

# the bottom line

This Spring edition of "the bottom line" focuses on the 2008 Budget which has been the focus of much speculation over the last few months.

## The 2008 Budget

The long-awaited 2008 Budget, delivered on 12 March, marked the culmination of months of speculation concerning major changes to the UK taxation regime, the broad plans for which were announced in the pre-budget report in November 2007. Since then, the proposals, in particular for the taxation of "non-doms" and of capital gains, have been subject to numerous confusing and contradicting revisions and additions by HMRC and The Treasury. The publication of the Finance Bill on 27 March has gone some way to clarify the final position, and this edition is based on this intended legislation. Nevertheless, the current Bill may be subject to further changes before enactment as it makes its way through the legislative process.

The content of this newsletter aims to build on the detailed analysis provided in our Special Edition of 2008 and bring out the key points of change or clarification.

### Personal Tax Rates

From 6 April 2008, the basic rate of tax has been reduced from 22% to 20%. The 10% starting rate will be abolished except for individuals with low levels of savings income. The 20% rate of tax will apply to income up to £36,000, after which the 40% rate will apply. Dividend income will continue to be taxed at 10% within the basic rate band and 32.5% at the higher rate, except for foreign dividends taxed on the remittance basis. Foreign dividends taxed on the arising basis will now benefit from the 10% and 32.5% rates where an individual owns less

than 10% of the company. It is intended that the 10% maximum holding requirement will be withdrawn from 5 April 2009.

### Venture Capital Schemes

The Enterprise Investment Scheme (EIS) allows 20% income tax relief on qualifying investments, and the annual investment allowance has been increased from £400,000 to £500,000. The rate of relief for Venture Capital Trust (VCT) investments remains at 30% with an annual investment limit of £200,000.

### Residence and domicile

The intended changes to the 183 and 90-days tests for residence have been relaxed. Although days of departure and arrival will no longer be ignored, a day will only be counted where an individual is in the UK at midnight. There is a further relaxation for those who are in the UK purely for transit in that such days will not be counted even if the taxpayer is in transit at midnight.

The £30,000 charge for users of the remittance basis who have been in the UK for 7 out of the preceding 9 years will go ahead. However, the de minimis amount below which the remittance basis is automatically available without the loss of annual tax allowances has been raised to £2,000. The £30,000 has also been recharacterised as a tax credit against unremitted income or gains to be nominated in the year in question by the taxpayer. This is to ensure that the amounts "franked"

by the credit, if brought into the UK at a later date, are not subject to a further tax charge. However, there are strict new matching rules which determine the order in which income and gains are deemed to be brought into the UK and this appears to mean that untaxed chargeable remittances may be deemed to be brought in before the franked remittances.

A further intention of the Government is that the new definition of the charge will mean that it is eligible for relief under doubly tax treaties although this will depend on the interpretation of the individual countries.

Other changes aimed at closing loopholes such as ceasing income sources and gifting income to connected parties will go ahead as planned as detailed in our earlier newsletter.

### Offshore Structures and Non-Doms

The proposed rules relating to offshore trusts have been subject to some relaxation. Settlers who retain an interest in an offshore trust which they have settled will not now be taxed on the trust's gains as they arise. Instead, they will be taxed only when they receive a capital payment from the trust. In the case of a non-domiciled beneficiary, the remittance basis will be available to shelter capital payments made



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offshore (e.g. into the beneficiary's offshore bank account) and not remitted into the UK. A further relaxation is that the gains on both UK and non-UK assets within the trust can benefit from the remittance basis when paid out to a beneficiary.

The Government has also clarified that gains already made by offshore trusts will not be caught when matched with capital payments made after 6 April 2008. Furthermore, inherent gains in trust assets can be washed out by the trustees electing for all assets to be rebased as at 6 April 2008. This will also include gains in underlying companies owned by the trust. This rebasing will not be possible for assets owned individually or for assets in offshore companies owned individually and not through a trust.

