
Sayers Butterworth LLP

Chartered Accountants, Tax and Business Advisors

Budget 2010

Sayers Butterworth LLP 3rd Floor, 12 Gough Square, London EC4A 3DW (Registered office)

T +44 (0)20 7936 1910 **F** +44 (0)20 7936 4161 **E** enquiries@sayersb.co.uk **DX** 389 Chancery Lane www.sayersb.co.uk

Anthony G Mahoney • David M Burke • Matthew W Wright • Paul E Ffitch • Martin C Dunne • Andrew K Burch

Chartered Tax Advisor: Matthew B Bird **Consultant:** David B Genders

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FOREWORD

A budget so close to a general election with an uncertain outcome was always going to have its limitations. Like it or not any country borrowing one quarter of its annual spend must heed to the wider financial world and our increasingly assertive Darling has hopefully set the scene for the correction in public finances. He may yet lose his job but thankfully we still live in a country where he will not be shot by firing squad, as happened to the North Korean Pak Nam-gi.

This task of realigning income and expenditure will of course dictate all major policy over the next few years, regardless of political ilk, and in effect bean counters will be running the country. Think of it as UK Plc in receivership! This of course is not ideal and the sooner we can get back to real politics, with all its sleaze and scandal, the better!

Paul Ffitch
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Contributors:

Tony Mahoney
Paul Ffitch
Matt Bird
Teresa Tone
Anil Arora

Further copies of this guide, together with further information concerning the Budget, are available on our website at www.sayersb.co.uk.

Note: This Guide has been compiled from the Chancellor's Pre Budget Report, Budget Statement and Government Press Releases. The legislation necessary to implement these proposals will be contained in a Finance Bill expected to be published shortly. The Bill will then pass through Parliament before becoming law as the Finance Act 2010. Until then the Chancellor's proposals should be regarded as subject to amendment. No liability can be accepted for any loss incurred by a person relying solely on the content of this Guide.

OVERVIEW

This budget was delivered with real confidence by the Chancellor who now appears increasingly sure that his policy decisions taken during this crisis are beginning to work. What evidence he has of this was used against the opposition in an almost party political broadcast way.

There were no great shake ups with the tax system and little in the way of new initiatives. Perhaps all the big ideas await a new term?

Some of the main issues are:

- The previously announced 50% tax rate and loss of Personal Allowance for high earners to take effect from 6 April 2010.
- The previously announced increases in National Insurance for 2011/12 totalling 1% have now been confirmed.
- The previously announced restrictions of higher rate pension relief for top earners.
- The freezing of Income Tax and Inheritance Tax allowances for 2010/11 against a backdrop of 3% inflation.
- Tax information agreements with Dominica, Grenada and amusingly, Belize.
- A green investment bank.
- Business Rates reductions from October for smaller organisations.
- A doubling of the Entrepreneurs' Relief lifetime allowance (10% Capital Gains Tax) to £2,000,000.
- A doubling of the Annual Investment Allowance (AIA) to £100,000 for businesses.
- Spending cuts – but not just yet.

BUDGET MARCH 2010

INCOME TAX

From 6 April 2010

- A 50% additional rate of income tax will apply for those individuals whose taxable income exceeds £150,000;
- Where income exceeds £150,000, dividend income will be subject to a 42.5% additional rate;
- All other rates and allowances have been frozen;
- Those with income above £100,000 will gradually lose the personal allowance, the allowance being reduced by £1 for every £2 above the £100,000 limit;
- The trust rate will be increased to 50%.

Tax Tip: Accelerate the payment of bonuses and dividends

Increasing your 2009/10 personal income, e.g. company bonus or dividends, could circumvent the new 50% rate and save you 10% tax. However, you will be paying the lower 40% rate 12 months earlier.

Tax Tip: Income versus capital

The differential between the current Capital Gains Tax rate of 18% and the highest Income Tax rate of 50% has to be seen as a tax planning opportunity. Any investments that can produce a capital gain rather than income need to be assessed with this tax differential in mind. When trading through a company structure this differential can be further accentuated by Entrepreneurs' Relief giving an effective 10% Capital Gains Tax rate. This encourages reinvestment in the business (perhaps reducing the corporation tax) with a view to a future sale of the shares in the company (Capital Gains Tax).

