MAYER • BROWN

22 June 2010

Emergency Budget

Foreword

The Government has clearly spent its first 50 days focussing on where expenditure cuts need to be made, and has thankfully not attempted to impose a radical new agenda on the UK tax code without appropriate consultation first.

The Chancellor did outline a five-year proposal to reform the corporation tax system. In addition, HM Treasury has published a discussion document entitled "Tax policy making: a new approach", which promises simpler rules, greater transparency and stability, more open consultation and an objective of greater certainty for taxpayers. The rhetoric suggests that tax policy is central to the economic recovery, and indeed the stated intention is to 'help companies invest, attract foreign investment and boost growth'. The Government intends to consult on this approach in the autumn.

As part of this initiative, the Government has announced that as part of its plan to tackle tax avoidance, it is to examine whether the use of a 'General Anti-Avoidance Rule' would be appropriate. If implemented, this could potentially impact all taxpayers who engage in transactions or planning in a manner which mitigates their expected tax liabilities. On consideration, prior UK governments have rejected such an approach although other countries (such as Canada, Australia and recently the USA) have enacted similar measures. It will be interesting to see where this leads.

Amongst a number of technical measures are the headline grabbing increases to the VAT and capital gains tax rates, and the previously announced reductions in corporation tax rates (to be funded primarily by amendments to the UK capital allowances regime). These were expected given the much publicised requirement to increase tax revenues. Although, perhaps surprisingly given the pre-Budget gossip, the tax free band for income tax was increased and yet no amendments were made to the basic rate of income tax.

Business will welcome the proposals to amend the UK CFC regime and the taxation of branches. However, given that the measures were previously announced and had been part of the previous Government's tax reform policy, the extended timetable will not be welcome and puts back any likely progress in two areas which urgently need reform. The private equity industry will need to consider the effects of the capital gains tax rate increase on carried interest structures, but the extension of the limit on entrepreneur's relief caught many by surprise (and will be welcomed by many small businesses).

Numerous consultations have been announced (and are summarised in this alert), and include a number of industry and formal consultations in the asset management sector. Perhaps the most eye-catching, however, is the review of the taxation of intellectual property, the support research and development tax credits provide for innovation and the proposals of the review by Sir James Dyson.

When put together, the overall summary suggests promise in the area of tax reform, but given the lack of detail available business will view it with cautious optimism.

Business

Bank Levy

The Chancellor announced that a new levy on banks will be introduced from 1 January 2011. The levy is intended to ensure that the banks make a contribution in respect of the risks that they pose to the UK financial system and potentially to encourage banks to move to alternative risk management profiles.

The new bank levy will be based on the balance sheets of UK banks and building societies, together with the UK operations of foreign banks. It will be calculated by reference to the bank's total liabilities (both long term and short term), but Tier 1 capital, insured deposits, repos secured on sovereign debt and policyholder liabilities of retail insurance businesses within banking groups will all be disregarded.

It is proposed that the levy will be set at 0.04% of the relevant liabilities in 2011, rising to 0.07% in 2012. A lower rate is available for longer maturity wholesale funding.

By way of a concession to concerns that a unilateral banking levy would make the City of London uncompetitive with respect to other G20 countries, the Chancellor announced that both France and Germany had committed to introduce a similar levy on their banks, although details of these levies were not provided.

However, there remains a concern that the proposed bank levy may have an adverse impact on the competiveness of the UK as a financial services centre, if the UK implements the bank levy in advance of other major territories such as the US. Currently, the US has proposed a balance sheet levy, but the legislation to implement such a levy is not moving very quickly and both Canada and Japan oppose the introduction of a bank levy. If other countries do not impose similar levies, there is a concern that this could lead to a migration of banking business from the UK to those jurisdictions which either do not impose bank levies, or which impose them at a lower rate than the UK.

Financial Activities Tax

The Government has announced that it will explore with international partners the costs and benefits of a financial activities tax.

Corporation Tax

With effect from 1 April 2011, the main rate of corporation tax will be reduced to 27%. This is part of a phased reduction in part in the main rate of corporation tax, which will see the rate fall to 24% by 2014/15 (the reduction will be financed by amendments to the capital allowances regime, discussed below). In addition, the proposed rise in the rate of corporation tax (from 21% to 22%) for small companies has been abandoned. Instead, the rate will now be reduced to 20% with effect from 1 April 2011. This will have the inevitable knock-on effect on accounting provisions for deferred tax.

