



Emergency Budget Update

Presented by

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1. Business and corporation tax

Corporation tax main rates (bn02)

- 1.1. Legislation will be introduced in Finance Bill 2010 to set the main rate of corporation tax at 27% on and after 1.4.11.
- 1.2. The main rate of CT for companies with profits, arising on and after 1.4.11, from oil extraction and oil rights in the UK and the UK Continental Shelf ('ring fence profits') will remain at 30%.
- 1.3. The Budget speech also announced a progressive reduction in the main rate at 1% pa through to 24% by the end of the current Parliament in 2015.

Corporation tax small profits rates (bn03)

- 1.4. Legislation will be introduced in Finance Bill 2011 to set the small profits rate (SPR) of corporation tax (CT) at 20% on and after 1.4.11.
- 1.5. The SPR for companies with profits, arising on and after 1.4.11, from oil extraction and oil rights in the UK and the UK Continental Shelf ('ring fence profits') will remain at 19%.

Corporation tax on profits	April 2010-2011	April 2011-12
£0 - £300,000	21%	20%*
£300,001 - £1,500,000	Marginal rate	Marginal rate
£1,500,001 or more	28%	27%

* The small profits rate was due to rise to 22 per cent in 2011-12, as announced originally at Budget 2007 and deferred to 2011-12 at 2009 Pre-Budget Report.

Capital allowances: rate and annual investment allowance changes (bn04)

- 1.6. Legislation will be introduced in a future Finance Bill to make the following changes:
- first, to reduce the rates of writing-down allowances (WDAs) for new and unrelieved expenditure on plant and machinery:
 - from 20% to 18% per annum for expenditure allocated to the main rate pool; and
 - from 10% to 8% per annum for expenditure allocated to the special rate pool; and
 - second, to reduce the maximum amount of the annual investment allowance from the current limit of £100,000 to a new limit of £25,000.

- 1.7. The first measure will have effect for the calculation of WDAs for chargeable periods ending on or after 1 April 2012 for businesses within the charge to corporation tax (CT) and on or after 6 April 2012 for businesses within the charge to income tax.
- 1.8. The second measure will have effect from April 2012. Details of the transitional arrangements will be published, along with the relevant draft legislation, in good time before the reduction takes effect.
- 1.9. Oil and gas ring fence activities will retain their existing capital allowances treatment.

Hybrid rates

- 1.10. For businesses whose chargeable period spans 1 April (CT) or 6 April (income tax), a hybrid rate will have effect for unrelieved expenditure in any pool, including single asset pools. There will be two hybrid rates:
- one for any expenditure that qualifies for the current 20% WDA; and
 - the other for any expenditure that qualifies for the current 10% WDA.
- 1.11. The hybrid rate will be arrived at by calculating the proportion of a chargeable period falling before the change date and the corresponding proportion falling after the change date. For example, if a company's chargeable period began on 1 January 2012 and ends on 31 December 2012, about one quarter of that period would fall before the date of change (on 1 April 2012) and about three quarters would fall after that date.
- 1.12. The calculation of the hybrid rate for the main rate of WDAs would therefore be as follows:
- $$91/366 \times 20\% = 4.97\%$$
- $$\text{Plus } 275/366 \times 18\% = 13.52\%$$
- 1.13. Therefore, hybrid main rate for transitional period = 18.49%. (Note: in the context of the last rate change, the legislation contained an explicit rule that, where there would be a figure with more than two decimal places, it is always rounded up in the taxpayer's favour.)
- 1.14. The calculation of the hybrid rate for the special rate of WDAs would be as follows:
- $$91/366 \times 10\% = 2.49\%$$
- $$\text{Plus } 275/366 \times 8\% = 6.01\%$$
- 1.15. Therefore, hybrid special rate for transitional period = 8.50%

Zero-emission goods vehicles: 100% first-year allowances (bn05)

- 1.16. This measure will provide a 100% first-year allowance (FYA) for business expenditure on new and unused (not second hand) zero-emission goods vehicles.
- 1.17. The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess.
- 1.18. This measure will have effect for a period of five years for expenditure incurred on new zero-emission goods vehicles on or after 1.4.10 for businesses within the charge to corporation tax (CT) and on or after 6.4.10 for businesses within the charge to income tax.
- 1.19. Expenditure incurred on a new (and not second hand) zero-emission goods vehicle will qualify for the new 100% FYA if:
- the vehicle cannot under any circumstances produce CO2 emissions when driven;
 - it is of a design primarily suited to the conveyance of goods or burden; and
 - the expenditure is incurred on or after 1.4.10 and before 1.4.15 for businesses within the charge to CT and on or after 6.4.10 and before 6.4.15 for businesses within the charge to income tax.
- 1.20. As with existing FYAs, the general exclusions in section 46 of the Capital Allowances Act 2001 will apply to the new FYA; this includes the exclusion of expenditure on assets for leasing.
- 1.21. In order to comply with State aid rules (see Commission Regulation (EC) No 800/2008, General Block Exemption Regulation) a number of additional conditions will also apply to the new FYA. In particular, the FYA will not be available to a business:
- in difficulty for the purposes of the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C 244/02);
 - subject to an outstanding recovery order following a European Commission decision declaring an aid illegal;
 - engaged in the fisheries and aquaculture sectors, as covered by Council Regulation (EC) No 104/2000; or
 - managing waste for other undertakings for the purposes of Directive 2008/98/EC (for example, a waste collector contracting with a local authority, or large retail business, to provide an integrated waste management service).

- 1.22.** The amount of expenditure that will qualify for the new FYA is limited to €85 million per undertaking over the five year life of the measure. For example, qualifying expenditure by a group of companies would be limited to a maximum of €85 million for the group as a whole over the five year life of the scheme. Similar rules will also apply to the unincorporated.

IR35 and small businesses

- 1.23.** The Government remain committed to a review of IR35 and small business tax and will release further details shortly.

