

# HEYWARDS NEWSLETTER

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## January 2010

### THE PRE-BUDGET STATEMENT

So how will December's Pre-Budget Statement affect you? In the short term, the answer is probably 'very little' because, against a background of low or even negative inflation, income tax rates and allowances have been frozen for 2010/11 (except for people with an income over £100,000, whose personal allowances will be reduced, and over £150,000, who will be subject to the new 50% top rate of tax). National Insurance rates and bands, for employees, directors and self-employed people, will also be frozen at 2009/10 levels.

#### Company car drivers

Most company car drivers will find that their benefit-in-kind charge rises slightly – the benefit is charged as a percentage of the list price of the car, the percentage varying between 10% and 35% depending on the vehicle's CO2 emissions. As originally announced as long ago as the 2008 Budget, the charge for most cars will rise by one percentage point from April 2010 (though the maximum will remain 35%).

Where the employer provides fuel for private motoring, the fuel scale charge is calculated as the same percentage of a 'multiplier', which was £16,900 for 2009/10 but which the Chancellor announced will be £18,000 for 2010/11. Thus the scale charge for (say) a car with CO2 emissions of 173 g/km, which was 23% of £16,900 (£3,887) for 2009/10, will be 24% of £18,000 (£4,320) for 2010/11, an overall increase of more than 11%. (This assumes the car is petrol-driven; higher charges apply for most diesel cars.)

The good news is that there will be a nil benefit-in-kind charge for the five tax years 2010/11 to 2014/15 where a director or employee is allocated a company car powered solely by electricity. The paradox here is that, while the electric cars currently available may not be suitable for many business users, it appears (subject to sight of the final legislation) that it will be possible for director-shareholders to take an electric vehicle as a second company car, for use by another family member (for example, a student son or daughter). All the expenses could then be charged to the company, but the benefit-in-kind charge would be nil. And you could, if you wanted, have a third, fourth, fifth . . . company car.

#### Capital gains tax

Before the Chancellor made his Pre-Budget Statement, there was speculation in the newspapers that he would increase capital gains tax from 18% to 25%. In the event, no such announcement was made. It is possible that an increase could still be announced in the Spring Budget, to take effect from 6 April 2010 (or even from Budget Day itself), so – all other things being equal, which of course they never are – there may be an argument for making any substantial planned disposals before the Budget.

#### Inheritance tax

The Chancellor announced that the inheritance tax threshold, which was to have increased to £350,000 from 6 April 2010, will now be frozen at £325,000.

#### Employed or self-employed?

You may recall that last July the Government published a consultation paper, proposing that the long-running arguments about employment status in the construction industry could be ended by simply deeming everyone working in the industry to be an employee, for tax and National Insurance purposes, unless they provide either their own, substantial equipment (for example, a JCB owner-driver); or all the materials necessary to do a job (for example, under a 'supply and fix' contract); or the services of other workers (for example, a team of bricklayers), rather than just their own labour.

The Chancellor's Pre-Budget Report made it clear that this proposal is still under active consideration and a further announcement is expected shortly. However, it now seems very unlikely that any major changes could be introduced in April 2010, making the earliest practicable implementation date April 2011.

#### Temporary workers

There is likely to be a tightening of the rules which allow some employees, whose working pattern is to have a series of temporary jobs found through an employment agency, to maximise their tax relief for travel and subsistence expenses by being continuously employed by the agency's 'umbrella company' which hires them out to client firms. However, it is not yet clear exactly what is proposed.

#### Business taxation

Firstly, there was no announcement about 'income splitting' and so it appears that the current tax régime for husband-and-wife companies will continue, at least for 2010/11.

Secondly, the Chancellor announced that the planned 1% rise in the small companies' rate of corporation tax (from 21% to 22%) will be deferred until 1 April 2011.

He also confirmed that the temporary 40% first-year allowance for expenditure on machinery and vehicles (other than cars) will, as previously announced, expire on 31 March 2010 for companies and 5 April 2010 for unincorporated businesses. This will not affect the availability of the 100% Annual Investment Allowance for expenditure up to £50,000, though it should be noted that the Conservative Party have said that they will abolish this allowance if they win the General Election.

Finally, the Chancellor proposed a 100% first-year allowance for electric vans bought new (not second-hand) on or after 6 April 2010 (1 April 2010 for companies). However, this proposal is subject to European Commission approval under EU competition law.

#### Employing family members

Although, for 2010/11, there will be no change in the 'Earnings Threshold' (the point at which National Insurance contributions become payable by employers and employees), the 'Lower Earnings Limit' will rise from £95 to £97 a week

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This is important because, where earnings fall between the Lower Earnings Limit and the Earnings Threshold, 'nil rate National Insurance contributions' apply – this apparent contradiction in terms means that no contributions are payable, by employee or employer, but the employee's contribution record is still franked for pension and benefit purposes. For 2010/11, the 'nil rate band' will run from the Lower Earnings Limit of £97 a week (£421 a month) to the Earnings Threshold of £110 a week (£476 a month).

