

Business tax summary...

Corporation tax rates

The rates, and the thresholds at which these apply, are to remain unchanged for a further year.

Stamp Duty Land Tax (SDLT)

Relief from SDLT for non-residential properties in designated disadvantaged areas has been withdrawn with immediate effect.

Capital Allowances

Individuals or companies who own or lease a property that has been vacant for a year or more in a designated disadvantaged area of the UK will be able to claim 100% first year allowances for expenditure that is incurred on the conversion or renovation to bring it back into business use. This relief will apply once state aid approval has been given.

University spin-out companies

Certain entities (such as universities, NHS Trusts and public-sector research establishments) have unique intellectual property (IP) sharing policies that allow researchers who have helped create the IP to benefit when it is subsequently exploited. Previously, the form and timing of the reward would vary, although it is common for the payment to be by way of shares. These payments have previously been subject to PAYE and national insurance contributions (NIC) at the time they flowed to the employee, which has led to uncertainties in the amount of tax and NIC due.

Following consultation, the value of the IP on transfer from the research institution to the spinout company will be disregarded, removing the tax charge

at the time the spin-out occurs. This legislation will be operative from 2 December 2004 and it will be possible for spin-outs set up before this date to elect for the charge to be calculated at a later date (although this election must be submitted by 15 October 2005).

Anti-avoidance measures

A number of new anti-avoidance measures have been announced in the Budget as follows:

- new rules will require promoters or users of schemes and arrangements that give rise to an SDLT advantage to provide details to the Inland Revenue. These rules will apply to non-residential properties with a market value of at least £5 million, where arrangements are introduced on or after 1 July 2005
- a number of other SDLT tax avoidance schemes are to be blocked, including (amongst others) those involving the use of group relief, the use of acquisition relief, certain variations of leases, use of partnerships and the use of “sub-sale” relief in alternative finance transactions. These changes will be effective from 17 March 2005
- legislation is to be introduced, with effect from 16 March 2005, to counter tax avoidance using “highly contrived avoidance structures” to obtain double tax deductions for the same expenses or where there is a mis-match in the tax treatment of the item in the hands of the payer and receiver

- with effect from Budget day, legislation will be introduced to counter “highly contrived schemes or arrangements” that give rise to excessive double tax relief claims. These new rules will apply in five prescribed circumstances, which are explained in the guidance issued on 16 March 2005 by the Inland Revenue
- substantial new anti-avoidance measures are introduced to block tax planning arrangements which involve financial products (including stripped corporate bonds, non-trading loan relationships etc)
- new rules are being introduced to ensure that the rules in relation to corporate intangible assets achieve their intended effect. This includes the rules on related party transactions and the market value rules.

Employer-related issues

Company cars and private fuel

Cars made available to an employees for private use incur a taxable benefit for the individual. The starting point for calculating this benefit (which is based on CO₂ emissions) will fall from 145g/km to 140g/km for 2005/06 and this will be frozen for the following two tax years. Thus, drivers of cars with emissions of 140g/km or less will be subject to the minimum benefit in kind charge of 15% of the list price and those with emissions of 240g/km will be subject to the maximum taxable benefit of 35%.

Business tax summary...



The basis for the private fuel benefit remains unchanged at £14,400 for 2005/06.

Company vans

The changes in respect of the legislation covering company vans were announced in the 2004 Budget but come into effect on 6 April 2005. From this date, no taxable benefit will arise when the employee has to take the van home for work purposes but no other private use arises. However, where private use does arise, the benefit in kind will remain at £500 until 5 April 2007 and thereafter this will rise to £3,000. Employer-provider fuel for private use will also give rise to a benefit of £500 from 5 April 2007.

Other assets

Employees who buy computers or bicycles from their employers that had previously been loaned to them will no longer be subject to a tax charge where the purchase is at market value. This removes a previous anomaly, whereby a benefit in kind could have arisen, despite the fact that the asset had been acquired at market value.

Childcare

Again, an announcement was made in the 2004 Budget in relation to employer-provided childcare. With effect from 6 April 2005, employees can receive up to £50 per week free of tax and national insurance. In order to claim this exemption, employers must contract with an approved child-carer (or provide vouchers for the employee to pay such a person). The benefit must also be made available to all employees if such a scheme is operated.