Capital distributions (bn06)

- 1.24.** FA 2009 introduced part 9A CTA 2009, which extended the scope of exemption from corporation tax for distributions received by UK companies. Distributions other than capital distributions paid by UK resident companies (UK distributions) have been exempt distributions for many years. The legislation in part 9A extended the exemption to foreign distributions but excluded distributions of a capital nature.
- 1.25.** Until recently, established practice has been to treat UK distributions as being of an income nature subject only to some specific exceptions. Clarification of the law made by the ITTOIA 2005 made this treatment impossible to sustain. This development went unnoticed, and HMRC did not change their practice until after the introduction of the exemption regime in FA 2009.
- 1.26.** This measure will clarify the corporation tax treatment of certain distributions received by UK companies. Distributions within the definition in part 23 CTA 2010 will not be prevented from falling within the distribution exemption regime for companies introduced in FA 2009 by virtue only of being 'of a capital nature'.
- 1.27.** The existing rule that limits the application of the distribution exemption regime to distributions of an income nature will be removed. This change will have effect for all distributions made on or after 1.7.09.
- 1.28.** The new legislation will also make clear that distributions made out of reserves arising from a reduction in capital are distributions within the definition in part 23 of CTA 2010. This change will have full retrospective effect for distributions by UK-resident companies, and will apply to distributions made on or after 1.7.09 by non-UK resident companies.
- 1.29.** The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess. The legislation will have retrospective effect, but companies will be able to elect for the legislation not to apply retrospectively.

- 1.30. Draft legislation and an accompanying explanatory note have been published on the HMRC website.
- 1.31. This measure was previously announced in the Budget of March 2010. This announcement supersedes that version.

Consortium relief (bn14)

- 1.32. Consortium relief rules allow, in certain circumstances, a member of a consortium to transfer its share of the consortium's unused losses to another member of its group. This is commonly known as the 'link company rule' and the member that makes the transfer is known as the 'link company'. Under current rules, the link company must be UK resident. This measure extends the rules to allow any company established within the European Economic Area to be a link company.
- 1.33. Currently, the maximum amount of losses that may be claimed from a consortium company is determined by the lowest result from three tests:
- i) the percentage of ordinary share capital held;
 - ii) the percentage of profits to which the company is entitled; and
 - iii) the percentage of assets to which the company would be entitled on a winding up.
- 1.34. This measure adds an additional test based on the proportion of voting rights and the extent of control the member holds in the consortium.
- 1.35. The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess. The changes to the legislation have effect for accounting periods commencing on or after the date that the legislation is published.

Research and development tax relief (bn08)

- 1.36. This proposal will apply only to companies that are small or medium enterprises (SMEs) claiming enhanced tax relief for expenditure on research and development (R&D). For the purpose of the R&D relief, the SME thresholds are higher than those set out by the European Commission (500 employees, annual turnover of €100 million and balance sheet total of €86 million rather than 500, €50 million and €43 million respectively).
- 1.37. The condition requiring that any intellectual property deriving from the R&D to which the expenditure is attributable be owned by the company making the claim will be abolished.

- 1.38.** The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess. The change will have effect for any expenditure incurred by a SME company on R&D in an accounting period ending on or after 9 December 2009.
- 1.39.** Ss 1071 and 1072 Corporation Tax Act 2009 apply the same condition where a company which is a SME applies under the rules for large companies, because the expenditure is excluded from the SME relief by virtue of being subsidised. This condition will be removed.
- 1.40.** This measure was previously announced in the 2009 Pre-Budget Report and a version of this note was published as PBRN06. This note supersedes that version.

Relief for interest: amendments to the 'worldwide debt cap' legislation (bn07)

- 1.41.** The 'worldwide debt cap' was introduced last year to guard against excessive debt funding of UK companies. The legislation, which has now been rewritten into part 7 of the Taxation (International and Other Provisions) Act 2010, does this by restricting relief for UK financing costs where these exceed the financing costs of the worldwide group.
- 1.42.** As a result of consultation with businesses and their advisers on the practical application of the debt cap, a number of changes have been identified that either ensure the rules work as originally intended or meet concerns expressed by representatives of particular industries.
- 1.43.** The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess.
- 1.44.** This measure was previously announced in the Budget of March 2010. This note supersedes that version.
- 1.45.** The debt cap legislation as a whole applies to periods of account of the worldwide group beginning on or after 1.1.10, and with one exception, the changes will apply from that date.
- 1.46.** This measure will make fourteen separate changes. One group of changes ensures that, where a UK figure is being compared with a worldwide figure, the same amount is included in both figures in respect of the same borrowing.
- 1.47.** Other proposed amendments specifically affect securitisation companies. Companies within the special corporation tax regime for securitisation companies introduced by FA 2005 will be excluded from the main debt cap rules, including exclusion of their financing expenses when computing the worldwide group's cost of finance (the 'available amount'). In addition, there will be a power to make regulations that would allow a company involved in capital market arrangements to transfer any additional tax liability as a result of the debt cap to another company in the group.

1.48. The other changes that are being made are as follows:

- the assets and liabilities of companies that are taken into account for the 'gateway test' will include long-term arrangements that have the economic effect of loans;
- a minor expansion of the definition of 'financial instrument' when determining whether a financial services group is excluded from the debt cap;
- preventing groups from allocating a debt cap disallowance to a dual resident investing company;
- including guarantee fees in the financing income of a company;
- correcting a drafting error relating to group treasury companies;
- distributions made by industrial and provident societies will be excluded from the financing expenses of such companies;
- exclusion of interest paid to a non-departmental public body;
- clarifying the meaning of 'ancillary expenses' in the definition of the available amount; and
- introducing two restrictions on entities that can be the 'ultimate parent' of a group of companies.

Loan relationships: anti-avoidance (bn17)

1.49. Legislation will be introduced in Finance Bill 2010 to tackle avoidance schemes that have been notified to HMRC under the avoidance disclosure rules.

1.50. A company's taxable profits and losses from its loan relationships and derivative contracts are normally based on the amounts shown in accounts drawn up in accordance with generally accepted accounting practice. In certain circumstances, where accounting practice allows or requires a loan or derivative or its associated cash flows to be 'derecognised', the tax rules override the accounting practice and require the profits and losses to be computed as if the asset in question had been fully recognised.

1.51. The measure will extend the circumstances in which amounts are to be fully recognised for tax purposes, to cases where derecognition arises as a result of the acquisition or variation of a capital interest in a company, partnership or trust, or where derecognition is triggered by an event that occurs in a later accounting period to that in which the derecognition takes place.

