



# Budget & Finance Act 2009 Commentary

The Courtyard, Shoreham Road, Upper Beeding,  
Steyning, West Sussex, BN44 3TN  
Tel: 01903 816699 Fax: 01903 816622  
Email: [info@russellnew.com](mailto:info@russellnew.com)



RUSSELL NEW  
BUSINESS, TAXATION  
& CHARITY ADVISERS

# Contents

Introduction.....	Page 3
Income Tax & Personal Savings .....	Page 4
Business Tax & Investment Incentives .....	Page 6
Tax & Travel.....	Page 8
National Insurance.....	Page 11
Capital Taxes .....	Page 12
Value Added Tax.....	Page 13
Duties.....	Page 14
Other Measures.....	Page 15

# Introduction

**T**he Finance Act 2009 received Royal Assent on 21 July 2009. This report provides an overview of the latest announcements and recent measures most likely to affect you or your business.

We have included tips and ideas for effective tax and financial planning, but it is important to remember that this planning should be an ongoing, year-round process, not something that is left until the last minute.

We can help you to reassess your plans regularly, and adapt them as your personal and business circumstances change. With our help, you can plan for a rewarding and financially secure future.

*Please note: while most taxation changes take effect from the start of the financial year, or tax year, some may not take effect until 2010, or later. Where relevant, details of these changes have been included in this Report. Throughout the Report, 'HMRC' refers to HM Revenue & Customs.*

# Income Tax & Personal Savings

## Darling defiant in face of recession

On Budget day Chancellor Alistair Darling unveiled a series of measures aimed at tackling the 'unprecedented economic crisis'. As widely anticipated, growth forecasts for 2009 were revised down, with the economy expected to shrink by 3.5%; while borrowing forecasts had risen sharply to £175 billion. However, despite the economic gloom, the Chancellor asserted that the economy will recover, forecasting growth of 1.25% next year.

Some budget measures have now passed into legislation as The Finance Act 2009.

Key measures include the introduction, from April 2010, of a 50% income tax rate for those earning more than £150,000 a year and a restriction to pension relief.

The stamp duty land tax 'holiday' for residential properties valued at £175,000 or less is extended to the end of 2009.

Measures for businesses include the introduction of a temporary 40% first year allowance and an extension of help for loss-making companies.

The Chancellor allocated £1 billion to tackle climate change, and announced a commitment to cut UK carbon emissions by 34% by 2020.

The introduction of a 'car scrappage' scheme was also confirmed, offering £2,000 to people who trade in cars that are over 10 years old. Meanwhile, fuel duty will rise by 2p a litre from September 2009.

Other measures include an increase in the child element of Child Tax Credit from April 2010; credits towards the basic state pension for grandparents of working age who care for their grandchildren; and a rise in the annual limit for ISAs to £10,200.

## Highlights

- 50% income tax for high earners
- 40% first year capital allowance
- Extension of trade loss carry back rules
- Extension of SDLT 'holiday'
- Removal of higher rate tax relief on pension contributions

## Pension Contributions

From 6 April 2011 tax relief on pensions for individuals with income of £150,000 or more will be tapered downwards falling to 20% for those earning more than £180,000.

The Act also contains the anti-forestalling measures announced in the Budget to prevent high earners from making large additional pension contributions after 22 April 2009. These anti-forestalling measures affect those with income of £150,000 or more in the relevant year or the previous two years who change their normal pattern of pension contributions and the contributions exceed £20,000 per annum.

The proposal to protect regular contributions only if made quarterly or more frequently has been amended. Where contributions are made less regularly over the past three years, the special annual allowance will be increased from £20,000 to the average of those contributions, with a maximum of £30,000.

The full measures for the changes from April 2011 are still to be finalised.

## Personal Allowances

From 2010/11, for individuals whose 'adjusted net income' exceeds £100,000, the personal allowance will be reduced by half of the excess.

'Adjusted net income' is broadly income less losses, gross pension contributions and the grossed up amount of pension payments and gift aid payments.

From 2010/11, non-resident individuals will no longer be entitled to claim personal allowances.

