stamp Taxes Helpline on 0845 603 0135. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

STAMP DUTY LAND TAX: FIRST TIME BUYERS

Who is likely to be affected?

1. First time purchasers of residential property.

General description of the measure

2. Legislation in Finance Bill 2010 will introduce relief from stamp duty land tax (SDLT) for purchases of residential property at up to £250,000 where the purchaser or all the purchasers are first time buyers and intend to occupy the property as their only or main home. This relief is time-limited to two years.

Operative date

3. The new relief will be available for residential purchases where the effective date (normally the date of completion) is on or after 25 March 2010 and before 25 March 2012.

Current law and proposed revisions

4. At present the SDLT rate is 1 per cent for residential purchases where the consideration is more than £125,000 and up to £250,000. Finance Bill 2010 will provide relief for residential purchases where the consideration is more than £125,000 but not more than £250,000 and the purchaser or all the purchasers have not previously acquired such property.

Further advice

5. If you have any questions about this change, please contact the Stamp Taxes Helpline on 0845 603 0135. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

STAMP DUTY LAND TAX PARTNERSHIPS

Who is likely to be affected?

1. The measure will affect those who seek to exploit the special stamp duty land tax (SDLT) rules for partnerships.

General description of the measure

2. Some companies and individuals currently exploit the SDLT partnerships rules to reduce artificially the SDLT payable on some land transactions. Legislation will be introduced in Finance Bill 2010 to ensure that the existing SDLT anti-avoidance rules apply to prevent this.

Operative date

3. The measure will apply where a “notional land transaction” created by the anti-avoidance rules (see below) has an effective date on or after 24 March 2010, subject to transitional rules.

Current law and proposed revisions

4. The SDLT partnerships rules apply, broadly, to transactions between a partnership and one of the partners. The rules calculate the chargeable consideration of a land transaction according to the degree of connection, by way of the partnership, between the vendor and purchaser. These rules are being exploited for some land transactions by contriving a partnership relationship between the vendor and the purchaser such that the chargeable consideration, and thus the SDLT due, is greatly reduced.

5. There are existing SDLT anti-avoidance rules which, where they apply, impose a charge on a “notional land transaction”. The SDLT partnerships rules currently apply to a “notional land transaction”.

6. The legislation in Finance Bill 2010 will disapply the partnerships rules from a “notional land transaction”. Transactions which fall within the anti-avoidance rules will not benefit from the special partnerships rules for calculating chargeable consideration.

7. The effective date of a notional land transaction is, broadly, the date that the last scheme transaction occurs; “scheme transactions” being the transactions that effectively make up the notional land transaction. The transitional rules provide that a notional land transaction where any of the scheme transactions is entered into before 24 March 2010 will usually come under the old rules.

Further advice

8. If you have any questions about this change, please contact Jeremy Schryber on 020 7147 2788 (email: jeremy.schryber@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

CAPITAL GAINS TAX: INCREASE IN LIFETIME LIMIT ON ENTREPRENEURS' RELIEF

Who is likely to be affected?

1. Individuals and trustees of settlements.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to increase the lifetime limit on gains qualifying for entrepreneurs' relief from £1 million to £2 million.

Operative date

3. The change has effect for disposals on or after 6 April 2010.

Current law and proposed revisions

4. The amount of an individual's gains that can qualify for entrepreneurs' relief is subject to a lifetime limit of £1 million. For trustees, the £1 million limit is that of the beneficiary of the settlement who meets the conditions for the trustees to claim the relief.

5. Finance Bill 2010 will include provision to increase that limit to £2 million from 6 April 2010.

6. Where individuals or trustees make qualifying gains above the previous £1 million limit before 6 April 2010, no additional relief will be allowed for the excess above the old limit. But if they make further qualifying gains after 5 April 2010, they will be able to claim relief on up to a further £1 million of those additional gains, giving relief on accumulated qualifying gains up to the new limit of £2 million.

7. The other rules for entrepreneurs' relief are unchanged. Gains qualifying for the relief will continue to be reduced by the fraction 4/9, leaving the effective rate of capital gains tax on these gains at 10 per cent.

Further advice

8. If you have any questions about this change, please contact the capital gains tax team by email at capitalgains.taxteam@hmrc.gsi.gov.uk or by telephone on 020 7147 0127. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

INDEXING INDIVIDUAL SAVINGS ACCOUNT LIMITS FROM 2011

Who is likely to be affected?

1. All individuals who invest in Individual Savings Accounts (ISAs).

General description of the measure

2. From April 2011 and over the course of the next Parliament, the ISA limits will be increased in line with the Retail Prices Index (RPI) on an annual basis.

Operative date

3. Indexation of the ISA limits for the tax year 2011-12 will have effect on and after 6 April 2011. Indexation of the ISA limits for subsequent tax years will have effect on and after 6 April of each year.

Current law and proposed revisions

4. Under the powers in section 694 of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA), *The Individual Savings Account Regulations 1998 (Statutory Instrument 1998/No 1870* as amended) provide the rules and regulations for the ISA scheme.

5. As announced at Budget 2009, from 6 April 2010 the ISA annual subscription limits are being increased for all savers, to £10,200, of which £5,100 can be saved in cash.

6. From 6 April 2011 and over the course of the next Parliament, the annual ISA limits will increase annually in line with RPI. The new annual limits will be rounded to the nearest multiple of 120 so that individuals who save monthly will be able to calculate their monthly savings more easily.

7. The new limits will be calculated by reference to the RPI for the September before the start of the tax year, and HM Revenue & Customs will announce the new limits as soon as possible after the RPI figure is published, and at least four months in advance of the start of the new tax year in which they will apply.

8. In the event that RPI is negative, the ISA limits would be unchanged.

9. As is the case now, following indexation, the cash ISA limit will be half the value of the stocks and shares ISA limit.

10. The ISA regulations will be amended by statutory instrument to reflect these changes.

Further advice

11. If you have any questions about this change, please contact Stephen Lig on 020 7147 2827 (email: steve.lig@hmrc.gsi.gov.uk). Information is also available from the Individual Savings Account (ISA) Helpline on 0845 604 1701. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

TAX CHANGES FOR CERTAIN TRUSTS COMPENSATING ASBESTOS VICTIMS

Who is likely to be affected?

1. Trustees of certain trusts that have been specifically set up as part of an arrangement made by a company with its creditors to pay compensation to asbestos victims.

General description of the measure

2. This measure will exempt trustees of certain trusts from capital gains tax (CGT), inheritance tax (IHT) and income tax. The trusts that will benefit are those set up on or before 23 March 2010 as part of an arrangement made by a company with its creditors and specifically to pay compensation to, or in respect of, individuals with asbestos related conditions.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. This measure will have effect on and after 6 April 2006.

Current law and proposed revisions

5. Trustees are subject to IHT charges every 10 years on the value of property held in trust above the IHT nil rate band (currently £325,000) and also on certain payments made out of the trust. Trustees are also liable to income tax on income arising to the trust, and CGT on disposals of certain trust assets.

6. This measure provides for exemptions from the IHT, CGT and income tax charges on the trustees of certain trusts that have been set up as part of an arrangement made by a company with its creditors. For the exemptions to apply the trust must also be specifically for the purpose of paying compensation to, or in respect of, individuals with asbestos related conditions. This will apply to trusts set up on or before 23 March 2010.

Further advice

7. If you have any questions about this change, please contact Angela Walker on 020 7147 2773 (email: angela.walker1@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

INCOME TAX ADJUSTMENTS BETWEEN SETTLORS AND TRUSTEES

Who is likely to be affected?

1. Individuals who are taxed on the income of a trust they have set up (a settlor-interested trust).

General description of the measure

2. Settlors (people who set up a trust) may receive repayments of tax on trust income if they are liable to income tax at a lower rate than the trustees. This measure will require settlors to pay any such repayments of tax they receive to the trustees. The result of this will be that these payments to trustees will be disregarded for inheritance tax purposes.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. The measure will have effect for repayments relating to income tax chargeable on or after 6 April 2010.

Current law and proposed revisions

5. Section 646 of the Income Tax (Trading and Other Income) Act 2005 requires settlors to pay over to trustees repayments of tax in respect of an "allowance or relief" in relation to trust income.

6. This will be extended to all repayments of tax received by settlors in relation to trust income.

Further advice

7. If you have any questions about this change, please contact Alan McGuinness on 020 7147 2766 (email: alan.mcguinness@hmrc.gsi.gov.uk) Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

INHERITANCE TAX: NIL RATE BAND

Who is likely to be affected?

1. Executors and personal representatives of people who have died, individuals and trustees.

General description of the measure

2. The 2009 Pre-Budget Report announced that legislation will be introduced in Finance Bill 2010 to freeze the limit of the inheritance tax (IHT) nil rate band for the tax year 2010-11 at the current level of £325,000. This will now be extended to cover the tax years 2011-12 to 2014-15.

Operative date

3. The measure will have effect for chargeable IHT events made on or after 6 April 2010 and before 6 April 2015.

Current law and proposed revisions

4. IHT is payable at 40 per cent on the value transferred by a chargeable transfer above the nil rate band.

5. The nil rate band is increased automatically each year in line with inflation unless an alternative nil rate band is provided for. The Finance Act 2007 currently provides that it will rise to £350,000 for transfers made (or deemed to be made) on or after 6 April 2010.

6. This measure will stop this planned increase and instead set the threshold at £325,000 until the end of tax year 2014-15.

Further advice

7. If you have any questions about this change, please contact the Probate & Inheritance Tax Helpline on 0845 302 0900. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

EXTENDING UK CHARITY TAX RELIEFS TO CERTAIN ORGANISATIONS IN EUROPE

Who is likely to be affected?

1. Those likely to be affected by this measure are:
   - trustees, directors and managers of UK charities and UK Community Amateur Sports Clubs (CASCs);
   - managers of organisations equivalent to a UK charity or CASC in the EU or in Norway or Iceland;
   - UK resident donors and non-UK resident donors with UK source income who give to UK charities and similar organisations in the EU and in Norway and Iceland; and
   - non-UK resident individuals with UK source income who make Gift Aid donations.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to extend UK charitable tax reliefs to certain organisations equivalent to UK charities and CASCs in the EU and in the European Economic Area (EEA) countries of Norway and Iceland, following a judgment in the European Court of Justice (ECJ) in January 2009.

3. A number of changes to the law and processes are being introduced at the same time. These will:
   - align the definition of a charity across all charity tax reliefs and charity exemptions administered by HM Revenue & Customs (HMRC);
   - limit the scope for fraudulent claims to charitable tax reliefs;
   - remove inconsistencies in the current rules; and
   - ensure that HMRC can maintain a cost efficient service to charities.

Operative date

4. The new rules will mostly have effect later in 2010-11, subject to a commencement order, with the following exceptions:
   - restrictions on the payment of charitable funds outside the UK which will have effect on and after 24 March 2010;
   - changing the nature of payroll giving income such that it will need to be put to charitable purposes to qualify for exemption, to have effect on and after 24 March 2010;
   - the new definition of a charity will apply to donations by individuals to charities under Gift Aid on or after 6 April 2010; and

- the rules aligning the treatment of UK resident and non-UK resident taxpayer donors who make donations under Gift Aid without sufficient tax to cover the repayment to the charity will have effect on and after 6 April 2010.

5. Claims to tax relief in respect of donations to organisations equivalent to UK charities in the EU, Norway or Iceland after the date of the ECJ judgment on 27 January 2009 and before 1 April 2010 will be considered on a case by case basis.

6. New procedures for dealing with Gift Aid repayment claims will be introduced later in 2010 following discussions with charities on the proposals.