- 1.52. The legislation has effect for credits and debits arising on or after 22 .6.10.
- 1.53. A technical note is to be issued in early July 2010 setting out proposals for generic legislation to tackle avoidance schemes involving derecognition of loan relationships and derivative contracts.
- 1.54. Any further changes to the legislation on derecognition will be made in Finance Bill 2011, with effect from a date to be announced.

Corporation Tax reform

- 1.55. The Government understand the importance of the whole corporate tax system to business and will set out a more detailed programme for reform in the autumn. This will allow it to take a considered approach to implementing tax reforms and to listen to the needs of business through greater consultation. The Government will provide greater certainty for business by committing to principles for corporate tax reforms. In particular, they intend to develop their view that in general a broad tax base, a low rate and a more territorial approach will improve competitiveness. They will establish a business forum, chaired by the Exchequer Secretary, to consult with multinational businesses on the UK's tax competitiveness, including the long-term aims of reform of the corporate tax system.

Northern Ireland reform

- 1.56. HM Treasury will publish a consultation paper, later this year, on ways to stimulate growth in the Northern Ireland economy. The paper will consider the potential for the introduction of enterprise zones, changes to corporation tax and wider economic and public sector reform.

Bank Levy

- 1.57. The Government will introduce a levy based on banks' balance sheets from 1.1.11 intended to encourage banks to move to less risky funding profiles.
- 1.58. The Government believe that banks should make a fair contribution in respect of the potential risks they pose to the UK financial system and wider economy. The levy is not insurance against failure nor is it a fund for future resolution, it is a contribution reflective of economic risk.
- 1.59. Final details will be published later this year, following consultation.

2. Employment taxation and national insurance

Enterprise management incentives (bn10)

- 2.1. Paras 13 to 15 sch 5 ITEPA 2003 require that, in the case of a single company granting EMI options to its employees, that company must carry on a trade 'wholly or mainly' in the UK or, in the case of a parent company, at least one company in the group must be carrying on a 'qualifying trade' (within the meaning of the legislation) 'wholly or mainly' in the UK.
- 2.2. To ensure EMI complies with EU State aid guidelines, the present rule will be amended. In future, a company wishing to grant EMI options must have a 'permanent establishment' in the UK. Alternatively in the case of a parent company, at least one company in the group that is carrying on a 'qualifying trade' within the meaning of the legislation must have a 'permanent establishment' in the UK.
- 2.3. 'Permanent establishment' has the same meaning as in chapter 2 part 24 Corporation Tax Act 2010.
- 2.4. The change will have effect in respect of EMI options granted on or after the date that the legislation receives Royal Assent.
- 2.5. This measure was previously announced in the Budget of March 2010 and a version of this note was published as BN13. This note supersedes that version.

Use of trusts to reward employees

- 2.6. The March 2010 Budget announced action to tackle arrangements using trusts and other vehicles to reward employees which seek to avoid, defer or reduce liabilities of employees and directors to income tax and NIC or to avoid restrictions on pensions tax relief. The Government confirm that employer financed retirement benefit schemes are within the scope of this measure. Legislation will take effect from April 2011.

Expenses paid to MPs (bn30)

- 2.7. The Independent Parliamentary Standards Authority (IPSA) has developed a new scheme under which MPs have been paid their expenses since the Parliamentary election on 6.5.10.
- 2.8. Legislation will be introduced in FB 2010 to amend ITEPA 2003 to address the tax and NIC consequences of the new scheme. It will consolidate existing tax and NIC treatments following the introduction of the Parliamentary Standards Act 2009 and the provision in that Act for expenses to be administered by the IPSA rather than the House Authorities. Full details will be given in guidance to MPs.
- 2.9. The legislation will have retrospective effect on and after 7.5.10.

2.10. The proposed revisions include:

- re-wording of the exemption from income tax for the Personal Additional Accommodation Expenditure (PAAE) that was paid to MPs in respect of additional expenses necessarily incurred in staying overnight away from their only or main home for the purpose of performing their Parliamentary duties;
- re-wording of the exemption from income tax of expenses paid to MPs to cover the costs of certain visits to EU institutions or to the Parliaments of other EU members;
- ending the concessionary treatment of expenses reimbursed to MPs for travel between their constituency and Westminster and introduction of a statutory exemption for certain travel expenses paid or reimbursed to MPs by IPSA as expenses necessarily incurred in the performance of MPs' Parliamentary functions;
- introduction of tax exemption for the more restricted reimbursements for the travel of MPs' spouses;
- replacement of the existing exemption for meals purchased by MPs and eaten on the Parliamentary estate when the House of Commons is sitting late by another, reflecting the new scheme.

2.11. Regulations which will be made under existing powers will also be introduced to ensure that the treatment of NIC will mirror that for tax.

Seafarers' earnings deduction: EU and EEA residents (bn31)

2.12. Seafarers' earnings deduction (SED) can provide 100% tax relief from the earnings for carrying out duties as a seafarer wholly or partly outside the UK during an eligible period. Broadly speaking, a seafarer is a person who works on a ship.

2.13. One of the current qualifying conditions for SED is that the claimant must be ordinarily resident in the UK. This condition will be extended so that seafarers who are EU or EEA residents can claim SED on their earnings as a seafarer that are liable to UK income tax. There are no other changes to the rules for SED.

2.14. The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess. The measure will have effect on and after 6.4.11.

2.15. This measure was previously announced at the 2009 Pre-Budget Report and a version of this note was published as PBRN23. This note supersedes that version.

PAYE - Review

- 2.16. The Government wishes to explore how the PAYE system could be improved in order to reduce costs and make the system easier for employers and HMRC to administer. As an initial step, the Government intend to consult with employers and payroll providers in the summer on mechanisms that could support more frequent or real time PAYE data.

Financial security for PAYE and NIC

- 2.17. The Government have announced a consultation later this year to look at the proposal to introduce powers for HMRC to require a financial security from employers who have a history of serious non compliance in terms of paying late or not paying their PAYE income tax and NIC.
- 2.18. There is currently a power in VAT to require a security and evidence shows that it is an effective tool for protecting revenue. The proposal in the consultation would affect those who are determined not to pay and not those who need time to pay and who make payment arrangements with HMRC.
- 2.19. The consultation will also ask for comments on the sanction of a new criminal offence for failing to provide a financial security, which would be penalised by a criminal fine of up to £5,000.
- 2.20. The draft clause and regulations will be published as part of the consultation document and there will be a full twelve week consultation period for interested parties to comment.