# Business Tax & Investment Incentives

## Corporation Tax

Corporation tax rates and bands are as follows:

Taxable profits	Financial Year to	
	31 March 2010	31 March 2009
First £300,000	21%	21%
Next £1,200,000	29.75%	29.75%
Over £1,500,000	28%	28%

## Trading losses

Trading loss carry back has been extended to a period of three years, with losses being carried back against later years first. After carry back to the preceding year, a maximum of £50,000 of unused losses will be available for carry back to the earlier two years. This will apply to trading losses made by companies in accounting periods ending between 24 November 2008 and 23 November 2010 and to trading losses made by unincorporated businesses in tax years 2008/09 and 2009/10. The £50,000 limit applies separately to the unused losses of each 12 month period or tax year.

## Capital allowances

A 40% first year allowance has been introduced for expenditure on qualifying plant and machinery that would normally be allocated to the main capital allowance pool. This is available to businesses incurring such expenditure in the 12 month period beginning on 1 April 2009 for corporation tax and on 6 April 2009 for income tax. Qualifying expenditure incurred on cars on or after 1 or 6 April 2009 will now be allocated to one of the two general plant and machinery pools. Cars with CO2 emissions exceeding 160 g/km will be dealt with in the special rate pool and attract writing down allowances (WDA) at 10%. Cars with CO2 emissions of 160 g/km or less will be added to the main rate pool and attract WDA at 20%. Expenditure incurred before April 2009 will continue to be subject to the old 'expensive' car rules for a transitional period of around five years. Cars that have an element of non-business use will continue to be dealt with in single asset pools to enable the private use adjustment to be made, but the rate of WDA will be determined by the car's CO2 emissions.

## Car leases

From April 2009, the rules restricting the amount of car lease rental payments that can be deducted for tax purposes have been changed to a flat rate disallowance of 15% of relevant payments. This will apply only in respect of cars with CO2 emissions exceeding 160 g/km. For leases that commenced prior to April 2009, the previous rules will continue to apply until the end of the lease.

## **Enterprise Investment Scheme (EIS)**

The restrictions on the carry back of income tax relief to the previous tax year have been removed. This will apply to 2009/10 and subsequent years. With effect from 22 April 2009, further changes have been introduced to simplify and improve the EIS rules including a relaxation of the time limit for employment of money raised.

# Tax & Travel

## Car and fuel benefits

The taxable petrol and diesel car benefit is based on the car's CO2 emissions. It is calculated using the car's UK list price and applying the 'appropriate percentage' as shown in the table below. The first line of figures in the table relates to qualifying low emissions cars (QUALECs).

The car fuel benefit is calculated by applying the same percentages to the fuel multiplier, which for 2009/10 remains at £16,900.

The percentages are reduced for cars (except QUALECs) that can be driven on alternative fuels by:

- 2% for cars manufactured to be capable of being run on E85 fuel
- 2% for bi-fuel cars or those which run on LPG only
- 3% for hybrid electric and petrol cars
- 6% for electric only cars (in practice the taxable benefit will be 9% of the price).

CO <sub>2</sub> Emissions (g/ km)	Appropriate Percentage		Fuel Scale Charge £	Quarterly VAT	
	Petrol %	Diesel %		VAT on Charge £(15%)	£(17.5)
120 and below	10	13	126	16.43	18.76
121 - 139	15	18	189	24.65	28.14
140 - 144	16	19	201	26.21	29.93
145 - 149	17	20	214	27.91	31.87
150 - 154	18	21	226	29.47	33.65
155 - 159	19	22	239	31.17	35.59
160 - 164	20	23	251	32.73	37.38
165 - 169	21	24	264	34.43	39.31
170 - 174	22	25	276	36.00	41.10
175 - 179	23	26	289	37.69	43.04
180 - 184	24	27	302	39.39	44.97
185 - 189	25	28	314	40.95	46.76
190 - 194	26	29	327	42.65	48.70
195 - 199	27	30	339	44.21	50.48
200 - 204	28	31	352	45.91	52.42
205 - 209	29	32	365	47.60	54.36

CO <sup>2</sup> Emissions (g/ km)	Appropriate Percentage		Fuel Scale Charge £	Quarterly VAT	
	Petrol %	Diesel %		VAT on Charge	
				£(15%)	£(17.5)
210 - 214	30	33	378	49.30	56.29
215 - 219	31	34	390	50.86	58.08
220 - 224	32	35	403	52.56	60.02
225 - 229	33	35	416	54.26	61.95
230 - 234	34	35	428	55.82	63.74
235 and above	35	35	441	57.52	65.68

### Changes from April 2011

The following will take effect from 6 April 2011:

- the lower emissions figure will be reduced by 5g/km to 125g/km
- the £80,000 price cap will be abolished
- the reductions for cars using various alternative fuels will be abolished.