Current law and proposed revisions

7. There are a number of definitions of a "charity", "charitable company" and a "charitable trust" throughout the legislation on tax reliefs and exemptions for charities. The definition of a "charity" relies in most cases upon case law and the measure explicitly incorporates the case law definition of a charity under the law of England and Wales into the new definition of an organisation eligible for UK charity tax reliefs.

8. A new definition of an organisation eligible for charity tax reliefs and exemptions will be introduced, applicable to all UK charitable tax reliefs and exemptions administered by HMRC. An eligible organisation must be:
   - set up for charitable purposes only, within the meaning of the Charities Acts 2003 and 2006;
   - located in a Member State of the EU or other territory specified in regulations by HMRC (Iceland and Norway will be specified as soon as possible after Finance Bill 2010 receives Royal Assent);
   - regulated by any body in their home country with an equivalent function to the Charity Commission or any similar regulator, as required by the law of the home country; and
   - supervised by "managers" (trustees, directors and other persons with a management function) who are "fit and proper" persons.

9. CASCs, and their non-UK equivalents, will also be required to meet the location condition above and their "managers" must also meet the "fit and proper" persons test.

10. Additional changes to the regime for charitable tax reliefs and exemptions will be introduced to ensure existing provisions work for both UK and non-UK organisations, namely:
    - organisations will be required to apply donations received under Payroll Giving for charitable purposes, if the donations are to remain tax-exempt; and
    - the rules requiring UK charities that make payments to bodies outside the UK to take reasonable steps to ensure the monies are used for genuine charitable purposes will be strengthened.

11. A number of other changes to legislation will also be introduced to ensure they work effectively within the new regime, namely:
    - the rules on recovering tax overpaid to charities under Gift Aid where an individual has not paid enough tax to cover the donation will be amended to apply the same treatment to UK resident and non-UK resident donors.
    - the practice of HMRC making repayments of tax under Gift Aid to charitable companies before the end of the tax year on a concessionary basis will be put on a statutory basis.

12. In order to maintain current service levels to UK charities whilst dealing with additional demand from organisations outside the UK, HMRC will introduce new procedures for making repayments of tax to charities under Gift Aid. The new procedures will include:
    - restrictions on the number of in-year repayments that may be claimed, and the amount of each claim (currently a charity may make an unlimited number of claims); and
    - new forms for making a claim.

    HMRC will be consulting informally with charities on the detail of these proposals over the next few months.

Further advice

13. Detailed questions and answers have been published today on the HMRC website.

14. If, after looking at these, you have any further questions about this change, please contact the Charities Policy Tax Team on 020 7147 2098 (email: charitypolicy.taxteam@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

IMPLEMENTING THE RESTRICTION OF PENSIONS TAX RELIEF

Who is likely to be affected?

1. Employees who save in a registered pension scheme, with total annual income of £130,000 or over before deduction or relief for pension contributions and charitable donations and whose income (before deduction or relief for pension contributions and charitable donations) together with the value of any employer pension contributions is £150,000 or over.

2. Other individuals, with total income before deduction or relief for pension contributions and charitable donations, of £150,000 or over.

3. Employers of individuals affected by this measure.

4. Scheme administrators of registered pension schemes and advisers with clients that are affected by this measure.

General description of the measure

5. Legislation will be introduced in Finance Bill 2010 to recover tax relief above the basic rate on pension contributions made by or on behalf of individuals with high income. For people with annual income of £150,000 or over but below £180,000, tax relief on pension contributions (including the value of employer contributions for those in employment) will reduce gradually from the individual's marginal rate to basic rate as income increases. Where income is £180,000 or over, the measure restricts tax relief on pension contributions to basic rate.

Operative date

6. The restriction of pensions tax relief will have effect on and after 6 April 2011.

Current law and proposed revisions

7. An individual receives relief at their marginal income tax rate on their pension savings. Although there are no limits to how much can be saved in registered pension schemes, the maximum pension savings on which tax relief is available in any one year is limited to 100 per cent of a person's earnings and by the annual allowance. The annual allowance for the 2010-11 tax year is £255,000. Tax relief is recovered in respect of any pension savings over that allowance by the application of the annual allowance tax charge to the excess.

8. A special annual allowance applies for 2009-10 and 2010-11 for individuals with income of £130,000 or over. Tax relief above basic rate is recovered from pension savings above an individual's special annual allowance by the application of the special annual allowance charge. An individual's special annual allowance is the higher of their regular pension savings and £20,000 (or in certain circumstances, where contributions have been less regular than quarterly, £30,000).

9. The Government announced at Budget 2009 its intention to restrict tax relief on pensions savings with effect from 6 April 2011 for high income individuals.

10. These rules will affect individuals with income of £150,000 or over. For the purposes of this measure, income is calculated before deduction or relief for pension contributions and charitable donations, and for those in employment, includes the value of any pension benefit funded (or eventually funded) by their employer.

11. A taper will apply for those on incomes between £150,000 and £180,000, gradually reducing tax relief on pension contributions until it is restricted to the basic rate. This restriction will apply to the individual's contributions and to any pension benefit funded (or eventually funded) by their employer. The rate of tax relief on pension contributions will be determined by where individuals lie on the taper.

12. The restriction of tax relief on pension contributions will be delivered through Self Assessment, with a new high income excess relief charge payable by those affected. This recovery charge is designed to restrict pensions tax relief to the appropriate rate.

Further advice

13. A consultation document, *Implementing the restriction of pensions tax relief*, including a consultation stage Impact Assessment, on the implementation of the restriction of pensions tax relief was published at the 2009 Pre-Budget Report. A final Impact Assessment and a summary of consultation responses have been published today on the HM Treasury website.

14. If you have any questions about this change, please contact Paul Cottis on 0115 974 2420 (email: pensions.policy@hmrc.gsi.gov.uk). If you have any questions about how the pensions tax rules operate in practice, please contact the Pension Schemes Service Helpline on 0845 600 2622.

15. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

PENSION SCHEMES: LAYING OF TREASURY ORDER TO SET THE LIFETIME ALLOWANCE AND ANNUAL ALLOWANCE FROM 6 APRIL 2011

Who is likely to be affected?

1. Pension scheme members who take pension and lump sum benefits on or after 6 April 2011 valued at more than £1.8 million, and who do not have existing transitional protection.

2. Pension scheme members with contributions valued at more than £255,000 to a registered pension scheme on or after 6 April 2011.

General description of the measure

3. Tax-relieved saving in a registered pension scheme for an individual is subject to an overall limit called the lifetime allowance (LTA). The annual contributions limit on which tax relief can be claimed is called the annual allowance (AA).

4. As announced in the 2008 Pre-Budget Report, the 2010-11 LTA of £1.8 million and the AA of £255,000 will continue to apply, with their rates held constant, for a further five tax years, i.e. up to and including the tax year 2015-16.

5. A Treasury Order has been laid before Parliament today to put this into effect.

Operative date

6. The measure will have effect on and after 6 April 2011.

Current law and proposed revisions

7. The LTA and AA for tax years 2007-08 to 2010-11 are set out in a Treasury Order, SI 2007/494 (The Registered Pension Schemes (Standard Lifetime and Annual Allowances) Order 2007). The LTA was set at £1.5 million when it was introduced in April 2006, rising in stages to £1.8 million in 2010-11. The AA was set at £215,000 when it was introduced in April 2006, rising in stages to £255,000 in 2010-11.

8. A further Treasury Order has been laid before Parliament today to set the rate of the LTA at £1.8 million and the AA at £255,000 for the tax years 2011-12 to 2015-16 inclusive.

9. There are a number of limits set by reference to the LTA, for example the commutation limit for small amounts of pension rights. These limits will also remain constant from 2011-12 to 2015-16 inclusive.

Further advice

10. If you have any questions about this change, please contact Sue Marsh on 0115 974 3068 (email: pensions.policy@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

CHANGES TO PENSIONS TAXATION

Who is likely to be affected?

1. Employers, their employees (referred to as "jobholders" in the Pensions Act 2008), the National Employment Savings Trust (NEST) and its members, other qualifying pension schemes when automatic enrolment of jobholders is introduced from 2012 and scheme administrators of all registered pension schemes.

General description of the measure

2. This measure will:
   - allow NEST to register with HM Revenue & Customs (HMRC) for tax purposes, and to be subject to the same tax rules as other tax-registered pension schemes;
   - remove the tax liability on any interest charges on late pension contributions made by an employer to qualifying pension schemes;
   - provide a regulation-making power to deal with any unintended tax consequences that may emerge as a result of the implementation of NEST and the employer duties and compliance as set out in the Pensions Act 2008; and
   - remove the tax charge on borrowing linked to the cost of establishing and operating a registered pension scheme, subject to conditions.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. The amendments will have effect on and after the date that the legislation receives Royal Assent.

Current law and proposed revisions

<u>NEST</u>

5. Pension schemes must be registered under Part 4 of the Finance Act 2004 for their members and contributing employers to benefit from tax relief on contributions and investment growth. This measure will allow NEST to register with HMRC and to operate as an occupational pension scheme for tax purposes. This will mean that members of NEST and contributing employers will be able to benefit from the tax reliefs available to registered pension schemes.

Pensions Act 2008: employer duties

6. The Pensions Act 2008 places a duty on employers to ensure that their jobholders are active members of a pension scheme. The introduction of this "automatic enrolment" duty is planned for 2012.

7. The Pensions Act 2008 also obliges the employer of a jobholder to make pension contributions to qualifying pension schemes. When the contributions are paid late the employer may, at the Pensions Regulator's discretion, be asked to pay interest to their jobholder's pension account.

8. Under section 369 of the Income Tax (Trading and Other Income) Act 2005, the jobholder would be taxed on any interest paid by employers to a jobholder's pension account. This tax charge on the jobholder will be removed.

NEST and employer duties

9. Unintended tax charges may arise following the introduction of NEST and the implementation of employer duties. The legislation will include a regulation-making power to allow changes to be made through secondary legislation where necessary. The regulations made under this power may take effect retrospectively but only in so far as they are wholly relieving and do not increase any person's liability to a tax charge.

Unauthorised borrowing

10. Under the current rules, borrowing repaid out of the sums or assets of a registered pension scheme will incur a tax charge if it is in excess of half of the value of the fund.

11. Changes will be introduced so that borrowing linked to the cost of establishing and operating a registered pension scheme will be excluded from this tax charge, subject to certain conditions.

Further advice

12. If you have any questions about this change, please contact Beverley Davies on 020 7147 2869 (email: beverley.davies@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

EMPLOYER-SUPPORTED CHILDCARE: RELAXATION OF "AVAILABLE GENERALLY" CONDITION

Who is likely to be affected?

1. Employers providing childcare vouchers and directly contracted childcare to their employees through salary sacrifice arrangements.

General description of the measure

2. This measure will relax the conditions for exemption from the chargeable benefit for employer-supported childcare, provided in the form of childcare vouchers or directly contracted childcare.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. The amendments will have retrospective effect for the tax year 2005-06 and subsequent tax years.

Current law and proposed revisions

5. Condition C of section 270A of the Income Tax (Earnings & Pensions) Act 2003 (ITEPA) sets out the conditions for employees to participate in childcare voucher schemes which qualify for the tax exemption on the chargeable benefit up to the value of £55 per week. Where such arrangements are made without being available generally to employees, the exemption from the chargeable benefit should not apply**.** In practice, some employers have been excluding employees at or near the NMW from schemes provided through salary sacrifice arrangements.

6. Employees at or near the NMW cannot normally take advantage of salary sacrifice arrangements if the result would be to depress the level of their income below NMW rates. The measure introduces an exception to Condition C in the case of relevant low-paid employees where the childcare voucher scheme is provided through a salary sacrifice arrangement.

7. Section 318A of ITEPA sets an equivalent condition in respect of directly contracted childcare. Again, the measure introduces an exception to Condition C in the case of relevant low-paid employees where the directly contracted childcare is provided through a salary sacrifice arrangement.