This heralds a wider programme of reform from the Government on the corporation tax regime and the taxation of controlled foreign companies and foreign branches. In particular:

- a detailed programme for reform of the corporation tax regime will be announced in Autumn 2010. Consultation will be held with businesses, and a forum chaired by the Exchequer Secretary will be set up in order to consult with multinational businesses on the UK's tax competitiveness.
- simplifying changes will be made to the controlled foreign companies regime in Spring 2011 in order to make the rules easier to operate. Following a consultation, legislation will be introduced in Spring 2012 to effect a wider reform of this area. This is a delay to the previous Government's timetable and HM Treasury are looking to put together new working groups to assist the consultation.
- as previously announced, foreign branches will be taxed on a more territorial basis, and legislation will be introduced in 2011 in order to reform this area. Consultation will take place in Summer 2010 on the options for retaining foreign branch loss relief as part of this reform.

Capital Allowances: Rates and Zero-Omission in Goods Vehicles

Capital allowances enable businesses to write-off the cost of plant and machinery against their taxable income. The rates allowable normally differ from the rates of commercial depreciation used for accounts purposes. With effect from April 2012, the rate of capital allowances is being reduced from 20% to 18% for most plant and machinery, whilst the special rate (applicable to long-life assets, integral features of buildings, etc.) is being reduced from 10% to 8%.

It seems that this change is being introduced to, in part, compensate for the reduced rates of corporation tax announced in the Emergency Budget, although the capital allowances change will also affect non-corporates adversely.

However, for a five year period from April 2010, businesses that purchase new zero-emission goods vehicles will be able to claim a 100% first-year allowance on the cost. The amount of expenditure that will qualify is limited to €85 million per undertaking (e.g. a corporate group) over the five year period. This measure will be included in the new Finance Bill 2010.

Capital Distributions

As discussed in our March 2010 Budget Summary, following the decision earlier this year in *First Nationwide v HMRC*, HM Treasury and HMRC announced in late February that legislation would be introduced to provide greater certainty as to how certain distributions received by UK companies will be taxed. Draft legislation has now been published which provides that distributions which fall within the definition set out in Part 23, Corporation Tax Act 2009 will not be prevented from falling within the distribution exemption regime introduced in Finance Act 2009 by virtue of being "of a capital nature". This measure will have effect for all distributions made on or after 1 July 2009.

The draft legislation also clarifies that distributions made out of reserves arising from a reduction in capital are to be treated as distributions within the Part 23 definition, and this clarification will have effect from 1 July 2009 for distributions made by non-UK resident companies. This will apply for income tax purposes with effect from 22 June 2010 for distributions made by UK companies.

Whilst the legislation will have retrospective effect, companies will be able to opt for the legislation not to apply retrospectively.

Oil and Gas Fiscal Regime

Legislation was introduced under Finance Act 2009 which provided for various reliefs and allowances to be available to companies operating in the UK or the UK Continental Shelf. Amendments to these measures were announced in Pre Budget Report 2009 and the Budget on 24 March 2010; the Emergency Budget confirms that Finance Bill 2011 will include legislation effecting these changes.

In particular, with effect for disposals made on or after 24 March 2010, Finance Bill 2011 will extend the availability of reinvestment tax relief (which provides that no chargeable gain will arise in certain circumstances where the proceeds from the disposal of an asset are reinvested in new oil trade assets, and both the disposal and acquisition qualified for rollover relief) to circumstances in which the disposal proceeds are reinvested in exploration and development expenditure, including drilling costs. The new legislation will also ensure that the reinvestment relief is available in a group context where the company making the reinvestment is not the same company as that making the disposal with effect for disposals made on or after 22 April 2009.

Worldwide Debt Cap

The worldwide debt cap rules were introduced in 2009 to restrict relief for UK financing costs where those costs were excessive compared with the financing costs of the worldwide group. The government has announced a number of changes to these rules, which are designed either to ensure that the rules work as originally intended or to meet concerns expressed by industry representatives. These changes will be included in the new Finance Bill 2010.

One group of changes is aimed at ensuring that accountancy mismatches do not prevent the gateway test for being met. Where a UK company has a liability which is also a liability of the worldwide group, a common value will be attributed to the liability (i.e. that shown in the consolidated accounts).

