

Budget 2008 - Summary

Alistair Darling presented his first Budget on Wednesday 12 March 2008.

After the Northern Rock saga and the changes of mind on the 'simplification' of capital gains tax, will it be his last?

On the economy, the Chancellor stated that there will be no recession although he conceded that growth up to 2010 will be less than previously forecast. Borrowing will go up as a result.

Our summary focuses on the direct and indirect tax measures which are buried in the Treasury and HMRC press releases.

We concentrate on the issues likely to affect you, your family and your business. To help you decipher what was said we have included our own comments.

If you have any questions please do not hesitate to contact us for advice.

Main Budget proposals

- Plans to stop the tax savings available to businesses by 'income shifting' are delayed for one year
- Further details on the changes to the capital allowances regime including the taxation of company cars
- Improvements to the Enterprise Management Incentive scheme
- Annual charge on non-domiciles still to be introduced but some relaxations made to the original proposals
- Income tax relief extended for the Enterprise Investment Scheme

Previous announcements

Many of the changes detailed in this summary have been the subject of earlier announcements. Here is a reminder of some of the more important ones:

- Reduction in the basic rate of income tax and significant increases in national insurance
- Increase in the investment limits for ISAs
- The abolition of taper relief and indexation allowance for capital gains tax (CGT)
- The introduction of a flat rate of CGT for individuals of 18% and a new Entrepreneurs' Relief
- A significant change in inheritance tax relief for married couples and civil partners

The Budget proposals may be subject to amendment in the Finance Act. You should contact us before taking any action as a result of the contents of this summary.

Personal Tax

Tax rates

As previously announced the government proposes to radically change the tax rates for 2008/09 onwards when the 22% basic rate of tax will be reduced to 20%. The higher rate of tax will continue at 40%.

The current starting rate will be abolished and replaced with a new 10% starting rate for savings income. Where an individual's non savings income (broadly earnings, pensions, trading profits and property income) exceeds the new starting rate limit, then the starting rate will be unavailable. There are no changes to the tax rates applicable to dividends.

However the rate of tax applicable to capital gains will change significantly to a flat rate of 18% for 2008/09 (see Capital Taxes section).

Comment

Gordon Brown had previously announced the reduction of the basic rate of tax by 2% in the Budget last year.

Some basic rate taxpayers may now lose out due to the withdrawal of the starting rate for non savings income. There may also be a significant sting in the tail for some higher rate taxpayers with earned income, as the changes in the upper earnings limit for national insurance (see Employment Issues section) will largely negate the income tax savings.

Allowances

The 2008/09 personal allowances were announced in October 2007. The personal allowance for the under 65s is increased in line with inflation to £5,435. Age related allowances have been raised significantly to £9,030 for people aged between 65 and 74 and to £9,180 for those aged 75 and over.

Tax Credits

There are two types of Tax Credits; Working Tax Credit and Child Tax Credit (CTC). The CTC is potentially available to families who have responsibility for one or more child. There are several elements to the credit but broadly the maximum is an annual amount for 2008/09 of £2,085 per child together with a family element (generally one per family) of £545 per annum. The amount per child has been increased but the family element has been frozen since the introduction of the credit.

Other changes from April 2008 are:

- the income threshold for Working Tax Credit will increase to £6,420 (currently £5,220)
- a higher rate of taper will apply for those in the fast taper band (up from 37% to 39%)

Comment

The increase in the income threshold will give more to the family with very low income but the higher rate of taper will eat away at that advantage for those with higher income.

Individual Savings Accounts (ISAs)

Over the last year the government has finalised the changes to ISAs which will be introduced from 6 April 2008.

