

Budget Summary



A guide to the technical highlights of the Spring 2009 Budget

One of the unwritten rules by which the annual Budget game is played is that there is always an important announcement hidden away in a single paragraph of the *Budget Report*, which is not mentioned in the Budget Notes or Budget Day Press Releases. This year it was paragraph 5.116, which said that: 'Budget 2009 announces the repeal of the Furnished Holiday Lettings (FHL) rules from April 2010. Until the repeal takes effect, the FHL rules will be extended to those with qualifying furnished holiday lettings elsewhere in the European Economic Area.'

At present, qualifying furnished holiday lettings are treated as a trading activity, which means that profits are earnings for pension contribution purposes and losses are available for relief against general income; that the usual capital allowance bar on plant and machinery used in a dwelling does not apply; and that the 50:50 rule for assets jointly owned by spouses or civil partners is disapplied. For capital gains tax purposes, furnished holiday lettings qualify for roll-over relief on acquisition or disposal, for hold-over relief as gifts of business assets, and for entrepreneur's relief. Whether they qualify for IHT business property relief does not directly depend on their status for income tax purposes.

The FHL rules have been extended to EEA countries with retrospective effect. Detailed information about claims for 2008/09 and earlier years has been published in an HMRC Technical Note *Furnished Holiday Lettings in the European Economic Area*, posted at www.hmrc.gov.uk/budget2009/furnished-hol-lets-1015.htm. In particular, HMRC will accept late amendments to 2006/07 SATRs (and to Corporation Tax Returns for accounting periods ending on or after 31 December 2006) until 31 July 2009.

Extension of three-line accounts

Another change was highlighted by the Government's *Business Link* website but not by HM Treasury or HMRC. This is that, for ITSA Returns for 2009/10 and later years, the turnover ceiling for 'three line accounts' will be set at the VAT registration threshold (£68,000 for 2009/10). This will apply both to earnings from self-employment (previous turnover ceiling £30,000) and to property income (previously £15,000).

Supervision of 'Tax Agents'

A third important development on Budget Day, that was not given much prominence by HM Treasury or HMRC, was the publication of the latest Consultation Document in the *Modernising Powers, Deterrents and Safeguards* series: *Working with Tax Agents*. Basically, this argues that HMRC needs new powers to deal with accountants and other tax agents whom it thinks has acted 'inappropriately', or whose performance falls below an acceptable standard.

For example, if an individual's Tax Return is found to be incorrect, HMRC may wish to consider whether this was an isolated error, or whether it was 'the result of careless or deliberate behaviour on the part of the tax agent' who prepared it. To this end, HMRC might want to undertake a 'compliance check' of some or all of the agent's other clients, or to ask him to commission an independent appraisal of his work. If the agent fails to co-operate, HMRC would then seek to obtain access to (potentially) all his working papers for all his clients.

Where HMRC conclude a 'compliance risk' has arisen because of an agent's 'deliberate actions', they would wish to have a range of available responses, including a financial penalty, a report to the agent's professional institute, the imposition of 'an appropriate period of monitoring' and simply refusing to deal with the agent in future. It is also suggested that HMRC should be able to report 'cases of persistently careless or incompetent conduct' to an agent's professional institute.

The Consultation Document also notes that there are 'at least 12,000 tax agents in business in the UK [who] are unaffiliated to any major professional body' and floats, but in a rather half-hearted way, the suggestion that they should be required to register with HMRC. (The Document also says that 30 per cent of tax agents are not members of any major professional body, and that 20 per cent have no professional qualification.)

The consultation period ends on Friday, 7 August 2009.

Extended carry-back relief for trading losses

In his Pre-Budget Statement last November, the Chancellor announced that carry-back relief for trading losses would be extended, to allow a loss made in 2008/09 to be carried back not only to 2007/08, but also to 2006/07 and 2005/06. At the time we said that, in the case of an unincorporated business, the relevant loss would be the loss for the accounting year ending in 2008/09, and that many businesses would have accounting years which ended before the recession began to bite. For companies, the extended carry-back was to have been allowed for losses suffered in accounting periods ending between 24 November 2008 and 23 November 2009, which would have favoured a business with (say) a 31 October accounting date over one with a 30 November year end.

Budget Summary



However, in the Budget, the Chancellor announced an extension to his original proposal, so that losses made by unincorporated businesses in either 2008/09 or 2009/10, or by companies in accounting periods ending between 24 November 2008 and 23 November 2010 (both dates inclusive) will now qualify for the three-year carryback.

As before, relief will have to be taken against the most recent available profits. Under the general law, a loss of any amount may be carried back for one year, but the temporary relief limits the loss which may be carried back for two or three years to £50,000. However, under the Budget extension to the temporary relief, the £50,000 cap is applied separately to the loss of 2008/09 and to that of 2009/10. For companies, the cap will be applied separately to accounting periods ending in the year to 23 November 2009 and to those ending in the year to 23 November 2010.