Certain amendments announced at the previous Budget on 24 March 2010 have been reaffirmed by the new government. Companies within the special corporation tax regime for securitisation companies are to be excluded from the main worldwide debt cap rules and their financing expenses are to be excluded when calculating the worldwide group's financing costs. The changes include a power to make regulations that will enable a company involved in capital market arrangements, and which incurs an additional corporation tax liability as a result of the worldwide debt cap rules, to transfer that liability to another group company.

A number of other provisions, such as the inclusion of guarantee fees in the financing income of a company and the broadening of the definition of debt to include long-term arrangements that have the economic effect of a loan, will also be included in the new Finance Bill 2010.

Consortium Relief

Legislation will be introduced in the new Finance Bill 2010 amending the link company aspects of consortium relief. Under current rules, the link company must be resident for tax purposes in the UK. The rules will be amended so that any company established within the European Economic Area will be able to be a link company.

In addition, a further test will be introduced to the rules which determine the amount of a consortium's losses that may be claimed by the consortium's members. Under the current rules, the maximum amount of losses that may be claimed from a consortium company is determined by the lowest result from (i) the percentage of ordinary share capital held, (ii) the percentage of profits to which the company is entitled and (iii) the percentage of assets to which the company would be entitled on a winding up. The new measure will add an additional test based on the proportion of voting rights and the extent of control the member holds in the consortium.

Personal service companies

The Government has stated that it remains committed to a review of IR35 and the taxation of small businesses. No timetable has yet been announced for the review but the Government has stated that it will release further details shortly.

Research and Development Relief

Companies which meet the definition of small or medium enterprises are entitled to enhanced tax relief for expenditure on research and development. Currently, any intellectual property deriving from the research and development to which the expenditure is attributable must be owned by the company making the claim. Legislation to be introduced in the new Finance Bill 2010 will remove this restriction on the relief and the amendments will have effect for expenditure incurred in an accounting period ending on or after 9 December 2009.

Transfer of a life insurance business to non-EEA overseas company

The Government intends to consult with the life insurance industry on modifications to the rules which govern transfers of long-term insurance to ensure that an intended tax charge does not arise when long-term insurance business is transferred to a non-EEA overseas company. This will be contained in the new Finance Bill 2010.

Taxation of UK Branch of an EEA company following transfer of life insurance business from a UK regulated entity

The Government intends to make regulations this year to ensure that where a UK life insurance business is transferred from a UK regulated entity to an EEA-regulated entity, the UK branch will normally be taxed on the basis of the return made to the overseas regulator. This is an interim measure as UK branches will move to an accounts basis on a Solvency II timescale, along with all life companies.

UK Real Estate Investment Trusts (REITs) and Stock Dividends

UK REITs have existed since 2007. They are either a company or a group with a property rental business which is eligible to and elects to join the UK REIT regime. Profits and gains arising from a property rental business are generally exempt from corporation tax.

One requirement is that a UK REIT has to distribute 90% of the profits from its property rental business (the so-called "distribution requirement"). The shareholder is taxed as though the dividend is income from property, giving the investor a return similar to investing in property directly.

To date, stock dividends are not treated as dividends for this purpose and so cannot be used by REITs. To offer greater commercial flexibility to REITs, the law is being changed to allow stock dividends in lieu of cash dividends. Shareholders will be taxed as though they received a cash dividend.

This measure will take effect once the new Finance Bill 2010 is enacted. It was announced at the previous Budget on 24 March 2010 and was mentioned in our March 2010 alert.

Insurance Consultations

A number of consultations are ongoing:

- the Government will continue to consult on changes to the transfer of business rules;
- the Government will continue to consult on the tax treatment of life insurance company investments in Venture Capital Investment Partnerships; and
- a consultation on proposed changes to Solvency II will continue through various HMRC/industry working groups despite the consultation period ending on 2 June 2010.

In addition, the Government will consult on changes to the rules used to determine the basis for the deduction in respect of policyholder tax.

Asset management

The Government has announced that it will hold discussions with industry and will undertake formal consultations on a variety of issues concerning the asset management sector. These will include consultations on the implementation of UCITS IV, the introduction of a tax transparent contractual fund vehicle, the taxation of Investment Trust Companies, potential changes to the Funds Investing in Non-Reporting Offshore Funds regulations and Stamp Duty Reserve Tax in respect of investments in underlying funds.