- The annual ISA investment allowance will be raised to £7,200. Up to £3,600 of that allowance can be saved in cash with one provider. The remainder of the £7,200 can be invested in stocks and shares with either the same or a different provider
- ISA savers will be able to invest in two separate ISAs in each tax year; a cash ISA and a stocks and shares ISA. Mini and maxi ISAs will no longer exist
- Mini cash ISAs, TESSA-only ISAs and the cash component of a maxi ISA will automatically become cash ISAs
- Mini stocks and shares ISAs and the stocks and shares component of a maxi ISA will automatically become stocks and shares ISAs
- All Personal Equity Plans (PEPs) will automatically become stocks and shares ISAs
- ISA savers will be able to transfer money saved in their cash ISA to their stocks and shares ISA

Comment

Existing ISAs and PEPs will automatically convert into cash or stocks and shares ISAs. This will mean a change in the treatment of interest received on any un-invested cash in a PEP. The ISA manager must deduct a flat rate 20% charge and pay it to HMRC. This rule has always applied to stocks and shares ISAs and will now apply to interest earned on un-invested cash formerly held in PEPs.

Foreign dividends

The government proposes to introduce amendments to the system of taxation for individuals who own foreign shares. From 6 April 2008 individuals in receipt of foreign dividends will be entitled to a non-repayable tax credit of one ninth of the distribution. The legislation will apply to individuals who own less than a 10% shareholding in the company.

From 2009, individuals with shareholdings in excess of a 10% shareholding will also be eligible for the non-repayable tax credit. The tax credit will not be available where the source country does not levy a tax on corporate profits and anti-avoidance measures will be introduced to ensure these new rules are not subject to abuse.

Residence and domicile

The government will implement a package of reforms announced in the 2007 Pre-Budget Report subject to certain changes. The measures will take effect from 6 April 2008.

The main proposal is that UK residents who are non-domiciled or not ordinarily resident, who wish to continue to be taxed on a 'remittance basis' rather than on their worldwide income and gains, will have to pay an annual tax charge of £30,000 on unremitted income and gains. Those with unremitted foreign income and gains of less than £2,000 will however be exempt from this charge.

The charge will apply if an individual has been resident in the UK for at least seven out of the previous ten tax years. Individuals will be able to decide each tax year whether to pay the charge and be taxed on the remittance basis or be assessed on their worldwide income and gains.

Key changes include:

- users of the remittance basis will lose their automatic entitlement to certain allowances, such as the personal allowance and the capital gains annual exemption (unless the £2,000 de minimis applies)
- children will not pay the £30,000 charge
- the £30,000 charge should be creditable against foreign tax
- art works brought into the UK for public display or for repair and restoration will face no new tax charges
- income and gains in offshore trusts will only be taxed when they are remitted to the UK, even if these come from UK assets
- changes will be made to the current rules on remittances to restrict the ability of individuals to sidestep UK tax on income and gains where HMRC believe it is due

In addition, from 6 April 2008, when determining if an individual is resident in the UK, any day where the individual is present in the UK at midnight will be counted as a day of presence in the UK for residence test purposes. There will be an exemption for passengers who are temporarily in the UK whilst in transit between two places outside the UK.

Comment

The government has made some amendments to its initial proposals after consultation with interested parties. It considers that the key question is whether further changes can be made without putting the UK's competitiveness at risk by undermining the UK's attractiveness to the internationally mobile.

Enterprise Investment Scheme (EIS)

Individuals can claim income tax relief of 20% on qualifying EIS investments. The current annual limit on investment is £400,000 and this limit will be increased to £500,000 subject to State Aid approval.

The EIS, Corporate Venturing Scheme and Venture Capital Trust schemes are intended to support investment in smaller higher risk trading companies. Most trades qualify under the schemes but not those that consist to a substantial extent of excluded activities. The activities of shipbuilding, coal and steel production will be added to these exclusions from 6 April 2008.

Offshore Funds

The government will simplify the rules for offshore funds. In order to retain the favourable tax treatment for investors disposing of an interest in the fund, an offshore fund will no longer have to make a distribution of at least 85% of its income. It will instead be able to 'report' income to investors who will then be subject to tax on that reportable income.

Corporate and Business Tax

Corporation tax rates

The main rate of corporation tax which applies to companies with profits of more than £1.5 million falls to 28% from 30% from 1 April 2008 and that rate will be maintained in 2009. The small companies corporation tax rate which applies to companies with up to £300,000 of profits will increase from 20% to 21% from 1 April 2008. The intention is to increase this rate to 22% in 2009.

The effective marginal corporation tax rate for profits between £300,000 and £1.5 million is 29.75% from 1 April 2008.