Further advice

8. If you have any questions about this change, please contact Steve Gentle on 020 7147 2482 (email: pa.harris@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

SPECIAL GUARDIANSHIP ORDERS AND RESIDENCE ORDERS

Who is likely to be affected?

1. Individuals who care for one or more children placed with them under:
   - a special guardianship order (i.e. special guardians); or
   - a residence order, where that individual is not the children's parent or step-parent (e.g. certain kinship carers).

General description of the measure

2. This measure will mean that certain payments to special guardians, and to certain carers looking after children under a residence order, will be exempt from income tax.

3. The new exemption will be similar to the current tax exemption for payments to adopters.

4. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

5. This change will have effect for payments received on or after 6 April 2010.

Current law and proposed revisions

6. Income from providing care is normally taxed under the trading income rules, or the rules for miscellaneous income. However, there are special income tax rules for foster carers, those who have adopted a child, and shared lives carers.

7. Foster carers do not pay income tax on their foster care income, up to a certain limit (known as their individual limit). If a foster carer's income is more than their individual limit, they may choose to pay tax on:
   - their foster care income less their individual limit; or
   - their actual profits computed using the normal tax rules for businesses.

8. Individuals who have adopted a child are exempt from income tax on certain payments they receive in connection to the adoption of the child.

9. HM Revenue & Customs (HMRC) provide simplified income tax arrangements for certain carers, known currently as the simplified arrangements for adult placement carers. Despite the title, the simplified arrangements also extend to those who care for children and who do not qualify for foster care relief. These arrangements allow the carer to claim a fixed rate of expenses when computing their taxable profits from providing care to a maximum of three people. The fixed rate of expenses are:
   - £400 a week for the first individual placed with the carer;
   - £250 a week for the second individual placed with the carer; and
   - a further £250 a week for the third individual placed with the carer.

10. The simplified arrangements for adult placement carers are to be replaced with a new income tax relief for shared lives carers, which will be similar to the current income tax relief for foster carers. In the meantime, carers can continue to use the simplified arrangements. This change was announced at the 2009 Pre-Budget Report.

11. Following informal consultation about the new income tax relief for shared lives carers, it has been decided that carers who take on legal parental responsibility for a child should be taxed in a similar way to those who have adopted a child. Therefore a new income tax exemption for special guardians and certain kinship carers will be introduced.

12. This will not change the new income tax relief for shared lives carers.

13. The income tax exemption will only apply to qualifying payments to qualifying carers.

14. Qualifying payments are payments:
    - by the child's parents or payments by, or on behalf of, the local authority;
    - to a qualifying carer; and
    - which are made in relation to a special guardianship order or a residence order.

15. Qualifying carers are individuals who care for one or more children placed with them under:
    - a special guardianship order; or
    - a residence order, where the individual is not the child's parent or step-parent.

16. Kinship carers who are providing care to a child who has not been placed with them under a residence order will not be a qualifying carer for the purposes of this income tax exemption. However, they will be entitled to claim the new income tax relief for shared lives carers.

17. Qualifying carers will not be able to claim the new income tax relief for shared lives carers, as they will be exempt from income tax on their caring income instead.

Further advice

18. If you have any questions about this change, please contact Jenni Rich on 020 7147 0686 (email: jenni.rich@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

THE REMITTANCE BASIS: RELEVANT PERSON

Who is likely to be affected?

1. Individuals who are resident but either not domiciled or not ordinarily resident in the UK.

General description of the measure

2. The remittance basis is an optional basis of taxation available to individuals who are resident but either not domiciled or not ordinarily resident in the UK. Individuals who choose to use the remittance basis will be subject to UK tax on their foreign income and gains only when they are remitted to the UK, rather than on their total worldwide income and gains.

3. Finance Act (FA) 2008 introduced significant changes to the remittance basis which became effective from 6 April 2008. Minor amendments to these rules were made in FA 2009 which were designed to make the rules clearer and simpler to operate in practice. Finance Bill 2010 introduces a further minor amendment to the remittance basis.

Operative date

4. This change will have effect on and after 6 April 2010.

Current law and proposed revisions

5. The concept of relevant person was introduced in FA 2008 to ensure that any foreign income or gains of an individual which are remitted to the UK by way of any relevant person, or for the benefit or enjoyment of any relevant person, are taxed on the individual. A relevant person is widely defined and includes the individual, their spouse, civil partner, children and grandchildren under the age of 18. It also covers close companies and their subsidiaries in which such persons are participators.

6. However, it is not explicit that references to a close company are intended to include subsidiaries of non-resident companies which would be close companies if they were resident in the UK. To remove any uncertainty, and to remove the potential for abuse, the legislation will be amended to make clear that a relevant person includes such companies.

7. A relevant person is defined in section 809M of the Income Tax Act 2007.

8. This measure amends section 809M to clarify that a subsidiary of a non-UK resident company which would be a close company if it was resident in the UK will be treated as a relevant person for the purposes of the remittance basis.

Further advice

9. If you have any questions about this change, please contact offshorepersonal.taxteam@hmrc.gsi.gov.uk or telephone 020 7147 2599. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

SHARE INCENTIVE PLANS: ANTI-AVOIDANCE

Who is likely to be affected?

1. Companies and their advisers who use approved Share Incentive Plans (SIPs) for tax avoidance.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to combat abuse of the corporation tax (CT) deduction provision, where companies pay money to SIP trustees to buy shares from director-shareholders, but no real value is transferred to employees under the SIP.

3. The measure will also close potential loopholes in the provisions allowing HM Revenue & Customs (HMRC) to withdraw approval of a SIP where alterations to share capital or changes in rights attaching to shares materially affect the value of participants' plan shares.

Operative date

4. The measure will have effect in relation to payments made and alterations to share capital or rights attached to shares taking place on or after 24 March 2010.

Current law and proposed revisions

5. Section 989 of the Corporation Tax Act 2009 (CTA) allows companies (subject to conditions) to obtain a CT deduction where they pay money to SIP trustees to purchase shares from non-corporate shareholders for use in the SIP. The deduction may be withdrawn if insufficient shares are appropriated to employees under the SIP within set time limits; but there is no provision for the deduction to be withheld at the outset in cases where the company made the payment without intending that shares would genuinely be passed to employees under the SIP.

6. This has given rise to avoidance schemes where the company making the payment does so with the main purpose of obtaining the CT deduction. As a result of transactions by the company which alter the share capital or the rights attaching to the shares, employees in the SIP receive few if any shares carrying real value. The transactions have the effect of stripping away the value of shares held in the SIP.

7. The provisions in section 989 of CTA will be amended so that CT deductions will not be allowed where a payment to a SIP trust is made as part of a tax avoidance scheme, where the main purpose or one of the main purposes of the company in making the payment is to obtain a CT deduction. This change will not affect companies that are not involved in avoidance, and which make payments with the purpose of genuinely enabling their employees to obtain shares under the SIP.

8. Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003 allows HMRC to withdraw approval of a SIP where the value of shares held in the SIP trust is materially affected by alterations to the share capital of the company in question or to rights attaching to the shares. This measure makes a limited change, to clarify that approval can be withdrawn even where there are no participants in the SIP, or where no shares have been awarded under it, at the time the alteration takes place.

Further advice

9. If you have any questions about this change, please contact Andrew Ellis on 020 7147 2658 (email: shareschemes@hmrc.gsi.gov.uk). Information about Budget measures is available on the HMRC website at www.hmrc.gov.uk

COMPANY SHARE OPTION PLANS: ANTI-AVOIDANCE

Who is likely to be affected?

1. Companies that use tax-advantaged Company Share Option Plans (CSOP) and individuals who are granted CSOP share options.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to counter avoidance arrangements which are being used to circumvent the financial limit in CSOP. CSOP share options can no longer be granted over shares in a company which is under the control of a listed company.

Operative date

3. The measure will have effect in relation to options granted over shares in a company which is under the control of a listed company on or after 24 March 2010.

Current law and proposed revisions

4. Paragraph 17(1)(c) of Schedule 4 to the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) allows shares in a company which is under the control of a listed company to be shares to which an approved CSOP scheme could apply. Provided the requirements of the scheme are met, there will be no charge to income tax or National Insurance Contributions on the exercise of the options. Under CSOP, an individual can be awarded options over shares with a market value of up to £30,000 at the time of grant.

5. HM Revenue & Customs (HMRC) have found that arrangements are being used which fall under the general description of "geared growth" and which can be used to deliver additional reward to employees, beyond that intended under the schemes. This avoidance involves share options granted over shares in companies which are under the control of a listed company.

6. This measure will counter this avoidance by restricting the type of shares which can be used in CSOP. Paragraph 17(1)(c) of Schedule 4 to ITEPA will be amended so that shares in a company which is under the control of a listed company will no longer be shares to which an approved CSOP scheme could apply.

7. The measure allows companies a transitional period of six months to amend their scheme rules to bring them into line with this change, if an amendment is necessary.

Further advice

8. Draft legislation and an explanatory note have been published today on the HMRC website.

9. If you have any questions about this change, please contact Chris Murricane on 020 7147 2818 (email: shareschemes@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

ANTI-AVOIDANCE: TRANSACTIONS IN SECURITIES

Who is likely to be affected?

1. Individuals entering into transactions in securities to obtain an income tax advantage.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to replace the existing transactions in securities legislation with clearer legislation targeted more effectively at arrangements involving tax avoidance.

3. The scope of the new legislation is limited to transactions with a tax avoidance purpose but now additionally applies to certain arrangements involving close companies. The effect of the legislation continues to be to counteract the income tax advantage.

4. The opportunity has also been taken to remove some confusing words in a heading that should have been removed by SI 2009/56.

Operative date

5. The measure will generally have effect for transactions where the tax advantage is obtained on or after 24 March 2010. Some aspects of the measure affect the Corporation Tax Act 2010 and will have effect at the same time as that Act. The inconsequential amendment referred to in paragraph 4 above is effective from 1 April 2009.

Current law and proposed revisions

6. Existing legislation in the Income Tax Act 2007 provides for the counteraction of an income tax advantage when a person enters into certain transactions in securities involving the receipt of an abnormal amount of dividend with a view to obtaining that income tax advantage. Previous legislation covered UK listed as well as non-listed companies. The replacement legislation is targeted only at close companies including overseas companies.

7. The new legislation now makes clear how the tax advantage is to be quantified but will continue to counteract it in the same way.

8. This is a significant restructuring of the scope of the legislation. A wider range of companies will be covered but the new income tax advantage test and a new exemption covering fundamental changes in ownership of close companies will mean fewer individuals need to consider whether the rules apply to them.

9. Certain transactions by corporates involving “dividend stripping” and similar arrangements are no longer covered by the legislation because avoidance opportunities involving these arrangements have been removed.

Further advice

10. This legislation is the outcome of the consultation document *Simplifying Transactions in Securities Legislation* published on 31 July 2009. The summary of responses was published on 9 December 2009.

11. If you have any questions about this change, please contact Chris Orchard on 020 7147 0396 (email: chris.orchard@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

ZERO-EMISSION GOODS VEHICLES: 100 PER CENT FIRST-YEAR ALLOWANCES

Who is likely to be affected?

1. Businesses that purchase new zero-emission goods vehicles.

General description of the measure

2. This measure introduces a 100 per cent first-year allowance (FYA) for business expenditure on new and unused (not second hand) zero-emission goods vehicles.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. This measure will have effect for a period of five years for expenditure incurred on new zero-emission goods vehicles on or after 1 April 2010 (corporation tax (CT)) or 6 April 2010 (income tax).