Business Rates

The Government will introduce legislation to cancel backdated business rates bills for newly assessed properties that were split from a larger rateable property.

HMRC Double Taxation Treaty Passport Scheme

Prior to the Emergency Budget, new measures were announced in relation to withholding tax on interest payments. In order to claim withholding tax treaty relief on interest, companies currently obtain direction from HMRC for each loan, which can be an administrative burden. HMRC's Double Taxation Treaty Passport Scheme (the "**Scheme**"), effective from 1 September 2010, is an effort to speed-up and simplify this process.

Under the Scheme, a company resident in a jurisdiction with which the UK has a double tax treaty may apply to HMRC for passport holder status. The Scheme will allow the borrower to apply the relevant treaty rate of withholding tax on interest on all loans entered into by the passport holder. Passports will be granted for five year periods, with HMRC retaining the absolute discretion to refuse to apply the Scheme to any particular borrower or loan. Prospective borrowers will be able to verify a lender's status against the register, which is to be made publicly available (likely on HMRC's website).

Applications are currently being accepted. To apply, companies must certify that they will only use the Scheme for loans in which treaty relief is actually available, as breach of these terms may lead to warnings or removal of passport holder status.

Individuals

Capital Gains Tax

The Chancellor has increased the rate of capital gains tax for higher rate taxpayers from 18% to 28%, effective from midnight on 22 June 2010. The 18% rate remains for basic rate taxpayers. Where entrepreneurs' relief is available, a tax rate of 10% will apply (see below for a discussion of the changes to the rules relating to entrepreneurs' relief).

In addition, the threshold before capital gains tax becomes payable (the annual exempt amount) remains at the current level of £10,100; this will rise in future in line with inflation. This will help to ease the tax payable for many people, and of course married couples and civil partners can together continue to realise £20,200 per annum of gains tax free.

These changes are generally good news for investors, who had widely feared that a new capital gains tax rate of 40% or 50% would be introduced, which would be accompanied by a reduction in the annual exempt amount to as little as £2,000.

One area to watch will be the reaction of the private equity industry to this increase in the capital gains tax rate. The initial response from the British Venture Capital Association was that the increase in the rate will discourage investment in this country and leave the UK in an uncompetitive international position. It goes on to note that entrepreneurs' relief, as currently constituted, does not provide relief to the private equity/venture capital industry which is involved in the investment chain, and the current rules on entrepreneurs' relief should be reviewed by the government.

It will be interesting to see how the new rate of capital gains tax is implemented; generally any change to the rate of capital gains tax occurs at the start of a new tax year – not half way through the year. However, as a practical matter, many people who were in the process of selling assets will have taken steps to finalise their disposal before the Emergency Budget, so this may not prove to be a widespread issue.

Venture Capital Schemes

A number of measures announced in the Budget on 24 March 2010 relating to venture capital trusts (VCTs) and the Enterprise Investment Scheme were also confirmed in the Emergency Budget.

Legislation will be included in a Finance Bill to be introduced as soon as possible after the summer recess which shall mean that VCTs will be able to list on any EU regulated market rather than just in London. In terms of VCT investments, the current legislation will be amended to provide that 70% of the VCT's qualifying holdings must be represented by holdings of eligible shares (increased from 30%) – however, this change will be tempered by the widening of the definition of "eligible shares" to include certain preference shares, which will be welcomed by VCTs and investee companies alike.

In addition, under the new legislation, it will now be sufficient if investee companies have a permanent establishment in the UK rather than having to trade "wholly or mainly in the UK"; but it should be noted that shares in a company will be excluded from qualifying if it is reasonable to assume that the company would be treated as an "enterprise in difficulty" for the purposes of the European Commission's Rescue and Restructuring Guidelines. These changes apply both to VCTs and the Enterprise Investment Scheme.

Entrepreneurs' Relief

A welcome, if somewhat unexpected, move by the Chancellor was to extend the lifetime limit for entrepreneurs' relief from £2 million to £5 million. This means that entrepreneurs will pay a 10% rate of tax on the first £5 million of capital gains arising from the sale of a business.

This was probably the biggest surprise in the Emergency Budget, and should encourage entrepreneurs in order to benefit from the lower rate of capital gains tax. It will also come as a relief to those entrepreneurs who have businesses with unrealised capital gains.