Pensions – Limiting Tax Relief of High Earners

It has again been confirmed that higher rate tax relief on pension contributions from 6 April 2011 will be restricted for those with incomes of more than £150,000. Tax relief will be reduced gradually as income exceeds £150,000, with higher rate relief being completely withdrawn for incomes over £180,000.

It has also been announced that the restriction will apply to individuals with incomes between £130,000 and £150,000 where their income together with employer pension contributions exceed £150,000.

Where tax relief is restricted but the pension contribution is made by an employer, a 'high income excess relief charge' of 30% will be collected through Self Assessment.

3.1.1

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INCOME TAX: Continued

Tax Warning: Pension anti-forestalling rules

Increasing your 2009/10 income to avoid the new 50% rate could result in you being caught by the anti-forestalling rules for pension contributions. If your pension contributions have changed or been irregular, then taking your income over £150,000 (or £130,000) could restrict higher rate tax relief.

Pensions – Anti-Forestalling

There have also been various changes announced to the anti-forestalling rules designed to prevent individuals increasing their pension contributions to maximise higher rate tax relief before 6 April 2011. The anti-forestalling rules will apply to:

- individuals with incomes of £150,000 or over in the current or previous 2 years who changed the pattern of their regular pension contributions (at least quarterly) before 9 December 2009; and
- individuals with incomes of £130,000 or over in the current or previous 2 years who changed the pattern of their regular pension contributions (again, at least quarterly) on or after 9 December.

In both cases, where there has been a change in the pattern of contributions, higher rate tax relief for pension contributions will be limited to the Special Annual Allowance. In most cases, the Special Annual Allowance will be £20,000. However, where contributions have been made irregularly (less than quarterly), then the Special Annual Allowance is increased to the average of contributions for the last three years, subject to a £30,000 maximum.

Tax Warning: Employer pension contributions

If you are fortunate enough to have an income over £130,000 and an employer making pension contributions on your behalf, please be aware that after 5 April 2011 you may have a tax liability equal to 30% of those contributions. In addition, there may also be a current year charge if your employer has increased its contributions since 6 April 2009.

Tax Tip: Regular pension contributions

If you have an income exceeding £150,000 (or £130,000) and have been making regular contributions (at least quarterly), ensure that these are maintained in order to maximise higher rate tax relief before it is withdrawn.

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INCOME TAX: Continued

Tax Tip: Irregular pension contributions

If you have an income exceeding £150,000 (or £130,000) and have not already done so, review your recent pension contributions history in order to determine whether you are maximising higher rate tax relief before it is withdrawn.

ISAs – Indexed Limits from 6 April 2011

The annual ISA limit of £10,200, of which up to £5,100 can be saved in cash, will be increased in line with inflation (RPI) on an annual basis from April 2011.

Charitable Donations – European Charities

Tax relief for donations to charities, or organisations equivalent to charities, in the European Union, Norway and Iceland is to be introduced from 6 April 2010. At the same time, the definition of 'a charity' for tax purposes is to be revised to ensure that this extension to the Gift Aid rules is not abused.

REITs – Stock Dividends

The condition that Real Estate Investment Trusts (REITs) distribute 90% of their profits by way of a cash dividend is to be relaxed to include stock dividends. The stock dividends will continue to be subject to income tax but the change is intended to provide greater flexibility to the REIT itself.

The Remittance Basis – Relevant Persons

The changes to the taxation of non-UK domiciliaries from April 2008 included measures to tax foreign income or capital gains that are remitted by way of a 'relevant person' (for example a spouse or non-resident company of which the individual is a shareholder). From 6 April 2010, a relevant person will include a subsidiary of such a company. This is intended to remove any uncertainty, but the Revenue would surely have attacked such an arrangement before the change.

Tackling Offshore Tax Evasion

HM Revenue & Customs intend to introduce a new penalty regime from April 2011 for those taxpayers who are found to have failed to declare overseas income or capital gains. The maximum penalty will depend on the jurisdiction in which the non-compliance arises, ranging from 100% of the tax avoided for jurisdictions that automatically exchange information with the UK to 200% for those countries which have not agreed to exchange information.

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BUSINESS TAX

Corporate Tax Rates

- The main rate of Corporation Tax has been 28% since 1 April 2008 for companies whose profits are above the upper relevant maximum amount. This 28% rate will continue on and after 1 April 2011.
- The small companies' rate for profits below the lower relevant amount was set at 21% from 1 April 2008 and will remain at 21% on and after 1 April 2010. We wait to see what will happen on or after 1 April 2011.
- The upper and lower relevant amounts of £1.5m and £300,000 respectively are reduced where a company has one or more associates (i.e. companies under common control). These limits will remain unchanged.