Simplification of the associated company rules

The profits limits referred to above may need to be shared between companies if the companies are 'associated'. Companies are associated if they are under common shareholder control, for example where the same individual has more than 50% of the ordinary share capital of each of the companies. However an individual may be regarded as having control of two companies because shares owned by other persons are deemed to be owned by the individual. This is known as the 'attribution concept'.

From 1 April 2008, shares held by business partners will not be attributed to a person unless a tax planning arrangement has been put in place in order to pay less corporation tax than would otherwise be due.

Capital allowances

Major changes will be implemented to the capital allowances system from 2008/09. The details for plant and machinery are:

- a new Annual Investment Allowance (AIA) for the first £50,000 spent on plant and machinery. This gives a 100% write-off against profits. The AIA complements and does not replace any of the existing 100% first year allowance schemes
- writing down allowances for plant and machinery in the main 'pool' will be cut from 25% to 20%
- a new writing down allowance for 'integral features' in a building will be 10%
- writing down allowances for long life assets will be increased from 6% to 10%
- the 10% allowances will be given by combining integral features and long life assets into a 'special rate pool'
- the special rate of 10% for integral features will include certain replacement expenditure where this might otherwise have qualified as a revenue deduction
- where companies have a loss after claiming 100% first year allowances on green technologies they will be able to reclaim a tax credit from HMRC

Comment

The new category of expenditure, integral features, includes some items that currently would qualify for normal plant allowances such as space or water heating systems but also includes items that do not generally currently qualify for plant allowances such as general lighting systems and cold water systems.

Although integral features only qualify for 10% rather than 20% writing down allowances, the AIA can be allocated first to integral features rather than other plant.

Small plant and machinery pools

Writing down allowances at the rates summarised above are computed on the 'pool' of unrelieved expenditure. When calculating writing down allowances there is no de minimis rule so, for example, businesses with £1,000 of unrelieved expenditure and no new expenditure or disposal receipts would have to carry on calculating the annual writing down allowance for many years. Businesses will be able to claim a writing down allowance of up to £1,000 in the case of each pool, once the unrelieved expenditure in either the main rate pool or the special rate pool is £1,000 or less.

This measure has effect for chargeable periods beginning on or after 1 April 2008 for businesses within the charge to corporation tax and on or after 6 April 2008 for businesses within the charge to income tax.

100% capital allowances on green technologies

Two schemes exist that give 100% first year allowances for expenditure on certain energy-saving and water technologies. Following the annual review of the qualifying technologies, the schemes will be revised to include one new technology: waste water recovery and reuse systems. The Energy Technology Criteria List will be revised to include four additional sub-technologies: compressed air master controllers; compressed air flow controllers; heat pump dehumidifiers and white LED lighting.

The 100% first year allowance for expenditure incurred on natural gas and hydrogen refuelling equipment due to end on 31 March 2008 will be extended for an additional five years to 31 March 2013.

Taxation of business travel

With effect from 1 April 2009 for corporation tax purposes (6 April 2009 for income tax) the capital allowance treatment of all cars will be reformed.

- Expenditure on cars with CO₂ emissions above 160gm/km will attract 10% writing down allowances
- Expenditure on cars with CO₂ emissions of 160gm/km or below will attract 20% writing down allowances
- Subject to State Aid approval, cars leased to those in receipt of certain disability allowances will be placed in the 20% main pool, regardless of their CO₂ performance

The rules which disallow a proportion of car lease rental payments will be reformed in line with the new capital allowances rules. The new disallowance will be 15% of the relevant payments, applied to cars dealt with in the 10% special rate pool.

The 100% first year allowances for the cleanest cars will be extended from 31 March 2008 to 31 March 2013 and the qualifying CO₂ emissions threshold will be reduced to 110gm/km.

'Income shifting'

The government intended that legislation would take effect from 6 April 2008 to address 'income shifting'. The government has reconsidered its position following a period of consultation with business and now believes that a further period of consultation will ensure that legislation in this area provides clarity and certainty for businesses and their advisers.

The government now intends to introduce legislation through Finance Bill 2009 and will not enact legislation effective from 6 April 2008.

Comment

'Income shifting' refers to a situation where one spouse or civil partner generates most of the profits of a business but the other receives a proportion of the profit and the couple save tax as a result. The delay in the starting date for any legislation is to be welcomed and hopefully the further consultation will produce a more reasonable result.

Example

This is an HMRC example of a situation in which the original proposed legislation would have applied. Individual 1 and Individual 2 form a company, each owning 50 £1 ordinary shares. The business of the company is to provide the personal services of Individual 1. Individual 2 spends around five hours a week on back office duties for the business. In the first year they each receive a salary of £5,000 and dividends of £30,000. The salary received by Individual 2 is considered to be the market rate given the nature of the work done and time spent doing it. The company has no significant assets or liabilities.

If Individual 2 has no capital in the business and bears no risk the whole of the £30,000 would be treated as shifted income because Individual 2 is already receiving a market rate for the work done, has no capital in the business and bears no risk.

Of course, if Individual 2 does contribute more to the business than in the above example, then some or all of the income will not be treated as shifted income.

We await with interest the conclusion of the further consultation on these proposals.

Research and development tax relief

Research and development (R&D) tax relief gives enhanced tax relief to companies who undertake qualifying R&D projects. The company must spend at least £10,000 on qualifying expenditure in one year. The proposed changes, subject to State Aid approval, are:

- large companies will be able to claim 130% relief, increased from 125%
- small and medium sized companies will be able to claim 175% relief, increased from 150%

Tax simplification

The government has introduced a rolling programme of tax simplification. Following discussions with business and tax professionals, the government announced the initial outcomes on the three tax simplification reviews launched in the 2007 Pre-Budget Report:

- VAT rules and administration: consulting on ideas to simplify the operation of the partial exemption regime and capital goods scheme
- anti-avoidance legislation: repealing outdated anti-avoidance provisions on bond washing and employment securities
- corporation tax rules for related companies: simplifying the associated companies rules (see above) and announcing a review looking at how to simplify corporation tax calculations and returns for smaller companies

Employment Issues

National Insurance Contributions (NIC)

There is no change in the rates of NIC. For 2008/09 the upper earnings limit, above which employees continue to pay contributions of 1% on earnings, will be increased by £100 per week. This gives an annual figure of £40,040.

The upper profits limit for Class 4 national insurance for the self-employed will also be increased in 2008/09 to £40,040.

In 2009/10 the upper earnings and profits limits will be aligned with the point at which the higher rate of income tax becomes payable.

Comment

For many this increase in the contributions for employees and the self-employed removes the tax savings given by the reduction in basic rate of income tax.

Company cars and the fuel scale charge

Where a company car is provided for an employee's private use, a taxable benefit arises which is based on the list price of the car and its CO₂ emissions. The percentages range from 15% to 35% for most cars. There are discounts currently available for environmentally friendly cars and from 6 April 2008 there will be:

- a 2% discount for cars that have been manufactured to run on E85 fuel
- a new 10% company car tax band for non-electric cars emitting no more than 120gm/km of carbon dioxide. Environmentally friendly discounts do not apply to such cars but the diesel supplement does

If free fuel is provided with a company car for private motoring then a fuel benefit tax charge arises based on the percentage used for the car benefit and a 'multiplier', which is currently £14,400. For 2008/09 the figure will increase to £16,900.

Comment

The fuel scale charge multiplier has not changed since it was introduced in 2003. This 17% rise, combined with an increase in the car benefit percentages for 2008/09, means that many employees will see a substantial increase in their tax bills from next April.

Longer term the government is proposing:

- the starting point for the company car benefit will be reduced by 5gm/km to 130gm/km in 2010/11
- the incentive to drive fewer miles will be strengthened by increasing the fuel benefit charge at least in line with the Retail Prices Index from April 2009

Tax free mileage allowances

The government has been consulting on changing the system and rates for tax free mileage allowances where an employee uses their own car for business purposes. It has been decided that the system will not change and the rates will be maintained at current levels. The current rates are:

- business mileage up to 10,000 miles – 40p
- business mileage above 10,000 miles – 25p

Enterprise Management Incentive (EMI)

EMIs are tax and NIC advantaged share options available to small companies with gross assets not exceeding £30 million, to help them recruit and retain employees. Currently employees cannot hold qualifying EMI options, taking into account Company Share Option Plan options also granted to them, with a total market value of more than £100,000 at date of grant.

Regulations will be made to increase the individual employee limit on grants of EMI qualifying options from £100,000 to £120,000. The change to the individual EMI option grant limit will have effect in respect of options granted on or after 6 April 2008.

To ensure compliance with EU State Aid guidelines, legislation will be introduced in the Finance Bill to make two changes:

- EMIs will be limited to qualifying companies with fewer than 250 full time employees
- companies involved in shipbuilding, coal and steel production will no longer qualify for EMI

Residence and domicile: changes for employment related securities

Employment related securities and securities options are shares and other securities, and options over such shares or securities, which are acquired by an employee by reason of their employment.

Employees who are not resident and not ordinarily resident in the UK at the time employment related securities or options are acquired are not within the scope of all of the charging provisions. Changes will be introduced in the Finance Bill to bring such employees within all the charging provisions so that their remuneration from employment related securities or options is subject to the same rules as other employees.

Where such employees are taxed on the remittance basis, the measure will provide apportionment of the employment related securities income to ensure that the proportion relating to overseas duties will only be subject to income tax when it is remitted to the UK.

A similar apportionment basis will be available to non-domiciled individuals where the relevant income relates to a foreign employment where the duties are performed wholly outside the UK.

Capital Taxes

Capital gains tax (CGT) reform

The Chancellor surprised everyone with proposed major changes to the CGT regime last October. The changes affect individuals and trustees, but not companies. The Chancellor has confirmed that legislation will be introduced with effect from 6 April 2008 to give effect to a new single rate of CGT at 18% but many business owners will continue to have the potential benefit of a 10% rate.

An annual exemption will remain in place and for 2008/09 this will be £9,600. The annual exemption allows the first element of gains made in a given tax year to be exempt from CGT.

For gains arising on or after 6 April 2008 changes to the CGT regime include:

- the withdrawal of taper relief
- the withdrawal of indexation allowance
- the introduction of Entrepreneurs' Relief
- simplification of the share identification rules

Taper relief

Taper relief was introduced for disposals on or after 6 April 1998 and can reduce the amount of the gain chargeable to CGT. The amount of relief available depends on whether the asset is classed as a business or non-business asset and also on the length of time an asset has been held since 1998.

For gains arising on or after 6 April 2008 taper relief will no longer be available. The chargeable gain will be liable to tax at 18%, after deducting allowable losses, any other reliefs and the annual exemption.

Indexation allowance

Indexation allowance was, for individuals and trustees, the precursor to taper relief and gave relief for the effect of inflation on the costs incurred on assets. Indexation was frozen as at 5 April 1998. Currently where an asset was held at 6 April 1998 and is disposed of after that date, any gain on the disposal may be eligible for indexation and taper relief.

For gains arising on or after 6 April 2008 indexation allowance will no longer be available.

Entrepreneurs' Relief

In response to business leaders voicing their objections to the abolition of taper relief, the Chancellor has introduced a new Entrepreneurs' Relief. The main effects of this relief are:

- the first £1m of gains qualifying for relief will be charged at an effective rate of 10%
- gains in excess of £1m will be charged at 18%
- an individual will be able to make more than one claim for relief, up to a lifetime total of £1m of gains

The new relief is similar to Retirement Relief, which was phased out with the introduction of taper relief, but the new rules are designed to be simpler:

- there will be no minimum age limit
- relief will be available where the relevant conditions are met for a period of one year ending with the disposal / cessation

The relief will apply to net aggregate gains arising on the disposal of:

- the whole, or part, of a trading business that is carried on by the individual, either alone or in partnership
- assets used in a business which has ceased
- shares in a trading company, or holding company of a trading group, provided that the individual owns at least 5% of the voting rights in the company and is an officer or employee of the company
- assets used in a partnership or by a company but owned by an individual if the assets disposed of are 'associated' with a disposal of shares or an interest in partnership assets. The individual must make the disposal as part of the withdrawal of the individual from participation in the partnership or the company
- certain disposals by trustees of business assets and company shares where a 'qualifying beneficiary' has a qualifying interest in the business / shares

A trading business includes professions but only includes a property business if it is a 'furnished holiday lettings' business.

A trading company will have the same meaning as currently applies for taper relief.

Comment

The introduction of Entrepreneurs' Relief goes some way to removing the problem of the 18% tax rate but the Chancellor's plan for a simple tax system has evaporated. Considerable care will be needed in planning to obtain the benefit of Entrepreneurs' Relief. For example:

- the disposal of a property used by an unincorporated business may not qualify if it is not related to the disposal of the whole, or part, of the business
- the disposal of shares in a company may not get any Entrepreneurs' Relief if the company has 'substantial' non-trading activities at the time of the disposal of the shares
- the sale of a property used by a company but owned by an individual will only get relief if a number of detailed conditions are satisfied. In particular some shares in the company will need to be disposed of at the same time as the sale of the property
- the conditions imposed on trustee disposals may mean that some trust structures which are attractive for IHT saving may not qualify for Entrepreneurs' Relief

Entrepreneurs' Relief – transitional rules

A number of individuals have made a gain prior to 6 April 2008 and have deferred the gain until after 5 April 2008. Entrepreneurs' Relief may be available when the gain becomes chargeable if the sale of shares in a trading company or the sale of an unincorporated business would have met the conditions for Entrepreneurs' Relief if the sale had taken place after 5 April 2008.

The deferred gains eligible for relief are where:

- shares in a trading company were disposed of in exchange for loan notes in another company which are Qualifying Corporate Bonds (QCBs)
- the gains made on shares in a trading company or on the disposal of an unincorporated business were reinvested in Enterprise Investment Scheme shares or Venture Capital Trust shares

If an individual had shares in a trading company which were disposed of in exchange for loan notes in another company which are not QCBs, there may be Entrepreneurs' Relief on the disposal of the loan notes after 5 April 2008. However the loan notes would need to be issued by a trading company in which the individual owns at least 5% of the voting rights in that company and the individual is an officer or employee of that company.

Simplification of the share identification rules

The current rules for the identification of shares and securities for CGT purposes require a complex order of identification, which is dependent upon the dates when the assets were acquired.

Due to the changes to taper relief and indexation allowance, all shares of the same class in the same company will be treated as forming a single asset from 6 April 2008, regardless of when they were originally acquired. However certain anti-avoidance rules will remain.

Inheritance tax (IHT) threshold

As previously announced the IHT nil rate band will rise from £300,000 to £312,000 in 2008 and £325,000 in 2009.

Transferable nil rate band

Transfers of property between spouses or civil partners are generally exempt from IHT. This means that if an individual dies and leaves some or all of their property to their spouse or civil partner, they may not have fully used their nil rate band.

The new rules allow any nil rate band unused on the first death to be used when the surviving spouse or civil partner dies. The transfer of the unused nil rate band from a deceased spouse or civil partner, irrespective of the date of death, may be made to the estate of their surviving spouse or civil partner who dies on or after 9 October 2007.

The amount of the nil rate band available for transfer will be based on the proportion of the nil rate band which was unused when the first spouse or civil partner died.

Example

On the death of a husband 10 years ago, none of his nil rate band was used because the whole of the estate was left to his wife. If the nil rate band is £350,000 when the wife dies, it would be increased by 100% to £700,000.

Comment

This welcome change means that where the combined estate of a married couple is below the two nil rate bands (currently £600,000), wills can be kept simple and allow transfer to the surviving spouse. Where estates are already above the double nil rate band consideration still needs to be given to utilising some or all of the nil rate band on the first death.

Interest in possession trusts

The IHT rules for interest in possession trusts (IIP) changed in 2006 so that they became subject to rules which previously only applied to discretionary trusts.

The key effect of those changes is that an IHT charge arises to an individual on creation of such trusts during lifetime and the trust is charged to IHT on distributions and every 10th anniversary of the creation of the trust. Previously the IIP trust was not charged to IHT but on the death of the beneficiary it was included in their IHT chargeable estate.

The implementation of the 2006 changes was delayed for a transitional period for IIP trusts in existence before 22 March 2006 to enable trustees to reorganise such trusts without incurring charges under the new rules. The deadline for this transitional period has been extended to 5th October 2008.

It is also confirmed that the 'transitional serial interest' provision will apply where the holder of an interest in possession trust at 22 March 2006 becomes entitled to a new interest within the transitional period.

VAT

Thresholds

The VAT registration limits increase with effect from 1 April 2008 as follows:

- the threshold for compulsory registration is £67,000
- the threshold for voluntary deregistration is £65,000

Car fuel scale charges

Where an employee is provided with free fuel along with a company car, an income tax benefit in kind arises based on the CO₂ emissions of the car. In addition the employer has to pay a VAT car fuel scale charge. Revised tables have been issued for use from the start of the next VAT accounting period beginning on or after on 1 May 2008.

Reduced rate for smoking cessation products

A reduced 5% VAT rate for 'over the counter' sales of smoking cessation products was introduced from 1 July 2007 for a period of one year. The government has announced that the 5% reduced rate will continue to apply.

Smoking cessation products dispensed on prescription continue to be zero rated.

Option to tax land and buildings

The government will simplify the rules relating to the option to tax land and buildings. It will also make changes to enable taxpayers to revoke an option to tax after 20 years. The earliest date an option to tax will be revocable will be 1 August 2009.

The government also proposes to make changes to improve the practical administration of the option to tax.

Claims

The government will introduce rules to enable eligible businesses to make claims for over declared output VAT or under declared input VAT which accrued before the introduction in 1996 and 1997 of the three year time limit for claims. Claims will need to be made by 31 March 2009.

Errors

The error correction regulations for VAT permit the inclusion of errors below £2,000 on the next return submitted. Errors exceeding £2,000 have to be separately notified to HMRC. The de minimis limit will be increased to the greater of £10,000 or 1% of turnover, subject to an upper limit of £50,000. This measure will take effect for accounting periods commencing on or after 1 July 2008. The change also applies to other indirect taxes.

Other Matters

Gift Aid: transitional relief

As mentioned in the Personal Tax section, the basic rate of income tax will be cut from 6 April 2008 to 20%.

Donations to charity under Gift Aid are made under deduction of basic rate tax which the charity is then able to reclaim. With a 22% basic rate, a cash donation of £100 grosses up to £128.20 in the hands of the charity. At a 20% basic rate, the same donation will only gross up to £125 for the charity.

UK charities and Community Amateur Sports Clubs (CASCs) that claim repayments of tax in respect of qualifying Gift Aid donations, and charitable intermediaries making claims on their behalf, will be entitled to a transitional relief to mitigate the effect of the change in the basic rate.

A transitional relief payment will be paid by HMRC to the charity, CASC, etc when a claim for repayment of tax is made relating to qualifying Gift Aid donations made in the tax years 2008/09 to 2010/11.

The government also intends to implement a package of measures aimed at reducing the administrative burden for charities in operating the Gift Aid scheme.

Review of HMRC powers, deterrents and safeguards

In 2007 legislative provisions on a new penalty regime were introduced. Further provisions will be implemented by HMRC covering:

- the power to obtain information and documents
- the production of documents
- restrictions on powers to obtain information and documents
- appeals against notices
- offences in relation to documents
- powers to inspect businesses
- penalties

HMRC also want to extend the new penalty provisions introduced last year to cover all taxes, not just the five main taxes that they administer. Most of these new provisions will take effect for 2009/10 onwards.

Comment

One of the most contentious areas is the power to inspect business premises. Currently HMRC have the power to inspect records only for the purposes of PAYE and VAT. The VAT legislation also gives a right of access to premises but no equivalent power exists in direct tax. HMRC consider it to be a very important part of the new investigation process. They state that the procedure has advantages for both taxpayers and HMRC, although the reasons they give for this do seem to be largely in their own favour!

Payment, repayment and debts

HMRC intend to introduce new legislation to:

- enable HMRC to introduce a credit card payment service from autumn 2008
- enable HMRC, later this year, to set the repayments they must make to individuals and businesses against amounts owed to them
- modernise and align HMRC's debt enforcement powers to collect unpaid sums by taking control of goods in England and Wales or by taking action through the civil courts

For further advice on any of the areas above, please contact us at one of our four offices below.

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