EMERGENCY BUDGET SUMMARY...

OVERVIEW

George Osborne presented his first Budget, and the first from a peace time Coalition Government, to an expectant House in which his own backbenchers appeared more anxious than the Opposition. Flanked by his allies, and former critics, and halted at one point by howls from the other side, his speech lacked neither drama nor effect. He outlined the economic problems he was inheriting, and had clearly persuaded his Coalition partners to endorse a Budget which must have seemed to them unpalatable. He described its contents as an "unavoidable" set of measures designed to reduce the unprecedented level of public debt over the next five years. He promised to put up a sign proclaiming that Britain was once again "open for business", while presiding over a massive reduction in the State sector. His approach to public spending is, unsurprisingly, a reversal of the policy of the previous Labour administration with Government expenditure - except for the Departments of Health and Overseas Aid - being subject to an overall 25% cut. Details of the ways in which this will be achieved are to be published in October, but a wholesale assault on the "unsustainable" costs of state benefits was announced.

While the Chancellor clearly intends the bulk of the reduction in public sector borrowing to come from savings, there were, as expected, tax rises. The much prophesied increase in Capital Gains Tax turned out to be less severe than many commentators had predicted (and than the Liberal Democrats had wanted). While the headline rate has been increased, direct alignment with Income Tax has been avoided. Instead gains arising after midnight on 22 June are to be subject to 28% for higher rate taxpayers, but Entrepreneurs' Relief has been substantially increased; which may cause some to regret aspects of the hectic planning carried out in the immediate run up to the Budget.

The headline news was the announcement of an increase in the rate of VAT from 17.5% to 20% with effect from 4 January 2011 – a surprising delay given the passion with which the Chancellor described the dire state of the Government's finances. Three measures introduced, controversially, by the previous Government remain: the 50% top rate of Income Tax, the increase of 1% in National Insurance, and the freezing of the nil-rate band for Inheritance Tax until 2015.

At every stage there were careful efforts to demonstrate that the burden is being spread across all classes and income groups. The swingeing cuts in public spending will clearly have a disproportionate impact on the poorest, as will the increase in VAT. However, this was counterbalanced by an increase of £1,000 in the personal allowance for basic rate taxpayers, the restoration of the link to earnings of the State Pension, and confirmation that existing zero rating for food and children's clothing, and reduced rates on domestic fuel and power, will remain.

For businesses, there is to be a staged reduction in the rate of Corporation Tax over the next five years, to 24% from April 2014, and a reduction in the small profits rate to 20% from April 2011. Clearly this is to encourage inward investment and produce a competitive headline rate of Corporation Tax. Banks, however, are to be made to contribute to the lasting consequences of the lending crisis, with a non-deductible levy applying from 1 January 2011, targeted at the larger banks. In an effort to ensure that the UK is not thereby seen as uncompetitive, the joint agreement of Germany and France to the introduction of similar measures was announced, in anticipation of wider international agreement.

Otherwise, the Financial Services community may feel conscious that the Chancellor, whilst recognising its contribution to the economy, was too keen to stress that he would not be dominated by its interests. Rather like a report on a bright pupil who has become irritatingly over-bearing, the message is one of guarded appreciation, combined with a hint that other students should be allowed the opportunity to shine. It is to be hoped that such faint praise, together with the uncertainties generated by announcement of a further review of the taxation of foreign domiciliaries (confirmed in the Treasury Report), will not increase unhappiness and insecurity within these sectors, and will not discourage the inward investment which the Chancellor recognises to be so keenly needed.

Briefing

June 2010

CONTENTS — SECTION

1. INCOME TAX ALLOWANCES

The personal allowance for 2011/12 will rise by £1,000 to £7,475 for those aged under 65, although this will be countered by a reduction in the basic rate threshold to exclude higher rate taxpayers from benefiting. This will over-ride any incremental increase in line with the Retail Prices Index ("RPI") for 2011/12.