NIC rates

- 2.21. The rates for the rest of the current year and for next year will be as follows:

Employee and employer rates	Employee (Class 1 primary)		Employer (Class 1 secondary)	
	April 2010-11	April 2011-12	April 2010-11	April 2011-12
Earnings per week				
Below primary threshold / secondary threshold	Nil	Nil	Nil	Nil
Above primary threshold/ secondary threshold*	11%	12%	12.8%	13.8%
Above upper earnings limit	1%	2%	12.8%	13.8%

Self-employed rates	Class 2 (per week)*		Class 4	
	April 2010-11	April 2011-12	April 2010-11	April 2011-12
Profits per year				
Below small earnings exception	Nil	Nil	Nil	Nil
Small earnings exception to lower profits limit	£2.40	Not available**	Nil	Nil
Lower profits limit to upper profits limit	£2.40	Not available**	8%	9%
Above upper profits limit	£2.40	Not available**	1%	2%

*Class 2 NICs are paid at a weekly flat rate of £2.40 by all self-employed persons. Those with profits less than, or expected to be less than, the level of the small earnings exception may apply for exemption from paying Class 2 contributions.

**The exact figure for Class 2 for 2011-12 will be determined by data available in the autumn.

Regional employers NIC holiday

- 2.22.** The Government will announce details of a scheme to help new businesses in targeted areas of the UK that need it most. During a three year qualifying period, new businesses which start up in these areas will get a substantial reduction in their employer national insurance contributions.
- 2.23.** Within the qualifying period, these employers will not have to pay the first £5,000 of Class 1 employer NIC due in the first twelve months of employment. This will apply for each of the first ten employees hired in the first year of business and operate in selected countries and regions.
- 2.24.** Subject to meeting the necessary legal requirements, the scheme is intended to start no later than September 2010. Any new business set up from 22.6.10 which meets the criteria set out in the forthcoming announcement will benefit from the scheme.
- 2.25.** The countries and regions which will benefit will be Scotland, Wales, Northern Ireland, the North East, Yorkshire and the Humber, the North West, the East Midlands, the West Midlands and the South West.
- 2.26.** Most employees will be within the scope of the proposed scheme, but there will be some specific exclusions, eg employees operating under companies caught by the IR35 rules (the deemed payment rules), employees engaged through managed service companies, etc.

3. Personal income taxation

Personal allowances (bn01)

3.1. With effect from 6.4.11:

- the personal allowance for those aged under 65 will be increased by £1,000 to £7,475;
- the basic rate limit will be reduced so that higher rate taxpayers do not benefit from the increase in the personal allowance. The exact figure will be confirmed when September's Retail Prices Index (RPI) is known;
- the alignment of the Upper Earnings/Profits Limit (UEL/UPL) with the higher rate threshold (the total of the personal allowance for those aged under 65 and the basic rate limit) will be maintained by reducing the UEL/UPL; and
- the secondary threshold, which is the point at which employers start to pay Class 1 NICs, is to be increased by an extra £21 per week above indexation.

3.2. Existing legislation requires the Government to increase personal allowances and rate limits by the annual percentage increase to the RPI for the year to September preceding the new tax year. The Government will make the Order to set the relevant amounts for 2011-12 after the relevant percentage is published in October 2010.

3.3. The Government have announced that for 2011-12 it will over-ride the amounts that will be set in the Order for the personal allowance for those aged under 65 and the basic rate limit. Decisions on other allowances will be made at the appropriate time. The exact amounts of the basic rate limit for 2011-12 will not be known until publication of the RPI for September.

3.4. Examples of how these changes affect the amount of tax and NICs that individuals will pay will be published on the HMRC website when the amounts of the basic rate limit and UEL/UPL for 2011-12 are known.

Tax credits and child benefit

3.5. The Government will reduce tax credit eligibility for families with household income above £40,000 from April 2011 and make further changes in 2012-13. They will increase both withdrawal rates to 41%.

3.6. The backdating provisions have been shortened to one month with effect from 6.4.12 from the current 93 days and amendments will also be made to the income disregard for income increases from 6.4.11 and an introduction of a disregard for income falls from 6.4.12.

- 3.7.** Tax Credits awards are normally based on the household income of the previous year. A customer only has to report a change of income during the year if it is more than £25,000 higher than the previous year. When finalising the previous year's award any income increase below £25,000 is ignored. This figure will reduce on 6.4.11 from £25,000 to £10,000 and on 6.4.13 from £10,000 to £5,000.
- 3.8.** From 6.4.12, an income disregard of £2,500 for falls in income will be introduced. This will mean that any reduction in income in a year of less than £2,500 will have no impact on a tax credits award.

Child and Working Tax Credits rates £ per year (unless stated)	April 2010-11	April 2011-12
Income thresholds and withdrawal rates		
First withdrawal rate	39%	41%
Second income threshold	50,000	40,000
Second withdrawal rate	6.67%	41%
Income disregard	25,000	10,000

Furnished holiday letting changes

- 3.9.** The furnished holiday lettings rules (FHL) will not be withdrawn from 6.4.10 (1.4.10 for companies).
- 3.10.** The Government will publish a public consultation over the summer about plans to change the tax treatment of furnished holiday lettings from April 2011. The consultation will specifically look at a proposal which would:
- ensure the FHL rules apply equally to properties in the EEA;
 - increase the number of days that qualifying properties have to be available for, and actually let as, commercial holiday letting; and
 - change the way in which FHL loss relief is given.
- 3.11.** Draft legislation will be published in the autumn, with a view to inclusion in Finance Bill 2011.
- 3.12.** For capital gains purposes, assets may be treated as used for the purposes of an EEA FHL business, as a trade asset from the latest of the following three dates:
- 1.1.94;
 - the date the property was first let as a qualifying FHL; and
 - the date on which the country in which the property is situated joined the EEA.