Tax Tip

With the differential in rates between CGT and Income Tax, those who are self-employed or even in partnership may be advised to revisit the question of whether to incorporate or not. Anyone nearing retirement or planning a sale of the business in due course may find substantial tax savings to be made from incorporating.

Capital Allowances – All Businesses

Plant & Machinery

From April 2008 most businesses have been able to claim an Annual Investment Allowance (AIA) on the first £50,000 of plant and machinery expenditure (subject to certain exceptions – the main one being expenditure on cars).

With effect from 1 April 2010, for businesses within the charge to Corporation Tax, and from 6 April 2010 for businesses within the charge to Income Tax, the maximum amount of the AIA will increase to a new limit of £100,000.

Where a business has a chargeable period that spans the April 2010 date the AIA will be duly apportioned. However, only expenditure of up to a maximum of £50,000 incurred before April 2010 will qualify for this increased AIA relief.

It should be noted that there are special rules about the entitlement to AIAs for companies within a group or under common control. These rules remain in force.

In conjunction with this change anti-avoidance legislation has been introduced to take effect from 24 March 2010 to disallow property loss relief against general income in certain situations to the extent that the loss is attributable to the AIA.

BUDGET MARCH 2010

BUSINESS TAX: Continued

Zero Emission Goods Vehicles

Expenditure incurred on the purchase of new and unused (not second hand) zero emission goods vehicles (as defined) will attract a 100% First Year Allowance (FYA) from April 2010. This additional FYA relief will continue for a period of five years.

Capital Distributions

Most distributions received by UK companies are exempt from Corporation Tax. New legislation will now clarify the treatment of certain distributions and in particular will mean that distributions will not be prevented from being exempt just because they are capital in nature.

Enterprise Management Incentives (EMI)

At present, a company granting qualifying EMI share options to its employees is required to operate “wholly or mainly” in the UK. Early in the next parliament new legislation will be introduced whereby a company granting EMI options will in future be required instead to have a “permanent establishment” in the UK. In the case of a parent company of a group the requirement will be that at least one company in the group carrying on a qualifying trade must have a “permanent establishment” in the UK. This amendment is being made to ensure that EMI schemes comply with EU state aid guidelines.

Share Incentive Plans

Subject to certain conditions companies can currently obtain a Corporation Tax deduction where they pay money to the Trustees of a Share Incentive Plan (SIP) to purchase shares from non corporate shareholders for use in the SIP. With effect from 24 March 2010, legislation is to be introduced to combat the abuse of the Corporation Tax deduction where companies pay money to the SIP Trustees to buy shares from director-shareholders but no real value is transferred to employees under the SIP.

Company Share Option Plans

Legislation will be introduced such that options granted on or after 24 March 2010 over shares in a company which is under the control of a listed company, will no longer be shares to which an approved Company Share Option Plan (CSOP) can apply.

National Insurance Contributions

For 2010/11 the NIC rates and thresholds will remain unchanged from 2009/10 subject to the following minor exceptions:

- The lower earnings limit which is linked to the basic state pension will increase from £95 to £97 per week.

3.2.2

BUDGET MARCH 2010

BUSINESS TAX: Continued

- The special Class 2 rate for volunteer development workers will increase from £4.75 per week to £4.85 per week.

Looking ahead to the tax year 2011/12 those in business are reminded:

- The main rate of Class 1 and Class 4 NIC will increase from 11% to 12% and from 8% to 9% respectively.
- The employer rate (to include Class 1A and Class 1B contributions) will increase from 12.8% to 13.8%.
- The additional rate of Class 1 and Class 4 NICs will be increased from 1% to 2%.
- The primary threshold and lower profits limit will be increased by £570 to compensate the lowest earners.

Business Rates

Any business entitled to small business rate relief and which has a rateable value of £12,000 or less will be eligible for a discount off their rates bill. This relief will be available in respect of the period from 1 October 2010 to 30 September 2011.