Employees in full-time education

Employees who are in full-time attendance at universities and technical colleges can currently receive up to £15,000 tax-free from their employer. With effect from the 2005/06 academic year (ie from 1 September 2005) these payments will also be paid free of national insurance, even if they are paid under an employment contract as opposed to a training contract. There are certain qualifying conditions that must be met for this relief to apply and the payment covers accommodation, subsistence and travelling but excludes any university fees.

International Accounting Standards (IAS)

A number of amendments and additions have been made to the legislation introduced in the 2004 Finance Act and the December 2004 Pre-Budget Report in relation to IAS. These technical changes reflect recent developments in both IAS and UK GAAP and will generally have effect for accounting periods beginning on or after 1 January 2005. As well as tweaking some of the provisions, anti-avoidance measures will be introduced to prevent companies crystallising losses in certain circumstances in advance of the transition to IAS.

Administration

Changes have been announced to various limits as follows:

- the VAT registration limit has been increased from £58,000 to £60,000
- the deregistration limit is increased from £56,000 to £58,000
- the limits for use of the cash accounting and annual accounting schemes are unchanged at £660,000.

Fuel scale charges

The fuel scale charge has been increased in line with petrol prices, and the new rates apply to VAT return periods starting after 1 May 2005.

Anti-avoidance

Disclosure of planning schemes

There will be a new requirement for businesses to disclose the use of schemes where the tax advantage is not evident on their VAT returns to HM Customs & Excise (Customs). For example, this could relate to schemes for exempt supplies or a non-business activity.

Two new listed schemes will be introduced to the disclosure requirements:

- schemes which make use of differences in the VAT treatment of vouchers between the UK and another EU member state
- schemes which attempt to remove the effect of an election to waive exemption on supplies of land and property.

A new “hallmark” of avoidance will be introduced. This will require the disclosure of schemes involving the use of face value vouchers with low rates of redemption.

Supplies of goods in Customs warehouses

Under the new rules announced in the Budget, Customs will be given the power to deny VAT-free trading to transactions in Customs warehouses where they consider that businesses are seeking to exploit the current rules.

All of the above anti-avoidance measures will take effect from the date that the Finance Bill receives Royal Assent.

Partial exemption

Various changes to the partial exemption rules will take effect from 1 April 2005.

Under the new legislation, Customs will extend their powers to serve a special method override notice when they consider that a partial exemption method has resulted in an unfair recovery of VAT, and where there has been a significant loss of revenue. Approval of, or direction to use, a special partial exemption method will need to be provided in writing.

In cases where a special partial exemption method makes no provision for dealing with certain types of input VAT, that input VAT will only be recoverable to the extent that it has been used to make taxable supplies.

The ability to “round up” recovery rates will be removed for businesses whose residual input VAT exceeds £400,000 per month, irrespective of whether standard or special partial exemption methods are used.

Unjust enrichment

Customs are making some changes to their interpretation of “unjust enrichment” when considering claims for overpaid VAT.

With effect from 23 March 2005, Customs can use the defence of unjust enrichment against businesses making claims who are in a net repayment position for VAT. In addition, unjust enrichment will no longer be limited to the amount actually paid over to Customs, they will now look at the gross amount of **overcharged** output VAT. Claims for input VAT and refunds of duplicate payments of VAT will remain outside the rules for unjust enrichment.

VAT summary...

The three-year limitation on claiming refunds of overpaid VAT is restated, particularly as it applies to:

- errors on returns, where the three years runs from the end of the prescribed accounting period
- errors made by voluntary disclosure, where the three years runs from the end of the prescribed accounting period in which the disclosure is made
- overpayments as a result of Customs assessments, where the three years runs from the end of the prescribed accounting period in which the assessment was made
- overpayments made as a result of duplicate payments, where the three years runs from the date of the overpayment.

Reduced rate supplies

The reduced VAT rate of 5% will be extended to include the installation of air source heat pumps and micro-combined heat and power units in residential accommodation and qualifying charitable buildings, with effect from 7 April 2005. Supplies of advice or information related to the welfare of elderly or disabled people, or children to welfare charities and “state-regulated” welfare providers will also be subject to the 5% reduced rate of VAT. This rate will be implemented from a date which is to be subject to consultation.

Personal tax summary...

Income tax

Rates & allowances

The rates of income tax remain unchanged, whilst the thresholds at which these rates apply and personal allowances have been increased in line with indexation. The lower and upper earnings limits for national insurance contributions (NIC) have been raised in line with inflation.