In a related move, where a business expects to make a trading loss in the current tax year, **HMRC's Business Payment Support Service** will take the potential loss claim into account when deciding whether to agree a rescheduling of payments for past years' income or corporation tax liabilities. However, it will still be necessary for trader or company to show both that the business remains viable, and that it is 'genuinely unable' to pay the tax immediately, or to enter into a 'reasonable instalment time to pay agreement'. For details see HMRC Press Release *HMRC extends business cash flow help*, issued on Thursday, 23 April. The Press Release also announces that businesses which have already entered into a rescheduling agreement, but have found that their situation has become worse, may now apply for a revised agreement.

Tax defaulters and a new disclosure facility

Traders who incur a penalty for deliberate evasion will, if the tax at stake was £5,000 or more, be required to submit to 'close monitoring' for the next five years. In particular, they will be required to submit more detailed business accounts information, including details of the nature and value of any balancing adjustments in the accounts. It is not clear whether legislation will be required to implement this proposal.

The Chancellor reconfirmed that there will be a 'New Disclosure Opportunity' (NDO) for holders of offshore accounts, which will run between Autumn 2009 and March 2010. The penalty to be charged has not yet been announced.

Naming and shaming

The Finance Bill 2009 will empower HMRC to publish the name and address of any individual or company on whom, or on which, a penalty for deliberately understating their tax liability, or for deliberately failing to notify their liability to tax, has been imposed. However, there will be no publication where:

- The tax at stake did not exceed £25,000; *or*
- The penalty is for failure to take reasonable care, rather than a deliberate default; *or*
- The individual or company made a full and unprompted disclosure of the default, or a prompted disclosure within a timescale specified by HMRC; *or*
- The relevant default was committed before the new legislation comes into force.

Details will be published quarterly on HMRC's website, and will include the trade or profession of the defaulter (or the trade sector of a company); the amount of tax, interest and penalties; and the period covered. Details will be removed from the website after 12 months.

For most people, publication of such details will be merely embarrassing. However, for some professional people, it could have serious consequences. For example, The Law Society would be likely to take a dim view of a solicitor whose name appeared on HMRC's quarterly list of tax cheats.

Tax rates and personal allowances

The **capital gains tax annual exemption** for 2009/10 will be £10,100 (£5,050 for most trusts). Otherwise, income tax, capital gains tax, corporation tax and inheritance tax rates, allowances and exemptions for 2009/10 remain as announced at the time of the November 2008 Pre-Budget Statement, as do 2009/10 National Insurance contributions and the figures used for calculating Working Tax Credit and Child Tax Credit.

One change will be made to the calculations for **Pension Credit**: from November 2009 the capital disregard will be increased from £6,000 to £10,000. This will also apply to pensioner claims to Housing Benefit and Council Tax Benefit. Pension Credit claimants are expected to benefit by an average of £4 a week.

Budget Summary



Looking further ahead:

Corporation tax The main rate of corporation tax is traditionally announced one year in advance and the Chancellor confirmed that it will remain 28% for the Financial Year 2010 (begins 1 April 2010).

Income tax In his November 2008 Pre-Budget Statement the Chancellor proposed that, for 2010/11 and future years, people with an income over £100,000 a year should be entitled to only half the usual personal allowance, and those with an income over £140,000 should not be entitled to a personal allowance at all. He also proposed that, for 2011/12 and future years, there should be a new 45% rate of tax on income over £150,000 a year.

By the time of the Budget, he had decided that harsher measures were required and so announced that:

- For 2010/11 and future years, the income tax personal allowance will be reduced by £1 for every £2 that an individual's income exceeds £100,000 (and so will be reduced to nil at an income of £112,950). This replaces the originally-proposed two-stage reduction.
- The new top rate, charged on incomes over £150,000, will also be introduced in 2010/11, and will be 50% instead of 45%. There will be a corresponding 42.5% rate for dividend income.
- Also from 2010/11, the trust rate will be increased from 40% to 50% (and the dividend trust rate from 32.5% to 42.5%).

The calculation of 'income' for these purposes is explained in *Budget Note BN01: Additional rate of income tax and income-related reduction of the personal allowance from 2010/11*.

Child Tax Credit In April 2010 the Child Element of Child Tax Credit will be increased by £20 a year above indexation. This will be worth a maximum of 38p a week for each child, which paragraph 5.13 of the *Budget Report* describes as 'providing valuable support to families with children'. What planet are these people living on?

