



newsletter

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Editorial

With only a short time before the election, the last budget of this parliament was short on significant changes, and of these few will actually become legislation unless Labour is re-elected. The political message is that the government made the right calls on the economy last year; should be trusted to carry on in the same vein; so no major changes are needed.

"Alastair Darling's budget...was short on significant changes"

Whether any party is being entirely frank about what cuts or tax rises will need to happen after the election is an interesting question. The increase to Entrepreneur's relief and relief's for businesses will help some. The extension of the time to pay arrangements is welcome - especially since the general penalty regime for late and non-payment is toughening. So if you are struggling to pay tax then be proactive with HMRC and negotiate a good deal.

This may not be the only budget this year & Alistair may not be the only Chancellor!

Budget 2010

A summary of the key changes

Alastair Darling's budget for 2010 was lacking any major surprises, with the big decisions already announced in December's pre-budget report.

Taxes on individuals

No major changes or rates for capital gains tax and income tax. The 50% higher tax rate and abatement of personal allowance will still go ahead from April 2010 as planned, as will the 1% rise in NI contributions from 2011. Capital gains tax will remain at 18%.

Entrepreneur's relief, which reduces the rate of capital gains tax from 18% to 10% on the first £1 million of qualifying lifetime gains, will be extended to have a £2 million threshold. (See article on P2 explaining who qualifies for Entrepreneur's relief)

The freezing of allowances and rate bands at 2009/10 levels for 2010/11 may well mean an increase in taxation in real terms, now that the country is seeing positive inflation once again.

There was also mention, in the Chancellor's Speech, of a new tax scheme to support the computer games sector, similar to that for the film industry, but no detail has yet been provided on this.

for the small and large companies rates remain frozen at £300,000 and £1.5m.

In addition eligible small businesses occupying properties with rateable values up to £6,000 will have a business rate holiday for 1 year from 1 October 2010.

Stamp Duty Land Tax

First time buyers will benefit from a Stamp Duty Land Tax relief on properties up to £250,000, where purchasing a residential property to be occupied as their main residence between 25 March 2010 and 25 March 2012.

At the other end of the scale, transactions in residential property where the consideration for the transaction exceeds £1,000,000 will now see a 5% SDLT charge - so upwards of £50,000 per transaction. Although the first time buyers cut gives a two-year window, it would appear that the 5% rate is intended to be permanent.

Inheritance Tax

The Nil rate band will be frozen at its current level of £325,000 from 2010/11 to 2014/15 inclusive.

■ Bryony Baines

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"The freezing of allowances and rate bands...may well mean an increase in taxation in real terms"

Small businesses

The Annual Investment Allowance, which allows small businesses to write off 100% of expenditure on plant and machinery up to a maximum of £50,000/year will be increased to a threshold of £100,000.

Corporation tax rates will remain at 21% for the small companies rate, 28% at the large companies rate. The thresholds

Key dates

End of tax year

Deadline by which any transactions planned to take place in 2009-10 must take place (see article on page 2 for more detail).



Tax dates

31 March 2010

■ Deadline to notify HMRC of intent to disclose under the Tax Health Plan (THP)

19 April 2010

■ Deadline for PAYE and Class 1 NIC payments—automatic interest if late

Residence—where are we now?

An update after several recent cases

Two key decisions have been published this month.

The first is the Court of Appeal decision in *Gaines-Cooper v HMRC*, which concerns the application of HMRC's guidance note on Residence—IR20. The judges' comments here are very significant for individuals seeking to leave the UK and become non-resident. (*David & James v HMRC* heard at the same time also offers some helpful clarification.)

"taxpayers were entitled to rely on IR20"

The second is the First-Tier Tribunal decision in *HMRC v Tuczka* which has relevance for individuals coming to work in the UK.

Full summaries of these cases will be posted on our website next week but for

now lets focus on the salient points arising from decisions:

- Whilst it was in force taxpayers were entitled to rely on IR20 and HMRC was bound by it
- There is an implied condition in IR20 in respect of a person leaving the UK and claiming treatment as a non-resident. That implied condition is that a distinct break with the UK is required and this is achieved by the severance of all social and family ties
- The implied condition is not applicable to an individual leaving the UK on an employment contract
- The common understanding that if someone comes to the UK with no intention of remaining indefinitely they only become Ordinarily Resident (OR) in the UK after 3

years has been rejected. Intention has been held to be irrelevant.

" a distinct break...achieved by the severance of all social and family ties"

- If someone has come to the UK for employment this is held to be a settled purpose and they will be treated as OR from arrival

Since the professional institutes are still lobbying HMRC for clearer guidance and preferably a statutory definition of residence and ordinary residence we remain a long way from the end of the road on this issue. However at least now we have some pointers to help us along the way.

■ **Joanne Lamberth**

Going, going, gone!

Don't miss out on pre-5th April planning opportunities

With just a few days to go before the end of the tax year there is still just enough time to take advantage of some year-end tax planning opportunities.