HMRC Powers – PAYE

Legislation will be introduced that will require employers to provide HMRC with financial security in cases of serious non-compliance of making PAYE payments. Security will also be required where amounts due under PAYE and NIC are at risk. The amount of security will be set by HMRC in the light of the potential tax liability. The PAYE and NICs legislation in line with the existing provisions for VAT revenue. The intention is that this change will be operative from 6 April 2011.

Transactions in Securities - Anti Avoidance

HMRC have introduced anti-avoidance legislation to counteract transaction in securities where individuals have secured an income tax advantage. The change will take effect from 24 March 2010 and will be in respect of individuals who have secured an income tax advantage from that date. It is applicable to individuals, who as a result of corporate transactions have received excessively large dividends. The types of companies being targeted by the new legislation will be close companies including overseas companies. It should be noted, however, there will be an exemption which covers situations where there has been a change in ownership of the close company.

BUDGET MARCH 2010

BUSINESS TAX: Continued

Release of Loans to Participators in Close Companies

Where a loan has been made by a close company to a participator or the associate of a participator, which has then subsequently been written off, Corporation Tax relief was historically given for the amount of the loan written off, provided that the accounts have been prepared in accordance with Generally Accepted Accounting Practice (GAAP). Changes in the legislation will now prohibit such a deduction for Corporation Tax purposes for loans that are released or written off on or after 24 March 2010. The income tax treatment of the individual who initially received the loan is unaffected by this measure.

Sale of Lessor Companies: Option to Elect

Current legislation prevents a loss of tax on the sale of lessor companies when they change hands from vendor to purchaser. This is done by calculating a charge and matching the relief designed to recoup the tax timing benefit that would otherwise have been enjoyed by the selling group and returning it to the buying group. A change in legislation effective from 24 March 2010 now allows the selling company to opt for an alternative treatment which recoups the tax timing benefit, by isolating the profits of the business following the sale of the company as an alternative and immediate charge.

Restriction on Relief for Interest “Worldwide Debt Cap”

For accounting periods beginning on or after 1 January 2010, HMRC have proposed a restriction on the level of financing costs that UK resident companies can obtain tax relief for to the overall financing cost of the worldwide group. This legislation will apply to either:

- Non-UK parented groups which have leveraged their UK sub-group with greater level of debt than the group's aggregate borrowings; or
- UK parented groups with significant borrowings in the UK from overseas subsidiaries resulting in net UK tax deductions.

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CAPITAL TAXES

Capital Gains Tax

“Entrepreneurs” are able to qualify for an effective 10% rate of Capital Gains Tax where they make a qualifying business disposal. This is basically a disposal of all or a substantial part of a trading business. When first introduced this relief was only available for lifetime gains of up to £1,000,000. As from 6 April 2010 the lifetime limit will increase to £2,000,000. This welcome measure is unlikely to cost the Treasury too much in the coming months and hopefully will provide a much needed boost to the economy.

Inheritance Tax

In last year’s Pre Budget the Chancellor announced a freezing of the Inheritance Tax nil rate band for 2010/11 at £325,000. It is proposed that this freezing will now be extended to cover tax years 2011/12 to 2014/15. Much of the thrust behind the campaign for increased allowances came from the rise in property prices which has now abated.

Stamp Duty Land Tax

For first time buyers it is proposed that there will be no Stamp Duty for purchases of property up to a value of £250,000.

As you will see from the table of rates in section 4, Stamp Duty is charged at 0% for purchases where the consideration is less than £125,000 and 1% for purchases where the consideration is between £125,000 and £250,000. However, for purchases made after 25 March 2010 and before 24 March 2012, where all the purchasers have not previously acquired such a property i.e. first time buyers, the 1% rate described above will be reduced to 0%.

Where the completion date is on or after 6 April 2011 a new highest rate of Stamp Duty of 5% will be introduced for purchases exceeding £1,000,000.

Tax Warning

If you are carrying out any 2009/10 tax planning remember that due to an early Easter the last working day of this tax year will effectively be April Fool’s Day!

Rather ironically current anti avoidance rules for transactions with partnerships have been exploited in order to mitigate Stamp Duty. Measures introduced on budget day are designed to prevent this.

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OTHER MATTERS

Bank Payroll Tax

This new tax, set at 50%, was introduced in the 2009 Pre-Budget Report, a political move to quell the general unrest to the escalating bonuses awarded to banking executives. The draft legislation was hurried through and left more questions than answers. Today's announcement aims to clarify the convoluted rules which define when the bonus is "awarded", the "taxable company", the assessment/collection of the tax along with penalties and interest for non compliance.

