Forbes Dawson
THE TAX SPECIALISTS

BUDGET 2012 TOP TEN

The main changes affecting businesses and individuals

Forbes Dawson LLP

22 March 2012

Forbes Dawson
THE TAX SPECIALISTS

10

Cap on unlimited income tax reliefs

Various tax reliefs which are currently uncapped in the legislation (sideways loss relief, interest relief on qualifying loans and gift aid relief) will be capped at the greater of £50,000 or 25% of income. This will apply from 6 April 2013.

Our View:

We need clarity on how this will work in practice. In particular we need clarification on whether this rule will affect the ability of an entrepreneur to offset losses of a business against his other income. It is also that this rule could affect the mechanics of various partnership schemes on the market which rely on large loss relief claims (although these may also be affected by other legislation).

Forbes Dawson
THE TAX SPECIALISTS

Seed Investment Scheme

9

From 6 April 2012 there is a new generous investment relief for investments in small companies preparing to carry out a new business in a qualifying trade. The qualifying investment cannot however exceed 30%. Although the rules are quite complicated this can lead to tax relief of up to 78%! This is because income tax relief is available at 50% of the investment value, provided that the individual's income tax liability is that large. Capital gains tax can also be mitigated at 28% to the extent that the value of a gain is invested.

Our View:

On the face of it this is clearly a highly attractive relief. However there will be many rules to ensure that this is not abused. Also, as this relief will essentially only be available for start-up businesses, the investments will typically be high risk. This could be very attractive to family and friends of start-up entrepreneurs.

EMI Schemes made more generous

8

The value of EMI options that can be issued to any one employee will be increased from £120,000 to £250,000 from 6 April 2012, but the overall limit of options to the company stays at £3M.

From 6 April 2012 option holders will also be able to benefit from Entrepreneurs' Relief, based on certain criteria to be announced.

Our View:

EMI options have declined in popularity in recent years partly due to the fact that the increased capital gains tax rate of 28% has decreased the benefit to employees. With the potential to benefit from a 10% rate there is likely to be a renewed interest in these schemes. We have yet to see whether all of the normal Entrepreneurs' Relief conditions (e.g. the 5% holding requirement) will apply to the option holders or whether this will be more generous.

Forbes Dawson
THE TAX SPECIALISTS

7

Improvements to EIS and VCT Reliefs

From 6 April 2012 these have been made more attractive through simplifications and removal of restrictions. Importantly the EIS annual investment limit for individuals has also been increased to £1M. Also for both VCT and EIS the maximum amount that can be invested in a single company under all the venture capital schemes will be increased to £5M.

Our View:

These changes are very positive and as has always been the case no investor should invest in a company without considering the availability of this relief. For example, if an individual invests £100,000 in a qualifying EIS company then, subject to various conditions, he is able to claim £30,000 tax back on this investment. Furthermore he will not suffer a capital gain on any future disposal of the investment, therefore saving up to 28% on this. The take home message is that this is a generous relief that should not be overlooked.

Forbes Dawson
THE TAX SPECIALISTS

6

Capital Gains Tax on Offshore Companies

There is a proposal to introduce a capital gains tax charge on residential properties sold by non-UK resident companies from 6 April 2013. The details of this are currently quite sketchy but there will be a consultation period announced later this year.

Our View:

We do not currently have the full details on this but it is quite a radical change to the traditional UK tax system. Historically non-resident companies have been outside the scope of UK tax unless they carry on a trade through a UK permanent establishment. We have set up many structures for non-domiciled clients involving holding property through offshore companies. We will be monitoring the development of these rules to see how these structures are affected.

Forbes Dawson
THE TAX SPECIALISTS

5

Rate of R&D relief for SMEs will increase

From 1 April 2012 research and development expenditure will be tax deductible at 225%, continuing the ‘friendly’ approach in this area.

Our View:

This is one of the much underused reliefs and many companies are throwing money away by not taking advantage of it. Hopefully the ever increasing enhanced tax deductions will make companies reassess their research and development position. This relief is much more widely available than people think and companies should seek advice if they think that any expenditure could fall under the research and development ‘umbrella’.

Forbes Dawson
THE TAX SPECIALISTS

4

Top rate of tax reduced from 50% to 45%

From 6 April 2013 the top rate of tax (for taxable income of over £150,000) will be reduced from 50% to 45%. All of the government commentary on this suggests that whereas the 50% rate was always seen as temporary, we may be stuck with the 45% for a reasonably long time.

Our View:

Although a 5% cut is welcome, there is still a high differential between receiving income as compared to capital growth. For example there is a rate differential of 19% between income tax and national insurance contributions at 47% and capital gains tax of 28%. Any planning should be undertaken with care and with regard to the complex disguised remuneration rules.

Forbes Dawson
THE TAX SPECIALISTS

3

General Anti Avoidance Rule

As was widely anticipated the Government has announced that it intends to implement a narrowly-focused General Anti-Abuse Rule (GAAR) and a consultation document will be introduced later this year with a view to implementing the rule from 6 April 2013.

This will aim to attack aggressive schemes, with the prime aim of avoiding tax. The Rule will apply to income tax, capital gains tax, corporation tax, petroleum revenue tax, NIC and SDLT.

Our View:

We anticipate that this rule will mainly impact artificial, aggressive schemes with the sole purpose of avoiding tax. This will include many of the 'off-the-shelf' schemes on the market. Although we need to wait to see the consultation, we do not anticipate that it will generally impact bespoke tax planning around bona fide business transactions. This rule does mean, however, that it will be even more important to ensure that high quality tax advice should be sought in respect of any complex planning. Heavily marketed 'off-the-shelf' schemes should be treated with caution.

Statutory residence test from 2013

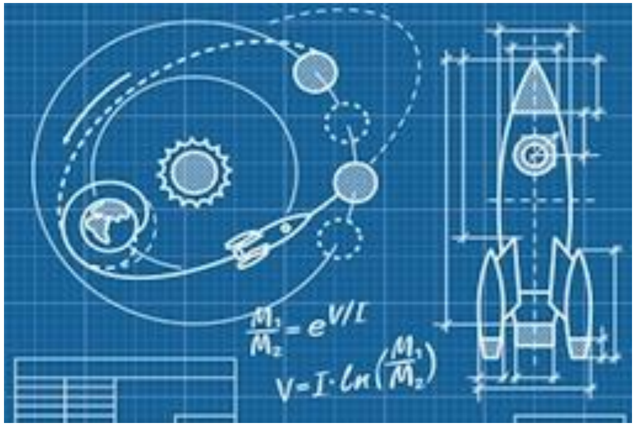
There will be statutory residence rules in place from 6 April 2013. The details of this will be set out in forthcoming draft legislation.

Our View:

This is to be welcomed as the current rules on residence are a mess. Although we do not expect the new rules to be particularly generous they will give us much needed certainty. It will be much easier for us to give comprehensive advice on what an individual needs to do to go non-resident. For example there could be benefits in leaving the country for a year if large dividends are anticipated. With careful planning around this UK tax can be avoided.

Patent Box

For accounting periods beginning on or after 1 April 2013, companies will be able to elect for an effective 10% rate of corporation tax for profits arising from the exploitation of patented technology. This regime will apply to patents granted by the UK or European Patent Office and certain other European jurisdictions. Most companies who file patents should therefore benefit from this.



Our View:

This is very beneficial to companies which hold patents to protect intellectual property. Many such companies have been seeking to move intellectual property offshore or acquire it through offshore companies. They now may want to think again about this strategy as it may make sense to keep it in the UK.