Deduction of Income Tax at Source

Following the consultation held earlier this year, it was announced in the Emergency Budget that HMRC will be given the power to amend the rules setting out the time and manner in which individuals and other non-corporates making interest, royalty or other relevant annual payments are required to report and remit the income tax deducted at source. Legislation effecting this change will be included in the new Finance Bill 2010.

Income Tax Adjustments between Settlors and Trustees

Under current law, a settlor of a trust may receive a repayment of tax on trust income if it is liable to income tax at a lower rate than that assessed on the trustees. Further to the announcement contained in the previous Budget announced on 24 March 2010, the Emergency Budget confirms that legislation will be introduced in the new Finance Bill 2010 requiring settlors to pay a repayment of tax to the trustees with effect for repayments arising on or after 6 April 2010. Such payments to the trustees will be disregarded for inheritance tax purposes.

Taxation of Non-Domiciled Individuals

Further to the statement in the Coalition Agreement between the Conservatives and the Liberal Democrats, the Chancellor announced that a review of the taxation of non-domiciled individuals will be undertaken. Details of the scope and timeframe of this review are to be announced at a later date.

Indexing ISA Limits from 2011

With effect from 6 April 2011, the annual ISA limits will increase in line with the Retail Prices Index, with the new annual limit being rounded to the nearest multiple of £120. Indexation of the ISA limits for subsequent years will have effect from 6 April each year and, following indexation, the cash ISA limit will continue to be (as it is currently is) half of the stocks and shares ISA limit.

Employee Incentives and Benefits

Enterprise Management Incentives

Legislation will be included in the new Finance Bill 2010 amending the requirement that a company granting EMI options to its employees must carry on a trade "wholly or mainly" in the UK, or in the case of a parent company, that at least one company in the group must be carrying on a "qualifying trade" (within the meaning of the legislation) "wholly or mainly" in the UK. For options granted after the date of Royal Assent of the legislation, it will be sufficient if the company granting the options has a "permanent establishment" in the UK, or where the company granting the options is a parent company, at least one company in the group that is carrying on a "qualifying trade" within the meaning of the legislation must have a "permanent establishment" in the UK. This measure was previously announced in the Budget released on 24 March 2010.

Employee Benefit Trusts

It was confirmed that the coalition government will introduce legislation with effect from April 2011 to tackle "arrangements . . . which seek to avoid, defer or reduce liabilities . . . to income tax and National Insurance Contributions or to avoid restrictions on pensions tax relief". The measure is aimed at arrangements which use employee benefit trusts (EBTs) and similar vehicles. This measure was initially announced in the March 2010 Budget, but the Emergency Budget report confirms that:

- Legislation will be introduced and will take effect from April 2011; and
- Employer-financed retirement benefits schemes (EFRBS) are within the scope of this proposal.

Geared Growth and Employment-related Securities

The Government has confirmed that the previously announced consultation on the taxation of employment-related securities, where "geared growth" arrangements are used. The new announcement states that "the aim of the consultation is to develop proposals to ensure that employment income from employment related securities is subject to income tax and National Insurance Contributions". These proposals could affect a variety of arrangements, such as shares which entitle holder only to participate in the rise in value of a company, joint share ownership plans, flowering shares and carried interest arrangements.

Pensions

The Emergency Budget confirmed that legislation will be introduced in the new Finance Bill 2010 to enable the National Employment Savings Trust to be registered with HMRC for tax purposes. This will allow members and contributing employers to benefit from tax reliefs available to registered pension schemes on contributions and investment growth and to be subject to the same tax rules as other tax-registered pension schemes.

The Chancellor also announced certain changes to the treatment of tax-relieved pension savings. One change which will be widely welcomed is the proposal to end the existing rules that create an effective obligation to purchase an annuity by age 75.

More controversial will be the new proposal to limit the tax relief on pension saving with effect from April 2011. It appears that the Government is proposing to limit any higher rate taxpayer relief on pension saving in any tax year if its value exceeds a new "annual allowance" which it appears will be in the region of £30,000-45,000. This would replace the previous Government's

plan to remove essentially all tax relief on any pension saving for those with gross incomes of over £180,000 (with a tapering reduction in relief for those with gross incomes of over £150,000). In the short-term, however, the new Government intends to leave in place the "anti-forestalling legislation" which effectively removes tax relief for those with incomes of £130,000 or more to increase their existing pattern of pension saving to more than £20,000 in a tax year.