Venture Capital Trust (VCT) and Enterprise Investment Schemes (EIS)

The announcements today indicate that there will be some relaxation with regard to the requirements for such investments to qualify for tax relief. New legislation will allow VCT shares to be traded on any EU regulated market (not just the UK); furthermore, with regard to the EIS and VCT company, the qualifying trade no longer needs to be carried out in the UK but simply has to have a permanent establishment in the UK. These measures along with other proposed revisions will allow more diversity in the VCT/EIS market and in turn, provide the investor with a wider investment choice.

Tax Tip

VCTs and EIS investments provide valuable forms of tax shelters; there is still time before the end of the 2009/10 tax year to consider whether you could benefit tax-wise. Currently, VCTs allow income tax relief at 30% on qualifying investments up to £200,000; EIS investments qualify for income tax relief at 20% on up to £500,000 along with Capital Gains Tax deferral relief and possible carry back opportunity.

Life Assurance Policies: Deficiency Relief

Deficiency relief is due where a life insurance policy, for example, comes to an end showing a loss but there have been earlier policy withdrawals which have yielded taxable gains. At present this loss can help to reduce any higher rate income tax liability in the year the policy is redeemed. From 6 April 2010, the relief may be restricted where there is an arrangement such that the relief claimed is greater than the earlier tax charges.

Tax Tip

If you believe the 50% tax rate is a temporary measure or you expect your income to drop in the future, say on retirement, why not consider an investment bond with a 5% per annum tax free withdrawal. The withdrawal is treated as a return of capital with the actual income rolled up and taxed on maturity at, hopefully, lower tax rates.

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OTHER MATTERS: continued

Air Passenger Duty

Legislation is to be introduced that will increase the rates of air passenger duty from 1 November 2010, including those who have already booked their tickets. The rate is dependant on the distance and class of travel and ranges from £12 to £170. However, considering the current state of the aviation business, it may be that air passengers will be thin on the ground.

Disclosure of Tax Avoidance Schemes

HMRC have further tightened the legislation with regard to disclosure requirements, imposing increased penalties for non compliance.

Penalties: Late Filing of Tax Returns and Tax Payments

The measures introduced today aim to complete the reform of the penalty regime for late submission of Returns and payment of tax. The idea is to encourage filing and payment by the correct dates by having a tougher system of penalties. This is a dramatic departure from the current regime which almost pales into insignificance in comparison. Although the details are yet to be finalised the key elements of the penalty model proposed is:

- immediate £100 late filing penalty, regardless of whether the tax due has been paid;
- following the initial £100 charge, the “penalty period” commences and this is set for a year. During this period penalties can accrue from between £100 and £400 for each “failure”. The period can be extended by a further year for non-compliance;
- if the Return remains outstanding, further penalties can arise equivalent to 5% of the tax due;
- where tax is paid late, a penalty period is set for a year; continued non-payment during this period will trigger a charge of 2% of the unpaid tax as well as extending the penalty period. Penalties will continue to accrue to a maximum of 4%. Prolonged non-payment will attract charges of 5% of the unpaid tax after 6 and 12 months.

Although the reforms are expected to be introduced over a number of years, it is believed that they will be adopted sooner rather than later!

Tax Warning

With HMRC using brute force to bring taxpayers into line, it has become more important than ever that your Tax Return is prepared early. It avoids the unwelcome eye of HMRC and also ensures we have sufficient time to calculate and advise you of the tax due.

BUDGET MARCH 2010

OTHER MATTERS: continued

Zero/Low Emission Cars: Taxable Benefit

From 6 April 2010 there will be no taxable benefit on an employee who is provided with a low (75g per km or less) or zero CO₂ emission company car. This provision will apply until 5 April 2015.

VAT: Standard Rate

The Chancellor has confirmed that the standard rate of VAT will remain at 17.5%.

VAT: Turnover thresholds

With effect from 1 April 2010 the VAT registration threshold will increase to £70,000 (from £68,000) and the deregistration threshold increases to £68,000 (from £66,000)

VAT: Fuel Scale Charges

New fuel scale charges are to be used for businesses with prescribed accounting periods starting on or after 1 May 2010. As previously, these are based on the vehicle's CO₂ emissions.

