



# PKF

Accountants &  
business advisers

# Taxation

## International tax - UK update

December 2009

*PKF (UK) LLP's newsletter designed to help you keep track of developments in UK tax.*

### UK Pre-Budget Report

On 9 December 2009, the Chancellor presented his Pre-Budget Report. The 2010 Budget process is expected to be rather complex with a short pre-election Budget in March/April and a full Budget after the election (whether or not there is a change of Government). The key features of the Pre-Budget Report for expats and those investing in the UK are set out below.

#### Company tax

Further amendments were announced to the worldwide debt cap rules which will come into force for corporation tax accounting periods ending on or after 1 January 2010. The worldwide debt cap rules can, in some circumstances, restrict the UK corporation tax deduction available for intra-group financing charges. The legislation acts to restrict relief available to the UK companies of large groups to the external cost of borrowing of the group as a whole.

A consultation will commence to discuss the merits of introducing a reduced 10% rate of corporation tax applicable to income from patents to encourage investment in innovative British industries to commence in 2013.

Proposals for a completely new Controlled Foreign Company regime will be published in early 2010. This is an important step in ensuring that the UK is a competitive place to do business and we will report on these proposed changes once the consultation document has been issued.

The Chancellor also announced that discussions will begin on a possible exemption from UK tax for foreign branch profits.

[www.pkf.co.uk/taxinternational](http://www.pkf.co.uk/taxinternational)

#### Business support

The Business Payment Support service, which allows struggling businesses to apply to HM Revenue & Customs (HMRC) to defer tax payments and agree a revised payment schedule, is to be extended for 'as long as it is needed'.

#### Income tax and National Insurance Contributions

The table on page two lists the allowances, rates and thresholds for 2010/2011 (note: the tax year starts on 1 April for companies and 6 April for individuals). The main change is a new 50% rate of income tax. A 1% increase in the rate of National Insurance is planned for 2011/12.

#### Offshore bank accounts

The Government has issued a consultation document proposing tough new measures to punish individuals with undeclared offshore tax liabilities. In future, HMRC proposes to charge similar penalties for failure to declare such liabilities to those usually associated with tax evasion. There will also be a new requirement to notify HMRC when opening offshore bank accounts in certain jurisdictions (similar to the FBAR rules in the USA), supported by an additional penalty regime.

Evading tax offshore could, therefore, result in combined penalties of up to 200% of the unpaid tax. In contrast, the current New Disclosure Opportunity (for which taxpayers must register by 4 January 2010) and the longer running Liechtenstein Disclosure Facility offer penalties as low as 10%.

#### Pensions tax relief

On 22 April 2009, the Government introduced anti-forestalling rules to discourage 'high income' individuals from increasing their pension contributions in 2009/10 and 2010/11 beyond their normal annual

level before new restrictions in pension tax relief take effect in April 2011. These anti-forestalling rules applied from 22 April 2009 to individuals with relevant income of £150,000 or more. From 9 December 2009, these rules will also apply to individuals with relevant income of less than £150,000 but at least £130,000.

As before, pension contributions over and above £20,000 per annum (or an individual's normal regular pension saving if higher) made on or after 9 December 2009 will be subject to a claw-back charge. For example, if an individual with income of £140,000

in 2009/10 made his first ever payment to a pension scheme in the sum of £38,000 in September 2009, there is no claw-back charge. However, if the payment had been made on 10 December 2009, a claw-back charge of £3,600 would arise.

In addition, it has been confirmed that the claw-back charge for 2010/11 will be applied at a varying rate to ensure that, where it must be applied, tax relief is effectively restricted to the basic rate where the individual would otherwise obtain tax relief at 40%, 50% or a combination of the two.