In relation to the reduction in the basic rate threshold, there are two practical consequences which deserve comment:

i) It will push many taxpayers, whose income was just below the higher rate threshold, into the 40% band.

ii) Those whose income exceeds £112,950 do not receive a personal tax allowance at all, due to the progressive erosion of the allowance for those with income in excess of £100,000. These individuals will nevertheless pay additional tax in consequence of the reduction in the higher rate threshold, without receiving the compensating benefit of the personal allowance increase.

The upper limit for National Insurance Contributions ("NIC") will be aligned with the reduced higher rate tax threshold (the personal allowance above plus the basic rate limit). The 1% rise in the NIC rate and th

e proposed increase in the primary threshold (the point at which employees start to pay NIC) will go ahead from 6 April 2011 as previously planned.

The level at which employers start to pay NIC on wages (the secondary threshold) will increase by an extra £21 per week above indexation from 6 April 2011. Precise figures for this and the basic rate tax threshold will be available after the RPI percentages for September 2010 are published in October.

2. CAPITAL GAINS TAX

2.1 Change in rate

The rate of Capital Gains Tax ("CGT") for higher rate taxpayers and trustees is to be increased from 18% to 28% with effect from 23 June 2010.

For individuals whose total taxable income and gains are less than the upper limit of the Income Tax basic rate band (£37,400 for 2010/11), the rate of CGT remains at 18%. Where the addition of capital gains to income takes an individual over the threshold, he is only subject to the 28% rate to the extent that the combined total of income and gains exceeds the basic rate Income Tax band, with the first tranche being taxed at 18%. Gains realised in 2010/11 before 23 June 2010 will remain liable to CGT at the 18% rate and will not be taken into account in determining the rate of tax for gains arising after 22 June 2010. In working out the CGT payable for 2010/11, taxpayers can deduct losses and the annual exempt amount in whichever way minimises the tax due. Uncertainty remains over the treatment of gains attributed from foreign trusts (see 4 below) and gains taxable under the remittance basis (see 5 below).

Certain CGT reliefs (such as the Enterprise Investment Scheme) allow gains to be deferred until some time after the disposal. In these circumstances the rate of CGT applied to the gain will be determined by reference to the date on which the gain eventually becomes chargeable and not the date on which the original disposal took place. The increase in the CGT rate may mean that such claims should only be made after careful consideration, where the rate applying otherwise would be 18%. Although payment of the tax may be deferred, the rate which eventually applies may now be 10% higher.

2.2 Entrepreneurs' Relief

The lifetime limit on gains qualifying for Entrepreneurs' Relief is to be increased from £2 million to £5 million. The change comes into effect for disposals made on or after 23 June 2010.

If qualifying gains above the £2 million limit have been made prior to 23 June 2010, no further relief is due in respect of those disposals. However, if further qualifying gains are realised after 22 June 2010, the increased relief would apply to the element of the new qualifying gains which fall within the revised cumulative total of £5 million. The relief and increased lifetime allowance also apply when a beneficiary satisfies the necessary conditions for trustees to claim the relief on qualifying holdings.

The other rules for Entrepreneurs' Relief are unchanged.

3. INHERITANCE TAX

Inheritance Tax barely featured in this Budget. The Conservative Party's manifesto pledge to increase the nil-rate band to £1 million per person fell victim to the Coalition Agreement, but it was disappointing to receive confirmation that the threshold will be frozen at £325,000 from 2011/12 to 2014/15.

4. TAXATION OF TRUSTS

4.1 CGT rate increase

The increase in the rate of CGT reported above affects most UK resident trusts (excepting charitable trusts) as well as individual taxpayers. Thus trustees will pay CGT at 28% on trust gains realised after 22 June 2010. This is a flat rate for trustees and, by contrast with the treatment of individuals, does not depend on the quantum of income and gains in the year. The annual exempt amount available to trustees for 2010/11 remains at the level previously set of £5,050.

Entrepreneurs' Relief is available to trustees in respect of qualifying disposals where a beneficiary satisfies the necessary conditions. In relation to disposals after 22 June 2010, the lifetime limit for Entrepreneurs' Relief will be £5 million as noted in 2.2 above.