- 3.13.** Expenditure incurred in providing plant and machinery for use in an EEA FHL dwelling house will be qualifying expenditure for capital allowances purposes with effect from the latest of the following three dates:
- the date property was first used as a qualifying FHL;
 - the date on which the country in which the property is situated joined the EEA; and
 - 1.1.94.
- 3.14.** Where such expenditure was incurred on or after the latest of these three dates, it will qualify for capital allowances in the normal way.
- 3.15.** People choosing to be taxed under the FHL rules should include any EEA FHL income within the Furnished Holiday Lettings section of the UK Property pages of the tax return. Those electing to be taxed under the property income rules should include income from holiday lettings in the EEA within the Income from land and property abroad section of the foreign income pages.

Individual savings account limits from 2011 (bn21)

- 3.16.** From 6.4.10 the annual ISA subscription limits were increased for all savers, to £10,200, of which £5,100 can be saved in cash.
- 3.17.** From 6.4.11 the annual ISA subscription limits will be linked to the RPI. They will be rounded to a convenient multiple of 120 so that individuals who save monthly will be able to calculate their monthly savings more easily.
- 3.18.** The new limits will be calculated by reference to the RPI for the September before the start of the following tax year, and HMRC will announce the new limits each year in advance of the start of the new tax year in which they will apply.
- 3.19.** In the event that the RPI is negative, the ISA limits would remain unchanged. As is the case now, following indexation, the cash ISA limit will be half the value of the stocks and shares ISA limit.
- 3.20.** The ISA regulations will be amended by Statutory Instrument to reflect these changes.
- 3.21.** This measure was previously announced in the Budget of March 2010 and a version of this note was published as BN28. This note supersedes that version.

Saving Gateway

- 3.22.** The Government have announced that the Saving Gateway is not affordable given the need to reduce the deficit. It will, therefore, not be introduced in July 2010.

Venture capital schemes (bn11)

- 3.23.** Four changes to the EIS (enterprise investment scheme) and VCT (venture capital trust) schemes agreed with the European Commission as a condition for their approval by the Commission as approved State aids remain to be made.
- 3.24.** The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess. The changes generally will have effect on and after a date to be appointed, with the exception of the eligible shares changes for VCTs, which will not affect monies raised by the VCT before that date.

VCTs only

- 3.25.** The current legislation at s274 ITA 2007 requires the shares making up a VCT's ordinary share capital to be included in the official UK list throughout the relevant accounting period. This will be replaced with a requirement that the shares instead be admitted for trading on any EU regulated market. The effect is that VCTs will be able to be listed on markets throughout the EU/European Economic Area (EEA). The European Commission publishes a list of all regulated markets in the Official Journal of the European Union at least annually, and the list of regulated markets is also available on its website.
- 3.26.** The current legislation at s274 requires that at least 30% of the VCT's qualifying holdings is represented throughout the relevant accounting period by holdings of eligible shares. S285(3) of ITA defines 'eligible shares' for this purpose. The new legislation will increase the eligible shares holdings requirement to 70%, but will also change the definition of 'eligible shares' to allow VCTs to include shares which may carry certain preferential rights to dividends.

EIS and VCTs

- 3.27.** The new legislation will exclude shares in a company from qualifying for the purposes of the EIS or VCT legislation if it is reasonable to assume that the company would be treated as an 'enterprise in difficulty' for the purposes of the European Commission's Rescue and Restructuring Guidelines, published in the Official Journal at OJC 2004/C 244/02, at section 2.1.
- 3.28.** The current legislation, at ss179 (for EIS) and 291 (for VCTs) ITA requires that there is a qualifying trade carried on wholly or mainly in the UK. For shares issued on or after the commencement date of the legislation, the requirement will be that the company issuing the shares must simply have a permanent establishment in the UK.
- 3.29.** 'Permanent establishment' will be defined based on art 5 of the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention on Income and Capital.

3.30. Regulations will be made to update Statutory Instrument 2004/2199 to reflect the new conditions concerning eligible shares.

3.31. This measure was previously announced at Budget 2010 and a version of this note was published as BN12. This note supersedes that version.

Pensions: annual allowance

3.32. The Government have announced they are considering restricting pensions tax relief from 6.4.11 by reforming the existing pension savings allowances, principally by significantly reducing the annual allowance. The Government will discuss the changes with interested parties but provisional analysis has suggested that the level of a reformed annual allowance may be in the region of £30,000 to £45,000.

3.33. The reformed allowances would replace the high income excess relief charge, which currently is due to come into force on 6.4.11. Legislation will be brought in to allow the high income excess relief charge legislation to be repealed.

Deferring the requirement to buy an annuity (bn22)

3.34. The Government have announced that they will end the effective requirement to use a pension fund to buy an annuity by age 75 with effect from 2011-12.

3.35. This proposal will affect:

- members of registered pension schemes and their dependants, particularly those members approaching age 75;
- registered pension schemes and their administrators;
- annuity providers; and
- personal representatives of deceased pension scheme members.

3.36. For scheme members with money purchase arrangements who have not yet bought an annuity by age 75, the income withdrawals they may make become subject to strict minimum and maximum limits from age 75. Also, if such a member dies after reaching age 75 and any of the fund is not used to pay either pensions to dependants or a charitable donation, it is subject to tax charges up to 70%. Specific IHT charges also apply to certain pension scheme members who die on or after their 75th birthday.

3.37. For scheme members with money purchase arrangements who have not yet bought an annuity and reach age 75 on or after 22.6.10:

- the strict minimum and maximum limits on income withdrawals will apply from their 77th instead of their 75th birthday;
 - immediately before their 75th birthday they will become entitled to income withdrawal and a tax free pension commencement lump sum in respect of those funds not previously made available for income withdrawal; and
 - in the interim period before the main changes have effect in 2011-12, there will be tax charges of 35% on lump sum death benefits paid by the scheme if they die on or after 22.6.10 and aged 75 or over. The specific IHT death charges on pension scheme members, who are in drawdown and are aged 75 or over when they die, will not apply in these circumstances. Previously there could have been tax charges up to 82% of the value of the drawdown fund.
- 3.38.** These interim changes enable those reaching age 75 on or after 22.6.10 to defer their decision on what to do with their pension savings until after the new rules are finalised next year. The Government have announced that they will consult shortly on the detail of the changes being introduced in 2011-12.

Gift Aid reform

- 3.39.** The Government have announced that the consultation aimed at improving the Gift Aid system is to continue with charity sector representatives by way of the ongoing Gift Aid forum.

