# tlp - news

**December 2009** **The monthly newsletter of The Long Partnership — www.thelongpartnership.co.uk**

***Let's Get Real or Let's Not Play.***

We want you to succeed. We know our products and services have helped clients' success in the past. Our intent is always to find a solution that exactly meets your needs. This helps to ensure a good fit between what we do and what you need. If there is a good fit, let's work together.

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**Quotes**

**"If you don't fail now and again, it's a sign you're playing it safe."**

**Woody Allen, Director**

**"Gardens are not made by sitting in the shade."**

**Rudyard Kipling, author**

**Dates in December**

9 Pre Budget Report

22 Closed till 5 Jan

That was no budget! Not sure what it was but it does not seem to have done much about anything significant. Surely the pain is being left until after the election. We are just left to imagine just how painful it is going to be. No point worrying about it, it will come around soon enough.

But, one thing you can do now is to plan what earnings or profits are going to get caught in the new regime. Consider advancing income into 2009/10 and delaying expenditure into 2009/10. The exact dates will depend on your year end and whether you are a company. However, if you have had a good year (and some people have) consider changing your year end so that these profits fall into 2009/10. What about incorporation. The company tax rate is still 21% and national insurance is going up for everyone except me. Give me a ring and I'll tell you how it is done and it is 100% legal. Brown and Darling don't like it but then I don't much like what they do either. The numbers are just to the left (and up a bit).

Proposals were announced which signal an intention to clamp down on tax avoidance schemes, including those designed to combat the 50% income tax rate for top earners. There are plans to extend the requirements for tax advisers to inform HM Revenue & Customs periodically throughout the year of clients who are taking up certain planning arrangements. Aren't they nice people, those men in grey suits from the Revenue.

A prime concern is that this is to be introduced in conjunction with a change in the definition of what is a 'tax avoidance scheme' for these purposes which may catch some fairly benign tax planning arrangements, introducing further uncertainty for high earners who simply wish to plan their affairs within a complex tax system.

Don't know about you but I tend to think that we need some pretty able people in positions of influence just now to get the economy going. Yet, what do we get? A system to de-motivate or drive away people with flare and talent, with business skills, that could set up and / or grow businesses to provide employment.

Taken in conjunction with the advent of the 50% tax rate, the 1% hike in National Insurance from 6 April 2011 and the slashing of higher rate pension relief, could this be the straw that breaks the camel's back for internationally mobile individuals, who may decide the UK is no longer the best place for them to reside. Surely jobs must follow them out of the country. This may sound as if you know which way I would vote. Not so, it just seems like common sense to me. I'll probably vote SNP anyway.

While there were some new announcements in the Pre-Budget Report, many anticipated changes were noticeable by their absence. It had been mooted that the rate of capital gains tax, which currently stands at 18%, would rise in order to close the gap between this and the prospective higher rate of income tax (due to be 50% from April 2010). Similarly, there were no details of the expected targeted anti-avoidance rules to prevent sources of income being 'converted' into capital.

There were no substantial changes to the rules for private residence relief, whereby any gains are exempt on the sale of a main residence by an individual. It had been suggested that following the MPs' expenses saga that these rules, particularly the ability to elect for a main residence amongst multiple residences, would be tightened or revised.

An extension to the Stamp Duty Land Tax holiday was not announced, and as such the starting band for residential properties reverts to £125,000 from 1 January 2010.

The majority of allowances have been frozen, including the personal allowance at £6,475, along with the income tax thresholds for 20% and 40% for the tax year 2010/11. These are not expected to rise now until at least 2011/12.

So, all in all it was a bit of a non event. Still, doesn't stop us and everybody else from writing about it!

Alan, Helen and the teams at TLP in Kirkwall, Thurso & Inverness

## VAT rules to cause New Year headache for businesses

A number of important changes to the European Union (EU) VAT system will take effect from 1 January 2010 and beyond. This so-called 'VAT package' will affect any business involved in supplying or receiving cross-border services and reclaiming VAT incurred in another EU country.

Although the detail was already known, HM Revenue & Customs has announced that a single statutory instrument has been prepared for all changes which amend the VAT Regulations and come into effect on 1 January 2010.

The main changes include:

- The general place where services will be taxed in 'business to business' transactions will be where the recipient is established. However, there will be important exceptions to this rule, including services relating to property and transport. Changes will also be made to the time when VAT has to be accounted for.
- Businesses involved in selling services across borders will also have additional reporting requirements in the form of EC Sales Lists.

The refund process for VAT incurred in other EU countries will also become more automated because claimants will use an electronic portal in their member State of establishment.