### VAT on fuel for private use in cars

Where businesses wish to reclaim the input VAT on fuel which has some degree of private use, they must account for output VAT on a scale charge.

The table above shows the VAT chargeable for quarters commencing on or after 1 May 2009. The last two columns take account of the change of the standard rate of VAT from 15% to 17.5% with effect from 1 January 2010.

### Mileage rates

Changes to the HMRC business mileage rates are announced from time to time. The rates at the current time are as follows:

Vehicle	First 10,000 miles	Thereafter
Car / Van	40p	25p
Motorcycle	24p	24p
Bicycle	20p	20p

### Car - fuel only advisory rates

Engine Capacity	Petrol	Diesel	LPG
Up to 1400cc	10p	10p	7p
1401 - 2000cc	12p	10p	8p
Over 2000cc	18p	13p	12p

The fuel only advisory rates relate to company cars only. They can be applied as a tax-free maximum rate for employees claiming for petrol used on business journeys and for employees reimbursing their employers with the cost of petrol used for private journeys.

HMRC will consider claims for a higher maximum rate, if it can be demonstrated that it is necessary for an employee to use a car with higher than average fuel costs.

### Car costs – Vehicle Excise Duty (VED) rates

Vehicle Excise Duty ('Car Tax') rates also reflect emissions, with lower scale rates for cars using alternative fuels. The number of VED bands has been increased from seven to 13. The following table shows the rates which will apply for cars registered on or after 1 March 2001:

VED Band	CO <sub>2</sub> emissions (g/km)	From 1 May 2009		From 1 April 2010	
		Petrol & Diesel	Alternative fuel cars	Petrol & Diesel	Alternative fuel cars
A	Up to 100	£0	£0	£0	£0
B	101 – 110	£35	£15	£20	£10
C	111 – 120	£35	£15	£30	£20
D	121 – 130	£120	£100	£90	£80
E	131 – 140	£120	£100	£110	£100
F	141 – 150	£125	£105	£125	£115
G	151 – 165	£150	£130	£155	£145
H	166 – 175	£175	£155	£180	£170
I	176 – 185	£175	£155	£200	£190
J	186 – 200	£215	£200	£235	£225
K*	201 – 225	£215	£200	£245	£235
L	226 – 255	£405	£390	£425	£415
M	Over 255	£405	£390	£435	£425

\* includes cars emitting over 225g/km registered between 1 March 2001 and 23 March 2006

### Company vans

The taxable benefit for the unrestricted private use of vans is £3,000. There is a further £500 taxable benefit if the employer provides fuel for private travel.

Van and fuel charge	Van	Fuel	Total
Tax (20% taxpayer)	£600	£100	£700
Tax (40% taxpayer)	£1,200	£200	£1,400
Employer's Class 1A NICs	£384	£64	£448

# National Insurance Contributions

## 2009/10 National Insurance Contributions (NICs)

	Employer	Employee
Payable on weekly earnings of		
£95 (lower earnings limit) to £110	0%	0%
£110.01 - £770 (upper accruals point)	12.8%	11%
£770.01 - £844 (upper earnings limit)	12.8%	11%
Over £844	12.8%	1%
<i>Over state retirement age, the employee contribution is Nil</i>		
<b>Class 1A</b> On relevant benefits	12.8%	Nil
<b>Class 2</b> Self employed	£2.40 per week	
Limit of net earnings for exception	£5,075 per annum	
<b>Class 3</b> Voluntary	£12.05 per week	
<b>Class 4*</b> Self employed on profits		
£5,715 - £43,875	8%	
Excess over £43,875	1%	

\*Exemption applies if state retirement age was reached by 6 April 2009

## Tax and NICs – What lies ahead?

The Government has already made announcements about increases in tax and NICs over the next few years. However, the personal tax changes have now been replaced and the updated summary is as follows:

- From April 2009, the upper earnings limit for Class 1 and Class 4 NIC has been increased substantially in order to align it with the level at which people generally start to pay higher rate income tax (£844 per week). The new upper accrual point (£770 per week) for Class 1 NICs sets a cap on the level above which there will be no additional pension benefits (there are none for Class 4 NICs in any case).
- From April 2010, those with adjusted net incomes above £100,000 will have their basic personal allowances scaled back to a minimum of Nil. New tax rates will apply to incomes over £150,000 – 50% for savings and non-savings income; 42.5% for dividend income. The small companies' rate of corporation tax will increase to 22%.
- From April 2011, there will be a general increase of 0.5% to the main NIC rates. At the same time, the NIC threshold will be brought back into line with the basic personal allowance.