The increase in the CGT rate is also likely to be relevant to non-resident trusts where UK resident beneficiaries pay CGT by reference to the value of capital distributions or benefits received, in so far as these "capital payments" are matched with gains realised by the trustees. The rate of CGT depends on the lapse of time between the trustees' realising the gain and the receipt of a capital payment by the beneficiary, with the normal CGT rate being increased by 10% (of the tax) per annum, capped at a maximum of six years. Whilst the rate of CGT was 18%, the maximum rate applied to trust capital payments was 28.8% (an additional 1.8% for each year). With the rate now having risen to 28%, it is likely that the maximum rate of CGT on attributed gains of foreign trusts will increase to 44.8%, although this is not entirely certain. Nor is it clear how gains attributed to capital payments made (and in the case of remittance basis users, remitted) on or before 22 June will be taxed, as the provisions suppose an undivided fiscal year.

4.2 Settlor-interested trusts - Income Tax adjustment

Settlors of settlor-interested trusts are taxed on the income of the trusts which they have set up. In some cases, the trusts suffer tax at a higher rate than the rate at which the settlor is liable, leading to a refund of tax paid by the trustees to the settlor.

The next Finance Bill will include provisions which require the settlor to pay these Income Tax refunds to the trustees, thereby ensuring that such reimbursements will not be regarded as transfers of value for the purposes of Inheritance Tax. These provisions will have effect for trust income arising on or after 6 April 2010.

5. FOREIGN DOMICILED INDIVIDUALS

The Treasury have re-affirmed the announcement made in the new Government's Coalition Agreement that there will be a further review of the taxation of non-domiciled individuals, notwithstanding the extensive changes implemented in 2008. The timing and outcome of this review is a matter for conjecture, and it is by no means certain that further substantive changes will result. However, the stated aim is to ensure that non-domiciliaries make a "fair" contribution to the Government's debt reduction programme, in return for greater certainty and stability regarding their treatment under the tax system.

It is unclear how the increase in the CGT rate, from 18% to 28%, will interact with rules under which non-domiciliaries pay tax on foreign gains remitted to the UK. It is possible that the new rate will apply to gains remitted after Budget Day, regardless of when the gains in question originally arose, but details will be keenly awaited. However, those claiming the remittance basis and paying the £30,000 Remittance Basis Charge will be taxable at 28% regardless of their level of income and gains.

6. BUSINESS TAX

6.1 Corporation Tax Policy

Corporation Tax reform

The Government has announced that it will set out a detailed programme for Corporation Tax reform in the Autumn. It will also establish a business forum, chaired by the Exchequer Secretary, to consult with multinational businesses on the UK's tax competitiveness, including the long-term aim of reform of the corporate tax system.

The Government has stated that it recognises the need to provide greater certainty for business by committing to principles for corporate tax reforms, including a broad corporate tax base, a low corporate tax rate, and a more territorial approach to corporate taxation.

Office of Tax Simplification

The Government has published a discussion document setting out a number of proposals for improving the framework for developing, legislating and implementing tax policy. The Government has also confirmed its intention to create an independent Office of Tax Simplification. More details will be published shortly.

6.2 Rate of Corporation Tax

The Chancellor has announced that the main rate of Corporation Tax will be cut from 28% to 27% from 1 April 2011. The small profits' rate of Corporation Tax will also be cut from this date from 21% to 20%. It has been confirmed, as reported in the March 2010 Budget, that legislation will be incorporated in the 2011 Finance Bill to reform and simplify the associated company rules.

The Chancellor has also announced that the main rate of Corporation Tax will be further cut to 26% from April 2012, to 25% from April 2013, and to 24% from April 2014 with the intention of ensuring that the UK maintains a competitive edge.

The main rate and small profits' rate of Corporation Tax for profits from oil extraction and oil rights in the UK will remain at 30% and 19% respectively.