Here are a few ideas to jog your memory:

- Making disposals to use the 2009/10 CGT annual exemption
- Paying a pension contribution to get relief in 2009/10 (subject to the anti-forestalling measures)
- Utilising IHT exemptions for 2008/09 and 2009/10
- Businesses making capital purchases to use the temporary

40% FYA that is withdrawn after 31 March 2010 for companies and 5 April 2010 for unincorporated businesses

- Making Gift Aid contributions to gain income tax relief
- Using your annual ISA allowance £7,200 for 2009-10 (or £10,200 if you were born before 5/4/60)

These are just a few simple ideas but there may be others that can be used in your particular circumstances to reduce your tax bill.

Talk to your Account Manager today about whether there are any actions you can take.

■ **Catriona Freebairn**

Annual Investment Allowance

Making the most of your increased AIA

The budget announced an increase of the Annual Investment Allowance for business expenditure on Plant & Machinery from £50k to £100k per annum.

This will apply for expenditure incurred from 1 April 2010 for companies and 6 April 2010 for unincorporated businesses and meshes

neatly with the withdrawal of the temporary 40% FYA from 31 March/5 April respectively.

Plenty of opportunities for relief for business asset purchases—talk to your Account Manager about timing your purchase to maximise relief.

■ **Gary Eves**

ER

Lifetime limit increased

Budget 2010 announced an increase of the Entrepreneurs' Relief lifetime allowance from £1m to £2m. Who does this affect and how do you qualify?

Broadly ER is available when you make a material disposal of business assets that meets certain conditions. Where the disposal qualifies for ER only 4/9ths of the gain is chargeable to tax—which at an 18% tax rate means that the effective rate of tax on the gain will be 10%. This reduced tax rate was only available on up to £1m of gains for an individual but that limit has been raised to £2m.

The rules are complicated but some of the key conditions are:

Unincorporated businesses

The business was owned by the taxpayer for at least 1 year prior to the disposal

Companies

The individual owns at least 5% of the ordinary share capital and votes in the year prior to the disposal and is an employee or officer of the company.

ER is a valuable relief if you are thinking of selling your business take early advice to ensure you will meet the conditions in the year prior to sale so you don't miss-out.

■ **Joanne Lamberth**

Our Expert Team

Paulette Peterson



Paulette Peterson

Joined the firm in 2006, to expand the Personal Tax Department and offer clients a specialist expatriate tax service. She has extensive experience in advising clients on the international tax impacts of moving between different countries—whether with employment or as lifestyle choices.

Andrew. *Is there much international tax work coming into Andrew Webster Ltd at the moment?*

Paulette. Yes, a surprising amount, given the economic climate. Corporate clients are still moving employees around the world but, with tighter bud-

gets, we are seeing greater emphasis on cross-jurisdiction tax planning at the outset of these moves. Similarly, in the private client practice, the “non-doms” rules introduced in April 2008 has certainly resulted in many more non-domiciled individuals seeking advice. This is an extremely complex area of legislation and, increasingly, clients perceive the need for expert advice if they are not to fall foul of the law and suffer penalties as a result.

A. *What are the most common tax issues that you deal with for clients operating across international borders?*

P. Residence in one or other (or both) jurisdictions is crucial to calculating tax liabilities and the determination of residence in the UK has undergone a major shift in recent years, culminating in the recent Court of Appeal judgements in the cases of Gaines-Cooper, Davies and James (see the article on page 2)

Residence issues invariably lead onto issue involving interpretation of the various Double Tax Treaties that the UK has concluded with other jurisdictions and this is increasingly a key area of my work.

For those clients retiring abroad, inheritance tax planning is an absolute necessity because other countries have very different regimes involving forced heirship rules, which can often disadvantage a surviving spouse. Andrew Webster Limited is ideally placed to assist clients

in this area and I work closely with our in-house solicitor, Liz Hooley, to provide planning solutions with recognise the impact of other countries’ regimes.

A. *How has the development of Andrew Webster Ltd’s Australia office impacted on your workload?*

P. The recent appointment as expatriate tax advisors to Laing O’Rourke has meant that I am in regular contact with Jo, albeit at strange times of the night! As their expatriate workforce grows, I anticipate more developments in consulting services to the company, helping to mitigate costs, whilst ensuring the expatriates get the personal service we pride ourselves on delivering.

A. *What sort of work have you done in conjunction with our French associate firm, Aurecco, in France?*

P. I have worked with the team at Aurecco on a project for one of our French resident clients, planning for the tax efficient extraction of profits from a company in a period during which UK NIC (rather than expensive French social charges) are payable. Interestingly I am now also advising French nationals who work in the UK but still have French tax and social security issues.

A. *What involvement do you have with our clients with US tax returns?*

P. I have been advising on US tax for over 30 years so I have a very hands-on approach to the US work with our US associate firm.

A. *What do you like to do outside work?*

P. Classic cars, motorbikes, rugby and travel—in no particular order!

Editors’s comment

Whether your international tax issues stem from:

- Arriving in the UK for the first time
- Permanently leaving the UK
- Relocation of your employment
- Your own lifestyle choice

Paulette can ensure that you are aware of the tax implications and advise you on appropriate planning strategies to minimise the tax cost of your move.