# Capital Taxes

## Capital Gains Tax (CGT)

The annual exempt amount is increased to £10,100 for individuals (£5,050 for most trustees) for 2009/10.

The rate of CGT remains at 18% with entrepreneurs' relief potentially reducing the effective rate of tax on qualifying gains to 10%.

## Inheritance tax (IHT)

The IHT allowance (nil-rate band) is increased to £325,000 for 2009/10. The transferability of the allowance gives an effective joint tax-free maximum of £650,000 for married couples and civil partners.

The rate of IHT remains at 20% for chargeable lifetime transfers and 40% for death estates (including transfers within seven years before death brought back into the estate for the purpose of calculating the tax due at death).

## Agricultural property relief (APR) and woodlands relief (WR)

IHT APR and WR is extended to property in the European Economic Area. Property qualifying for this extended IHT relief will also qualify for CGT hold over relief.

The extension of APR and WR against IHT and CGT hold over relief has effect on and after 22 April 2009 as well as for certain earlier events.

# Value Added Tax

From	<b>1 Dec 2008</b>	<b>1 Jan 2010</b>
Standard rate	15%	17.5%
VAT fraction	3/23	7/47
Reduced Rate	5%	5%

## Taxable Turnover Limits from 1 May 2009

Registration - last 12 months or next 30 days over	£68,000
Deregistration - next 12 months under	£66,000
Annual accounting scheme	£1,350,000
Cash accounting scheme	£1,350,000
Optional flat-rate scheme	£150,000

## VAT: Change of standard rate

The standard rate of VAT will return to 17.5% from 1 January 2010. Targeted legislation will counter schemes that purport to apply the 15% VAT rate to goods or services to be supplied on or after the date that the rate returns to 17.5%.

## Cross-border VAT: Changes to EC sales lists

This measure introduces a requirement for UK businesses that supply services where the place of supply is the customer's country to complete EC Sales Lists (ESLs) for each calendar quarter. The changes will have effect on and after 1 January 2010.

## Cross-border VAT: Changes to place of supply of services rules

The place of supply rules determine the country where a supply of services is made and where any VAT is payable. They also determine whether, if VAT is due on a supply, it should be accounted for by the supplier of a service or their business customer.

The new rules aim to ensure that, as far as possible, VAT is due in the country in which the service is consumed (e.g. where the customer is established) rather than where the supplier is established. The result for UK business customers is that they will be liable to account for UK VAT on most services provided by their overseas supplier under the reverse charge provisions, rather than the supplier charging VAT. This forms part of a package of changes designed to modernise the VAT system for cross-border trading, and to counter fraud. The changes will come into effect from 1 January 2010 across the EU.

# Duties

## **Stamp duty land tax (SDLT): temporary increase in thresholds**

Last year the Government raised the threshold at which SDLT becomes payable from transactions in excess of £125,000 to those in excess of £175,000 in a bid to revive the UK's ailing housing market.

This provides an exemption from SDLT for land transactions consisting entirely of residential property where the chargeable consideration is not more than £175,000. The so-called SDLT 'holiday' applies to transactions with an effective date on or after 3 September 2008 and before 3 September 2009.

This latest measure means that the increased threshold of £175,000 for residential property will continue to apply beyond 3 September 2009 and will now end on 31 December 2009.

Following the reforms, SDLT is currently charged at 1% on properties sold for between £175,001 and £250,000, with the tax rising to 3% above this level. Homes worth more than £500,000 attract tax at a rate of 4%.

## **Alcohol and tobacco products duty**

All duty rates for alcohol rise by 2% from their current levels. The impact of the changes on retail prices from 23 April 2009 for typical alcoholic drinks is equivalent to:

- 13p on a 70cl bottle of spirits
- 1p on a pint of beer
- 1p on a litre of still cider
- 4p on a 75cl bottle of sparkling cider
- 4p on a 75cl bottle of wine/made wine
- 5p on a 75cl bottle of sparkling wine.

The duty rates for tobacco products are increased by 2%.

