

STRATEGIC TAX PLANNING

International & UK Tax Consultants

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UK BUDGET ANALYSIS 2011

Whilst the usual premature euphoria over certain Budget measures has now died down, analysis has revealed that many proposals are not as beneficial as they first seemed!

The only clear winning measure in the Budget is the raising of the lifetime allowance for Entrepreneurs Relief from £5m to £10m (I was actually predicting this the day before!).

The glaring omission in the Budget (and one that both the CBI and the Adam Smith Institute tried to encourage the Chancellor to make) was to name a date for the scrapping of the 50% Income Tax rate.

This he manifestly failed to do.

His only comments were to re-iterate what he has said on countless occasions before; that it is a “temporary measure” and to say that he will have HMRC review the level of tax collection from the 50% tax rate.

The notion that HMRC (who are a Government Body tasked with raising taxes) are actually going to advocate the scrapping of a particular tax, seems totally absurd in my view.

It is also unclear on what basis they will analyse the figures; since HMRC are normally two years behind in terms of collating figures for tax-takes for individual taxes, such as Income Tax.

Since the 50% rate was only introduced in April 2010, it is actually impossible for HMRC to have any figures for a complete tax year to make any such analysis at this time and for at least two years!

This lack of clarity has just produced intense speculation in the Press where various commentators have made unsubstantiated claims that the year of abolition will be 2013 or 2014: And of course the latest linkage by Vincent Cable (Business Secretary) to the introduction of a property tax similar to his proposed “*Mansion Tax*”. All these comments are in my view red herrings.

The truth lies in the failure of the Chancellor to make any clear statement. The reality is that it is unlikely that the tax will be abolished before the end of this Government’s five year term i.e. at the earliest April 2015.

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This means that many high earners who were hanging on to see if there would be a date named, are now going to actively consider leaving the UK. There is effectively a further four UK tax years to pay the 50% rate and if this is earned income with National Insurance, the rate works out at 52%!

In addition, the anti-avoidance measures announced on 9th December 2010 against EBTs and EFURBS (which were the preferred solution for the majority of getting around the 50% rate) means that although there are legitimate tax planning shelters that can mitigate or avoid the rate, they are not that attractive because they tie high earner's money up between 3 and 25 years and involve committing sums to risky investments, such as EIS, VCTs or Enterprise Zones.

Sadly, the encouraging measures on Corporation Tax and CFCs also unlikely to have any impact because as another Advisor so put it: "*The Chancellor does not seem to understand that Companies are run by people*".

The Chancellor has basically given the green line for a further max exodus of high earners from the UK. Even the announcement of a Consultation and Review leading supposedly to the introduction of a statutory definition of "Tax Residence" is misleading.

On analysis of this proposal, it is clear that the idea is to have a Consultation with Responses and to introduce a statutory definition of "Tax Residence" at the earliest in 2012. Bearing in mind that although many Accountants and other Tax Advisors are looking for some sort of simplification whereby HMRC would revert to a simple day-counting measure, it is much more likely that all they will do is merely create some lengthy and complex legislation setting out and defining the factors constituting a "*Distinct Break*". This will lead not to clarity or certainty, but merely to the enshrining in legislation of the existing practice as set out in HMRC 6 and recent case law.

For those fed up of all the uncertainty and waiting, who make the decision to quit the UK, they need to ensure that they get good UK tax advice and carefully select where they intend to relocate to. Firstly, to ensure that the new Country is tax-friendly and secondly, to make sure that they can obtain the best protection possible by means of a suitable double-taxation treaty against any continuing UK claims on their worldwide income.

The Budget message to high earners and the many businesses that employ them is clear. "*Pay up or leave*". That is surely not a recipe for jobs and growth!

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