Personal pension contributions

The pension scheme earnings cap has been set at £105,600 for the tax year 2005/06. The main effect of this limit is to set a ceiling on the contributions that can be paid to, and the benefits that can be paid by, tax-approved pension schemes. For further information on the Pensions Reform changes from 6 April 2006 please refer to the separate insert.

Individual Savings Accounts (ISAs)

Following consultation announced in the December 2004 Pre-Budget Report, the current ISA limits of £7,000 for maxi ISAs and £3,000 for cash ISAs are to be retained until 5 April 2010. This extension will take the overall cumulative total that could have been saved tax-free under the ISA regulations since 1999 to £77,000.

ISAs no longer benefit from the 10% dividend tax credit, which was withdrawn with effect from 6 April 2004, but this does not detract from their benefits to higher-rate taxpayers.

Child Trust Fund

All children born after 1 September 2002 are eligible for the Child Trust Fund, which will be fully operational from 6 April 2005. All children will receive a minimum of £250 for investment in a long-term savings account and further contributions from parents, other family and friends of up to £1,200 per annum can be made. No tax will be payable on any income or gains arising on these funds.

Consultation on a further minimum payment of £250 for all children at the age of seven is also under way and the Chancellor has now announced that consultation will be undertaken as to what further payments should be made into these funds when the child reaches secondary school age.

Pensioners

Pensioners once again benefited, with confirmation of the announcement in the December 2004 Pre-Budget Report that personal allowances for those aged 65 and over will increase in line with earnings (as opposed to indexation) from 6 April 2005. In addition, households with someone aged over 65 will receive a minimum of £200 in Autumn 2005 under the Winter Fuel payment scheme and a contribution of £200 towards the payment of their council tax bills (to be paid at the same time as the Winter Fuel payment).

Finally, those pensioners in England aged 60 and over who are prepared to travel "off-peak" will receive free local bus travel from 6 April 2006. This brings England in line with Scotland and Wales, where free bus travel is already available.

Stamp Duty Land Tax (SDLT)

The threshold at which SDLT becomes payable on residential property has been doubled to £120,000 for transactions entered into on or after 17 March 2005. SDLT in respect of residential property in designated disadvantaged areas remains unchanged and therefore a charge first arises where the total value of the consideration is over £150,000. This should remove around 300,000 residential property transactions per year from the SDLT net.

Tax relief for investing in films

The income tax relief available for those producing or investing in qualifying, low budget, British films will be extended until 31 March 2006 (previously, the relief had been due to expire on 1 July 2005). "Low budget" includes films with a total production expenditure of up to £15 million.

It is intended that current reliefs for large budget films will be replaced next year, with the new rules being based on the new tax relief model for low budget films (details of which were published on 21 September 2004). Formal consultation across the entire film sector will now take place – a timetable for this process will be announced shortly.

Anti-avoidance: tax relief for films

The December 2004 Pre-Budget Report announced measures to counter tax-avoidance schemes in relation to producing or investing in films using financial structures. Film schemes that are affected include:

- those which seek to obtain tax relief more than once on expenditure on any qualifying film
- schemes that use reliefs to defer tax for more than 15 years
- those that enable companies to use “exit” schemes to convert the deferral of tax into a permanent tax advantage
- planning that enable partnerships to get loss relief where money is not really at risk.

In the main, the impact of such schemes was blocked with effect from 2 December 2004.

Capital taxes

Rates & allowances

The inheritance tax (IHT) nil rate band is to be raised to £275,000 from 6 April 2005. The nil rate band for the two financial years thereafter will be £285,000 (2006/07) and £300,000 (2007/08). The level in 2005/06 is marginally above what it would have been if the nil rate band had been increased by the rate of inflation.

The annual capital gains tax exemption (CGT) is increased in line with indexation to £8,500 per year from 6 April 2005.

Modernisation of the tax system for trusts

Proposals to change the trust tax system were first mooted in the December 2003 Pre-Budget Report. Two rounds of consultation have already been undertaken in relation to the potential changes and the 2005 Budget has announced a further round of “discussion” on certain issues.

Legislation giving full details of the measures in relation to the new regime for trusts with vulnerable beneficiaries (which will be backdated to 6 April 2004) and a basic rate band of £500 for all trusts paying tax at the rate applicable to trusts (which will apply from 6 April 2005) will be published in the 2005 Finance Bill.

However, further consultation has been announced in relation to the proposals for the common definitions and tests for trusts and the streaming of income through trusts. The intention is for draft legislation to be published later in the year, with measures to be included in the 2006 Finance Bill. Whilst mentioned in the last round of consultation, the Budget press releases were silent on the CGT basic rate band for estates in administration.