Current law and proposed revisions

5. Capital allowances allow business to deduct the costs of capital assets, such as plant and machinery, against their taxable income. They take the place of commercial depreciation, which is not allowed for tax. Since 1 April 2008 (CT) or 6 April 2008 (income tax) most businesses, regardless of size, have been able to claim an annual investment allowance (AIA) on up to £50,000 of their expenditure each year on plant or machinery (subject to certain exclusions). From 1 April 2010 (CT) or 6 April 2010 (income tax) this limit has been increased to £100,000, see Budget Note 9 for further information.

6. Any expenditure not covered by a claim to the AIA or a FYA will be dealt with in the normal capital allowances regime, entering either the main pool or special rate pool, where it will attract writing-down allowances (WDAs) at either the 20 per cent or 10 per cent rate respectively.

7. Expenditure incurred on a new (and not second hand) zero-emission goods vehicle will qualify for the new 100 per cent FYA if:
   - the vehicle cannot under any circumstances produce CO_2 emissions when driven;
   - it is of a design primarily suited to the conveyance of goods or burden; and
   - the expenditure is incurred on or after 1 April 2010 (CT) or 6 April 2010 (income tax) and before 1 April 2015 (CT) or 6 April 2015 (income tax).

8. As with previous, and existing FYAs, the general exclusions in section 46 of the Capital Allowances Act 2001 will apply to the new FYA; this includes the exclusion of expenditure on assets for leasing.

9. In order to comply with State aid rules (see *Commission Regulation (EC) No 800/2008, General Block Exemption Regulation*) a number of additional conditions will also apply to the new FYA. In particular, the FYA will not be available to a business:
   - in difficulty for the purposes of the *Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C 244/02)*;
   - subject to an outstanding recovery order following a European Commission decision declaring an aid illegal;
   - engaged in the fisheries and aquaculture sectors, as covered by Council Regulation (EC) No 104/2000; or
   - managing waste for other undertakings for the purposes of Directive 2008/98/EC (for example, a waste collector contracting with a local authority, or large retail business, to provide an integrated waste management service).

10. To comply with State aid intensity rules, there will also be a cap that limits the amount of expenditure that will qualify for the new FYA to €85 million per undertaking over the five year life of the measure. The legislation will contain rules for determining how the cap will operate, and will take account of the undertaking's wider relationships.

Further advice

11. If you have any questions about this change, please contact Nick Williams on 020 7147 2541 (email: nicholas.williams@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

TAXABLE BENEFIT CHARGES ON ZERO-EMISSION VEHICLES AND LOW EMISSION CARS

Who is likely to be affected?

1. Employees and directors provided with a company vehicle which is made available for private use, that is a car or van which cannot produce CO_2 engine emissions under any circumstances when driven or a car which has an approved CO_2 engine emission figure of 75g per kilometre or less.

General description of the measure

2. Individuals who, by reason of their employment, are provided with a company car or van which is made available for private use are subject to a taxable charge on the benefit. For cars, the benefit is normally dependent on the list price of the vehicle multiplied by the appropriate percentage. For vans, the benefit is set as a flat rate charge.

3. Legislation in Finance Bill 2010 will introduce a relief from the chargeable benefit where the car or van concerned cannot produce CO_2 engine emissions under any circumstances when driven.

4. Finance Bill 2010 will also introduce a reduction to the chargeable benefit where a car has an approved CO_2 engine emission figure of 75g per kilometre or less.

Operative date

5. The measure will have effect on and after 6 April 2010 until 5 April 2015.

Current law and proposed revisions

6. Section 139 of the Income Tax (Earnings & Pensions) Act 2003 (ITEPA) sets the appropriate percentage for cars with CO_2 engine emissions, and section 140 of ITEPA sets the appropriate percentage for cars without CO_2 engine emissions, including wholly electrically propelled cars. Section 139 will be amended to include a revised definition of a qualifying low emissions car. It will also introduce a reduced appropriate percentage of 5 per cent for company cars which produce ultra low CO_2 emissions with an approved figure of 75g per kilometre or less. Section 140 will be amended to include a new appropriate percentage of 0 per cent for all cars which cannot produce CO_2 engine emissions under any circumstances when driven and to remove the reference to wholly electrically propelled cars.

7. Section 155 of ITEPA sets out the cash equivalent of the chargeable benefit for vans. This will be amended to include a cash equivalent of £0 where the van cannot produce CO_2 engine emissions under any circumstances when driven.

Further advice

8. If you have any questions about this change, please contact Su McLean-Tooke on 020 7147 2665 (email: pa.harris@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

VAT: CHANGES IN FUEL SCALE CHARGES

Who is likely to be affected

1. Any businesses which recover input tax on fuel used for private motoring.

General description of the measure

2. This measure amends the VAT fuel scale charges for taxing private use of road fuel, to reflect changes in fuel prices. It will also amend the table of CO_2 bands to maintain alignment with those used for direct tax purposes.

Operative date

3. Businesses must use the new scale charges from the start of their next prescribed accounting period starting on or after 1 May 2010.

Current law and proposed revisions

4. The fuel scale charges are set out in Table A in section 57(3) of the VAT Act 1994. A statutory instrument has been laid today to replace the current table with a new table to reflect changes to fuel prices.

5. The tables below show the revised VAT inclusive scale charges applicable in each accounting period, depending on whether it is a 12 month, three month or one month accounting period.

Annual charges (figures are inclusive of VAT):

CO_2 band	VAT fuel scale charge, 12 month period, £
120 or less	570.00
125	850.00
130	850.00
135	910.00
140	965.00
145	1,020.00
150	1,080.00
155	1,135.00
160	1,190.00
165	1,250.00
170	1,305.00
175	1,360.00
180	1,420.00
185	1,475.00
190	1,530.00
195	1,590.00

200	1,645.00
205	1,705.00
210	1,760.00
215	1,815.00
220	1,875.00
225	1,930.00
230 or more	1,985.00

Quarterly charges (figures are inclusive of VAT):

CO_2 band	VAT fuel scale charge, 3 month period, £
120 or less	141.00
125	212.00
130	212.00
135	227.00
140	241.00
145	255.00
150	269.00
155	283.00
160	297.00
165	312.00
170	326.00
175	340.00
180	354.00
185	368.00
190	383.00
195	397.00
200	411.00
205	425.00
210	439.00
215	454.00
220	468.00
225	482.00
230 or more	496.00

Monthly charges (figures are inclusive of VAT):

CO_2 band	VAT fuel scale charge, 1 month period, £
120 or less	47.00
125	70.00
130	70.00
135	75.00
140	80.00
145	85.00
150	89.00
155	94.00
160	99.00
165	104.00
170	108.00
175	113.00
180	118.00
185	122.00
190	127.00

195	132.00
200	137.00
205	141.00
210	146.00
215	151.00
220	156.00
225	160.00
230 or more	165.00

6. The scale charge for a particular vehicle is determined by its CO_2 emissions figure. Where the CO_2 emissions figure of a vehicle is not a multiple of five, the figure is rounded down to the next multiple of five to determine the level of the charge. For a bi-fuel vehicle which has two CO_2 emissions figures, the lower of the two figures should be used. For cars which are too old to have a CO_2 emissions figure HM Revenue & Customs have prescribed a level of emissions by reference to the vehicle's engine capacity (cc).

Further advice

7. An update to Notice 700/64 VAT: Motoring Expenses, including the revised figures for all categories of vehicle, will be available from the VAT Helpline by the end of May.

8. If you have any questions about this change, please contact the VAT Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

VAT: INCREASED TURNOVER THRESHOLDS FOR REGISTRATION AND DEREGISTRATION

Who is likely to be affected?

1. Businesses whose taxable turnover is close to the current VAT thresholds for registration and deregistration.

General description of the measure

2. The measure increases the taxable turnover threshold, which determines whether a person must be registered for VAT, from £68,000 to £70,000.

3. The taxable turnover threshold which determines whether a person may apply for deregistration will be increased from £66,000 to £68,000.

4. The registration and deregistration threshold for relevant acquisitions from other EU Member States will also be increased from £68,000 to £70,000.

Operative date

5. The new registration and deregistration thresholds will have effect on and after 1 April 2010.

Current law and proposed revisions

6. The increase in the taxable turnover threshold means that a person will have to apply for registration if:
    - at the end of any month, the value of the taxable supplies made in the past 12 months or less has exceeded £70,000; or
    - at any time there are reasonable grounds for believing that the value of taxable supplies to be made in the next 30 days alone will exceed £70,000.

7. If, at the end of any month, a person's taxable turnover in the past 12 months or less exceeds £70,000 but HM Revenue & Customs is satisfied that it will not exceed £68,000 in the next 12 months, that person will not have to be registered.

8. Schedules 1 and 3 to the VAT Act 1994 have been amended by a statutory instrument laid today to give effect to these changes.

9. The existing conditions for determining entitlement or liability to deregistration remain unchanged.

Further advice

10. If you have any questions about this change, please contact the VAT Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

VAT: CHANGE TO ZERO-RATING OF "QUALIFYING" AIRCRAFT

Who is likely to be affected?

1. Suppliers of aircraft and parts and services for aircraft; and aircraft operators.

General description of the measure

2. This measure will change the definition of aircraft that can be supplied at the zero rate from one based on weight and usage to one based on the status of the customer. Supplies of aircraft will be zero-rated only where used by airlines operating for reward chiefly on international routes.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. The change will have effect for all supplies made on or after 1 September 2010.

Current law and proposed revisions

5. Schedule 8 to the VAT Act 1994 provides that supplies may be zero-rated where the aircraft is of a weight of not less than 8,000kg and is not designed or adapted for recreation or pleasure use.

6. This will be amended to make the changes as set out above.

7. The change aligns the domestic definition of qualifying aircraft with that in Article 148 of the Principal VAT Directive.

8. There is no change to the treatment of supplies of aircraft to State institutions.

Further advice

9. Notice 744C Ships and Aircraft will be updated to provide full details of the changes and how they will apply in practice.

10. If you have any questions about this change, please contact the VAT Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

VAT: PLACE OF SUPPLY OF GAS, HEAT AND COOLING

Who is likely to be affected?

1. Suppliers, importers and VAT registered recipients of natural gas, heat and cooling. Also providers and VAT registered recipients of services comprising access to, and use of, natural gas and heat and cooling distribution networks.

General description of the measure

2. This measure will implement changes to the application of VAT to supplies of natural gas and of heat and cooling. Under existing arrangements gas supplied via the natural gas distribution system is treated as supplied where either a wholesale customer is established or the natural gas is consumed. UK customers who are registered for VAT are required to account for VAT on the supplies of natural gas they receive from suppliers established abroad as a reverse charge. There are currently no rules which specifically govern the application of VAT to supplies of heat and cooling.

3. The existing rules which also include electricity, are to be amended so as to:
   - extend their scope to cover supplies in all categories of natural gas pipeline;
   - limit their scope to supplies involving natural gas pipelines located in the EU or linked to such pipelines; and
   - extend the relief from VAT at importation to all natural gas imported via a network (including liquefied natural gas by tanker).

4. The amended rules (above), will be extended to apply to heat and cooling supplied through networks.

5. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

6. The measure has effect on and after 1 January 2011.

Current law and proposed revisions

7. Amendments will be made to the following provisions of the VAT Act 1994:
   - section 9A(5) - to amend the definition of “relevant goods” for the purposes of applying the reverse charge mechanism through which VAT is accounted for under the place of supply arrangements; and
   - paragraph 3 of Schedule 4 - to add “other cooling” as a category of goods.

8. Further amendments to reflect these changes will be made via Treasury Order.

Further advice

9. If you have any questions about this change, please contact the VAT Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

VAT: POSTAL SERVICES

Who is likely to be affected?