6.3 Capital Allowances

Plant and Machinery

With effect from 1 April 2012 (for Corporation Tax) and 6 April 2012 (for Income Tax), the rates of writing-down allowances ("WDAs") for new and unrelieved capital expenditure on plant and machinery will be reduced from 20% to 18% per annum for expenditure in the main rate pool; and from 10% to 8% per annum for expenditure in the special rate pool. Expenditure on long life assets, thermal insulation, integral features and cars with emissions of 160g/km or more (in the case of cars purchased on or after April 2009) is allocated to the special rate pool.

Reduction in Annual Investment Allowance ("AIA")

The AIA provides a 100% deduction for capital expenditure on most plant or machinery (except for cars) up to a maximum amount, which is currently £100,000 per annum. The Chancellor has announced that the maximum amount of the AIA will be reduced to £25,000 per annum with effect from April 2012. Capital expenditure above this threshold will continue to be eligible for standard capital allowances against taxable profits.

100% first year allowance on zero emission goods vehicles

The Government has announced that it plans to proceed with the introduction of a 100% first year allowance for business expenditure on zero emission goods vehicles. This will be legislated for in a Finance Bill to be introduced as soon as possible after the summer recess, and will have effect for expenditure incurred by companies from 1 April 2010 and by individuals from 6 April 2010.

6.4 Payroll Tax and Employment Incentives

Increase in the rates of National Insurance Contributions ("NIC")

The Chancellor has confirmed that there will be a significant increase in employment taxation next year. From 6 April 2011, the rate of Employees' NIC, and Class 4 NIC for the self-employed, will increase by 1%, with no upper earnings limit. This is equivalent to a 1% increase in Income Tax on all earned income.

In addition, from 6 April 2011, the rate of Employers' NIC will increase by 1%, with no upper earnings limit, although the annual threshold below which no Employers' NIC will be due will be increased by an amount equal to £1,092 plus an allowance for indexation (which will be determined in the Autumn).

Review of PAYE system

The Government has announced that it wishes to explore how the PAYE system could be improved in order to reduce costs and make the system easier for employers and HMRC to administer. As an initial step, the Government intends to consult with employers and payroll providers in the Summer on mechanisms that could support more frequent or real time PAYE data.

Use of trusts to reward employees

The March 2010 Budget announced plans to tackle arrangements using trusts and other vehicles to reward employees. Such arrangements include those that seek to avoid, defer or reduce liabilities to Income Tax and NIC on earnings, or to avoid restrictions on pensions tax relief. In the Emergency Budget, the Government confirmed that Employer Financed Retirement Benefit Schemes will fall within the scope of these measures, and that it intends to introduce anti-avoidance legislation to take effect from 6 April 2011.

Geared growth arrangements

The Government has confirmed that a consultation is being undertaken on the taxation of employment-related shares and securities, where geared growth arrangements are used. The aim of the consultation is to develop proposals to ensure that employment income from employment-related securities is subject to Income Tax and NIC.

Enterprise Management Incentives ("EMI")

The Government has announced changes to the EMI rules to ensure that the scheme complies with EU State aid regulations. The EMI rules will be amended to remove the requirement that there be a qualifying trade carried on wholly or mainly in the UK. This will be replaced with a requirement that the company has a permanent establishment in the UK.

Regional employer NIC holiday for new businesses

Details will shortly be announced of a scheme to enable new businesses in certain regions of the country to get a substantial reduction in their Employers' NIC. Under this scheme, these businesses will not have to pay the first £5,000 of Class 1 Employers' NIC due in the first 12 months of employment. This will apply for each of the first 10 employees hired in the first year of business, and will operate in all parts of the UK apart from London, the South East and the Eastern region. The scheme is intended to start no later than September 2010, and any new business set up from 22 June which meets the above criteria will benefit from the scheme.

IR35

The Coalition Agreement published in May gave an undertaking that the IR35 legislation would be reviewed as part of a "wholesale review of small business taxation". The Government's commitment to this was again repeated in the Budget and it was promised that further details would be released shortly.

Financial security for PAYE/NIC

There is to be a consultation later this year to consider a proposal to introduce powers for HMRC to require financial security from employers who have a history of serious non-compliance in terms of paying late, or not paying, their PAYE Income Tax and NIC.