# Other Measures

## Penalties for incorrect returns and failure to notify a taxable activity

For return periods ending on or after 1 April 2009, where the filing date is after 1 April 2010, the new penalty regime for incorrect returns introduced in 2007 for income tax, CGT, VAT, PAYE and NICs has been extended across all other taxes and duties. From 1 April 2009, the penalty regime for failure to notify HMRC of a new charge is aligned across all taxes and duties.

The new provisions for incorrect returns provide for penalties in line with Schedule 24 to FA 2007, which are based on the amount of tax understated, the nature of the behaviour and the extent of disclosure by the taxpayer. There is no penalty where a taxpayer makes a mistake, having taken reasonable care, but there is a penalty of up to:

- 30% for failure to take reasonable care
- 70% for a deliberate understatement
- 100% for a deliberate understatement with concealment

Each penalty is substantially reduced where the taxpayer makes a disclosure (takes active steps to put right the problem), more so if this is unprompted.

## Vehicle scrappage scheme

A vehicle scrappage scheme designed to boost the car industry was introduced during May 2009. A discount of £2,000 will be offered to consumers buying a new vehicle to replace a vehicle more than ten years old, which they have owned for more than 12 months. The Government will set aside £300 million, with funding matched by participating manufacturers. The scheme will end by the start of March 2010, or when funding for the scheme has been used if earlier.

## 'Name and shame' legislation for tax defaulters

Finance Act 2009 enables HMRC to publish the names and details of individuals and companies who are penalised for deliberate defaults leading to a loss of tax of more than £25,000. Details will be published quarterly within one year of the penalty becoming final and then removed from publication one year later.

Names will not be published of those who make a full unprompted disclosure or a full prompted disclosure within a time limit.

There is an appeal right to an independent tribunal against all elements of the penalty which would determine whether names would be published and taxpayers will be informed prior to publication and be able to make representations to HMRC. Details will not be published until all appeal avenues against the additional tax and penalties are exhausted or expired.

## Reclaiming tax overpayments

There is a new means of reclaiming overpayments of income tax, CGT and corporation tax where there is no other statutory route. It will replace any non-statutory claims. The legislation also amends the error or mistake relief rules to provide additional taxpayer safeguards.

The measure will have effect for claims made on or after 1 April 2010. The time limits for claiming repayments are currently from five years and ten months to six years from the end of the period for which the return was made. From 1 April 2010 they must be claimed within four years.

## Penalties and interest regime harmonisation

Legislation has been introduced to create a harmonised interest regime and aligned penalties regimes for late filing, across the taxes and duties administered by HMRC. This will ensure that the same rate of penalties will apply to most taxes. The first change will affect PAYE which from April 2010 will be liable to interest and penalties on late payment on a sliding scale.

Most taxes now have deadlines for submitting returns and payment of taxes. If you are unsure of any deadlines which are relevant to you please let us know.

## NIC credits for families

From April 2011, grandparents and other family members will be able to gain NIC credits toward their basic state pension for caring for their grandchildren or members of their family aged 12 or younger, for 20 hours a week or more.

## Remittance basis

A number of changes to the rules applying to the remittance basis will be backdated to 6 April 2008 (the date from which the new regime applies). Others have effect from 22 April 2009. The changes include:

- removal of the obligation for individuals employed in the UK, who in the same year receive income from an overseas employment, to file a return so long as their overseas employment income is less than £10,000 and their overseas bank interest is less than £100 in any tax year, and it is all subject to a foreign tax
- an extension of the exemption allowing an individual using the remittance basis to bring into the UK property which was purchased from relevant foreign income, to property purchased out of foreign employment income and foreign chargeable gains
- confirmation that the £30,000 remittance basis charge will count as UK tax for the purposes of Gift Aid.

## National Minimum Wage decision delayed

New National Minimum Wage (NMW) rates are traditionally implemented on 1 October, following the recommendations of the Low Pay Commission (LPC).

Since its establishment in 1998, the LPC has been charged with independently advising the Government on the NMW.

The current NMW for those over 21 is £5.73 per hour. For those aged 18 to 21 the rate is £4.77 per hour, while 16 and 17 year olds must be paid a minimum of £3.53 an hour.

These rates will be increased with effect from 1 October 2009 to £5.80 per hour for those over 21. For those aged 18 to 21 the rate is £4.83 while 16 and 17 year olds must be paid a minimum of £3.57 per hour.

This is intended to be a guide to current issues, it is not a substitute for technical advice. If you have any queries please contact us.