BTG Tax

Tax Angle

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Budget for the floating Voter

This is the headline I used in a Press Release two weeks ago in which I predicted Government support for the young and for pensioners at the expense of the rest of us. I said there would be no tax rises, in either CGT or VAT, as these would come after the election. I confirmed there would be no great giveaway, as the country could not afford it, but I predicted that the fuel duty rise would be deferred. So here we have a Budget for the floating voter.

"Share Incentive Plans and Share Option Schemes are attacked, and there appear to be new rules preventing the use of Employer Funded Retirement Benefit Schemes"

I suspect that Alistair Darling does not realise that it is mainly the young who drink cider, so his offer to provide help for jobs, training and temporary extra funds for universities will be more than offset by the 10% plus inflation rise in duty on cider. Also, the fact that they propose to allow people the statutory right to work beyond the age of 65 will mean fewer jobs for young people. As the Government gives with one hand so it takes with the other.

I am also sure that those pensioners living in Spain, Portugal or Cyprus will be grateful for another year's winter fuel allowance to cope with the Arctic winter conditions so often found in the Mediterranean…

Normally, the Budget follows the path of four clear sectors:

First, discussing the economy, secondly Government finances, thirdly taxation and finally, public expenditure.

This year Darling flitted from one category to the next with no cohesive process, so it sounded like disjointed thoughts connected by sound bites. Why the increase in Entrepreneurs' Relief from £1m to £2m? Why Stamp Duty up 1% over £1m – why not over £10m? Why raise duties on tobacco and alcohol from Sunday 28 and not midnight on the 24th? Why defer the petrol duty rise?

This Budget raises more questions than it answers.

As ever there are the main political tax issues raised by the Budget, but behind that innocuous phrase "taxing tax evasion and avoidance" comes a whole host of measures designed to bring in more tax revenue. There are 17 new, targeted measures to bring in extra tax; many are short on detail. Whilst the Chancellor may have highlighted the Information Exchange Agreement with Belize this may not carry much weight with ordinary taxpayers as there are other areas of more obvious concern.

There will be a disclosure regime for anyone trying to avoid 50% income tax. Share Incentive Plans and Share Option Schemes are attacked, and there appear to be new rules preventing the use of Employer Funded Retirement Benefit Schemes, but as ever detail is thin on the ground. If that was not enough, they slipped in at the end an increase of penalties for late tax returns and late tax payments – penalties up by 400%!!! There are also increased penalties for tax evasion up from 100% to 200%.

When I first started in tax 30 years ago, our 'Gold Standard' was to provide clients with advice within one calendar month of receiving written instructions from them. Today, clients want advice by return and given the complexity of current legislation, this is sometimes difficult. If we had your email details you would have received this newsletter on Wednesday. If you would like to receive e-shots in the future please contact Jasjeet Atwal at jasjeet.atwal@btg-tax.com

Andrew Shaw

VAT and Indirect Tax Highlights - Goodbye Darling!

No real indirect tax surprises this time. The Chancellor has raised the usual thresholds and duties with an unexpected raise of the duty on cider!

In spite of his announcement to Parliament of no changes to VAT, HMRC have published a range of changes to reflect recent case law and European legislative amendments.

- **Thresholds and rates** - VAT registration and de-registration thresholds have been increased in line with inflation to £70,000 and £68,000 respectively, effective 1 April 2010. Fuel scale charges also increase from 1 May 2010 to reflect changes in fuel prices (see Budget Note 44).
- **European changes** - UK VAT law has been aligned to the rest of the EU for the definition of qualifying aircraft for zero-rating from 1 September 2010.

  The law on Lennartz accounting on property, boats and aircraft will be amended from 1 January 2011 to exclude any private use from VAT recovery in accordance with the EU Technical Directive. A distinction is to be made in the legislation between business input tax and non-business VAT. However, the legislation to bring about these changes will only be enacted in the next Parliament.