6.5 Research and Development

Research & Development ("R&D") tax credits

For small or medium sized enterprises (SMEs) claiming enhanced tax relief on expenditure on R&D, the condition that they must own any intellectual property deriving from the R&D is to be removed. This change will have effect for any R&D expenditure incurred by SME companies in accounting periods ending on or after 9 December 2009.

Review of Intellectual Property ("IP") taxation & R&D tax credits

The Government is to consult with business in Autumn 2010 to review the taxation of IP, and to review the R&D tax credits system.

6.6 Bank Levy

There is to be a "levy" (tax) based on banks' balance sheets from 1 January 2011. The levy will apply to the balance sheets set out below, where relevant aggregate liabilities are at least £20 billion:

i) the consolidated balance sheets of UK banking groups and building societies;

ii) the subsidiary and branch balance sheets of foreign banking groups operating in the UK; and

iii) the balance sheets of UK banks in non-banking groups.

It is proposed that the levy will be set at 0.07% per annum, which is expected to raise over £2 billion annually. However, there will be a lower rate of 0.04% in 2011. The levy will not be deductible for Corporation Tax purposes. The Government will consult over the Summer on the details of the levy, and these will be published later this year.

6.7 Corporation Tax Anti-Avoidance

Derecognition of loan relationships and derivative contracts

Legislation will be introduced, with effect from Budget Day, to close down a tax avoidance scheme where the profits arising to a company from a financial asset are said to fall out of account for tax purposes as a result of the "derecognition" of a loan or derivative. The Government will also shortly publish a Technical Note setting out proposals to provide a more generic rule to counter avoidance schemes involving "derecognition".

Corporation Tax Avoidance and Authorised Investment Funds

New measures are to be introduced to counter tax avoidance by corporate investors in authorised investment funds ("AIFs").

The measures will apply with effect from 22 June 2010. They are aimed at preventing companies from claiming the repayment of deemed tax credits on certain AIF distributions in excess of the actual tax paid in respect of the income concerned.

Two changes to the rules will be introduced. First, the Corporation Tax deduction claimed by the AIF on an interest distribution will be reduced to the extent that the distribution is derived from exempt dividends. Second, to the extent that foreign tax is suffered by the AIF, the deemed tax credit in the hands of the corporate investor is treated as a (non-repayable) foreign tax credit.

Amendments to the worldwide debt cap rules

14 separate technical changes have been announced to the "worldwide debt cap" legislation that applies to large groups of companies. The changes will have effect in respect of accounting periods beginning after 1 January 2010.

Life insurance companies

The Government confirmed that, with immediate effect, the anti-avoidance rule included in the last Finance Act to prevent the avoidance of tax on previously unrecognised life insurance profits will be extended to have effect where a life insurance business is transferred to another company.

6.8 Miscellaneous

Controlled Foreign Company ("CFC") and foreign branch reform

A Budget announcement confirmed the Government's intention to reform the CFC regime. Consultation will take place over the Summer on interim improvements to be legislated in Spring 2011 to make the current rules easier to operate and, where possible, to increase competitiveness.

Wider reform will be legislated in Spring 2012, allowing time to consider carefully how to make the CFC rules more competitive, to enhance long-term stability, and provide adequate protection of the UK tax base.

The Government also announced that it will move to a more territorial basis for taxing the profits of foreign branches, to be legislated in 2011, and will also consult in the Summer on options for retaining foreign branch loss relief.

Changes to Consortium Relief

Legislation will be introduced to amend the "link company" aspects of consortium relief for losses, and add a further test to the rules which determine the amount of a consortium's losses that may be claimed by its members.

Capital distributions

New legislation has been published that will broaden the scope of the existing distribution exemption regime so that certain types of distributions received by UK companies can be treated as exempt income distributions for the purposes of Corporation Tax. In addition, the existing rule that limits the application of the distribution exemption regime to distributions of an income nature will be removed. These changes will have retrospective effect to 1 July 2009, but companies will be able to elect for the legislation not to apply retrospectively.