Substantial donors to charities

- 3.40.** The Government have announced their commitment to replacing the current anti-avoidance legislation on substantial donors to charities. HMRC will consult informally on draft legislation over the summer, with a view to publishing final legislation in the autumn.

Taxation of non-domiciled individuals

- 3.41.** The Chancellor has announced that the Government will review the taxation of non-domiciled individuals. This reiterates a statement made previously in the Coalition Agreement.

Income tax adjustments between settlors and trustees (bn25)

- 3.42.** Individuals who are taxed on the income of a trust they have set up (a settlor-interested trust) may receive repayments of tax on trust income if they are liable to income tax at a lower rate than the trustees. This measure will require settlors to pay any such repayments of tax they receive to the trustees. The result of this will be that these payments to trustees will be disregarded for inheritance tax purposes.

- 3.43.** The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess and it will have effect for repayments relating to trust income that arises on or after 6.4.10.
- 3.44.** S646 ITTOIA 2005 requires settlors to pay over to trustees repayments of tax in respect of an 'allowance or relief' in relation to trust income. This will be extended to all repayments of tax received by settlors in relation to trust income.
- 3.45.** This measure was previously announced at Budget 2010 and a version of this note was published as BN30. This note supersedes that version.

Special guardianship orders and residence orders (bn26)

- 3.46.** 'Qualifying guardians' are individuals who care for one or more children placed with them under:
- a special guardianship order (ie special guardians); or
 - a residence order, where that individual is not the children's parent or step parent (eg certain kinship carers).
- 3.47.** Income from providing care is normally taxed under the trading income rules, or the rules for miscellaneous income.
- 3.48.** HMRC provide simplified income tax arrangements for certain carers, known as the simplified arrangements for adult placement carers. These arrangements allow the carer to claim a fixed rate of expenses when computing their taxable profits from providing care. The fixed rate of expenses are:
- £400 a week for the first child placed with the carer;
 - £250 a week for the second placed with the carer; and
 - a further £250 a week for the third placed with the carer.
- 3.49.** Until 5.4.10, special guardians and kinship carers are able to use the simplified arrangements described above to compute their taxable profits.
- 3.50.** From 6.4.10, qualifying guardians will be exempt from income tax on any qualifying payments they receive.
- 3.51.** Qualifying payments are payments:
- by the child's parents or payments by, or on behalf of, the local authority;

- to a qualifying guardian; and
- which are made in relation to a special guardianship order or a residence order.

3.52. Kinship carers who are providing care to a child who has not been placed with them under a residence order will not be considered a qualifying guardian for the purposes of this income tax exemption. However, they will be entitled to claim the new income tax relief for shared lives carers.

3.53. This measure was previously announced in the Budget of March 2010 and a version of this note was published as BN37. This note supersedes that version.

Relief for shared lives carers (bn27)

3.54. Qualifying shared lives carers:

- provide accommodation, care and support for up to three individuals who have been placed with them under a local authority shared lives placement scheme; and
- share their home and family life with the individuals placed with them under the shared lives scheme.

3.55. They will be enabled to claim the same income tax relief as foster carers. The new relief will be known as the qualifying care relief.

3.56. Qualifying shared lives carers will be entitled to claim a tax free allowance. Those whose shared lives earnings are less than the tax free allowance will not be taxed on their income from providing shared lives care. Those whose shared lives earnings are more than the tax free allowance have the option to choose a simplified method for calculating their profits.

3.57. The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess, but the change will have effect on and after 6.4.10.

3.58. The new tax free allowance will be available to shared lives carers from 2010-11. For the tax year 2010-11 only, shared lives carers can choose between the current simplified arrangements for adult placement carers and the new tax free allowance. The simplified arrangements will then be withdrawn from 2011-12.

3.59. Qualifying shared lives carers, whose total receipts from providing care exceed the tax free allowance for the year, will be able to choose to pay tax on:

- their total receipts from providing care less the tax free allowance; or

- their actual profits computed using the normal tax rules for businesses.

3.60. The tax free allowance will be available per household, and consists of:

- £10,000 fixed amount per tax year;
- £200 per week (or part week), per placement aged under 11; and
- £250 per week (or part week), per placement aged 11 or over.

3.61. Specific rules will deal with situations where

- there is more than one carer in the household; and
- a carer is both a foster carer and a shared lives carer

3.62. This measure was previously announced at the 2009 Pre-Budget Report and a version of this note was published as PBRN22. This note supersedes that version.

Capital allowances rules for qualifying carers (bn29)

3.63. The Government aim to correct technical anomalies in the special capital allowances rules for foster carers, to ensure that the rules operate as intended when individuals start, or finish, qualifying or electing for foster-care relief. The amended legislation will also apply to shared lives carers when the special rules are also extended to them.

3.64. The legislation will be included in a Finance Bill to be introduced as soon as possible after the summer recess. The changes apply to chargeable periods ending on or after the date that the legislation receives Royal Assent.

3.65. The new legislation will ensure that the special rules apply as intended in all circumstances where an individual begins to claim or qualify for foster-care or qualifying-care relief and has previously claimed capital allowances in respect of their caring trade.

3.66. The new legislation will also amend the special rules so that if an individual's foster-care or qualifying-care relief ends and the ordinary capital allowances rules start to apply again, then they will be treated as having acquired assets they already own for the smaller of:

- (a) the market value of the asset; or
- (b) the unrelieved expenditure that was in the capital allowances pool at the end of the last chargeable period for which they were entitled to claim capital allowances.

4. Capital gains tax

Rates and entrepreneurs' relief (bn20)

Rates of CGT

- 4.1. At present s4 TCGA 1992 provides that net gains chargeable to CGT (after deduction of reliefs, losses and the CGT AEA) are taxed at 18%. FB 2010 will include provision to change the rates of CGT for gains arising on or after 23.6.10.
- 4.2. For individuals, where their total taxable income and gains after all allowable deductions (including losses, the income tax personal allowance and the CGT AEA) are less than the upper limit of the basic rate income tax band (£37,400 for 2010-11), the rate of CGT will be 18%. For gains (and any parts of gains) above that limit the rate will be 28%. For trustees and personal representatives of deceased persons, the rate will be 28%. Where entrepreneurs' relief applies for individuals or trustees the rate remains 10% (see below).
- 4.3. Gains arising in 2010-11, but before 23.6.10, will continue to be liable to CGT at 18% and will not be taken into account in determining the rate (or rates) at which gains of individuals arising on or after 23.6.10 should be charged.
- 4.4. Certain CGT reliefs allow gains on disposal of an asset to be deferred until some time after the disposal. For instance, a gain can be reinvested in shares under the enterprise investment scheme and, subject to conditions, can be deferred until the EIS shares are disposed of. The CGT rate(s) on a gain deferred in this way will be the rate(s) at the time the deferral ends and the gain becomes liable to tax. Gains on disposals before 23.6.10 which are deferred until 23.6.10 or later will therefore be liable to CGT at the 18 or 28% rates, in the same way as gains arising on disposals on or after that date.
- 4.5. In working out the CGT payable, taxpayers will be able to deduct losses and the AEA in the way which minimises the tax due.

