

VAT's up - again!

VAT to Increase

It was no great surprise that Mr Osborne announced an increase in the standard rate of VAT in his Budget – it's a good way to put a lot of money in the Government's coffers at a single stroke, even if it is painful for the public. At least the hike has been deferred until after Christmas – and after New Year as well. The last VAT increase was supposed to take effect at midnight on New Year's Eve, and special rules had to be brought in at the last minute for businesses which would be quite busy just then. The new Chancellor has shown a rare sense of practicality in putting the rate up to 20% with effect from 4 January, the first working day in the month. Maybe there will be time to shake off the morning-after feeling before getting down to changing the prices.

At least the list of items that aren't charged to VAT – including food, children's clothes, books and newspapers – hasn't changed, and the reduced rate which applies to domestic gas and electricity stays at 5%. So there won't be any VAT-related price rise on them.

If you can't get back the VAT on your costs, it may be worth advancing expenditure to before the end of the year in order to save the 2.5% – but there are rules to stop people doing this "artificially".

After two VAT rate changes since December 2008, traders should be used to the problems of this exercise by now – but if you need to check again how to deal with it, or whether you might be caught by the rules on advancing expenditure, we will be happy to help.

Loan rates down



If an employer makes a loan of more than £5,000 to a worker, there is a taxable benefit on the difference between any interest actually paid and the "official rate". This was cut from 4.75% to 4% on 6 April 2010. On an interest-free loan of £100,000, the tax is now only charged on £4,000.

Some people have used this as a good way of cutting tax bills – after all, who needs salary if you have cash? But it is necessary to make sure that the loans are in accordance with company law and the company's own constitution, and the company can't treat the loans as an expense – so there's no corporation tax relief, as there is with salary. A loophole which might have allowed loans written off to be treated as expenses was closed in the recent Finance Act.

A loan from your company may be a sensible alternative to salary, depending on the circumstances – we can advise you.

Nearly a partner



Minority shareholders in a private company can be in a tricky position. They can't control the board of directors, and they can't easily sell their shares. They've put their money in, and they have to rely on the competence and honesty of the directors to give them a return. What if that faith is misplaced?

Company law allows a minority shareholder to petition the court for a remedy if the company is being run in a way that is "unfairly prejudicial" to the interests of that shareholder. One situation in which the courts will apply the law is where an individual is effectively a partner in the business – one of a small group who runs and owns the company – and the other shareholders decide to cut them out.

In a recent case, an individual was involved in a company's sales operation, and he agreed to forgo commission and to be paid by dividends out of the company's profit instead. When he was dismissed, he was no longer able to influence the amount of the profit or the dividend, and there was a suggestion that the other directors ran the company down in order to deny him a proper return.

The court ordered that the other shareholders should buy his holding at a fair price – and this should be measured on the day that he left the company, not at the time of the court hearing. It's important to remember that every member of a company has rights, and the directors and shareholders have to behave fairly towards each other.

Seasonal news

No gains without pain

Everyone expected tax on gains to go up in the Budget – the only question was how much. The rise is probably at the lower end of expectations – higher rate taxpayers will pay at 28%, but that's still much less than their marginal income tax rate of 40% or 50%, and the annual tax-free amount remains £10,100. The amount of gains that an "entrepreneur" can make within a 10% tax rate have also gone up to £5million.

On the other hand, no-one has ever had to deal with a change in the CGT rate during the tax year before – disposals from 23 June onwards are subject to the new rules, and anything sold up to Budget day will still be charged at a flat 18%. If there are some of each, the computation promises to rival the complexities of a Su Doku puzzle...

There's still a big incentive to earn your returns in the form of gains rather than income. The Chancellor hasn't committed himself to keeping the rate at 28% forever – it's going to be looked at again year by year. But it seems he wanted to split the difference between the old generous treatment and going straight to income tax rates.

At The Paris Partnership, we know that you want to maximise your profits and make the most of what you've worked hard to gain. If you want to know what the changes mean for your portfolio, and discuss any action that might be required, we're here to help.

Meanwhile, we hope you enjoy the issue.

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The articles contained in this newsletter are of a general nature and should not be acted upon without specific advice relevant to your circumstances.



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Also in this issue...

U-turn on pensions

Important changes for higher rate taxpayers.

Scooby snacks

Confectionery or plastic mould, VAT or not?

Birthday present

Have you cashed in your pension yet?

VAT's up again

But at least it's not until after the new year.

U-turn on pensions

Alistair Darling wanted to cut the tax relief on large pension contributions by high earners. Rules were brought in to withdraw higher rate relief for those earning over £150,000 – once income reached £180,000, contributions would only be entitled to the basic rate relief that a much lower earner would enjoy. This was supposed to come in from 6 April 2011, but to stop people bringing forward their contributions to get around the rules, there is an “anti-forestalling charge” which may apply to anyone paying a contribution over £20,000 in the current year if they have income over £130,000.

In the June Budget, the Chancellor announced that he is reconsidering this measure. That doesn't mean high earners will go back to getting full relief, because Mr Osborne needs to raise just as much money from this as Mr Darling intended to. He might instead allow full relief, but only on smaller contributions – 50% of £40,000 instead of 20% of £255,000.

In the meantime, the rules on big contributions in 2010/11 have been kept – someone who earns over £130,000 and pays over £20,000 into their fund needs to take advice on the tax consequences. If that affects you, we will be happy to help.



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Darling's last gasp

The outgoing Labour government rushed out its last Finance Act on 8 April. Most of the announcements in the March Budget were included, including the new 50% income tax rate for those with incomes over £150,000 and restriction of personal allowances over £100,000.