7. VAT

7.1 Rate Increase

The widely predicted increase in the standard rate of VAT was announced by the Chancellor. The standard rate is to rise by 2.5% to 20% and will have effect from 4 January 2011. Existing zero rated supplies such as food, children's clothing, books/newspapers and the reduced rate supplies subject to 5% VAT (such as domestic fuel and power) are not affected by the change in the standard rate. This increase is to be accompanied by legislation in the Finance Bill to counter arrangements designed to apply the 17.5% VAT rate to goods and services to be delivered or performed on or after 4 January 2011.

Insurance Premium Tax ("IPT") has also increased, with the standard rate of IPT rising by 1% to 6% and the higher rate of IPT rising from 17.5% to 20%. These increases will also take effect from 4 January 2011.

7.2 Flat Rate Scheme

Despite the increase in the standard rate of VAT, the threshold for using the Flat Rate Scheme is unchanged. Therefore businesses with a VAT inclusive turnover of up to £150,000 can opt to use the scheme. The threshold for businesses required to leave the scheme has been increased to reflect the VAT increase and, with effect from 4 January 2011, will rise to £230,000. The rates applying to the various sectors under the Flat Rate Scheme have been recalculated to reflect the increase in the standard rate of VAT.

7.3 Penalties

The Chancellor has also announced the implementation of new penalties for late filing of VAT returns and late payment of VAT. The changes to the penalty regime are to be staged over a number of years and introduced by Treasury Orders. The key elements to the new penalty regime are:

i) late filing of quarterly VAT returns will attract a £100 penalty which triggers a one year "penalty period". Further filing failures during the penalty period will generate further penalties with any prolonged failures triggering penalties of 5% of the VAT due on the return. Similar penalties will apply for monthly VAT returns.

ii) late payment of VAT may also attract a penalty. Although the first late payment does not attract a penalty, it will trigger a one year "penalty period". Further late payments within the penalty period will attract penalties of between 2% and 5% (depending on the number of offences) and extensions to the penalty period.

8. PENSIONS

8.1 Restricting pensions tax relief

The previous Labour Government introduced measures to restrict higher rate tax relief on pension contributions for those individuals earning in excess of £150,000 annually, with complete withdrawal for those earning in excess of £180,000. Furthermore, to prevent individuals increasing their pension contributions before this legislation was due to come into force on 6 April 2011, a complex set of anti-forestalling rules was introduced.

Following concerns expressed by the pensions industry and employers, the present Government believes these measures could have unwelcome consequences for pension saving as well as introducing significant complexity to the tax system and damage to UK business and competitiveness. As a consequence these provisions will be repealed although they will be replaced by an alternative approach to limiting tax relief on pension savings. There will, however, be no changes to the anti-forestalling rules which will remain in force.

At present two allowances apply to registered pension schemes, being the lifetime allowance and the annual allowance. The annual allowance (presently £255,000) is the maximum value of contributions from all sources which may be paid into an individual's pension scheme annually. If this amount is exceeded the excess contributions are liable to a tax charge of 40%.

The Government intends to reform these allowances and proposes to reduce significantly the annual allowance to an amount which yields at least the same amount of revenue as would have been raised by restricting tax relief on pension contributions. The Government has indicated that an annual allowance of between £30,000 and £45,000 will be required to achieve this. Before introducing new legislation the Government will undertake a consultation process.

8.2 Transitional measure deferring the effective requirement to buy an annuity to age 77

At present scheme members of money purchase arrangements who have not purchased an annuity by age 75 are entitled to draw income from their fund. There are however significant disadvantages to doing so, as the income which may be withdrawn is subject to strict minimum and maximum levels determined by the notional annuity that could be obtained.

Furthermore, if the fund remaining on death after age 75 is not paid to a charity or to provide a pension for a financial dependent of the deceased, it will be subject to Inheritance Tax and give rise to a potential maximum tax charge of 82%.