Anti-avoidance

Authorised Investment Funds

The Government has announced that the regulations which apply to authorised investment funds ("**AIFs**") and their investors will be amended with immediate effect so that a corporate investor cannot make use of an AIF to obtain a UK tax credit where no UK tax has been paid. The first amendment will ensure that an AIF cannot claim tax relief in respect of interest distributions which represent tax exempt income and the second will ensure that a corporate investor in an AIF cannot seek repayment of amounts suffered in foreign tax.

Loan Relationships

HMRC has been made aware, through disclosures under the tax avoidance disclosure rules, of certain avoidance schemes in which profits arising to a company from a financial asset are not subject to tax as a result of the derecognition of a loan or derivative. The new Finance Bill 2010 will extend the circumstances in which amounts are fully recognised for tax purposes to cases where derecognition arises following the acquisition or variation of a capital interest in a company, partnership or trust or where derecognition is triggered by an event occurring in an accounting period after the period in which the derecognition takes place. These measures will have effect for credits and debits arising on or after 22 June 2010.

The Government will publish a technical note in early July 2010 which will set out proposals for a generic rule to counter tax avoidance schemes involving derecognition.

General Anti-Avoidance Rule

The Government has announced its intention to examine whether a general anti-avoidance rule should be introduced as one element of proposed strengthened defences against tax avoidance. This forms part of its strategic approach to tax avoidance announced in the document "Tax policy making: a new approach" published at the same time as the Emergency Budget.

Disclosure of Tax Avoidance Schemes

The Chancellor has announced that there will be a formal consultation this summer on bringing inheritance tax as it applies to trusts within the disclosure regime. Draft legislation will be introduced as part of the consultation process.

Stamp Duty Land Tax

The Government has announced that it will examine whether further changes to the stamp duty land tax rules on high value property transactions are required to prevent avoidance in this area.

Use of Trusts to Reward Employees

The Budget on 24 March 2010 announced the Government's intention to take action to tackle avoidance through the use of trusts and other vehicles to reward employees. The Government has today stated that it is considering options for tackling these arrangements, including arrangements which seek to avoid the restrictions on pensions tax relief, and intends to introduce legislation in due course (to take effect from 6 April 2011).

Indirect Taxes

VAT

Change of Standard Rate

With effect from 4 January 2011, the current 17.5% rate will increase to 20%.

This will mean that any supply made on or after 4 January 2011 and any acquisition or importation taking place on or after that date will be subject to the 20% rate.

As usual with such a change, anti-forestalling legislation will be introduced. Many arrangements which purport to apply the 17.5% rate to goods or services delivered or performed on or after 4 January 2011 will potentially be subject to a supplementary charge of 2.5%, to bring the rate up to 20%.

Changes to Zero-Rating of Qualifying Aircraft

Announced in the previous Budget on 24 March 2010 but now with an effective date of 1 January 2011, legislation will be introduced in the new Finance Bill 2010 to change the definition of aircraft that can be supplied at the zero-rate of VAT from one based on weight and usage to one based on the status of the customer. Supplies of aircraft will be zero-rated only where used by airlines operating for reward primarily on international routes. Supplies of aircraft to state institutions are not affected by the change.

Lennartz Accounting – Recovery for Mixed Use Assets

As explained in our March 2010 Budget Summary, VAT on immovable property, boats and aircraft has been recoverable by UK VAT-registered persons up front and in full on both the business and private use of the asset (subject to any partial exemption restriction). VAT is then accountable to HMRC over subsequent years in respect of the private use of the asset. This method has been known as Lennartz accounting.

A recent decision of the European Court of Justice has necessitated changes because many UK taxpayers were (wrongly) permitted to use Lennartz accounting.

The changes, to be effective from January 2011 (and to be included in the new Finance Bill 2010) will mean that the upfront full VAT recovery is restricted only to the business use of the asset (so as to exclude any private use).

These changes will mean that there is no entitlement to any VAT recovery on the private use of directors' accommodation.

Other Indirect Taxes

Insurance Premium Tax (IPT): Increase in the Standard and Higher Rates

IPT at the standard rate applies to most general insurance, including property, motor and medical insurance.