Pensions and pension contributions

The Chancellor announced that, from April 2011, the tax relief on **pension contributions paid by those with incomes of more than £150,000** will be tapered down until, at an income of £180,000 or more, it is reduced to relief at the basic rate only. There will be a corresponding 'benefit-in-kind' charge on employer contributions to occupational pension schemes (including defined benefit schemes). There is to be consultation on how this charge will be calculated, which is the main reason the proposal will not be implemented until April 2011.

Meanwhile, however, there will be anti-forestalling measures to prevent individuals with incomes of £150,000 or more obtaining a tax advantage by paying exceptionally high pension contributions between 22 April 2009 and 5 April 2011. Further details are posted at www.hmrc.gov.uk/budget2009/tax-relief-pen-cont.htm.

The Finance Bill 2009 will include provisions ensuring that where a pension is paid with assistance from the Financial Assistance Service (FAS) or the Financial Services Compensation Scheme (FSCS), it will be taxed as if it had been paid by a registered pension scheme (so that, for example, a payment in respect of a retirement lump sum will remain tax free).

Savings and investments

From 6 October 2009 the **ISA investment allowance** for 2009/10 will be increased, for those aged 50 or more on the day that the investment is made, to £10,200 (of which up to £5,100 can be saved in a cash ISA). For 2010/11 the ISA investment limit will be £10,200 for everybody (of which up to £5,100 can be saved in a cash ISA).

The Finance Bill 2009 will include legislation to ensure that, where a bank or other financial institution has defaulted, **compensation paid by the Financial Services Compensation Scheme (FSCS) in respect of accrued interest** will be taxed as if it was in fact interest. This will be backdated to cover payments made since 6 October 2008. Where the FSCS pays accrued interest as if it were subject to deduction of tax, the taxable income will be the gross amount, with the tax notionally deducted being treated as a payment on account of the depositor's personal liability. If the depositor is a non-taxpayer, he will be able to claim 'repayment' of the tax notionally deducted from HMRC in the usual way. The FSCS will not be required to provide a statement of the gross and net amounts unless so required in writing by the depositor.

Budget Summary



Capital allowances

Expenditure on plant and machinery, incurred in the year beginning 6 April 2009 (1 April 2009 for companies) will qualify for a **40% first-year allowance** if it would otherwise have qualified for a 20% writing-down allowance (subject to the usual exceptions, principally motor cars and assets for leasing). Note also that assets which qualify only for a 10% writing-down allowance (such as long-life assets and 'integral features') will **not** qualify for the first-year allowance. The new first-year allowance will not affect a trader's or a company's ability to claim a 100% Annual Investment Allowance on the first £50,000 of his expenditure.

Later this year one new technology – uninterruptible power supplies – and two new sub-technologies – air to water heat pumps and close control air conditioning systems – will be added to the list of designated technologies qualifying for **100% Enhanced Capital Allowances (ECAs)**. Three existing sub-technologies will be removed (air source: single duct and packaged double duct heat pumps; ground source: brine to air heat pumps; and water source: packaged heat pumps).

Non-residents

The Chancellor announced that, with effect from 6 April 2010, non-resident individuals will no longer be entitled to personal allowances solely on the ground that they are Commonwealth citizens. However, individuals will still be able to claim personal allowances on any of the other statutory grounds (EEA national, Channel Island or Isle of Man resident, Crown employment, *etc*) or under a Double Taxation Agreement. Accordingly, HMRC say the change 'will mainly affect citizens of the following countries: Bahamas, Cameroon, Cook Islands, Dominica, Maldives, Mozambique, Nauru, Niue, St Lucia, St Vincent & the Grenadines, Samoa, Tanzania, Tonga, Vanuatu'.

Remittance basis

Following further consultations, a number of detailed changes to the rules governing remittances by non-domiciled and not ordinarily resident individuals are to be made, some with retrospective effect. They are set out in *Budget Note BN55: The Remittance Basis – Minor Amendments*.

Value Added Tax

The VAT registration and deregistration thresholds will be uprated as follows:

	<i>From 1 May 2009</i>	<i>Previously</i>
Registration threshold	£68,000	£67,000
Deregistration threshold	£66,000	£65,000
For acquisitions from other EC Member	£68,000	£67,000

The Chancellor confirmed that the **standard rate of VAT** will revert to 17.5% on 1 January 2010. The Finance Bill 2009 will include anti-forestalling legislation – in the absence of such legislation, an organisation which is not able to recover all its input tax could pay tax at the 15% rate by creating a tax point before the end of 2009 for goods which are not to be delivered, or services which are not to be performed, until 2010 or later. (A tax point could be created by making a payment to the supplier, or arranging for an invoice to be issued.) The anti-forestalling legislation will apply where the supplier and customer are connected parties, *or* the supplier funds the purchase of the goods or services, *or* a VAT invoice is issued by the supplier but payment is not due for six months or more, *or* the customer makes a prepayment of more than £100,000, unless this is in accordance with normal commercial practice.