Where family members work part-time in a family business, it is important to remember that worthwhile pension rights can be accrued, at no cost, by paying them a salary just over, rather than just under, the Lower Earnings Limit. Accordingly, if anyone is paid less than £97 a week, it may be very worthwhile to increase their wages from April.

## Value Added Tax

As previously announced, the standard rate of VAT reverts to 17.5% from 1 January 2010. Traders using the Flat Rate Scheme for Small Businesses should note that, as part of the Pre-Budget package, HMRC have published a revised table of flat rate percentages for use from the same date. It must be emphasised that this does not simply reinstate the percentages in use before the temporary 15% rate came into force in December 2008 – for example, the flat rate for 'Retailing food, confectionery, tobacco, newspapers or children's clothing', which was 2%, rises to 3.5%, and that for 'Post Offices', which was 2%, becomes 4.5%. However, some other percentages have moved downwards – for example, the flat rate for 'Computer repair services', which was 11% before the temporary 15% rate came into force, and 10.5% from December 2008 to December 2009, becomes 9.5% from 1 January 2010.

Existing Flat Rate users should therefore check that the new percentage does not make their use of the scheme uneconomic, and traders not currently using the scheme may wish to consider whether a lower flat rate makes it more attractive.

## AVOIDING LATE PAYMENT SURCHARGES

A feature of the self-assessment system is that it imposes a surcharge on income tax paid more than 28 days late – for example, if the final payment for 2008/09, due on 31 January 2010, is not paid by 28 February 2010.

However, HMRC's current practice (possibly prompted by the general recession) is not to levy a surcharge if a trader is suffering temporary cash flow problems and, before the surcharge becomes due (for example, before the end of February), he contacts HMRC's Business Payment Support Service to explain his position and negotiate a 'time to pay' arrangement. Interest will, however, remain payable under the usual rules.

The point of contact is the Business Payment Support Line on 0845 302 1435, open 8am to 8pm Monday to Friday and 8am to 4pm Saturday and Sunday. Further information may be found at [www.hmrc.gov.uk/pbr2008/business-payment.htm](http://www.hmrc.gov.uk/pbr2008/business-payment.htm).

## PENSION POINTS

Two, unrelated, points are worth bringing to clients' attention. Firstly, on 6 April 2010 the minimum age at which an individual may begin to draw his or her retirement pension, under a company pension scheme, a personal pension plan or any other tax-approved pension arrangement, will rise from 50 to 55.

However, anyone whose pension commenced before 6 April 2010 will be able to continue drawing it, even if he or she is not yet 55. Accordingly, some people currently aged between 50 and 55 may wish to consider taking their pension before 6 April, even if they do not intend to retire yet.

Secondly, anyone wishing to 'top up' their National Insurance contribution record (to buy additional National Insurance Retirement Pension) should note that voluntary contributions for 2007/08 can be paid at £7.80 a week (£405.60 for the year) until the end of the current tax year (in practice, 1 April 2010, because of Easter). Thereafter, contributions for that year will cost £12.05 a week (£626.60 for the year).

## NEW REQUIREMENTS TO FILE ONLINE

In order to reduce their own costs, HMRC are gradually moving from encouraging, to requiring, traders to submit Tax Returns online.

Firstly, all employers will be required to submit their annual PAYE Returns for 2009/10 and later years online. Hitherto, this has applied only to firms with 50 or more employees. Employers who have until now made paper Returns (on Forms P35 and P14) need to start planning how they will comply with the new requirement – basically, the choice is either to ensure you have suitable software to submit the Returns yourself, or to arrange to outsource the preparation and submission of Returns.

Secondly, VAT Returns for prescribed accounting periods beginning on or after 1 April 2010 are supposed to be submitted online, unless the trader's annual turnover is less than £100,000 (excluding VAT) and he was first registered for VAT before that date. However, penalties for continuing to file a paper Return will not be imposed until April 2011.

Thirdly, from April 2011 Corporation Tax Returns will have to be submitted online – however, one expects that most small companies will have their accountants file their Returns.

From 2010 VAT, and from 2011 Corporation Tax, will have to be paid electronically. However, this does not mean that traders will be obliged to adopt online banking. Any method of payment may be used, provided the remittance reaches HMRC as an electronic transfer of funds – this would include, for example, paying over-the-counter at a bank, using an ordinary cheque and the official payslip. Of course, online banking may offer advantages, such as convenience and a reduction in the delay between the funds leaving your account and being credited to the recipient's account.

*This newsletter deals with a number of topics which, it is hoped, will be of general interest to clients. However, in the space available it is impossible to mention all the points which may be relevant in individual cases, so please contact us for personal advice on your own affairs.*