1. The only business directly affected by the changes is Royal Mail Holdings PLC, the universal service provider (USP) of public postal services in the UK. Some customers of Royal Mail purchasing the relevant services will also be affected, as they will now have to pay VAT. But social mail, including stamped mail, remains exempt from VAT, so private individuals should largely be unaffected.

General description of the measure

2. This measure will apply VAT at the standard rate to certain postal services provided by the USP.

3. The zero-rating for passenger transport services will also be updated to reflect the status of the provider of a passenger transport service made in conjunction with its postal services.

4. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

5. The measure will have effect for supplies made on and after 31 January 2011.

Current law and proposed revisions

6. Currently, a VAT exemption applies to the conveyance of postal packets, and services connected to the conveyance of postal packets, by the Post Office company, including any wholly owned subsidiary of the Post Office company. In practice, this means Royal Mail (including Parcelforce).

7. The VAT exemption under Group 3 of Schedule 9 to the VAT Act 1994 (VATA) will be amended to restrict the scope of the exemption to supplies of public postal services and incidental goods made by a USP. The exemption will only apply to supplies of services made under a licence duty, including those where - pursuant to a licence duty - the USP allows private postal operators access to its postal facilities.

8. Supplies of services that a USP is not required to make under a licence duty (such as those made by Parcelforce), and services provided on terms and conditions that have been freely negotiated, will in future be subject to the standard rate of VAT.

9. Zero-rating applies to the transport of passengers by the Post Office company, including any wholly owned subsidiary of the Post Office company. The provision has historically only been used for rural bus services - known as the “Postbus” - that Royal Mail provides in conjunction with its postal delivery services, although it also applies to other modes of transport, such as aircraft and ships. Item 4(b) of Group 8 of Schedule 8 to VATA will be amended to zero rate passenger transport provided by a USP. There is no change to the scope of the zero-rating.

Further advice

10. Further guidance on the scope of the exemption can be found in a Technical Note (VAT – Postal Services) published today on the HM Revenue & Customs website. VAT Notices 700 *The VAT Guide*, 700/24 *Postage and delivery charges* and 744A *Passenger transport* will be updated to reflect the amendments.

11. If you have any questions about these changes, please contact the VAT Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

VAT: REVERSE CHARGE FOR EMISSIONS ALLOWANCES

Who is likely to be affected?

1. Any business selling or purchasing emissions allowances.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to amend the legal provision for a reverse charge to combat Missing Trader Intra-Community (MTIC) fraud in goods to enable it to apply equally to services. This change, when implemented will require any VAT registered business purchasing certain services, which will be specified in secondary legislation, to account for and pay the VAT chargeable instead of the supplier. The measure will be used to introduce a reverse charge for supplies of emissions allowances, to replace the interim zero rate for these services introduced on 31 July 2009.

3. This measure also provides an option of introducing reporting requirements to deal with fraud in the services sector. There will be no additional reporting requirements in respect of emissions allowances and so suppliers will not be required to submit reverse charge sales lists for these supplies.

Operative date

4. The reverse charge for emissions allowances will have effect on and after 1 November 2010. At the same time the zero rate for supplies of emissions allowances will be withdrawn.

Current law and proposed revisions

5. Section 55A of the VAT Act 1994 (VATA) provides that taxpayers purchasing goods of a kind used in MTIC fraud may be required to account for and pay the VAT on their purchases (the reverse charge) instead of the supplier. Currently, taxpayers purchasing certain specified supplies of mobile phones or computer chips are required to account for and pay the VAT on their purchases instead of the supplier. This measure amends section 55A so that it can be applied to supplies of services, as well as goods. Paragraph 2(3B) of Schedule 11 to VATA is also amended to extend the power HM Revenue & Customs has to specify additional reporting requirements in respect of goods used for MTIC fraud to apply equally to services.

6. The changes to section 55A enable the introduction of secondary legislation to specify the supplies to which the section will apply. This will be used to introduce a reverse charge for supplies of emissions allowances, in place of the current temporary zero-rating of these supplies. There will be no additional reporting requirements for emissions allowances, so suppliers will not be required to submit reverse charge sales lists.

Further advice

7. The secondary legislation and associated guidance will be published in the summer.

8. If you have any questions about this change, please contact the VAT Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

VAT: LENNARTZ ACCOUNTING: RESTRICTING APPLICATION AND SECURING REVENUE

Who is likely to be affected?

1. Taxpayers buying land, property, boats and aircraft which are to be used for both business and private purposes, as well as taxpayers already using Lennartz accounting arrangements for any assets.

General description of the measure

2. This measure will implement changes to the recovery of VAT for immovable property, boats and aircraft, implementing changes to EC VAT law made by the Technical Directive (Council Directive 2009/162/EU).

3. Revenue protection legislation will also be introduced to ensure that existing Lennartz accounting users continue to pay the VAT due under the accounting mechanism.

4. The legislation relating to recovery of VAT on directors' accommodation will then be redundant, as the implementation of the Technical Directive and related European case law will ensure that there is no entitlement to any VAT recovery on the private use of directors' accommodation. This legislation will be removed.

5. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

6. The changes to implement the Technical Directive and repeal the legislation relating to directors' accommodation will have effect on and after 1 January 2011. The revenue protection legislation will be treated as having always had effect.

Current law and proposed revisions

7. Under existing arrangements, VAT on immovable property, boats and aircraft is recoverable upfront and in full on both the business and private use of the asset (subject to any partial exemption restriction). VAT is then payable over subsequent years in respect of the private use of the asset. This is known as "Lennartz" accounting. The changes introduced by this measure will ensure that VAT recovery is restricted only to the business use of the asset, excluding any private use by the taxpayer or the taxpayer's staff. Changes to the capital goods scheme will also be introduced so that it will take account of changes in private use over

subsequent years.

8. Until a recent change in policy arising from an ECJ decision, many taxpayers were incorrectly permitted to use Lennartz accounting (see Revenue and Customs Brief 02/10). The revenue protection legislation introduced by this measure ensures that where such taxpayers choose not to unravel these arrangements, they have a statutory obligation to continue to account for the VAT due under the arrangements. The legislation will ensure that this position is treated as having always had effect.

9. Amendments will be made to the VAT Act 1994 (VATA) to:
   - provide a distinction between business input tax and non-business VAT;
   - ensure that VAT is not recoverable on a taxable person's private use (or the private use of his staff) of a relevant asset;
   - provide a power to make regulations to treat non-business VAT as input tax;
   - provide enabling powers to introduce further regulations; and
   - ensure that for certain assets specified in the new legislation, VAT cannot be recovered in respect of private use or purposes other than those of a business from 1 January 2011.

10. A measure will be introduced to ensure output tax continues to be paid where a credit was allowed in respect of a supply falling under paragraph 5(4) of Schedule 4 to VATA and to provide the detailed circumstances where this will apply as well as definitions. The measure will be treated as having always had effect.

11. Amendments to regulations will be made as a result of these changes in due course and will amend the capital goods scheme to take into account changes in business/private use of an asset and other related matters.

Further advice

12. If you have any questions about this change, please contact the VAT Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

LANDLINE DUTY

Who is likely to be affected?

1. Owners of local loops, wholesalers, retailers and end users of local loops. A local loop is the physical circuit connecting a network termination point to a public electronic communications network.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to establish a new duty on landlines in the UK. Accompanying secondary legislation will be laid after Finance Bill 2010 has received Royal Assent.

Operative date

3. The duty has effect on and after 1 October 2010.

Current law and proposed revisions

4. The duty will be set at 50 pence per line per month.

5. The duty will apply when a local loop is made available for use and will be payable by the owner of the loop.

6. It is expected that the owners will recoup the duty from the end user, wholesaler or retailer.

Further advice

7. If you have any questions about this change, please contact the Excise and Customs Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

LANDFILL TAX: STANDARD RATE

Who is likely to be affected?

1. Businesses registered for landfill tax.

General description of the measure

2. Legislation will be included in Finance Bill 2010 to increase the standard rate of landfill tax by £8 per tonne to £56 per tonne.

Operative date

3. The new £56 per tonne standard rate will have effect for disposals of waste made, or treated as made, on or after 1 April 2011.

Current law and proposed revisions

4. Section 42 of the Finance Act (FA) 1996 specifies the rates of landfill tax, and will be amended to reflect the new standard rate.

5. The standard rate is currently £40 per tonne and the lower rate is £2.50 per tonne. The standard rate will increase to £48 per tonne from 1 April 2010 as a result of a change made in FA 2009.

Further advice

6. If you have any questions about this change, please contact the Excise and Customs Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

LANDFILL COMMUNITIES FUND

Who is likely to be affected?

1. Businesses registered for landfill tax and environmental bodies enrolled under the Landfill Communities Fund (LCF).

General description of the measure

2. Landfill site operators may claim against their annual landfill tax liability for contributions made to bodies concerned with the environment (enrolled under the LCF). Secondary legislation will be introduced to amend the maximum credit claimable from 6 per cent to 5.5 per cent. This should result in an increase to the maximum value of the LCF in line with inflation, from £72 million in 2009-10 to a potential value of £74.25 million of credit claimable for 2010-11.

Operative date

3. The measure will have effect on and after 1 April 2010.

Current law and proposed revisions

4. A statutory instrument will be laid shortly to amend the maximum percentage claimable, which is set out in regulation 31(3) of the Landfill Tax Regulations 1996.

Further advice

5. If you have any questions about this change, please contact the Excise and Customs Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk Information on the LCF is also available from ENTRUST at www.entrust.org.uk

LANDFILL TAX: CRITERIA FOR DETERMINING MATERIAL TO BE SUBJECT TO THE LOWER RATE

Who is likely to be affected?

1. Businesses registered for landfill tax.

General description of the measure

2. This measure will provide:
   - for the publication and review of criteria for determining the lower rate of landfill tax; and
   - that HM Treasury will have regard to these criteria when listing in an Order the materials that qualify for the lower rate.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. The legislation will have effect on and after the date that it receives Royal Assent. The current Treasury Order listing lower rated wastes is not affected by the changes as long as disposals are made, or treated as made, before 1 October 2010.

5. Any changes required to the current Treasury Order as a result of the new primary legislation will come into force on 1 October 2010.

Current law and proposed revisions

6. Under the current rules in section 42(4) of the Finance Act 1996, HM Treasury must have regard to whether material being landfilled is commonly described as inactive or inert when deciding whether or not to include it in an Order that lists the materials that qualify for the lower rate of tax. The Landfill Tax (Qualifying Material) Order 1996 lists the qualifying wastes.

7. The measure will replace section 42(4) with new provisions that specify that the Commissioners for HM Revenue & Customs must publish the criteria that HM Treasury use to determine what material is lower rated, and will publish revised criteria when necessary. HM Treasury will take account of these criteria when listing in an Order the materials that qualify for the lower rate of tax, for any disposals made, or treated as made, on or after 1 October 2010.

8. Amendments to the current Landfill Tax (Qualifying Material) Order 1996 needed as a result of changes to primary legislation will be introduced in a new Treasury Order.

Further advice

9. If you have any questions about these changes, please contact the Excise and Customs Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

CLIMATE CHANGE LEVY: CHANGE IN RATES

Who is likely to be affected?

1. Suppliers of taxable commodities and others liable to account for the climate change levy (CCL).

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to increase the rates of CCL as set out below:

Taxable commodity	**Rate**
Electricity	£0.00485 per kilowatt hour
Gas supplied by a gas utility or any gas supplied in a gaseous state that is of a kind supplied by a gas utility	£0.00169 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state	£0.01083 per kilogram
Any other taxable commodity	£0.01321 per kilogram

Operative date

3. The new rates shown in paragraph 2 above will have effect for supplies of taxable commodities treated as taking place on or after 1 April 2011.