  Changes to the VAT liability of certain postal services provided by the Royal Mail will be introduced following a European Court of Justice decision. Services that the Royal Mail are not required to make under a licence duty and services provided on freely negotiated terms and conditions will be subject to VAT at the standard rate. There is no change to the VAT liability on postage used by the public. Legislation will be introduced in the next Parliament to have effect from 31 January 2011.
- **Partial Exemption** - Other changes announced in the Budget relate to simplification measures for partial exemption, following a previously issued Business Brief on de minimis limits.
- **Charities** - HMRC are to consider measures to implement the EU cost sharing exemption to reduce the burden on charities who share services.
- **Anti-fraud** - A reverse charge on emissions allowances, to counter fraudulent activities in this sector, will be introduced to replace the current zero-rating of such allowances with effect from 1 November 2010.
- **Environmental taxes** - The standard rate of landfill tax increases to £48 per tonne from 1 April 2010 and to £56 per tonne from 1 April 2011. Changes will be announced to the criteria for determining the lower rate of landfill tax with changes coming into effect from 1 October 2010.
- **Insurance Premium Tax (IPT)** - The 2009 Pre-Budget Report announced anti-avoidance provisions to deem certain fees charged separately to an insurance premium as a premium for IPT purposes. Following discussions with the industry, the legislation has now been amended to target the perceived avoidance more effectively. The changes only affect insurances acquired by individuals but HMRC have indicated that they will be monitoring business arrangements and have included a provision to enable secondary legislation to be introduced if necessary. The new legislation is effective from Budget Day.

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Budget Notes 2010

ISA annual limits increased from 6 April 2010 for all savers to £10,200, of which £5,100 can be saved in cash. Increases annually with effect from 2011 in line with RPI.

- **Life Insurance deficiency relief** – available on surrender of policies on or after 6 April 2010 where taxable gains have arisen earlier in the life of the policy then entitlement to relief if the tax calculation gives a negative result.
- **AIA** – defer your capital expenditure until on or after 1 April 2010 for businesses subject to corporation tax, and on or after 6 April 2010 for businesses within the income tax rules. The Annual Investment Allowance is increased from £50,000 to £100,000 on qualifying plant and machinery.
- **Pensions** – no further changes announced to the already complex new rules as discussed in previous editions of Tax Angle. Care needed before making any pension contributions to ensure a tax charge is not triggered.
- **IHT** – the nil rate band will be frozen at £325,000 for the tax years 2010-11 through to 2014-15 inclusive.
- **TTP** – Time to Pay: the Government has announced this will continue to be available for the time being.

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18% CGT - Unpacks its Suitcase and Stays Another Day

The Capital Gains Tax (CGT) rate of 18% is like that lingering house guest who refuses to go home. Fortunately, it is a wonderful house guest which is clean and tidy and bakes cakes...

Despite several months of anticipation and prediction regarding the CGT rate increasing in the Budget, it is perhaps not entirely surprising that the Government chose to leave the 18% rate in place for the time being. They were always going to be conservative (no pun intended) in their tax measures, not wanting to upset too many people before the long awaited election.

Not only has the rate of CGT stayed the same but they have increased the lifetime allowance for the application of Entrepreneurs' Relief (ER). ER effectively reduces the rate of CGT to 10% where certain conditions are fulfilled. The amount on which that 10% rate can be applied has increased from £1m to £2m. This house guest also brews their own cider and distributes it liberally amongst their hosts.

Of course, like anything that seems too good to be true, it probably is. CGT will almost certainly increase once the new government (whoever it is) has its feet safely under the table, whether that is straight away or perhaps in a year's time. The difference between the new 50% top rate of income tax and 18% CGT is surely too wide for it to remain that way for long. An increase in the 18% rate of CGT would also have a knock-on effect as far as ER is concerned.

It is also worth noting the intended introduction of new anti-avoidance and disclosure rules targeted at 50% income tax payers. This might make 'conversion' of income into capital more difficult but we will need to wait and see what the provisions say.

It does, however, buy people time to consider their tax planning more carefully. People were just beginning to become alive to the fact that it may be worth taking steps to bank the 18% rate of CGT, especially where short to medium term sales of assets are anticipated. Such individuals now have the time to take professional advice and actually take action.