## UK tax rates and allowances

Income tax allowances	2009/10	2010/11
Personal allowance (age under 65)	£6,475	£6,475 <sup>#</sup>
Personal allowance (age 65 - 74) <sup>+</sup>	£9,490	£9,490 <sup>#</sup>
Personal allowance (age 75 and over) <sup>+</sup>	£9,640	£9,640 <sup>#</sup>
Married couple's allowance (age 75 and over) <sup>**</sup>	£6,965	£6,965 <sup>#</sup>
Married couple's allowance* — minimum amount	£2,670	£2,670
Income limit for age-related allowances	£22,900	£22,900
* given at the rate of 10%		
<sup>+</sup> reduced (by £1 for every additional £2) where income is over £22,900		
<sup>#</sup> reduced (by £1 for every additional £2) where income is over £100,000		
Blind person's allowance	£1,890	£1,890
Income tax rates	2009/10 band	2010/11 band
10% starting rate for savings income only	£0-£2,440	£0-£2,440
Basic rate 20%	£0-37,400	£0-£37,400
Higher rate 40%	Over £37,400	£37,401-£150,000
Additional rate 50%	-	Over £150,000
Inheritance tax rates on death	2009/10	2010/11
Nil band	£325,000	£325,000
40%	Excess	Excess
Corporation tax	From 1 April 2009	From 1 April 2010
Small companies rate 21%	£0-£300,000	£0-300,000
Marginal rate 29.75%	£300,001-£1,500,000	£300,001-£1,500,000
Main rate 28%	Over £1,500,000	Over £1,500,000
The planned small companies' rate increase to 22% is deferred until 2011/12		
National Insurance Contributions	2009/10	2010/11
Lower earnings limit, primary Class 1 per week	£95	£97
Upper earnings limit, primary Class 1 per week	£844	£844
Primary and secondary threshold per week	£110	£110
Employees' primary Class 1 rate between primary threshold and upper earnings limit	11%	11%
Employees' primary Class 1 rate above upper earnings limit	1%	1%
Class 4 upper profits limit per year	£43,875	£43,875
Class 4 rate between lower profits limit and upper profits limit	8%	8%

## Other Current Issues

### EU based loss making company?

In 2005, in the *Marks and Spencer* case, the European Court of Justice ruled that it was disproportionate for the UK to prohibit a UK parent company from deducting the losses of its non-resident subsidiary when the latter had exhausted all possibilities for relief in its State of establishment. Therefore, the UK's group relief rules at that time contravened Articles 43 and 48 of the EC treaty.

In 2006, the UK Government amended the group relief rules so that UK companies can claim the use of overseas losses of EU resident subsidiaries or sister companies. The Government took a very restrictive view of when a company has 'exhausted all possibilities' for using its losses, limiting relief almost solely to the accounting period in which an EU subsidiary company ceases to trade. However, this approach is currently being challenged and UK companies should, therefore, consider making protective claims where their EU resident subsidiaries or sister companies suffer losses that cannot be used in their own state of residence.

### New reporting obligations for finance directors

Finance Act 2009 imposes new reporting obligations on the Senior Accounting Officers (SAOs) of 'large' UK companies with effect from years beginning on or after 21 July 2009. The rules apply to UK incorporated companies which, in the previous financial year, had turnover of more than £200m or a balance sheet total of more than £2bn. However, it is possible for UK subsidiaries of an overseas parent company to fall within these rules where, for example, the combined turnover or assets of all the UK subsidiaries meet the test.

Each year, the company must notify HMRC of the name of their SAO (this is the person with overall responsibility for the company's financial accounting

arrangements – usually the company's Finance Director) and the SAO must issue a certificate stating whether the company had appropriate tax accounting arrangements throughout the financial year and, to the extent that it did not, give an explanation as to the deficiencies arising. Financial penalties will be levied on the SAO **personally** as well as the company for failure to comply.

### Value Added Tax (VAT)

From 1 January 2010, the UK's standard rate of VAT reverts from 15% to 17.5%. Guidance on what VAT rate to charge on supplies that straddle 1 January is available at <http://digbig.com/5bawbg>

The European Union's new VAT Package affecting cross-border supplies of services, reclaiming VAT incurred in other EU countries and the reporting rules for EC sales lists is also effective from 1 January 2010. You can find further guidance from PKF on each of these at <http://digbig.com/5bawbe>

### Online filing for tax returns and accounts

Online filing using the iXBRL (inline Extensible Business Reporting Language) standard is mandatory for all UK corporation tax returns filed from 1 April 2011 for any accounting period ending after March 2010. Paper returns will no longer be acceptable. Corporation tax also has to be paid electronically from that date. Electronic filing of UK VAT returns also starts in April 2010.

As a complete corporation tax return consists not only of the return (CT600) but also the tax computation and the accounts, iXBRL tags must be applied to each of these elements. The key questions that UK resident organisations must resolve with their advisers are:

- How should data be collected before tagging?
- In which format should it be recorded?
- Who will prepare the accounts in an iXBRL format?

**If you would like to discuss any of the matters raised in greater depth, please contact your local PKF international tax specialist or e-mail: [taxinternational@uk.pkf.com](mailto:taxinternational@uk.pkf.com)**

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