Current law and proposed revisions

4. Paragraph 42(1) of Schedule 6 to the Finance Act 2000 contains the rates of CCL. The current rates are:

Taxable commodity	**Rate**
Electricity	£0.00470 per kilowatt hour
Gas supplied by a gas utility or any gas supplied in a gaseous state that is of a kind supplied by a gas utility	£0.00164 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state	£0.01050 per kilogram
Any other taxable commodity	£0.01281 per kilogram

5. Paragraph 42(1) will be amended to provide for the new rates of CCL shown in paragraph 2 of this notice.

Further advice

6. If you have any questions about this change, please contact the Excise and Customs Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

AGGREGATES LEVY: RATE

Who is likely to be affected?

1. Those commercially exploiting taxable aggregate in the UK.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to increase the rate of aggregates levy from £2.00 per tonne to £2.10 per tonne.

Operative date

3. The new rate will have effect for any aggregate commercially exploited on or after 1 April 2011.

Current law and proposed revisions

4. Section 16(4) of the Finance Act 2001 specifies the rate of aggregates levy. This will be amended by Finance Bill 2010.

Further advice

5. If you have any questions about this change, please contact the Excise and Customs Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

AGGREGATES LEVY: NORTHERN IRELAND CREDIT SCHEME

Who is likely to be affected?

1. Those commercially exploiting taxable aggregate in Northern Ireland.

General description of the measure

2. This measure will allow for the extension of the Northern Ireland Aggregates Levy Credit Scheme for a further ten years. The Scheme grants an 80 per cent tax credit to aggregate producers in Northern Ireland who meet certain conditions.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. The primary, enabling legislation will have effect on and after the date that it receives Royal Assent. Regulations will be laid at a later date following State aid approval for an extension of the scheme.

Current law and proposed revisions

5. Under section 30A of the Finance Act 2001, the Commissioners for HM Revenue & Customs may make regulations providing for a tax credit where a charge to aggregates levy has arisen on a quantity of aggregate which has been subject to commercial exploitation in Northern Ireland during a period ending 31 March 2011. Section 30A(2)(b) will be amended so that the period to which such regulations may apply ends on 31 March 2021.

6. Under regulation 3(1) of the Aggregates Levy (Northern Ireland Tax Credit) Regulations 2004, a tax credit may only be granted on aggregate commercially exploited before 1 April 2011. Subject to EU Commission State aid approval, new regulations will be laid amending regulation 3(1) to extend this date to 1 April 2021.

Further advice

7. If you have any questions about this change, please contact the Excise and Customs Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

HYDROCARBON OILS: DUTY RATES

Who is likely to be affected?

1. Businesses producing and importing hydrocarbon oils and alternative fuel products.

General description of the measure

2. Legislation will be introduced in Finance Bills 2010 to 2014 to amend fuel duty rates.

Operative date

3. The changes will have effect on and after 1 April and 1 October 2010, and on and after 1 January 2011. Future changes will have effect on and after 1 April in each year.

Current law and proposed revisions

4. On 1 April 2010 the duty rates for the main road fuels (that is, unleaded petrol and heavy oil (diesel)) will be increased by 1 penny per litre (ppl). These rates will be increased further on 1 October 2010 by 1ppl and on 1 January 2011 by 0.76ppl. These rates will be increased on 1 April 2011 to 2014 by 1ppl above indexation in each year.

	Duty rate per litre (£)			
	Current	**On and after 1 April 2010**	**On and after 1 October 2010**	**On and after 1 January 2011**
Unleaded petrol	0.5619	0.5719	0.5819	0.5895
Heavy Oil	0.5619	0.5719	0.5819	0.5895

5. On 1 April 2010 the duty rate for light oil other than unleaded petrol or aviation gasoline will be increased by 1ppl. This rate will be increased further on 1 October 2010 by 1ppl and on 1 January 2011 by 0.76ppl.

	Duty rate per litre (£)			
	Current	On and after 1 April 2010	On and after 1 October 2010	On and after 1 January 2011
Light oil (other than unleaded petrol or aviation gasoline)	0.6591	0.6691	0.6791	0.6867

6. On 1 April 2010 the duty rate for aviation gasoline (avgas) will be increased by 3.78ppl.

	Current	On and after 1 April 2010
Aviation gasoline (Avgas)	0.3457	0.3835

7. On 1 April 2010, effective rates of duty (that is, the relevant duty minus the relevant rebate) for non-road fuels will be increased by the same percentage as main road fuels. These rates will be increased similarly on 1 October 2010, 1 January 2011, and 1 April 2011 to 2014.

	Duty rate per litre (£)			
	Current	On and after 1 April 2010	On and after 1 October 2010	On and after 1 January 2011
Light oil delivered to an approved person for use as furnace fuel	0.1037	0.1055	0.1074	0.1088
Marked gas oil	0.1080	0.1099	0.1118	0.1133
Fuel oil	0.1037	0.1055	0.1074	0.1088
Heavy oil other than fuel oil, gas oil or kerosene used as fuel	0.1037	0.1055	0.1074	0.1088
Kerosene to be used as motor fuel off-road or in an excepted vehicle	0.1080	0.1099	0.1118	0.1133
Biodiesel for non-road use	0.1080	0.1099	0.1118	0.1133
Biodiesel blended with gas oil for non-road use	0.1080	0.1099	0.1118	0.1133

8. On 1 April 2010, following the ending of the duty differential for biofuels for road use, the duty rates for biodiesel and bioethanol will be increased to the same rate as the main road fuel rate of 57.19ppl. This rate will be increased further on 1 October 2010 by 1ppl, and on 1 January 2011 by 0.76ppl. Biodiesel made from waste cooking oil will continue to benefit from a 20ppl duty differential for a period of two years, via a relief scheme introduced from 1 April 2010.

	Duty rate per litre (£)			
	Current	**On and after 1 April 2010**	**On and after 1 October 2010**	**On and after 1 January 2011**
Biodiesel	0.3619	0.5719	0.5819	0.5895
Bioethanol	0.3619	0.5719	0.5819	0.5895

9. On 1 April 2010, the duty rate for natural gas will be increased by 1.44 pence per kg to maintain the differential with road fuels in pence per litre equivalents, and the duty rate for liquefied petroleum gas (LPG) will be increased by 2.86 pence per kg to reduce the differential with main road fuels by the equivalent of 1 penny on a litre of petrol. These rates will be increased further on 1 October to maintain their differential with main road fuels. From 2011 to 2014, the duty differential for natural gas will be maintained and the duty differential for LPG will be reduced by the equivalent of 1 penny on a litre of petrol each year.

	Duty rate per kg (£)			
	Current	**On and after 1 April 2010**	**On and after 1 October 2010**	**On and after 1 January 2011**
Road fuel natural gas (NG), including biogas	0.2216	0.2360	0.2505	0.2615
Road fuel gas other than NG – e.g. liquefied petroleum gas (LPG)	0.2767	0.3053	0.3195	0.3304

Further advice

10. If you have any questions about this change, please contact the Excise and Customs Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

AIR PASSENGER DUTY: DUTY RATES

Who is likely to be affected?

1. Airlines, travel agents and air passengers, including those who have already booked tickets for travel on or after 1 November 2010.

General description of the measure

2. As announced at the 2008 Pre-Budget Report, legislation will be introduced in Finance Bill 2010 to increase the rates of air passenger duty (APD) from 1 November 2010.

Operative date

3. The changes will have effect in relation to any carriage of a passenger which begins on or after 1 November 2010, irrespective of when the ticket for travel was booked or purchased.

Current law and proposed revisions

4. There are currently eight rates of APD. These, and the new rates to be applied to flights departing on or after 1 November 2010, are contained in the following table:

Destination band, and approximate distance in miles from London		In the lowest class of travel (reduced rate)		In other than the lowest class of travel* (standard rate)	
		Current	From 1 Nov 2010	Current	From 1 Nov 2010
Band A	(0 – 2000)	£11	£12	£22	£24
Band B	(2001 – 4000)	£45	£60	£90	£120
Band C	(4001 – 6000)	£50	£75	£100	£150
Band D	(over 6000)	£55	£85	£110	£170

* (However, if only one class of travel is available and that class provides for seating with a seat pitch in excess of 40” then the standard (rather than the reduced) rate of APD applies.)

5. A list of countries by band is contained in Appendix 1 of HM Revenue & Customs (HMRC) Notice 550, Air Passenger Duty, which is available on the HMRC website.

6. Section 30 of the Finance Act 1994 will be amended to implement the rate changes.

Further advice

7. If you have any questions about this change, please contact the Excise and Customs Helpline on 0845 010 9000. Information about Budget measures is available on the HMRC website at www.hmrc.gov.uk

TOBACCO PRODUCTS DUTY: RATES

Who is likely to be affected?

1. Tobacco manufacturers and importers of tobacco products (i.e. cigarettes, cigars, hand-rolling tobacco, other smoking tobacco and chewing tobacco).

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to increase the rates of duty on tobacco products imported into, or manufactured in, the UK. The changes will represent an increase of 1 per cent, in real terms, on the current duty levels.

Operative date

3. The rate increase will have effect on and after 6pm on 24 March 2010.

Current law and proposed revisions

4. The rates of duty are:
   - cigarettes: an amount equal to 24 per cent of the retail price plus £119.03 per thousand cigarettes;
   - cigars: £180.28 per kilogram;
   - hand-rolling tobacco: £129.59 per kilogram; and
   - other smoking tobacco and chewing tobacco: £79.26 per kilogram.

5. An amendment will be made to the table of rates of duty in Schedule 1 to the Tobacco Products Duty Act 1979, as last substituted by section 12 of the Finance Act 2009.

Further advice

6. If you have any questions about this change, please contact the Excise and Customs Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

ALCOHOL DUTY: RATES

Who is likely to be affected?

1. Manufacturers, importers, distributors, retailers and consumers of alcohol products (spirits, beer, cider, wine and made-wine).

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to provide for the annual setting of duty rates for alcohol. Duty rates for all still ciders, and sparkling cider exceeding 1.2 per cent alcohol by volume (abv) but not exceeding 5.5 per cent abv, will increase by 10 per cent above inflation. Duty rates for all other alcoholic drinks will increase by 2 per cent above inflation. The impact of the changes on retail prices for typical alcoholic drinks is equivalent to:
    - 36 pence on a 70cl bottle of spirits @ 37.5 per cent abv;
    - 2 pence on a pint of beer;
    - 5 pence on a litre of still cider;
    - 9 pence on a 75cl bottle of sparkling cider;
    - 10 pence on a 75cl bottle of wine or made-wine; and
    - 12 pence on a 75cl bottle of sparkling wine.

3. The Small Brewers Relief scheme will continue to provide 50 per cent duty relief to the smallest brewers.

Operative date

4. Annual duty rate changes will have effect on and after 29 March 2010.

Current law and proposed revisions

5. The Alcoholic Liquor Duties Act 1979 and the HM Revenue & Customs Tariff will be amended to effect the changes.

Further advice

6. If you have any questions about this change, please contact the Excise and Customs helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

The alcohol duty rates will be as follows:

Type	Rate
	Rate £ per litre of pure alcohol
Spirits	23.80
Spirits-based Ready To Drinks	23.80
Wine and made-wine: Exceeding 22% abv	23.80
	Rate £ per hectolitre per cent of alcohol in the beer
Beer	17.32
	Rate £ per hectolitre of product
Still cider and perry: Exceeding 1.2% - not exceeding 7.5% abv.	36.01
Still cider and perry: Exceeding 7.5% - less than 8.5% abv.	54.04
Sparkling cider and perry: Exceeding 1.2% - not exceeding 5.5% abv.	36.01
Sparkling cider and perry: Exceeding 5.5% - less than 8.5% abv.	217.83
Wine and made-wine: Exceeding 1.2% - not exceeding 4% abv.	69.32
Wine and made-wine: Exceeding 4% - not exceeding 5.5% abv.	95.33
Still wine and made-wine: Exceeding 5.5% - not exceeding 15% abv.	225.00
Wine and made-wine: Exceeding 15% - not exceeding 22% abv.	299.97
Sparkling wine and made-wine: Exceeding 5.5% - less than 8.5% abv.	217.83
Sparkling wine and made-wine: 8.5% and above -not exceeding 15% abv.	288.20

ALCOHOL DUTY: DEFINITION OF CIDER

Who is likely to be affected?