Example 1

- 4.6. In 2010-11 X's taxable income, after all allowable deductions and the personal allowance, is £27,400. The upper limit of the income tax basic rate band is £37,400. X sells an asset in May 2010 and realises a chargeable gain of £17,000. In November 2010 X sells another asset, realising a chargeable gain £25,100. X has no allowable losses to set against these gains, and the AEA for 2010-11 is £10,100. Neither of the gains qualifies for entrepreneurs' relief.
- 4.7. X's taxable income is £10,000 less than the upper limit of the basic rate band (£37,400 - £27,400). X sets the AEA against the later gain (because part of that gain is liable to tax at the higher CGT rate), leaving £15,000 taxable (£25,100 - £10,100). The first £10,000 of the

£15,000 is taxed at 18% and the remaining £5,000 is taxed at 28%. The £17,000 chargeable gain X realised in May 2010 before the change of rates on 23 June 2010 is taxable at the old 18% rate.

- 4.8. For trustees and personal representatives of deceased persons, the CGT rate will be 28% for gains arising on or after 23 June 2010, except where entrepreneurs' relief applies (see below).

Entrepreneurs' relief: rate of CGT and lifetime limit on relief

- 4.9. Subject to satisfying certain conditions, including the lifetime limit of £2 million, gains on disposals of entrepreneurial businesses by individuals and certain trustees qualify for entrepreneurs' relief (chapter 3 part 5 TCGA). Currently entrepreneurs' relief reduces qualifying gains by 4/9 and the remaining 5/9 are then charged at the single 18% rate. This results in qualifying gains being taxed at an effective rate of 10%.
- 4.10. The changes to CGT rates from 23.6.10 would mean the 4/9 reduction no longer achieved an effective rate of 10%. Finance Bill 2010 will therefore include provision to charge gains on disposals that qualify for entrepreneurs' relief on or after 23.6.10 at a 10% rate. The previous 4/9 reduction will cease to apply from that date.
- 4.11. The amount of an individual's gains that can qualify for entrepreneurs' relief is subject to a lifetime limit of £2 million (£1 million for disposals before 6.4.10). For trustees, the £2 million limit is that of the beneficiary of the settlement who meets the conditions for the trustees to claim the relief.
- 4.12. FB 2010 will include provision to increase that limit to £5 million from 23.6.10.
- 4.13. Where individuals or trustees make qualifying gains above the previous £2 million limit before 23.6.10 (£1 million limit before 6.4.10), no additional relief will be allowed for the excess above the old limit. But if they make further qualifying gains on or after 23.6.10, they will be able to claim relief on up to a further £3 million of those additional gains (or up to £4 million where the earlier £1 million limit applied), giving relief on accumulated qualifying gains up to the new limit of £5 million. In determining at what rate(s) an individual should be charged to CGT on any other gains, those gains qualifying for entrepreneurs' relief are set against any unused basic rate band before non-qualifying gains.

Example 2

- 4.14. Y has previously used £1 million of her lifetime entrepreneurs' relief limit. In 2010-11 her taxable income, after all allowable deductions and the personal allowance, is £17,400. The upper limit of the income tax basic rate band is £37,400. In May 2010 Y realises a chargeable

gain of £3 million on the disposal of a business. In December 2010 she sells another business, realising further chargeable gains of £7 million. Both disposals qualify for entrepreneurs' relief (subject to the lifetime limits). Y has no allowable losses to set against these gains, and the AEA for 2010-11 is £10,100.

- 4.15.** The £3 million gain realised in May 2010 is subject to the £2 million lifetime limit for entrepreneurs' relief (for qualifying disposals from 6 April 2010), of which Y has previously used £1 million. The gain is reduced by 4/9 of £1 million and the remainder charged to CGT at the single rate of 18%.
- 4.16.** The increase in the lifetime limit from 23.6.10 means that £3 million of the £7 million gain from December is chargeable at the 10% rate of CGT. Y's taxable income is £20,000 below the basic rate band (£37,400 – £17,400). But the £3 million of the gain charged at 10% is taken into account in priority to other gains in determining whether total income and gains exceed the basic rate band. So the remaining £4 million gains, less the AEA, are charged at the higher rate of 28%.

Future CGT rates

- 4.17.** The coalition agreement talked about CGT rates becoming more closely aligned with income tax rates and the Chancellor has confirmed that he will decide the rates of CGT for 2011-12 in the Budget in 2011.

Private residence relief and adult placement carers (bn28)

- 4.18.** Where a person cares for an adult under a local authority placement scheme, their contract with the local authority may require them to set aside one or more rooms exclusively for the use of the adult in care. In such a case, s 224 TCGA 1992 may prevent PRR being available on that part of the property.
- 4.19.** The legislation will remove this possible restriction on PRR. The fact that part of the home is occupied by the adult in care will not prevent PRR being available on that part, which can therefore be treated as part of the carer's only or main residence, eligible for PRR.
- 4.20.** The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess and it will have effect for disposals on or after 9.12.09.
- 4.21.** This measure was previously announced at the 2009 Pre-Budget Report and a version of this note was published as PBRN16. This note supersedes that version.
- 4.22.** Draft legislation and an explanatory note for this change were published on 9.12.09 on the HMRC website.