VAT: "Lennartz" accounting

Under current legislation on the purchase of immovable property, boats and aircraft VAT is initially recoverable in full on both the business and expected private use of the asset. VAT recovered is then clawed back in subsequent years in respect of any private use. This is known as Lennartz accounting. The proposed changes will mean that in future VAT recovery is restricted from the outset to only the business use of an asset.

Settlor Interested Trusts

Where an individual can benefit from a trust they themselves have set up anti avoidance rules prevent any tax advantage. With the new trust rate moving to 50% as from 6 April 2010 measures will be introduced to require settlors to pay over any tax repayments they receive as a result of the legislation. These payments to the trust will be disregarded for inheritance tax purposes.

RATES AND ALLOWANCES

INCOME TAX

			2009/10 £	2010/11 £
Personal Allowance	(age under 65)	*	6,475	6,475
	(age 65 – 74)		9,490	9,490
	(age 75 and over)		9,640	9,640
Married Couple's Allowance	(age 75 and over)	**	6,965	6,965
	minimum amount	**	2,670	2,670
Income Limit for Age-Related Allowances			22,900	22,900
Blind Person's Allowance			1,890	1,890

* Personal Allowance restricted by £1 for every £2 of income over £100,000 for 2010/11

** Indicates allowances where tax relief is restricted to 10%

Tax Rates and Bands

		2009/10 £	2010/11 £
Basic Rate	20%	0 - 37,400	20% 0 - 37,400
Higher Rate	40%	Over 37,400	40% 37,401 - 150,000
Additional Rate			50% Over 150,000

UK savings income falling within the first £2,440 of the basic rate band is taxed at 10%.

UK dividends within the basic rate limit are taxed at 10%, the higher rate limit at 32.5% and the additional rate limit at 42.5%.

NATIONAL INSURANCE - 2010/11

Class 1 Contributions for Employers

Weekly Earnings	Up to £110	£110 to £844	Over £844
Standard Rate	0%	12.80%	12.80%
Contracted Out Salary Related	0%	9.10%	12.80%
Contracted Out Money Purchase	0%	11.40%	12.80%

Class 1 Contributions for Employees

Contribution Rate (Contracted Out Rate)	0% (0%)	11% (9.40%)	1% (1%)
Weekly Earnings	£0 - £110	£110 - £844	Over £844
Monthly Earnings	£0 - £477	£477 - £3,657	Over £3,657
Annual Earnings	£0 - £5,715	£5,715 - £43,875	Over £43,875

Class 2 Contributions for the Self-Employed

Weekly Flat Rate	£2.40
Small Earnings Exemption	£5,075

Class 3 Voluntary Contributions

Weekly Rate	£12.05
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Class 4 Contributions for the Self-Employed

Profits between £5,715 and £43,875	8%
Profits above £43,875	1%

RATES AND ALLOWANCES - continued

CORPORATION TAX

Financial Year to	31 March 2010	31 March 2011
Taxable Profits		
Up to £300,000	21%	21%
£300,001 - £1,500,000	29.75%	29.75%
Over £1,500,000	28%	28%

CAPITAL GAINS TAX

Annual Exemption

	2009/10	2010/11
	£	£
Individuals	10,100	10,100
Personal Representatives	10,100	10,100
Trusts	5,050	5,050

Capital Gains are taxed at a flat rate of 18%.

Entrepreneurs' Relief - from 6 April 2010, the first £2 million (previously £1 million) of qualifying Capital Gains are taxed at an effective tax rate of 10%.

INHERITANCE TAX

	2010/11	2011/12	2012/13
	£	£	£
Nil-Rate Band	325,000	325,000	325,000
Annual Allowance	3,000	3,000	3,000
Small Gifts Exemption	250	250	250

The rate of Inheritance Tax is 40% on death and 20% for lifetime chargeable transfers.

STAMP DUTY

Rates	Residential Property	Commercial Property
0%	£0 - £125,000	£0 - £150,000
0% (first time buyers from 25/3/2010 to 24/3/2012)	£0 - £250,000	n/a
1%	£125,001 - £250,000	£150,001 - £250,000
3%	£250,001 - £500,000	£250,001 - £500,000
4%	£500,001 - £1,000,000	£500,001 - £1,000,000
5% (from 6/4/2011)	Over £1,000,000	n/a
0.5%	Sale or Transfer of Shares and Securities	