1. Manufacturers, importers, distributors, retailers and consumers of cider and perry.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to provide a power to amend the definition of cider which may be needed in order to protect the integrity of the cider definition.

Operative date

3. The legislation will have effect on and after the date that Finance Bill 2010 receives Royal Assent.

Current law and proposed revisions

4. Finance Bill 2010 will provide a power in the Alcoholic Liquor Duties Act 1979 to amend the definition of cider for duty purposes.

Further advice

5. If you have any questions about this change, please contact the Excise and Customs Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

EXCISE: CHANGES TO BINGO DUTY, AMUSEMENT MACHINE LICENCE DUTY AND GAMING DUTY

Who is likely to be affected?

1. Casinos, bingo clubs and anyone who provides a gaming machine for play in the UK.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to:
   - reduce the rate of bingo duty from 22 per cent to 20 per cent;
   - increase the amounts of amusement machine licence duty (AMLD) in line with inflation; and
   - raise the gross gaming yield (GGY) bandings for gaming duty in line with inflation.

Operative date

3. The new rate for bingo duty will have effect for accounting periods beginning on or after 29 March 2010.

4. The increase in the amounts of duty for AMLD will have effect for any licence applications received at HM Revenue & Customs' accounting centre after 4pm on 26 March 2010.

5. The changes to the GGY bandings have effect for accounting periods starting on or after 1 April 2010.

Current law and proposed revisions

6. The rate of bingo duty in section 17 of the Betting and Gaming Duties Act 1981 (BGDA) will be reduced from 22 per cent to 20 per cent.

7. The table in section 23 of BGDA, setting out the amounts of licence duty, will be replaced by the table below.

Month	A	B1	B2	B3	B4	C
1	520	265	210	210	190	85
2	1015	505	395	395	360	150
3	1520	760	605	605	545	225
4	2025	1015	800	800	725	300
5	2540	1270	1000	1000	900	375
6	3050	1520	1195	1195	1085	450
7	3555	1775	1395	1395	1265	520
8	4060	2025	1600	1600	1450	600
9	4570	2285	1800	1800	1630	675
10	5075	2540	1995	1995	1810	750
11	5580	2795	2195	2195	1990	820
12	5805	2905	2285	2285	2075	860

8. The table of GGY bandings for gaming duty in section 11 of the Finance Act 1997 will be replaced by the table below.

The first £1,975,000 of GGY	15 per cent
The next £1,361,500 of GGY	20 per cent
The next £2,385,000 of GGY	30 per cent
The next £5,033,500 of GGY	40 per cent
The remainder	50 per cent

Further advice

9. If you have any questions about this change, please contact the Excise and Customs Helpline on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

DISCLOSURE OF TAX AVOIDANCE SCHEMES

Who is likely to be affected?

1. Promoters of tax avoidance schemes, including accountancy and law firms, banks and other financial institutions and their clients.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 revising the Disclosure of Tax Avoidance Scheme (DOTAS) and providing for increased penalties for failure to comply with the rules.

3. Regulations, not dependent upon the Bill, will be laid revising and extending the DOTAS “hallmarks” (descriptions of schemes required to be disclosed).

4. National Insurance Contributions (NICs) regulations will mirror the tax changes in primary and secondary legislation, to the extent that they concern income tax.

Operative date

5. Finance Bill 2010 will contain substantive provisions and powers to make regulations. The substantive powers will come into effect on separate days to be appointed by Order. It is expected that the substantive provisions and the regulations (including both the Descriptions Regulations and the NICs regulations) will come into effect on a common date in autumn 2010.

Current law and proposed revisions

6. Part 7 of the Finance Act (FA) 2004 and regulations (the disclosure regulations) require certain persons (normally the promoter but in some cases the user) of tax schemes falling within certain descriptions to provide information to HM Revenue & Customs (HMRC) about the scheme within certain time limits.

7. HMRC may allocate a scheme reference number (SRN) to a disclosed scheme. Promoters must pass the SRN to their clients who have entered into the scheme. Clients who are intermediaries must pass on a SRN to persons it knows to be end users of the scheme. Scheme users are required to report the use of the scheme back to HMRC.

8. HMRC has the power to investigate cases where it suspects a person has failed to disclose a scheme as required. Section 98C of the Taxes Management Act 1970 (TMA) contains penalties for failure to comply with a requirement to disclose.

9. The Social Security Administration Act 1992 provides for HM Treasury to make regulations applying (with or without modification) or corresponding to the DOTAS tax legislation (primary and secondary) to the extent that it relates to income tax. These powers are exercised in the National Insurance (application of Part 7 of the Finance Act 2004) Regulations 2007, SI 2007/785.

10. Finance Bill 2010 amends Part 7 of FA 2004 and section 98C of TMA to strengthen and improve the DOTAS regime. The new and amended provisions:
    - introduce a new "trigger point" for the disclosure of actively marketed schemes – the point at which a promoter first communicates a fully designed scheme to a third party for the purpose of obtaining clients of that scheme;
    - include a new requirement for a person who introduces a client to a notifiable scheme to provide HMRC with the name and address of the promoter who provided them with details of that scheme;
    - increase the penalties for failure to comply with a disclosure obligation, subject to determination by the Tribunal; and
    - introduce a new requirement for promoters to provide HMRC with periodic information about clients who implement a notifiable scheme for SRNs issued on or after the date the regulations come into force.

11. Regulations will amend or replace The Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2006 SI 2006/1543 which contain the descriptions of schemes to be disclosed, commonly referred to as "hallmarks". The amended (or replacement) regulations will revise and extend the current hallmarks.

12. Regulations will amend or replace the National Insurance (Application of Part 7 of the Finance Act 2004) Regulations 2007, SI 2007/785, mirroring the changes to the tax legislation, to the extent that they concern income tax.

13. HMRC will have further discussions with business about the detail of the package of regulations.

Further advice

14. If you have any questions about this change, please contact Philippa Staples on 020 7147 2444 (email: philippa.staples@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

RELIEF FOR OVERPAYMENTS OF STAMP DUTY LAND TAX AND PETROLEUM REVENUE TAX

Who is likely to be affected?

1. Those who pay stamp duty land tax (SDLT) and participators in oil fields who are liable to petroleum revenue tax (PRT).

General description of the measure

2. This measure will amend the SDLT and PRT error or mistake relief rules. This follows similar changes to the income tax, capital gains tax and corporation tax rules in the Finance Act (FA) 2009. The changes will provide a means of reclaiming overpayments where there is no other statutory route. They will ensure there is a comprehensive statutory scheme of remedies in such cases.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. To allow a transitional period in which claims can be made under the old rules, the measure will have effect on and after 1 April 2011.

Current law and proposed revisions

5. Paragraph 34 of Schedule 10 to FA 2003 provides relief in cases where a person has overpaid tax under an assessment to SDLT that is excessive due to a mistake in a land transaction return.

6. Part 1 of Schedule 2 to the Oil Taxation Act 1975 and section 33 of the Taxes Management Act 1970 provide relief where a participator in an oil field pays tax under an assessment to PRT which is excessive due to a mistake in a return.

7. The time limit for claiming repayments under both provisions is currently six years. From 1 April 2011 they must be claimed within four years.

8. No repayment is given where the return followed the general practice at the time it was made, or where the mistake is governed by another statutory claim.

9. The measure will remove the requirement that the overpayment must be the result of a mistake in a return and that it must be made under an assessment.

10. The measure will also provide that HM Revenue & Customs (HMRC) are not liable to repay an amount except as provided by the measure or by another provision of the Taxes Acts.

11. The current restrictions on the right of appeal will be removed, allowing an appeal to the courts on the same grounds as appeals against other matters.

Further advice

12. A Technical Note for the SDLT part of the measure, including draft legislation, was published on 6 January 2010 and is available on the HMRC website.

13. If you have any questions about this change, please contact Nick Mosley on 0151 703 8986 (email: nick.mosley@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

INTEREST HARMONISATION FOR CORPORATION TAX AND PETROLEUM REVENUE TAX

Who is likely to be affected?

1. Taxpayers that make late payments to HM Revenue & Customs (HMRC) or receive repayments from HMRC of corporation tax (CT) or petroleum revenue tax (PRT).

General description of the measure

2. This measure will bring CT and PRT within the harmonised interest regime introduced in the Finance Act (FA) 2009. The harmonised interest regime will apply to all late payments and repayments of taxes and duties administered by HMRC.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. Implementation of interest harmonisation requires changes to a number of HMRC computer and operational systems and is to be phased in over a number of years. The new provisions will be brought into effect by Treasury Orders which will specify the dates from which they have effect.

Current law and proposed revisions

5. The current primary legislation applying interest to CT is in section 87A of the Taxes Management Act 1970 and in section 826 of the Income and Corporation Taxes Act 1988. The current primary legislation applying interest to PRT is in Schedule 2 to the Oil Taxation Act 1975. The harmonised regime is contained in sections 101 to 105 of FA 2009 and this legislation is being amended to encompass CT and PRT.

6. The current rules on interest have evolved over time with additions and adaptations applied as each major tax has been reviewed or each new tax or duty has been introduced. As such, there are a number of different rules applying for interest across the taxes and duties. For some taxes, interest is charged as soon as payment is late; for others it is only charged where under-declarations are assessed, and for some liabilities there is no late payment interest charged at all. In addition, where repayment interest currently applies it may be called a supplement, credit interest or statutory interest.

7. The new harmonised interest provisions replace the current range of differing regimes with a single legislative framework for interest chargeable on late payments and payable on repayments which will apply to all taxes and duties administered by HMRC. Interest will be charged from the date the tax or duty was due to be paid to HMRC until the date it is paid. HMRC will pay interest on repayments from the date the tax or duty was due to be paid or, if later, the date the payment was actually received, to the date the repayment is made.

8. The interest descriptors particular to the current Acts for each tax and duty will be simplified and unified for all taxes and duties to become late payment interest and repayment interest. The rules for Quarterly Instalment Payments remain unchanged and do not form part of the harmonised rules that will apply to CT. This treatment reflects the particular nature of these payments and responds to representations made during earlier consultation.

9. Customs duties are subject to EU Regulation and as such are outside the scope of the harmonised interest regime. Although administered by HMRC, tax credits and child benefits are not taxes and as such are not covered by this harmonised regime.

Further advice

10. This measure was the subject of consultation in June 2008, November 2008 and December 2009. A summary of the responses to the December 2009 consultation *Interest – Working Towards a Harmonised Regime* has been published today on the HMRC website.

11. The Review of HMRC's Powers, Deterrents and Safeguards website will provide updates on the implementation timetable for each tax and duty.

12. If you have any questions about this change, please contact Don Morley on 020 7147 2407 (email: don.morley@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

REVIEW OF HMRC POWERS, DETERRENTS AND SAFEGUARDS: PENALTIES FOR LATE FILING OF RETURNS AND PAYMENT OF TAX

Who is likely to be affected?

1. Taxpayers who do not file their tax returns on time or pay their tax liabilities in full and on time for:
   - VAT and insurance premium tax;
   - aggregates levy, climate change levy and landfill tax;
   - air passenger duty, alcoholic liquor duties, tobacco products duty, hydrocarbon oil duties, general betting duty, pool betting duty, bingo duty, lottery duty, gaming duty and remote gaming duty; and
   - other excise duties.