The trend in recent years has been for each Budget to include announcements covering several years. It will be interesting to see whether some of those included in this Act are cancelled, for example the proposed 6 April 2011 increase in Stamp Duty Land Tax to 5% for properties costing more than £1m, and the increase in NIC rates by 1% from the same date. The lack of any mention of these matters in the first Coalition Budget suggests that they will come into force much as planned.

The IHT nil rate band was frozen by the March Budget at £325,000 “until 2014/15”. Although reducing the impact of IHT has always been a Conservative objective, it seems likely to be shelved for the time being, so more estates will fall into the tax net over the next few years.

It is surprising to note that, in the hurry to finish the Parliament and get to the hustings, the government still found time to notice that the 2011 European Champions League final will take place in the UK – at Wembley. The Finance Act exempts from UK tax whatever visiting foreign players and officials will be paid for taking part in that match. Surely this misses an open goal: even a 10% tax charge would have cancelled most of the country's deficit...

Rebalancing act?

The Chancellor announced that there will be a “holiday” from paying a year's employer's National Insurance Contributions for up to 10 new employees taken on by new businesses which start up from Budget day onwards. The details are complicated and not yet finalised, but the idea is to encourage new private sector employment in parts of the country which are currently heavily dependent on public sector jobs. Reading between the lines, with 25% cuts promised for many civil service departments, many of those public sector jobs are about to disappear.

£5,000 per employee for a year sounds attractive, but the maximum benefit will only be enjoyed on staff with salaries of about £40,000 – if you take on relatively low-paid workers, the saving is much less. It remains to be seen whether this is a real boost for new jobs, or one of those wonderful political ideas that doesn't work in practice.

If you want to discuss the possibilities, we will be keeping an eye out for the final rules when they are published.

Filing online

A quick reminder: all VAT registered traders with turnover exceeding £100,000 a year will have to file their VAT returns online, starting with the first period commencing on or after 1 April 2010. So the return for the first period ending after that date can still be sent in the post – but then the new system applies.

It's important to be registered with the HMRC website in good time. If you need help with this, we will be happy to advise you.

Scooby snacks



From time to time, the Tax Tribunal has a day off with a silly case about VAT. Most people have heard about Jaffa Cakes (zero-rated as a cake, not VATable as a chocolate biscuit) – now there has been a case about kits for making choco-lollies shaped like Scooby-Doo. The kit included two packets of chocolate buttons, some icing for decoration, some sticks and Scooby-shaped moulds.

Amazingly, HMRC argued that the customer was really interested in buying the moulds, and the kits were therefore standard rated for VAT as cooking equipment. The company said that the moulds were flimsy, and it was unlikely that they would last longer than the two packets of chocolate buttons did. No-one seems to have questioned whether the average cook would want to make anything else into a Scooby-Doo shaped object on a regular basis.

The Tax Tribunal said it would adopt a common sense approach, rather than burrowing into legal detail. The main point here was the food: the moulds and sticks were just incidental. The whole supply was zero-rated.

Maybe the VAT inspector was left muttering, “If it wasn't for these pesky kids I'd have gotten away with it...”

Knees up on expenses

A stunt performer claimed medical expenses as business deductions. He needed an operation on his knee after being injured in a stunt. The NHS waiting list was so long that he would not have been able to work for an extended period, so he went private and paid. Then he lost some teeth and hurt his back in different incidents, so he claimed for a chiropractor and dentist as well.

HMRC argued that these were expenses of being a human being, not expenses of his business. The Tax Tribunal disagreed. They were very closely related to his profession and “wholly and exclusively incurred” for work purposes. On the other hand, general fitness training was not specific to being a stunt man, so they were disallowed.

The borderline between what's business and what isn't can be hard to see, and HMRC tend to take a very harsh view on where the line is. We can advise you on whether there are costs you can validly deduct.

Birthday present

The Budget included an important announcement about taking your pension benefits. Up to now, anyone with a pension fund has to start drawing an income no later than their 75th birthday. After that, the fund cannot be passed on to the pensioner's dependants without a heavy tax charge. Next year, the Chancellor proposes to relax these rules considerably; and, in the meantime, the age limit has been raised to 77. That means that anyone who hasn't yet cashed in their policies will not be forced to do so before the rules have been changed.

If you are getting close to taking your pension benefits, it's worth making sure you have considered all the options. We'll be happy to advise you.

Dates for your Diary



- 31.10.10** Earlier filing deadline for PAPER tax returns for 2009/10. (Online filing can be done up to midnight on 31 January 2011.)
- 31.01.11** 2010 Tax Return to be filed online, or £100 fine.
Balancing payment of income tax and capital gains tax 2009/10.
- 28.02.11** 5% surcharge on any 2009/10 tax remaining unpaid.

Director is NICKed

A company failed to pay over £60,000 of NICs. HMRC issued a notice to an individual director, making him liable for the money because the failure to pay was “attributable to his neglect”. He argued that HMRC should have put more pressure on the company earlier. If HMRC had not waited so long, the problem would not have grown so large.

HMRC can't win here – they are criticised for closing a business down too quickly when it gets behind, and they are criticised for letting the liability grow and then trying to collect it from a director. The directors must always be aware of what they owe, and must have a reasonable expectation of being able to pay it – to HMRC or any other creditor. If they don't, they can become liable for the company's debts because they are trading while insolvent. That was the Tribunal's decision in this case – the director had no excuse.

Difficult economic times make it even more important to have up-to-date financial records and a clear idea of where the pennies are. We are here to help.