Anti-avoidance: chargeable gains

Further anti-avoidance legislation was announced in the Budget in relation to CGT. This included:

- measures to ensure that trustees of settlements cannot avoid being within the charge to UK tax in respect of chargeable gains under the terms of a double tax agreement. This largely applies to trustees of settlements who are UK resident for capital gains tax purposes for only part of a tax year
- rules to prevent individuals from exploiting the terms of a double tax agreement to avoid UK tax on capital gains realised whilst they are temporarily non-UK resident for tax purposes
- an expansion in the range of assets that are treated as located in the UK for the purposes of a CGT charge. This will largely mean that all shares and debentures in companies incorporated in the UK will be treated as being situated within the UK for CGT purposes.

Pensions reform summary...



Significant changes to the pensions regime are due to come into force from “A-day” on 6 April 2006. The main purpose of the changes is to unify the pensions legislation, creating a basis on which all arrangements must operate.

Whilst there will be no maximum levels of contribution or benefit, there will be limits on the amount of tax relief that can be obtained for pension contributions and tax penalties for some benefits over and above a stipulated level. The “annual allowance” (the amount you and/or your employer can contribute into your pension fund each year without you incurring a tax liability) and the “lifetime allowance” (the maximum level of benefit) have already been set for the 2006/07 tax year, at £215,000 and £1.5million respectively.

Whilst the changes may benefit some people, there are a number who will be adversely affected. The upside is that there is time to plan under the current arrangements, such that your position is as beneficial as possible when the new rules come into force.

What do you need to do now?

Individuals who may be disadvantaged under the new rules and who are likely to benefit most from taking prompt action include those:

- with large funds
- who have fast-growing funds
- with tax-free cash entitlements exceeding 25% of the fund
- who have Small Self Administered Schemes (SSASs)
- who are close to retirement
- who are looking to protect the capital value of their fund in retirement

- with existing Self Invested Personal Pensions (SIPPs) investing in property
- who are currently making FURBS contributions.

Further details of how you could be affected if you fit into any of these categories are provided below.

Large funds

Any individual with total pension funds exceeding £1.5million at 6 April 2006 will be significantly affected by the lifetime allowance. Benefits in excess of this allowance will be subject to a lifetime allowance charge of 25%, payable at retirement, directly from the fund. These excess benefits will then be available as a lump sum taxed at a further 40% leading to an overall tax charge of 55%.

Those individuals who are affected can opt for “primary protection” to increase the value of their lifetime allowance to the level of their total fund value at A-day. If you are likely to be in this position, you may benefit from increasing your fund value prior to A-day, which could be achieved by making the maximum possible contributions before that date.

Fast-growing funds

It is possible to elect for “enhanced protection”, regardless of the size of your fund at A-day. Your fund would then be completely protected from future lifetime allowance charges, providing no further benefits are accrued. Funds can be protected even if they are below the lifetime allowance but are expected to grow at a significant

level, such that they could be affected at a future date.

If you are in this position, you may benefit from maximising your contributions prior to A-day.

Tax-free cash entitlements in excess of 25% of the fund

There is transitional protection available to you if you are in an occupational pension scheme with a tax-free cash entitlement exceeding 25%. Without this protection, your tax-free cash could be significantly lower at retirement. This protection will generally only exist where the benefits are provided by an occupational scheme.

If this applies to you, there is an opportunity to increase the level of your lump-sum cash entitlement by re-examining your salary levels or possibly making additional contributions to your fund. If this is done prior to A-day, the increased level of cash can be protected within the scheme.

Members with tax-free cash entitlements exceeding 25% can protect those benefits, providing they remain within the relevant scheme or the benefits are transferred into new arrangements prior to A-day. In this case, there may be an advantage for you to transfer your benefits from existing schemes into arrangements that provide lower charges, improved fund choice or greater flexibility. This protection is lost if the benefits are transferred after A-day.

Small Self Administered Schemes (SSASs)

It is often possible for members of a SSAS to reallocate benefits within that scheme. The maximum tax-free cash for any member is based on the calculation of salary and service and is therefore a fixed amount.

Thus, an individual with a proportionately larger cash sum may be able to reallocate funds in excess of the maximum tax-free cash entitlement to another member. The receiving member may then be able to receive a larger amount as cash, based upon the calculation of 25% of fund, post A-day. This can significantly increase the total cash sum and reduce the liability to tax, without the need for any additional contribution.

