

Beware of the Badger



The Budget came in the midst of us trying to unscramble the 2007 Pre Budget report (PBR) and to plan ahead for what are better times for the majority in the industry. We will no doubt be working up until midnight on 5 April to ensure that Badger, despite his efforts, does not run off with more of the industry's wealth.

It was always going to be a benign Budget, at least on the face of it. Admittedly not a good one for alcoholic, chain smokers who drive five litre trucks, bad news in itself for the industry.

What follows below is a brief list of the significant changes announced in the Budget, most of which were reported back in October.

Capital Gains Tax

As announced in the Pre Budget report (October 2007), indexation and taper relief are to be abolished and for all disposals, after 5 April 2008, by individuals and trustees there will be a flat 18% tax rate. As announced in February 2008, a new Entrepreneurs Relief of £1m is introduced under which qualifying gains made after 5 April 2008 will be taxed at an effective rate of 10%. The £1m is a cumulative lifetime allowance. Entrepreneurs' Relief is only available for gains on disposals of qualifying trading business assets and shares. Assets and shares must be held for at least 1 year prior to disposal. Individuals must work at least part-time for the relevant partnership or company in order to qualify.

Comments

How long will this regime last? Difficult to tell but the impact going forward for those of you selling blocks of land, for example development land or pony paddocks, will be an increased tax rate of 80% if you don't plan ahead. The new Entrepreneurs' Relief in simple terms applies to the sale of a business and it has been made clear by HMRC that part disposals of land not in conjunction with the sale of a business will not qualify. We will be sending out detailed commentary on the new regime after 5 April but planning ahead is important and those forecasting disposals must start planning now. This does not affect companies.

Inheritance tax

The 2008/09 nil rate band increases to £312,000 and any unused proportion of the deceased spouse's nil rate band can be claimed on the death of the survivor.

Comments

The existing regime can't get much better and given the state of the public finances it is wise to do any planning now.

Stamp Duty Land Tax

No significant changes or increases in thresholds. There was some brief tinkering with the rules on partnerships, which is positive. The key point is always remember to consider SDLT. Few professionals understand this tax and many have a disturbing habit of ignoring it – don't, it can catch the most bizarre situations.

Income Tax

- Basic Rate down from 22% to 20% although 10% lower rate abolished so really no better off.
- 10% tax rate on savings income to remain for now.
- Income shifting rules deferred until 2009 but likely to be clamped down on so preparation needed.
- Investors with less than 10% shareholdings in non-UK companies can receive the dividend tax credit therefore basic rate tax payers will receive such dividends tax free.
- From 1 April 2008 new capital allowances rates in line with the Pre Budget announcement in October 2007, namely plant and machinery writing down allowances (WDA) falling from 25 to 20%. Rate for long life assets increases from 6% to 10%.
- New 10% rate for “integral features” covering electrical, cold water, heating and cooling systems, moving walkways and active facades. Some of these “integral features would have been eligible for 50% first year allowances before 5 April 2008.
- From 1 April 2008 the first £50,000 of expenditure a year on most plant and machinery will qualify for 100% relief.
- Low CO₂ emission cars (under 110g/km) will benefit from 100% capital allowances. Certain waste-water recovery systems will also be eligible for 100% first year allowances.
- Individual Savings accounts (ISA) limits have been increased to £7,200 and of this £3,600 can be in a tax-free cash account.

Comment

The deferral of the Income Shifting rules is a bonus but it is difficult to see how it will be applied in practice and this delay probably underlines the problems HMRC is grappling with.

The changes to the capital allowances regime must not be overlooked and again we will be sending some more detailed commentary on this. The simple lesson is to ensure all capital expenditure is correctly analysed particularly when it relates to new buildings.

Indirect Tax

- Alcohol duties up 6% above inflation.
- VAT registration turnover limit rises to £67,000 from 1 April 2008. De-registration limit increases of £65,000.
- New VAT Fuel scale rates to be aware of and will be in the 2008/2009 tax card.
- VAT repayment claims can be made for past years before the introduction of the present three-year time limit for claims. This will allow businesses to make reclaims for the period 1 April 1973 to 1 May 1997.

Corporation Tax

As announced in October 2007, the small companies rate is up 1% to 20%, whereas companies with profits of over £1.5m will benefit from a 2% drop to 28%. This again seems to disadvantage most farming companies.

Associated companies test to identify whether a company qualifies as a small company have been changed such that although companies might have similar shareholders this does not necessarily mean they are associated, the test will revolve around whether the companies are partaking in a "tax planning arrangement".

Comment

Personally a huge fan of corporate structures particularly where they are part of a partnership structure and profit is being retained but watch SDLT.

Other announcements

Charities gift aid

Charities due to miss out following cut in basic rate from 22% to 20% however there is a 2% transitional relief for the next 3 years which will allow Charities to receive gift aid at 22% on the gross donation.

Carrier Bags

Unless plastic bags are phased out the Government will introduce a charge in early 2009.

Residence and domicile

As announced back in October 2007 the government has introduced an annual £30,000 charge for individuals who wish to have income and gains taxed on a remittance basis. This is for individuals who have been resident in the UK for at least 7 of the last 9 years.

The residency test rules have been tightened so that days in transit are now counted towards residency.

Summary

We said at the start of 2007 in the Monthly Farming Update that last year would be all about housing and in many ways it was. The credit crisis has now escalated and it seems the rot is spreading.

We will therefore ride our luck and say we are heading for a recession or are we there already? We are a nation living beyond our means, inflation will rise, it is unavoidable, and interest rates may follow (they may well dip first) despite what the Chancellor says.

In order to balance the books we need to see massive public sector job cuts and to stop wet-nursing all and sundry.

It is simple maths that when an economy's overhead is this vast and growth has slowed something has to give.

The key for our industry is to manage the factors that will affect us, interest rates and inflation.

Clearly we need to work harder to control and minimise our effective Income Tax rates but with careful planning there is still room to manoeuvre. Remember any Income Tax planning must take place during the financial year so forecasting is key. Structures should be flexible to allow for increases in tax rates that may now be unavoidable.

Despite the changes, the Capital Tax regime remains generous.

As we have seen Badgers turn nasty when cornered and unless this one gets culled we could be in for some more Capital Tax shocks in the next few years.

The above has been written by Nick Holmes and Iain Morris of Chavereys. If you are not a Chavereys client and have any specific questions on the above please email Nick at nick.holmes@chavereys.co.uk or call Nick or Iain on 01233 610384. This Technical Release provides general guidance and does not purport to deal with all possible questions and issues that may arise in any given situation. No responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this guidance can be accepted by Chavereys.