The legislation to introduce some of these changes was included in Finance Act 2009. However, secondary legislation is required to amend the VAT Regulations. Legislative changes are also necessary to amend the reporting requirements for the intra-EU movement of goods. The new rules will affect businesses in a number of ways and 1 January 2010 is now very close. If they have not already done so, businesses should take action now to ensure that they are ready to comply with the new rules.

## The Pre-election Pre– Budget Report before the Pre-election Budget.........

This is an election Budget, not a recession Budget – one which simply defers the evil day. We suspect that the Budget we shall see within the next six months or so will be the one that really matters and it is likely to hurt.

So, we get the "bash the banker" rules that really make no difference to any of us but make some people feel better. They do nothing to help any of us work our way through the present financial headaches. And in any event, the rules are easily circumvented so must just be political sabre rattling. This so-called 'supertax' on bank bonuses is actually a levy, a one-off charge aimed at dampening down the political heat surrounding bankers' bonuses. The company will have to pay a 50% levy on bonuses above £25,000. It could mean that banks will rethink their bonus and remuneration packages to fit. Banks could end up not paying bonuses at all.

So, in the "non" budget, what else stood out for us? Here is our selection.

### Company Cars and Vans

From 6 April 2010, there will be a 0% taxable benefit for employees provided with wholly electrically propelled cars and vans. This compares to the current position where these cars are subject to a benefit based on 9% of their list price, while the benefit on wholly electrically propelled vans is a flat rate of £3,000. This reduction in the benefit will last for five years.

In a further 'green' measure the emission level for cars benefiting from a reduced tax benefit has been lowered from 120g/km to 99g/km. Cars below this emission level will qualify for their tax benefit being calculated on 10% of the list price of the car, with the relevant percentage for all other cars falling between 15% and 35%.

100% first year allowances will be available on newly registered all electric vans from April 2010. In addition, there will be no Vehicle Excise Duty for these cars.

I doubt, though, if we will see many company directors in electric vehicles. Where tax planning conflicts with self image, it usually loses out!

### Increase in NIC – It's 2% Darling!

National Insurance Contribution rates will stay the same until April 2011, but they will then increase by 1% for employers, employees and the self employed. The same increase will apply to both employer and employee contributions, so a total increase of 2% will apply to those drawing salary from their own company. Incorporation anyone? We can get you into a company before the axe falls. Give us a call and we can discuss the pros and cons.

The resulting rates will be: Employee main rate 12%, employee rate over upper limit 2%, Employer rate 13.8%, Class 4 main rate 9%, class 4 rate over upper limit 2%.

Increases in Corporation Tax rates will be suspended for small companies at 21% and 28% for larger companies. There will be no rise in 2010. The proposed 1% increase in the small companies' rate of CT from 21% to 22% will be deferred for a year.

In reality, this is very small beer for the large number of small companies whose profits are very small and bizarrely enough those it helps will be those who pay out dividends rather than salary. However, it has some symbolic merit.

More than 10 million workers, and all of Britain's businesses, will be hit by a surprise increase in National Insurance contributions.

Low paid and part-time workers will benefit from the raising of the National Insurance contribution threshold from £110 to £135 a week.

High earners will be dealt a double blow. Currently, all earnings above £43,888 are subject to National Insurance of 1 per cent. This is to double. So, for example, someone earning £50,000 a year would lose out by £288 a year from the National Insurance increases. Employers would be hit even harder. On top of the employee contributions, the company pays 12.8 per cent of its workers' salaries as National Insurance contribution. This is to increase to 13.8 per cent.

With the 50 per cent tax rate for the richest workers taking effect from next year, anyone earning £150,000 or more will find themselves paying more than half their income as tax. Not only will they be hit by the 50 per cent tax, they will then have to pay a further 2 per cent National Insurance.

The higher rate for higher earners will be 52 per cent on everything up to infinity.

## Income Tax

Income tax thresholds generally rise in line with the retail price index (RPI) in September each year. As the RPI was in negative territory in September 2009, thresholds have been frozen for the 2010/11 tax year. However, the Chancellor stated that from 6 April 2012, the point at which taxpayers start paying higher rate income tax (40%) will be frozen for a further year, instead of rising with inflation. This measure is a return to fiscal drag and is expected to raise £400 million alone.

## Sun goes down on furnished holiday lettings

This measure will affect all landlords who own properties that are eligible for the FHL tax reliefs. Under the FHL regime, the rental lettings business is treated as a 'trading business' (rather than an investment business) for the purposes of loss relief (which includes the ability to offset losses against general income), capital allowances and certain capital gains tax reliefs.