Close to retirement

If you are retiring imminently and you have a tax-free cash entitlement of below 25% of your fund, you may wish to defer taking your benefits. The tax-free cash available should be increased at A-day to one quarter of your fund, which is likely to be more practical and tax-efficient. You would also benefit from the increased flexibility upon retirement under the new regime.

Protecting the capital value of your pension fund in retirement

At present, individuals can purchase an open annuity, which provides an income in retirement based upon the performance of the underlying fund. This also allows for 100% of the fund to be paid to the estate on death, at any age, after retirement.

It will only be possible to establish these schemes prior to A-day. If you want to provide for a full return of your fund on death after retirement, you need to establish this type of arrangement prior to 5 April 2006 or the opportunity will be lost.

However, the 2004 Finance Act introduced the continuation of unsecured income post age 75 in the form of an "alternatively secured pension". With effect from 6 April 2006, this will allow a fund to be passed down to future generations within the pension arrangement.

Existing Self Invested Personal Pensions (SIPPs) investing in property

SIPPs can currently invest in commercial property and borrow in order to do so. The maximum level of borrowing that a SIPP can take on will reduce from the current level of 75% of the value of the property to 50% of the value of the fund after A-day. Many SIPPs will therefore find that they are unable to borrow sufficient amounts under the new rules to enable property to be acquired.

If you are intending to make a purchase of a commercial property via your SIPP, you should consider the level of borrowing required and, where necessary, take action to complete the transaction prior to A-day.

FURBS contributions

The basis on which FURBS operate is changing with effect from 6 April 2006. There appears to be a clear benefit in relation to taxation upon death and the ability to receive benefits as a tax-free cash lump sum from contributions made into a FURBS prior to A-day. Give serious consideration to maximising your contributions to a FURBS in the short term, which will attract transitional protection.

Important note

Pension planning can be complex and no action should be taken as a result of reading this insert without taking independent professional advice.

Summary of **other announcements**...



Civil partnerships

New measures are to be introduced from 5 December 2005 (when the Civil Partnership Act (CPA) 2004 comes into force) to change existing tax legislation and ensure that civil partners are treated in the same way as married couples.

For tax purposes, civil partners are “same-sex couples” per the Inland Revenue press release. The key areas that will be affected are:

- civil partners will be able to make transfers to each other (during lifetime or on death) and benefit from inheritance tax (IHT) exemptions. The legislation will also be amended so that IHT provisions that apply between spouses will apply to civil partners
- capital gains tax (CGT) will apply in relation to civil partners in the same way as it does to married couples. In particular, civil partners will be “connected persons” for the purposes of the CGT legislation and transfers of assets between civil partners will be on a no-gain, no-loss basis

- for the purposes of current (and future) pensions legislation, references to husband and wife (and ex-husband/ex-wife) will be amended to include civil partners
- anti-avoidance legislation to prevent people avoiding tax by transferring their income to others who pay less tax will be extended to include civil partners as well as husbands and wives
- the exemption from SDLT for transactions carried out in connection with divorce (such as the transfer of the “marital” home from joint ownership into the sole ownership of one of the ex-spouses) will be applied on the dissolution of a civil partnership
- where one of the civil partners was born before 6 April 1935, an allowance equivalent to that for married couple’s will be available, based on the income of the highest earner.

Reducing the administrative burden

The Hampton report, published on Budget day, outlines a strategy for reducing the administrative burden of the tax system for small businesses. The Government has published its thoughts as to how this can be achieved and a consultation process will commence, providing an opportunity for small businesses and their advisers to comment on the proposals.

The Government proposals provide that small businesses can, over time, expect to understand their tax liabilities more easily and:

- provide information to the merged HM Revenue & Customs only once
- spend less time dealing with inspections
- benefit from a range of modern, flexible payment options
- enjoy a single point of contact with the new department
- have access to co-ordinated, clear and helpful support and education when (and in the form) they need it.

Outplacement counselling

Part-time employees will be able to receive tax-free outplacement counselling and re-training expenses when they lose their job – currently this relief is only available to full-time employees. Some of the other qualifying conditions in relation to the duration of the training course have also been relaxed. These new rules will be effective from 6 April 2005.

Landfill tax

The standard rate of landfill tax is increased from £15 per tonne to £18 per tonne with effect from 1 April 2005.

Advisers to the independently minded