Social security contributions

New rules within the EU

From 1 May 2010, there are new rules for employers sending employees to work elsewhere in the EU. The most common types of working arrangements covered under the rules are:

- Employees temporarily assigned from their home country to another EU country
- Employees who work in two or more EU countries

There is no longer any need to apply for an extension beyond the first 12 months of temporary assignment as the employee is notionally covered within their home scheme for an assignment of up to 24 months.

The rules governing multi-state employments are complex and from 1 May contributions will be payable in the EU state of residence if the employee carries out a substantial part of his duties in that EU state. “Substantial” is regarded as 25% or more, either in terms of time or remuneration. This can represent a dramatic increase in employer costs as UK NIC is relatively inexpensive in comparison to many other EU countries.

The certificates E101 and E102 are being replaced by form A1. The old rules will continue to apply to a current E101 until its expiry date.

For further information and planning advice, please contact paulette@tax.uk.com

■ **Paulette Peterson**

Working with clients

Professor Sir Tom Blundell



In this issue, Professor Sir Tom Blundell has agreed to share with us some insights from his illustrious career in biochemistry.

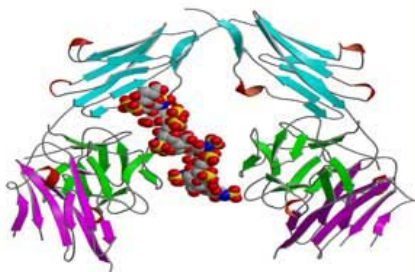
"My life in science began rather late! I had been distracted at Oxford by my modern jazz group and by politics. Indeed I drifted into becoming chair of the Oxford City Council with a big political programme of stopping the motorway planned to cross the Meadow, pedestrianising the centre and introducing conservation areas."

"...our team was the first to describe the molecular architecture of insulin"

"While all this was going on I discovered a very exciting area of research, with Dorothy Hodgkin who had previously worked on Penicillin and vitamin B12, for which she was awarded the Nobel prize. She had still not managed to complete her first ambitious project started in the 1930's concerning the architecture of the hormone insulin, the essential medicine for those suffering from Diabetes type I. I was lucky enough to join the project in the late 1960's when the problem could be solved. Indeed our team was the first to describe the molecular architecture of insulin and to think about its contributions to improving treatment for diabetes."

"These early studies led me in two directions. First, what could we do with the powerful techniques of X-ray analysis in understanding the structural biology of living organisms? Second, how could we use this information to make better medicines? In order to do this I escaped from politics in Oxford, to set-up my own research laboratory, first in Sussex University in 1975 and then in the University of London, Birkbeck College in 1976. Most exciting was the identification in the 1980's possible target drugs to control the emerging AIDS epidemic. Our work contributed to the discovery of new medicines that would allow AIDS patients to live normal lives."

"But my interest in policy, if not politics, re-emerged. After a battle with Conservative Central Office I joined Margaret Thatcher's Advisory Council on Science and Technology in the late 1980's and worked with her in the Cabinet Office on developing science policy. I was subsequently recruited in 1991 to refocus the research of the Agriculture and Food Research Council and ended up establishing a new research council—the BBSRC—that brought national research on agriculture, food, pharmaceuticals and biotechnology together with the emerging new chemical and biological sciences. This was a period of BSE, a completely different disease from those caused by virus and bacteria. The enormous challenge of explaining to ministers that much more needed to be known about the disease process before



they could claim that the Government's policy was based on sound science."

"It was also a time when issues of environmental sustainability came to the fore. This led me later on in 1998 to accept Chairmanship of the Royal Commission on Environmental Pollution. We sat between policy makers and researchers trying to make sense of cli-

mate change, the marine environment, and the use of pesticides in agriculture. Our recommendations were often featured on the Today Programme and "Energy—The Changing Climate" led to the White Paper in 2003 that set the Government target, of 60% reduction in carbon as part of the UK policy."

" We now have an exciting company with five oncology drugs in clinical trials."

"However, the lure of basic science still pulled and in 1996 I moved to Cambridge to set-up a basic science group. Exciting discoveries ensued at the interface of molecular structural biology and genomics. All of this led to new ideas about new companies and ways to make new medicines. In 1998 with Chris Abell in Chemistry at Cambridge and Harren Jhoti a previous student from then Glaxo Wellcome I co-founded Astex Therapeutics. We now have an exciting company with five oncology drugs in clinical trials."

"I often think it would have been much simpler to focus on one area. But I have long known that I was incapable of that. What it took me a long time to discover was that I lived in a world of financial complexity with tax returns often late and probably not well considered. The discovery of Andrew Webster when I moved to Cambridge was truly refreshing and reassuring. Andrew and his colleagues have managed to be tolerant of my continuing late submissions but bring together my various activities, their income and expenses, into reasonably organised tax returns. It has also given personal reassurance that I have fulfilled the requirements of the law and have not missed too many opportunities in using claiming expenses against this complexity of activities!"

Contact us

Please contact us with any questions that you may have. Feedback on our newsletter is also always welcome! info@tax.uk.com



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