These disadvantages make it such an unattractive regime for anyone not wishing to purchase an annuity by age 75 that, in most cases, there is no alternative but to do so. The Government has stated that it wants to reform this area, from 6 April 2011. In the interim period until the changes are implemented, a number of transitional rules are to be introduced with the primary purpose of enabling those reaching age 75 on or after 22 June 2010 to defer their decision on what to do with their pension savings until the new provisions are in place. These rules, which are listed below, will apply to those members of money purchase schemes who have not yet bought an annuity and who attain age 75 on or after 22 June 2010.

i) The strict rules applying to minimum and maximum withdrawals will apply from their 77th birthday as opposed to their 75th birthday.

ii) They will be entitled, immediately prior to their 75th birthday, to income withdrawal and to a tax free lump sum from amounts not previously made available for income withdrawal.

iii) Until 6 April 2011, when the main changes will take effect, the existing IHT death charges will not apply. In their place a 35% tax charge on lump sum death benefits paid from the scheme will apply.

8.3 National Employment Savings Trust ("NEST")

Under existing legislation only registered pension schemes, their members and contributing employers are entitled to the various forms of tax relief afforded to pension scheme contributions and investment growth. A pension scheme can be registered for tax purposes only if it falls within certain categories. At present NEST is unable to be registered which reduces significantly the tax benefits available to it, its members and contributing employees. The Government proposes to introduce legislation allowing NEST to be treated as an occupational pension scheme which would enable it to apply to HMRC to become a registered pension scheme.

9. ANTI-AVOIDANCE MEASURES - STRATEGIC AND SPECIFIC

The Government has published a discussion document, entitled "Tax policy making: a new approach", which acknowledges the disquiet felt amongst tax professionals as to the manner in which changes to tax rules have been introduced in recent years. The discussion document expresses a desire to develop a more stable, predictable and simple UK tax system.

The document also heralds the Government's intention to take a more strategic approach to countering tax avoidance. The hallmarks of this new approach include:

i) legislative approaches that articulate the intended policy objectives, in order to build sustainable defences against avoidance;

ii) a review of areas of legislation which have undergone repeated changes to close loopholes, to strengthen the legislative framework; and

iii) the possible introduction of a protocol setting out circumstances where it is appropriate to introduce changes to the rules applying with immediate effect and without prior consultation.

In particular, there is to be a consultation on the merits of introducing a general anti-avoidance rule ("GAAR"), taking into account other planned changes, such as Corporation Tax reform. The consultation on GAAR will be conducted by HMRC which "will engage informally with interested parties over the Summer".

There will also be consultation over the Summer on whether Inheritance Tax planning through trusts should be brought within the Disclosure of Tax Avoidance Schemes regime, and to examine whether further changes to the rules on Stamp Duty Land Tax on high value property transactions are required to prevent avoidance in this area.

10. FURNISHED HOLIDAY LETTINGS

Landlords with rental income from property which qualifies as furnished holiday lettings ("FHL") are treated as if they carried on a trade. This allowed some Capital Gains Tax reliefs and Capital Allowances to be claimed, and for an FHL loss to be treated as a trading loss. A property will only qualify for this treatment if it satisfies certain tests.

The original legislation, which applied up to 5 April 2006, required that the property be situated in the UK. It was known that making a distinction between UK and European properties might not be compliant with European Law, and accordingly it was accepted that properties within the European Economic area ("EEA") would be treated as qualifying properties from 6 April 2006. The Labour Government announced in the 2009 Budget that these special reliefs would be withdrawn, on all FHL property, with effect from 6 April 2010.

The Coalition Government has revised this decision, and decided that the special FHL reliefs (for all properties within the EEA) will not now be withdrawn with effect from 6 April 2010, and will continue for 2010/11.

However, there will be further consultation over the Summer on further reforms to take effect from April 2011. The consultation will look specifically at proposals which would apply equally to all properties within the EEA, require an increase to the number of days that qualifying properties will have to be available to be let, and actually let, and review the way in which loss relief is given. Draft legislation will be published in the Autumn, with a view to inclusion in Finance Bill 2011.