All carried forward losses at that point will be treated as losses arising on a property business and will only be available to be offset against future profits of the same property business. No further capital allowance claims will be possible, but owners will be able to claim the 10% wear and tear allowance and the Landlord's Energy Saving Allowance if they choose.

## Pension relief for higher earners tightened

As announced in the 2009 Budget it has been confirmed that tax relief on pension contributions for higher earners will be restricted from 6 April 2011. This affects those earning over £150,000 and tapers away the higher rate relief until at an income level of £180,000 only basic rate relief is due. At the time, numerous anti-forestalling provisions were also introduced to ensure that taxpayers could not easily act to take advantage of the relief before it disappeared.

The Chancellor has confirmed in his Pre-Budget Report that the £150,000 threshold will now include employers' pension contributions but he also introduced a 'floor 'of £130,000 so that individuals with earnings below this amount (excluding employer pension contributions) will not have their tax relief restricted.

## Short Service - Pension Scheme Repayments

Where a pension scheme repays contributions of a member who has completed less than two years' service, the pension scheme is required to deduct tax at the appropriate rate. The Chancellor announced that the rate of 20% on the first £10,800 and 40% thereafter will be amended to 20% on the first £20,000 and 50% thereafter. This change in tax rates will apply to refunds made on or after 6 April 2010.

## 200% penalty for those who don't disclose

The Chancellor has announced in his Pre-Budget Report (PBR) that combined penalties of up to 200% of the unpaid tax could apply to taxpayers who do not disclose income from their offshore accounts. He announced that legislation will be brought forward to ensure that those who fail to declare offshore tax liabilities "will face tough penalties attracted by deliberate tax evasion".

## Inheritance tax threshold frozen and more anti-avoidance rules

In his Pre-Budget Report, the Chancellor announced that the inheritance tax (IHT) threshold will not be increased to £350,000 in April 2010 as was enacted to happen by means of the Finance Act 2007. The Chancellor commented that given the impact of the downturn on the country's finances and also the decline of asset prices, this uplift was no longer a priority. The nil rate band will therefore be maintained at £325,000 for the 2010/11 tax year, although the Chancellor noted that this will still mean that fewer than 3% of estates will pay IHT.

## Keep warm, talk less

A boiler scrappage scheme dubbed the 'Greener Boiler Incentive Scheme' - a £400 incentive to help up to 125,000 households upgrade old inefficient (G rated) boilers to the latest energy efficient models or renewable heat units. The Government will expect to recoup some of the cost of this through VAT.

HM Treasury, HM Revenue & Customs, and the Department for Business, Innovation and Skills will shortly consult on the implementation of the landline duty. The duty of 50 pence per month (£6 annually) for each land line is being introduced to help fund the roll-out of superfast broadband to 90 per cent of the country by 2017. The Digital Britain White Paper committed to introduce the new duty in 2010/11.

## VAT - Flat Rate

The flat rate scheme for small businesses has taken something of a battering with the government using the return to 17.5% to increase a number of the industry sector rates by more than this increase dictates.

Wholesalers and the agriculture industry are hit hardest although there are possible gains for some small manufacturers and some service sectors where rate reductions are planned. Increases outweigh reductions by 3 to 1.

## 20% Vat to come?

Regardless of which party wins the upcoming election, a further VAT rise cannot be ruled out as a way of reducing the budget deficit - a rise of 2.5 percent rise in VAT could raise £13.5bn, 7 per cent of the budget deficit.

In the past few years Germany and the Netherlands have increased their rate to 19 per cent. It wouldn't be surprising if the UK Government decided to bring the UK rate in to line with its European competitors.

VAT is levied on nearly all goods in Britain, with the exception of most food, and as a result is paid by the young, old, unemployed as well as wealthy. Utility bills have a VAT of 5 per cent levied on them.

Many commentators expect that the higher VAT rates are expected to be announced in perhaps the Budget immediately after the General Election.

## Business Support Scheme

The HMRC Business Support Scheme is to continue for "as long as necessary". £4 billion of tax has been rescheduled under this scheme. £3 billion has been repaid. 94% of those entering an arrangement have managed to keep to it, which is very encouraging. 160,000 businesses have taken advantage of the scheme, and some of them would have gone out of business without it. For many small businesses it will be some time before cash is flowing properly, and this will continue to matter.

# Tax Planning Tips and Tricks

**The money you earn today will be taxed tomorrow!!**

Whoever is in power after the 2010 election, they will have to take some tough decisions. The tax rises announced so far will do little to plug the gap and there will have to be broadly-based tax increases (such as the increases in NIC) in order to make a major difference to the amount the Government needs.