2. This measure will not have effect for tax credits.

General description of the measure

3. This measure will complete the reform of the penalty regimes for late filing of tax returns and late payment of tax. The reform began when legislation for certain taxes was enacted in the Finance Act (FA) 2009 including income tax, corporation tax, inheritance tax and other direct taxes.

4. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

5. Implementation of new penalties for late filing and late payment requires changes to HM Revenue & Customs' (HMRC) computer systems and internal processes and is to be staged over a number of years. This will also allow for the substantial education and preparatory period that will be necessary for both taxpayers and their agents. The new provisions will be brought into effect by Treasury Orders which will specify the dates from which they have effect.

Current law and proposed revisions

6. The new regimes will replace the current variety of penalties and will treat late payment of tax and late filed returns separately. The legislation creates penalty models which reflect the more frequent filing and paying obligations for these taxes and duties compared to the direct tax penalty models enacted last year.

7. The late filing and late payment penalty models are broadly similar. These are designed to encourage filing and payment by the correct dates by introducing an escalating series of penalties depending upon the number of failures within a set penalty period. Further penalties will arise if there is a prolonged delay in filing returns or paying the tax due.

8. The new penalties will include a right of appeal against penalty decisions if the taxpayer has a reasonable excuse for the lateness. Late payment penalties may also be avoided where taxpayers have agreed a time to pay arrangement with HMRC.

9. The legislation enacted in FA 2009 included those taxes where the obligation to file or pay is either annual or occasional. It also made specific provision for the filing of Construction Industry Scheme returns and payment to HMRC of deductions collected through the Pay As You Earn system. This measure introduces further penalty models with common features, based upon the underlying principles of influencing behaviour, effectiveness and fairness.

10. The key elements of the new penalty models are as follows:

Penalties for late filing returns (quarterly)

- £100 penalty immediately after the due date for filing (whether or not the tax has been paid);
- the failure also starts a penalty period, which is set for a year;
- if there are further failures within the penalty period, then the fixed penalty escalates by £100 for each of those subsequent failures, up to a maximum of £400 per failure. The penalty period is also extended to the first anniversary of the latest failure;
- if any of the failures are prolonged, then additional penalties of 5 per cent of the tax on the relevant return are charged at six and 12 months from the date of the failure; and
- if, by failing to make the return, the taxpayer is deliberately withholding information to prevent HMRC from correctly assessing the liability to tax, then penalties of up to 100 per cent of the tax on the return may be chargeable.

Penalties for late filing returns (monthly)

- This is a very similar structure to the quarterly model above, except that the fixed penalties are £100 for the first three failures in any penalty period, £200 for the second three failures, etc. up to a maximum of £400 per failure.

Penalties for late payments (quarterly)

- Where a taxpayer first pays late, although there is no penalty, it does start a penalty period, which is set for a period of a year;
- any further failures within that period will attract a penalty of 2 per cent of the unpaid tax, as well as extending the penalty period to the first anniversary of the latest failure;

- a third failure within the period will attract a penalty of 3 per cent, with further failures attracting a maximum of 4 per cent; and
- if any of the failures are prolonged, then additional penalties of 5 per cent of the unpaid tax are charged at six and 12 months from the date of the failure.

Penalties for late payment (monthly)

- This is a very similar structure to the quarterly model above, except that, after the first failure, the tax-geared penalties are 1 per cent for the next three failures in any penalty period, 2 per cent of the next three failures, etc. up to a maximum of 4 per cent per failure.

11. There are special provisions to deal with circumstances where taxpayers may change from a monthly to a quarterly return, or where exceptional payment obligations may arise.

Further advice

12. This measure has been the subject of three separate consultations: *Meeting the obligations to file returns and pay tax on time* was published in November 2008, building upon an initial consultation published with the same title in June 2008. Draft legislation was then exposed for public comment on 9 December 2009. A summary of responses to this consultation has been published today on the HMRC website.

13. The Impact Assessment relating to this measure was published on the HMRC website on 14 April 2009.

14. If you have any questions about this change, please contact David Lewis on 020 7147 2403 (email: david.e.lewis@hmrc.gsi.go.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

REVIEW OF HMRC POWERS, DETERRENTS AND SAFEGUARDS: TACKLING OFFSHORE TAX EVASION

Who is likely to be affected?

1. Individuals and businesses with financial interests outside the UK that fail to declare the full extent of their tax liabilities.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to provide for larger penalties for taxpayers who fail to provide a full account of their income tax or capital gains tax liabilities, where the failure is linked to an offshore matter.

Operative date

3. It is expected that the new penalty framework will apply to tax periods commencing on or after 1 April 2011.

Current law and proposed revisions

4. Penalties for under-declaration of tax are determined by Schedule 24 to the Finance Act (FA) 2007 (penalties for inaccuracies in returns), Schedule 41 to FA 2008 (penalties for failure to notify) and Schedule 55 to FA 2009 (penalties for failure to make a return).

5. Each of these Schedules provides for tax-geared penalties. The level of the penalty is determined by the behaviour of the taxpayer and the quality of disclosure.

6. The mechanics of the penalty frameworks will remain the same, but the absolute level of the percentage used to determine the tax-geared penalty will be determined by the jurisdiction in which the non-compliance arises.

7. Where the non-compliance occurs in a jurisdiction which has provision to exchange information on savings income automatically with the UK, the penalty percentages will be the same as those in the current Schedules (i.e. the same as for non-compliance arising in the UK).

8. Where the non-compliance arises in a jurisdiction which has agreed to exchange information with the UK, but does not automatically share that information, the penalty percentages will be 1.5 times those set out in the existing Schedules.

9. Where the non-compliance arises in a jurisdiction which has not agreed to exchange information with the UK, the penalty percentages will be double those set out in the existing Schedules.

10. The safeguards built into the existing penalties legislation will apply equally in the case of offshore non-compliance.

11. The new penalty frameworks for offshore non-compliance will apply to income tax and capital gains tax.

Further advice

12. Proposals to tackle offshore evasion were the subject of a consultation published in December 2009. A summary of responses has been published today on the HMRC website.

13. If you have any questions about this change, please send an email to powers.review-of-hmrc@hmrc.gsi.gov.uk or contact Maria Richards on 020 7147 3223. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

REVIEW OF HMRC POWERS, DETERRENTS AND SAFEGUARDS: EXCISE MODERNISATION AND COMPLIANCE CHECKS

Who is likely to be affected?

1. Businesses and individuals involved with excise duties on alcohol, tobacco, energy products, gambling duties and air passenger duty.

General description of the measure

2. This measure will update the compliance checking framework for excise duties, including:
   - modernising information and inspection powers; and
   - aligning the record-keeping rules and the time limits for assessments and claims with changes made to other taxes and duties.

3. The Government intends to legislate this measure in a Finance Bill to be introduced as soon as possible in the next Parliament.

Operative date

4. Time limits for making assessments and claims need a transitional period and are not expected to become fully operative before 1 April 2012.

5. Treasury Orders will bring the changes into effect and specify the operative date. The record-keeping changes and amendments to information and inspection powers are expected to have effect from 1 April 2011.

Current law and proposed revisions

Record-keeping

6. The current legislation in the Customs and Excise Management Act 1979 (CEMA) on excise record-keeping is now slightly out of step with the other taxes. This will be changed so that the high-level rules for record-keeping are aligned across all taxes and duties. It will not change the detailed rules on what information needs to be kept.

7. The existing information and inspection powers in CEMA will be updated, as in the table below:

Existing Power	Elements of proposal that are new, aligned or unchanged
To enter premises of revenue traders	A new element that would permit inspection of documents.
To enter premises of those thought to be acting as revenue traders	A new power to inspect documents is included.
To enter premises used by a revenue trader	Clarification that the existing powers include the power to enter premises used by a revenue trader, even if those premises are owned by another.
To make unannounced visits	No change.
Prohibition of inspection of wholly private premises	This is current practice but is now made explicit.
Application for a warrant to search (section 161A)	The power exists but would be extended to search for documents required to accompany the goods.
Information from those who may hold relevant information	This is new and would allow HM Revenue & Customs (HMRC) to seek information from other parties such as banks. Safeguards would be a formal notice requirement, pre-authorised by a tribunal.

<u>Time Limits</u>

8. As time limits across other taxes and duties have been aligned in recent years, excise is now out of step. The standard time limit for making claims and assessments will be increased from three to four years. The extended 20 year time limit for deliberate underpayment of excise duty will be retained but the terminology used to describe the behaviours subject to it will be aligned with recent penalties legislation.

Further advice

9. This measure was the subject of consultations published in July and December 2009. Draft legislation was published in January 2010. A summary of responses and a final Impact Assessment have been published today on the HMRC website.

10. The proposals in the July 2009 consultation document for modernising some aspects of the excise administrative regime will be taken forward separately.

11. If you have any questions about this change, please send an email to powers.review-of-hmrc@hmrc.gsi.gov.uk or contact Maria Richards on 020 7147 3223. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

REVIEW OF HMRC POWERS, DETERRENTS AND SAFEGUARDS: SECURITY FOR PAYMENT OF PAYE

Who is likely to be affected?

1. Employers that operate Pay As You Earn (PAYE) schemes to account for income tax and National Insurance Contributions (NICs) and have a history of serious non-compliance in terms of paying late or not paying.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to allow HM Revenue & Customs (HMRC) to require a financial security from employers where amounts due under PAYE or NICs obligations are seriously at risk. The amount of security will be set by HMRC in the light of the potential tax liability.

3. The detailed arrangements for this security will be set out in regulations. These will provide that HMRC will require a security by notice and set out the right of appeal against the imposition of the security and the amount. There will be a full 12 week consultation on the regulations.

4. The measure introduces a new criminal offence where a person required to give a security fails to do so. If the person is found guilty of the offence they may be fined (up to level 5 of the standard criminal scale (£5,000)).

Operative date

5. The measure will not have effect until regulations are made and the intention is that the operative date will be 6 April 2011.

Current law and proposed revisions

6. There are similar provisions requiring businesses to provide financial security where HMRC believes that VAT revenue is at risk because those running the business do not intend to meet their obligations. There is currently no similar power for HMRC to require a security within PAYE or NICs legislation.

7. Section 684 of the Income Tax (Earnings and Pensions) Act 2003 will be amended to include provisions allowing HMRC to require security in the matters that can be covered in PAYE regulations. It will also set out the new offence of failing to provide security. Similar provisions will be made for NICs through regulations using existing powers.

Further advice

8. The draft regulations will be published for consultation on the HMRC website prior to implementation.

9. HMRC have consulted twice before on the greater use of securities: in June 2007: *Payments, Repayments and Debt: the developing programme of work* and in November 2008 a further consultation was issued: *Payments, Repayments and Debt: The Next Stage*.

10. If you have any questions about this change, please send an email to powers.review-of-hmrc@hmrc.gsi.gov.uk or contact Maria Richards on 020 7147 3223. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

TACKLING TOBACCO SMUGGLING IN THE POST

Who is likely to be affected?

1. International post and parcel service operators.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to strengthen customs powers to tackle tobacco smuggling in the post.

Operative date

3. The measure will have effect on and after the date that Finance Bill 2010 receives Royal Assent.

Current law and proposed revisions

4. Section 106 of the Postal Services Act 2000 gives postal operators the power to stop packets which they suspect contain smuggled goods and pass these to customs. HM Revenue & Customs (HMRC) must notify the addressee and invite them to attend before such packets can be opened.

5. This measure will change section 106 to remove this requirement. HMRC will no longer be required to notify the addressee and invite them to attend before such packets can be opened.

Further advice

6. If you have any questions about this change, please contact Anne Treadaway on 020 7147 0337 (email: anne.treadaway@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk