

# 2008 Pre-Budget Report

This was billed as the most important ever Pre-Budget report since they were introduced by the current Labour government in 1997 against a backdrop of a period of significant economic uncertainty. There were therefore surprisingly few direct tax measures announced as a result of the Chancellor's speech.

Many of the measures proposed were deferred until either April 2010 or April 2011. This must be taken into account when considering the need for any planning arising from these rules, especially given there must be another General Election in the UK by May 2010. There is therefore significant scope for these measures to be amended or replaced by significantly different proposals if there is a change of government before the dates these measures would be due to take effect.

## BUSINESSES TAX MEASURES

The headline measures which have more immediate effect were the reduction in the rate of VAT from 17.5% to 15% from Monday 1 December 2008 for a minimum of 13 months. Flat rate scheme rates will also be reduced in-line with this change. There has also been a deferral of the increase in the small companies' rate of corporation tax from 21% to 22% for 12 months.

There was a very welcome proposed temporary change to the way in which business losses can be offset against other income. Under the new rules, companies for accounting periods ending between 24 November 2008 and 23 November 2009, can offset their trading losses for that period against profits of the previous three years. This is opposed to just the one year as is currently the case. For self-employed individuals and partners in a partnership, this same rule will apply to business losses considered to arise during the 2008/09 tax year. However, whilst the carry-back to the immediately preceding year is unlimited, the amount of loss which can be carried-back the additional two years is restricted to £50,000.

It was also announced that from 6 April 2009, companies will not be taxed on foreign dividends received to bring this in-line with the treatment of UK dividends. This will also bring the UK in-line with the rest of Europe. There are also proposals to amend the rules regarding deductibility of interest for international groups. There will be a cap on the amount deductible, but full details are not yet known. The Controlled Foreign Corporation (CFC) rules are to be overhauled in April 2009 and consultation on this continues.

A new HM Revenue & Customs (HMRC) Business Payment Support Service was also introduced which will allow businesses in temporary financial difficulty to pay their tax bills on a timetable they can afford. This will cover all taxes including PAYE and VAT and applies equally to self-employed individuals.

## PERSONAL TAX MEASURES

### *Personal Allowances*

In terms of personal tax measures it was announced that there would be a continuation of the increased personal allowance, which was brought in earlier this year, to compensate lower paid individuals for the loss of the 10% rate band at the last budget. The personal allowance has been increased for inflation plus another £130 to arrive at a figure for 2009/10 of £6,475. The basic rate band has also been extended by more than inflation to £37,400.

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More interestingly, from 6 April 2010 it is proposed that for those with taxable income of between £100,000 - £140,000, up to 50% of the personal allowance would be withdrawn. This would be on a scaled basis similar to that applying to the age related personal allowance.

For those earning more than £140,000, the scaled withdrawal of the personal allowance continues with no personal allowance being available for those with income over approximately £150,000. For those non-domiciled individuals who have already decided to continue to claim the remittance basis of taxation, this measure will have no effect as they will already have lost their entitlement to the personal allowance as a result.

#### **Tax Rates**

As widely reported in the press, the Chancellor has proposed a 45% rate of tax for taxable income in excess of £150,000. There will also be a corresponding increase in the higher dividend rate from 32.5% to 37.5% and these new rates would also be applied to all income received by certain trusts. These proposals are due to take effect from 6 April 2011.

#### **Income Shifting**

The Government also announced they are to postpone indefinitely plans to introduce new legislation governing the transfer of income between related individuals in order to lower the overall tax liability due on that income. This is very welcome news as the relevant draft legislation was very widely drawn and had attracted significant industry criticism as catching many circumstances for which it was not designed and would prevent legitimate tax planning in this area.

#### **Pension Contributions**

The maximum amount of pension contributions on which an individual can receive income tax relief in a tax year will be held at £255,000 from 2010/11 to 2015/16 (for the current year it is £235,000). The lifetime allowance applying to the value of an individual's pension fund will remain at £1.8 million from 2011/12 to 2015/16.

### **EMPLOYMENT MEASURES**

#### **National Insurance**

The key employment related measure announced by the Chancellor was an increase in the rate of national insurance by 0.5% with effect from 6 April 2011. This increase applies to Class 1 contributions paid by both employees and employers. This is also applicable to the Class 4 contributions paid by self-employed individuals on their business profits. At the same time, the lower earnings limit, being the point at which an individual begins to pay national insurance, is being increased to come in-line with the personal allowance.

More immediately, from 6 April 2009 the Upper Earnings Limit (UEL) will be increased to align with the point at which they begin to pay 40% tax. For 2009/10 this will be £43,875 when the personal allowance of £6,475 is taken into account. As the UEL represents the earnings on which both employers and employees pay the higher national insurance rate of 11% and 12.8% respectively, this proposal is a form of stealth tax which will result in most people earning over £40,000 being worse off.

#### **Simplification of Share Option Rules**

There was confirmation of the simplification of elements of the share option rules which can currently lead to an unexpected income tax charge. These are as recommended in a report published at Budget 2008 in March and the necessary legislation will be included in Finance Act 2009.

#### **ANTI-AVOIDANCE**

HMRC have also continued their stated intent to broaden but simplify anti-avoidance legislation. In this Pre-Budget report, measures affecting film partnerships who seek to enter into long lease arrangements and the way in which reportable tax avoidance schemes must be disclosed were introduced.

There is a new penalty regime introduced by the Finance Act 2008 which comes into full effect from 1 April 2009; in addition to which, HMRC has announced consultation until 13 February 2009 on a new payment model for late filing and late payment which threatens to be significantly harsher than today.