It is likely to be the profits you are earning today that will suffer these new tax rates so consider early incorporation, change your year end to bring profits into 2009/10 and not 2010/11 and the new tax regime, change the timing of tax sensitive events, e.g. equipment purchase, bonus payments. Plan now and save tax next year.

**EIS Companies in Partnership**

We are going to be seeing a lot of structures including companies but beware. HMRC has published their view that EIS companies carrying on their qualifying activity in partnership do not qualify under the EIS.

In simple terms, the trade has to be carried on by the company which issued the shares or its 90% subsidiary. Where the trade is carried on by the company in partnership or by a limited liability partnership of which the company is a member, the condition is breached. EIS is withdrawn. HMRC intends to consult on the consequences of this and on whether there is now a need to cater for some partnership arrangements by revising the law.

Companies in a partnership, if done correctly can be a flexible way to reduce taxes but remember their are special tax rules for companies trading in partnership so don't get caught out. It needs to be done properly, so take advice.

**Work Place Canteens**

The tax exemption for workplace canteens will be restricted from 6 April 2011. The exemption will not apply when used in conjunction with salary sacrifice or flexible benefit arrangements. This enables certain employees to buy canteen meals out of pre-tax/NIC income. The exemption will continue to apply for subsidised canteens that are available to <u>all employees</u>.

**.Seafarer's Earnings Deduction**

The seafarers' earnings deduction is available to individuals who work on ships and are ordinarily resident in the UK. It can give 100% UK tax relief for earnings from carrying out duties as a seafarer wholly or partly outside the UK during an eligible period. Legislation is to be introduced in the Finance Bill 2010 to extend the availability of this deduction from 6 April 2011 to seafarers who are EU or EEA residents.

**Tax Credits – Change in Hours for age 65+**

The working hours requirement for Working Tax Credit (WTC) is either at least 30 hours a week, or at least 16 hours a week in certain circumstances. Older people currently have to meet the 30 hours rather than the 16 hours requirement unless they have dependent children or qualify for a disability element or for the 'return to work' element (for those aged 50-plus who have been on benefits). To provide more support to older people who wish to stay in work, people aged 65 and over will from April 2011 be able to claim WTC if they work at least 16 hours a week (regardless of whether they have dependent children etc).

**High Income Earners – Tax Relief for Pensions**

Changes have been made to the pensions antiforestalling legislation for 2009/10 and 2010/11. In addition, the Government has published its proposals for the post-April 2011 pensions tax relief regime for high income individuals.

n the 2009 Budget, the Chancellor announced that from 6 April 2011 those on incomes of £150,000 or more would have tax relief on their pension contributions reduced. To prevent taxpayers obtaining a tax advantage by manipulating their income and pension contributions in advance of the introduction of the new rules, 'anti-forestalling' provisions were introduced for 2009/10 and 2010/11.

It has been announced that the anti-forestalling provisions will now apply to individuals whose 'relevant income' is £130,000 or higher, rather than to those with incomes of £150,000 or higher. However, tax relief on pension contributions made after 8 December 2009 will be reduced only where the individual has changed their existing pattern of pension contributions and total contributions in the tax year exceed £20,000 (or over £30,000 in certain circumstances). The reduction in tax relief is effected by way of a 'Special Annual Allowance' charge.

Due to the 'look-back' rules, anyone with relevant income of £130,000 or more in any of the tax years 2007/08, 2008/09, 2009/10 or 2010/11 will potentially be within the anti-forestalling legislation.

Income for these purposes is broadly, total income less losses less Gift Aid plus pension contributions made (grossed up if paid net) plus post 21 April 2009 salary sacrifices for employer pension contributions.

**The post 5 April 2011 pensions tax relief regime: who may be affected?**

Individuals will have tax relief on pension contributions restricted if their:

1.Pre-tax income (before pension contributions and charitable donations) is £130,000 or more, and

2.Gross income (Pre-tax income plus pension benefits provided for them, typically employer pension contributions) is £150,000 or more.

The legislation applies only where income in the tax year itself and does not require pre-tax and gross income of the previous two years to be considered as well.

The draft proposals would mean that those with:

1.Pre-tax income of less than £130,000 will not be affected by the rules regardless of the size of employer contributions.

2.Pre-tax income of between £130,000 and £150,000 will only have tax relief on pension contributions reduced if their employer pension contribution takes their gross income to £150,000 or more.

3.Gross income of between £150,000 and £180,000 will obtain tax relief on pension contributions of between 20% and their marginal tax rate by way of a tapering mechanism.

4.Gross income of £180,000 or more will be given relief at the basic rate (20%).