11. COLLECTIVE INVESTMENT SCHEMES

11.1 Asset Management

The Government plans to hold discussions with the asset management industry and instigate formal discussions on a range of issues concerning the asset management sector, including the implementation of UCITS IV (the European Directive for Undertakings for Collective Trusts in Transferable Securities), introducing a tax transparent contractual fund vehicle, the taxation of Investment Trust Companies and Funds Investing in Non-Reporting Funds ("FINROF") regulations, and in relation to Stamp Duty Reserve Tax Schedule 19 in the context of investments in underlying funds.

11.2 UK Real Estate Investment Trusts ("REITs") and Stock Dividends

A relaxation of the distribution rules for UK REITs has been introduced in the Budget.

The rules require that in order to enjoy tax exempt status, a REIT must distribute 90% of its annual profits to investors by way of dividend. The amendment to the rules now allows this distribution to be made by way of stock dividend in addition to the cash dividend method that applied under the old rules. The amendment allows a degree of flexibility to those REITs which may have encountered cash flow difficulties in recent market conditions. Investors will be taxed on receipt of stock dividends in the same way as for cash distributions and the rules for deduction of Income Tax by the REIT will apply for both forms of distribution.

The new rules will apply to distributions made after the Finance Bill has received Royal Assent.

12. SPECIAL MEASURES FOR CARERS

12.1 Special Guardianship Orders and Residence Orders

The 2010 Finance Bill will include relief from tax for certain payments made to qualifying individuals who care for one or more children placed with them under either a special guardianship order, or a residence order where the individual is not the child's parent or step-parent. The measure means that income from providing care which is normally subject to simplified Income Tax arrangements will be exempt from 6 April 2010. Payments which are made to the guardian by the child's parents or the local authority under the order will qualify for the exemption. The exemption will not extend to kinship carers where there is no residence order in place. Such individuals will instead be entitled to claim the new Income Tax relief for shared lives carers.

12.2 Income Tax Relief for Shared Lives Carers

First outlined in the Pre-Budget Report last year, it has been confirmed that the 2010 Finance Bill will introduce from 6 April 2010 a tax-free allowance for carers who provide accommodation, care and support for up to three individuals placed with them under local authority placement schemes. Caring income will be free of Income Tax up to the amount of the carer's tax-free allowance, which is calculated by reference to the number and the ages of individuals in care. Carers who receive caring income in excess of their tax-free allowance may choose to apply a simplified method of calculating the surplus profits, which will be taxable. Other income received outside the scheme will continue to be subject to its normal tax treatment.

12.3 Capital Gains Tax: Private Residence Relief and Adult Placement Carers

CGT is normally not payable on a gain made on the disposal of an individual's Principal Private Residence ("PPR"). However, this relief from CGT is restricted if the individual has used the property, or any part of the property, exclusively for the purposes of a trade, business, profession or vocation. In these circumstances, the gain relating to the part of the property not primarily used as a residence will be chargeable to CGT.

Where an individual is obliged, under a scheme, to set aside part of the house for the exclusive use of an adult in their care, the PPR rules may prevent part of the gain arising from being exempt. Legislation will be introduced to prevent this possible restriction of PPR relief. This will take effect for any properties disposed of on or after 9 December 2009.

13. AND FINALLY .....

Expenses paid to MPs

The topic of expense claims submitted by Members of Parliament ("MPs") has been the subject of prolific press comment and public debate over the course of recent months and, in response, the Independent Parliamentary Standards Authority ("IPSA") has been developed to deal with the administration of MPs' expenses with effect from 7 May 2010. The IPSA will administer MPs' expenses by formal statutory provisions in conjunction with the Parliamentary Standards Act 2009, rather than by concessionary resolutions passed in the House of Commons. The IPSA exempts from Income Tax and NIC MPs' claims for expenses which are necessarily incurred on overnight stays away from home in performance of Parliamentary duties, the costs of visiting EU institutions or Parliaments, and certain work-related travel expenses. The Authority will also restrict the circumstances in which travel costs incurred by MPs' spouses can be claimed as a tax-free expense.

This Briefing Note provides a commentary on those parts of the Budget which we think will be of specific interest to our clients and contacts.

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