It also remains an excellent time to carry out restructuring of assets where CGT on such actions cannot otherwise be avoided. With the Inheritance Tax (IHT) nil rate band threshold being frozen at £325,000 for the tax years up to and including 2014/15, IHT planning becomes more important than ever and the low CGT rate is a perfect complement to that planning.

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An Empty Budget for Business

With a few small exceptions, theBudget was light on announcements of substance for businesses and corporations. A pre-election increase in tax rates for business had never appeared to be on the cards.

We can, however, speculate from the general tone of the Chancellor, that if a Labour government is re-elected, there will be an emphasis on retaining and expanding targeted reliefs for businesses in industries that the Government wishes to promote, in priority to reducing the general rates of taxation for business overall. Mr Darling certainly does not want to be seen to provide the much maligned banks with tax cuts!

Of interest to small and medium-sized business owners will be the doubling of the Annual Investment Allowance (AIA) from £50,000 to £100,000. As a reminder, the AIA is effectively a 100% capital allowance on qualifying plant and machinery acquired in a financial year. The change is effective from 1 April 2010 for companies and 6 April 2010 for unincorporated businesses.

Apart from this and the increase in the Entrepreneurs' Relief Lifetime Allowance (discussed elsewhere in this Tax Angle) the business related announcements were either very minor or only affect a tiny minority.

The Chancellor did mention introducing a new tax relief for the UK video games industry. It is not difficult to imagine designers of tax mitigation solutions seizing upon this, and developing products to take advantage of these tax breaks in a similar manner to the many film-based solutions in recent times. To think I had always been told that computer games were for kids and adults with too much time on their hands!

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Offshore Tax - Still the Saving Grace?

It wasn't with a huge amount of bated breath that we awaited pronouncements from the Budget in respect of measures to "protect tax revenues". The budget today did not make any groundbreaking changes as to where HMRC sees its best results coming from as it tackles tax evasion. The answer still appears to be from offshore account holders and the talk is still 'tough'.

On the back of what many saw as a failure in the New Disclosure Opportunity to lure errant taxpayers into coming clean, HMRC is now introducing new penalties reminiscent of a by-gone era. The 200% tax penalty has been reintroduced for a deliberate and concealed evasion relating to certain offshore income or gains. This is the maximum rate that applied to tax fraud in the days of the Enquiry Branch, advisers may recall.

Although financial transparency has changed much in the last ten years, there are still some jurisdictions that won't join in. Anyone found to have funds secreted in such locations runs the risk of this very high penalty. The limited exchange of (tax) information with these offshore regimes may encourage investment from those who would deceive, as the chance of discovery is, therefore, perceived to be lower. Correspondingly, the 'punishment' has to be higher.

HMRC has said it is keen to encourage voluntary compliance and the results of the Liechtenstein initiative have been relatively encouraging. The Hidden Economy Advisory Group, set up by the Pre-Budget Report, has identified difficulties in how tax 'ghosts' (businesses which have not registered to pay tax) come forward to declare their existence. HMRC have announced they will improve the process, linked to better education about the unacceptability of tax evasion. We may expect new measures specific to certain business sectors similar to the recent Medical disclosure opportunity.

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Budget Stamped

The Chancellor's Budget did not give anyone too much to shout about, but it will have brought some joy to first time homebuyers as it announced an extended Stamp Duty Land Tax (SDLT) relief.

For residential purchases from 25 March 2010 to 24 March 2012, homes purchased for up to £250,000 will not incur SDLT. The property must be bought, however, with the intention of occupying it as the only, or main home.

It must also be noted that where there is a joint purchase, all the purchasers must be first time buyers.

It is not, however, all good news in respect of SDLT. This cut is estimated to cost the Treasury £230m in 2010-11 and £290m in 2011-12, and will be funded by the introduction on 6 April 2011 of a new 5% SLDT rate on properties that cost more than £1m.

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POCKET TAX GUIDE

It is almost inevitable that the newly elected Government will produce a budget in the summer or early autumn, so the BTG Tax 'Pocket Tax Guide' will be printed at that time.