The higher rate applies to travel insurance and to insurance (e.g. extended warranties) sold alongside motor vehicles and certain consumer goods, which was introduced in 1997 to stop VAT avoidance through value-shifting between goods (subject to VAT) and related insurance (exempt from VAT).

The rates will increase from 4 January 2011 from 5% to 6% for the standard rate and from 17.5% to 20% for the higher rate (in the latter case, to match the new rate of VAT).

Air Passenger Duty

The Emergency Budget contains announcements relating to air duty. In particular, the Government will consider making changes to the aviation tax system, including switching from a per-passenger to a per-plane duty. These changes will be subject to public consultation.

Carbon tax

The Government has announced that in Autumn 2010, proposals will be published to reform the climate change levy which are intended to provide more certainty and support to the carbon price. This follows the Government's assertion in the Coalition Agreement that a floor price for carbon would be introduced, and efforts would be made to persuade the EU to move towards full auctioning of ETS permits. Subject to consultation, it is intended that legislation will be included in Finance Bill 2011.

Tax Administration and HMRC Powers

Recovery of Overpaid Stamp Duty Land Tax and Petroleum Revenue Tax

Changes (to take effect from 1 April 2011) have been announced to the rules which govern claims for overpaid stamp duty land tax and petroleum revenue tax. The requirement that an overpayment must be the result of a mistake in a return will be removed, as will current restrictions on the right of appeal.

Interest Harmonisation for Corporation Tax and Petroleum Revenue Tax

Legislation will be introduced in the new Finance Bill 2010 to bring corporation tax and petroleum revenue tax within the harmonised interest regime for late payments and repayments of tax. The harmonised regime is designed to replace the current range of different regimes for different taxes with a single legislative framework for all taxes administered by HMRC.

Penalties for Late Filing of Returns and Payments of Tax

The new Finance Bill 2010 will contain legislation which will bring VAT, insurance premium tax, aggregates levy, climate change levy, landfill tax and excise duties with the common late filing and late payment penalty regimes. The new legislation will impose differing penalties depending on whether the delay relates to a late filing or a late payment of tax, and whether such filing or return is required on a monthly or quarterly basis. This measure was previously announced at the Budget on 24 March 2010 and follows a similar harmonisation of the direct tax penalty regimes which was introduced in Finance Act 2009.

Excise Compliance Checks

The Government has announced changes to the compliance checking framework for excise duties. Current legislation on record-keeping, time limits and information and inspection powers will be amended with effect from 1 April 2011.

Security for PAYE/NICS

The Government has announced a consultation (to take place later this year) on the possible introduction of an HMRC power to require financial security from employers who have a history of serious non-compliance in paying PAYE and National Insurance contributions. The consultation will also ask for comments on a new criminal offence for failing to provide financial security (penalised by a fine of up to £5,000).

International Agreements

UK Tax Treaties

The UK has recently entered into a number of double tax treaties. Treaties with the following countries have come into force in the last twelve months:

- Luxembourg;
- Libya;
- France; and
- Saudia Arabia.

Treaties with the following countries have been recently signed but have not yet come into force:

- Hong Kong;
- Germany;
- Bahrain;
- Netherlands; and
- Qatar.

Tax Information Exchange Agreements

The UK has recently entered into a number of tax information exchange agreements with the following countries:

- Dominica and Grenada;
- Belize;
- San Marino;
- Antigua and Barbuda;
- St Christopher and Nevis;
- St Lucia;
- St Vincent and the Grenadines;
- The Bahamas;
- Gibraltar;
- Liechtenstein;
- Turks and Caicos Islands; and
- Anguilla.

Tax rates and allowances 2010/11

	2010/11 £
Personal allowance (age under 65)	6,475
Personal allowance (age 65-74)	9,490
Personal allowance (age 75 and over)	9,640
Blind Person's Allowance	1,890
Married Couple's allowance* (age less than 75 and born before 6 April 1935)	6,865
Married Couple's allowance* (age 75 and over)	6,965
Married Couple's allowance* - minimum amount	2,670
Income limit for age-related allowances	22,900

* Married Couple's allowance is given at a rate of 10%

Personal Pension Schemes

	2010/11 £
Pension scheme earnings cap (1989 cap)	
Pension scheme annual allowance (from 6 April 2008)	245,000
Pension scheme lifetime allowance (from 6 April 2008)	1,750,000