The planned changes for offshore companies owned by UK-resident participators will go ahead in that the company's gains will be attributed to the UK-resident participators with the option of only offshore and not UK assets being subject to a claim for the remittance basis.

### Anti-Avoidance - Double Tax Treaties (DTTs)

Widespread measures are to be introduced to counter schemes which are considered to abuse certain provisions with DTTs in order to avoid UK tax. The first measure is designed to counter the use of partnerships established in a treaty jurisdiction by UK residents claiming exemption from tax on UK profits by virtue of the DTT. This will apply in particular to Isle of Man property development partnerships. The second measure is similar but more widely cast and is intended to catch all structures which make use of the Business Profits Article within a DTT to artificially shelter UK profits that accrue to a UK resident.

### Capital Gains Tax (CGT)

From 6 April 2008 the CGT annual exemption has been increased from £9,200 to £9,600. The proposed 18% flat rate will go ahead and taper and indexation reliefs will be abolished.

#### Contacts:

For further information about the issues raised in this newsletter or if you would like to find out about the range of services that we can offer, please contact Stephen Dabby, Morisha Christy, Tony Sian, Nick Nicolaou or Alex Green.

"Entrepreneurial Relief" will provide a limited relief on the first £1,000,000 of business gains realised in a taxpayer's lifetime, which will be subject to a reduced 10% rate. This will apply to the disposal of all or part of a partnership or sole trade which has been owned for at least a year, or to trading company shares where the vendor owns at least 5% and has been an officer or employee for the last year. The qualification rules are somewhat tighter than those for Business Asset Taper Relief.

### Income Shifting

In a welcome move, the Government has delayed the introduction of the "income shifting" legislation until 6 April 2009, pending further consultation. The proposed legislation seeks to attack family business arrangements where income is paid to an individual in excess of their "contribution" to the business.

### Inheritance Tax

As previously announced, from 6 April 2008 any unused Nil Rate Band on the death of the first spouse may be transferred to the second spouse to prevent it being lost. The Nil Rate Band for 2008/09 will rise to £312,000.

The deadline by which a current life interest in a trust fund might be transferred to another person without it entering the "relevant property regime" has been extended from 5 April 2008 to 3 October 2008.

### Business Taxation

A number of changes will affect the taxation of businesses, some of which were announced in previous budgets:-

- The main rate of corporation tax for large companies will be decreased from 30% to 28% from 1 April 2008. The small companies' rate will increase from 20% to 21% on 1 April 2008 and to 22% on 1 April 2009.
- Changes to capital allowances. Writing down allowances will decrease from 25% to 20% for general plant and machinery and

increase from 6% to 10% for long life assets. Industrial buildings allowances will decrease from 4% to 3%. Capital allowances on the "integral features" of a building will decrease from 25% to 10%. Small and medium-sized businesses will qualify for an annual investment allowance of £50,000 which will replace first year allowances. There are also proposals from 1 April 2009 to base the capital allowances treatment of cars on levels of carbon dioxide omissions.

- The research & development tax relief scheme reliefs will be extended from 150% to 175% for small and medium-sized companies and from 125% to 130% for large companies.

### Value Added Tax

The annual registration limit has risen from £64,000 to £67,000 and the deregistration limit from £62,000 to £65,000.

More importantly, there has been a significant increase in the level at which errors on a previous VAT return can be corrected on the return in the period the error is discovered. For accounting periods commencing on or after 1 July 2008, the limit is increased from £2,000 to the greater of £10,000 or 1% of turnover, subject to an overall upper limit of £50,000.

### New Penalty Regime

A reminder that the new penalty regime is to be introduced across all direct and indirect taxes in respect of incorrect returns and the failure to notify of a taxable activity. The new regime will apply to "careless" mistakes and more serious penalties will apply to deliberate errors or omissions, especially where they are concealed. Penalties will also be higher where the disclosure of an error is prompted by HMRC rather than the taxpayer.

**As you will appreciate, it is not possible to cover in detail all of the proposed changes. Please do not hesitate to contact us for advice on how the changes affect your situation.**