New **fuel scale charges** for use for prescribed accounting periods beginning on or after 1 May 2009 have been published in *Budget Note BN69: VAT – Change in Fuel Scale Charges*.

The 5% reduced rate of VAT will, with effect from 1 July 2009, be extended from **children's car seats** to include bases for such seats.

Hydrocarbon oil duty

The main duty on road fuel, which increased by 1.84p a litre on 1 April 2009, will increase by a further 2p a litre on 1 September 2009 and by 1p a litre above inflation on 1 April each year from 2010 to 2013. And don't forget that the restoration of the 17.5% rate of VAT will add another 2.4p a litre from 1 January 2010.

Landfill Tax

The standard rate of Landfill Tax, currently £40 per tonne, will be increased to £48 per tonne with effect from 1 April 2010. There will be further increases of £8 per tonne on 1 April each year from 2011 to 2013. The lower rate, applicable to inactive waste, will remain £2.50 a tonne for 2010/11.

Budget Summary



A number of changes to the Landfill Tax legislation, consequent upon the decision in *HMRC v Waste Recycling Group Ltd*, will come into force on 1 September 2009. In part, they will reimpose the charge on certain disposals of waste exempted by that decision. For details see *Budget Note BN79: Landfill Tax – Taxable disposals of waste at a landfill site* and the Consultation Document *Modernising Landfill Tax Legislation*, published by HM Treasury and HMRC on Budget Day.

Inheritance Tax

To comply with international law, the Finance Bill 2009 will extend Agricultural Property Relief and Woodlands Relief to land in the European Economic Area (EEA). Property qualifying for the extended IHT relief will also qualify for the CGT holdover relief for gifts. Relief may now be claimed for past years: for details see *Budget Note BN50: Inheritance Tax*.

Compliance checks and HMRC powers

The Chancellor confirmed that the Finance Bill 2009 will include legislation requiring HMRC 'to prepare and maintain a Charter [which] will set out standards of behaviour and values to which HMRC will aspire in dealing with taxpayers and others'. The deadline for implementation will be 31 December 2009, but 'HMRC plans to launch the Charter by Autumn 2009'. The legislation will also require HMRC to report annually on 'how well [it] is doing in meeting the standards in the Charter'.

The Chancellor also confirmed that the Government will go ahead with three proposals made in the Consultation Paper *Payments, Repayments and Debt: The Next Stage* (see **Small Business Tax & Finance**, January 2009, pages 85 and 87):

- From Royal Assent to the Finance Bill 2009, any business may be required to provide addresses, *etc*, for people with whom HMRC has lost contact. For example, an accountant could be required to provide addresses for his clients or former clients.
- From April 2011, taxpayers will be able to enter into 'managed payment plans' – paying their income tax or corporation tax liability by monthly instalments, partly before and partly after the usual due date.
- From April 2012, HMRC will be empowered to collect small debts through the PAYE system.

It was also confirmed that the new record-keeping requirements and information and inspection powers, introduced with effect from 1 April 2009 for income tax, capital gains tax, corporation tax and VAT, will be extended to the environmental taxes, insurance premium tax, SDLT, SDRT, inheritance tax and petroleum revenue tax with effect from 1 April 2010. Time limits for claims and assessments will be aligned, for these taxes, a year later (1 April 2011).

Finally, the Chancellor announced a reformed system of penalties for late filing of Returns and late payment of tax. This will remove the rule that the penalty for late filing a SATR is waived if all the tax has been paid by the due date and include surcharges for late paid in-year PAYE and CIS remittances.

Stamp Duty Land Tax

The temporary increase (to £175,000) in the threshold at which Stamp Duty Land Tax (SDLT) becomes payable on residential property, which was to have expired on 2 September 2009, has been extended to 31 December 2009. It will then revert to £125,000 (£150,000 in Disadvantaged Areas).

Trade credit insurance

Details of the 'top-up' scheme for trade credit insurance, originally announced by the Chancellor on Budget Day, are posted at www.businesslink.gov.uk/creditinsurance.

Shortly put, where a supplier's trade credit insurance (for United Kingdom customers) has been reduced, by his insurer, since 1 April 2009, the Government will guarantee the insurer's risk in increasing cover to the smaller of (a) the amount insured before the reduction and (b) double the cover after that reduction, subject to a maximum Government guarantee of £1 million. In other words, no guarantee is available where the insurer reduced cover before 1 April 2009, or has withdrawn cover altogether.

Cover under the Government guarantee scheme must be purchased between 1 May and 31 December 2009 and will run for six months. Note that the trader must apply for a 'top-up' within 28 days of his insurer reducing cover (or, at the launch of the scheme, by 31 May 2009 if later).

The three largest credit insurers – Altradius, Coface and Euler Hermes – are among those which have agreed to offer cover under the Government guarantee.