National Insurance Contributions

	2010/11 £
Primary Class 1 contributions	
Lower earnings limit (per week)	95
Upper earnings limit (per week)	844
Primary threshold (per week)	110
Secondary threshold (per week)	110

Class 2 annual small earnings exception	5,075
Class 2 rate (per week)	2.40

Class 3 rate (per week)	12.05

Class 4 contributions	
Lower annual earnings limit	5,715
Upper annual earnings limit	43,875

Capital gains tax annual exempt amount

	2010/11 £
Individuals etc	10,100
Most Trustees	5,050

Inheritance Tax

	2010/11 £
Individual allowance	325,000

Income tax: taxable bands*

£ per year	2010/11 £
Basic rate: 20%	0-37,400
Higher rate: 40%	over 37,400
50%	Over £150,000

* no personal allowance for those with an income over £100,000.

Corporation tax on profits

	2010/11 £
Small companies' rate: 21%	0-300,000
Marginal relief	300,001-1,500,000
Main rate: 28%	1,500,001 or more

Stamp taxes and duties

Transfers of land and buildings (considerations paid)

Rate	Residential in disadvantaged areas	Residential outside disadvantaged areas	Non-residential
Total value of consideration			
Zero	£0 - £150,000	£0 - £175,000	£0 - £150,000
1%	Over £150,000 - £250,000	Over £175,000 - £250,000	Over £150,000 - £250,000
3%	Over £250,000 - £500,000	Over £250,000 - £500,000	Over £250,000 - £500,000
4%	Over £500,000	Over £500,000	Over £500,000

Contacts

The foregoing is a summary of the changes announced.
For further information please contact:

Sandy Bhogal
Partner
+44 (0)20 3130 3645
sbhogal@mayerbrown.com

Michael Cashman
Partner
+44 (0)20 3130 3228
mcashman@mayerbrown.com

James Hill
Partner
+44 (0)20 3130 3227
james.hill@mayerbrown.com

Andrew Stanger
Partner
+44 (0)20 3130 3934
astanger@mayerbrown.com

Peter Steiner
Partner
+44 (0)20 3130 3811
psteiner@mayerbrown.com

Mayer Brown is a leading global law firm with approximately 1000 lawyers in the Americas, 300 in Asia and 450 in Europe. We serve many of the world's largest companies, including a significant proportion of the Fortune 100, FTSE 100, DAX and Hang Seng Index companies and more than half of the world's largest investment banks. We provide legal services in areas such as Supreme Court and appellate; litigation; corporate and securities; finance; real estate; tax; intellectual property; government and global trade; restructuring, bankruptcy and insolvency; and environmental.

OFFICE LOCATIONS AMERICAS: Charlotte, Chicago, Houston, Los Angeles, New York, Palo Alto, Rio de Janeiro, São Paulo, Washington
ASIA: Bangkok, Beijing, Guangzhou, Hanoi, Ho Chi Minh City, Hong Kong, Shanghai
EUROPE: Berlin, Brussels, Cologne, Frankfurt, London, Paris

ALLIANCE LAW FIRMS Spain, Ramón & Cajal; Italy and Eastern Europe, Tonucci & Partners
Please visit our web site for comprehensive contact information for all Mayer Brown offices.
www.mayerbrown.com

This Mayer Brown publication provides information and comments on legal issues and developments of interest to our clients and friends. The material is not a comprehensive treatment of the subject matter covered and is not intended to provide legal advice. Readers should seek specific legal advice before taking any action with respect to the matters discussed in this publication.

© Copyright 2010. Mayer Brown LLP, Mayer Brown International LLP, Mayer Brown JSM and/or Tauil & Chequer Advogados, a Brazilian law partnership with which Mayer Brown is associated.
All rights reserved.

Mayer Brown is a global legal services organisation comprising legal practices that are separate entities (the "Mayer Brown Practices"). The Mayer Brown Practices are: Mayer Brown LLP, a limited liability partnership established in the United States; Mayer Brown International LLP, a limited liability partnership (regulated by the Solicitors Regulation Authority and registered in England and Wales number OC 303359); Mayer Brown JSM, a Hong Kong partnership, and its associated entities in Asia; and Tauil & Chequer Advogados, a Brazilian law partnership with which Mayer Brown is associated. "Mayer Brown" and the Mayer Brown logo are the trademarks of the individual Mayer Brown Practices in their respective jurisdictions.

0446fin
June 2010