5. Administration and management

Deduction of income tax at source (bn13)

- 5.1. Currently, the rules setting out when and how a person must report income tax deducted at source from certain payments are set out in primary legislation.
- 5.2. The legislation provides that where a person other than a company makes a payment of a type contained within s963 ITA 2007 from which income tax is required to be deducted, they are required to deliver an account of that payment to an officer of HMRC without delay. An officer of HMRC may make an assessment of the tax due on the person making the payment.
- 5.3. The proposed change will provide HMRC with a power to make regulations to amend when and how a person should report income tax deducted from certain payments. It will affect individuals and other non-corporates that make payments of interest, patent royalties or other annual payments which require tax to be deducted at source. Companies making these payments are unaffected.
- 5.4. The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess. The measure will have effect on and after the date that the legislation receives Royal Assent.

Interest harmonisation for corporation tax (bn36)

- 5.5. The current rules on interest have evolved over time with additions and adaptations applied as each major tax has been reviewed or each new tax or duty has been introduced. As such, there are a number of different rules applying for interest across the taxes and duties. For some taxes, interest is charged as soon as payment is late; for others it is only charged where under-declarations are assessed, and for some liabilities there is no late payment interest charged at all. In addition, where repayment interest currently applies it may be called a supplement, credit interest or statutory interest.
- 5.6. The new harmonised interest provisions replace the current range of differing regimes with a single legislative framework for interest chargeable on late payments and payable on repayments which will apply to all taxes and duties administered by HMRC. Interest will be charged from the date the tax or duty was due to be paid to HMRC until the date it is paid. HMRC will pay interest on repayments from the date the tax or duty was due to be paid or, if later, the date the payment was actually received, to the date the repayment is made.
- 5.7. This measure will bring corporation tax (and petroleum revenue tax) within the harmonised interest regime introduced in FA 2009. The harmonised interest regime will apply to all late payments and repayments of taxes and duties administered by HMRC.

- 5.8.** The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess. However, implementation of interest harmonisation requires changes to a number of HMRC internal systems and is to be phased in over a number of years. The new provisions will be brought into effect by Treasury Orders which will specify the dates from which they have effect.
- 5.9.** The rules for quarterly instalment payments remain unchanged and do not form part of the harmonised rules that will apply to CT. This treatment reflects the particular nature of these payments and responds to representations made during earlier consultation.
- 5.10.** This measure was previously announced in the Budget in March 2010 and a version of this note was published as BN66. This note supersedes that version.

Penalties for late filing of returns and payment of tax (bn37)

- 5.11.** These proposals, arising from the review of HMRC powers, deterrents and safeguards, will affect tax returns and tax liabilities in relation to:
- VAT and insurance premium tax;
 - aggregates levy, climate change levy and landfill tax;
 - air passenger duty, alcoholic liquor duties, tobacco products duty, hydrocarbon oil duties, general betting duty, pool betting duty, bingo duty, lottery duty, gaming duty and remote gaming duty; and
 - other excise duties.
- 5.12.** They will not have effect for tax credits.
- 5.13.** The proposals will complete the reform of the penalty regimes for late filing of tax returns and late payment of tax. The reform began when legislation for certain taxes was enacted in FA 2009 including income tax, corporation tax, inheritance tax and other direct taxes.
- 5.14.** The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess. The new provisions will be brought into effect by Treasury Orders which will specify the dates from which they have effect.
- 5.15.** The new regimes will replace the current variety of penalties and will treat late payment of tax and late filed returns separately. The legislation creates penalty models which reflect the more frequent filing and paying obligations for these taxes and duties compared to the direct tax penalty models enacted last year.

5.16. The key elements of the new penalty models are as follows:

Penalties for late filing returns (quarterly)

- A £100 penalty immediately after the due date for filing (whether or not the tax has been paid);
- the failure also starts a penalty period, which is set for a year;
- if there are further failures within the penalty period, then the fixed penalty escalates by £100 for each of those subsequent failures, up to a maximum of £400 per failure. The penalty period is also extended to the first anniversary of the latest failure;
- if any of the failures are prolonged, then additional penalties of 5% of the tax on the relevant return are charged at six and 12 months from the date of the failure; and
- if, by failing to make the return, the taxpayer is deliberately withholding information to prevent HMRC from correctly assessing the liability to tax, then penalties of up to 100% of the tax on the return may be chargeable.

Penalties for late filing returns (monthly)

- This is a very similar structure to the quarterly model above, except that the fixed penalties are £100 for the first six failures in any penalty period, and then £200 for any subsequent failures.

Penalties for late payments (quarterly)

- Where a taxpayer first pays late, although there is no penalty, it does start a penalty period, which is set for a period of a year;
- any further failures within that period will attract a penalty of 2% of the unpaid tax, as well as extending the penalty period to the first anniversary of the latest failure;
- a third failure within the period will attract a penalty of 3%, with further failures attracting a maximum of 4%; and
- if any of the failures are prolonged, then additional penalties of 5% of the unpaid tax are charged at six and 12 months from the date of the failure.

Penalties for late payment (monthly)

- This is a very similar structure to the quarterly model above, except that, after the first failure, the tax-gear penalties are 1% for the next three failures in any penalty period, 2% of the next three failures, etc. up to a maximum of 4% per failure.

- 5.17. There are special provisions to deal with circumstances where taxpayers may change from a monthly to a quarterly return, or where exceptional payment obligations may arise.
- 5.18. This measure was previously announced in the Budget of March 2010 and a version of this note was published as BN67. This note supersedes that version.

Managed payment plans and budget payment plans

- 5.19. Budget 2009 announced legislation for 'managed payment plans', which would allow taxpayers to pay self assessed income tax and corporation tax in a series of monthly instalments either side of the theoretical due date. The Government have decided to defer implementation of this measure.
- 5.20. Deferral of this measure means that 'budget payment plans' for corporation tax will also now be deferred. Budget payment plans will continue to be available to income tax payers.
- 5.21. Information on other payment options is available on the HMRC website at www.hmrc.gov.uk/payinghmrc/index.htm

Pensions taxation: NEST (bn23)

- 5.22. Budget proposals will enable NEST (the pension scheme provided for under s67 of the Pensions Act 2008) to be registered with HMRC for tax purposes.
- 5.23. The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess and the amendment to enable NEST to be registered will have effect on and after the date the legislation receives Royal Assent.
- 5.24. The current pensions tax rules mean that NEST would not be able to be registered. A pension scheme can be registered for tax purposes only if it is an occupational pension scheme, a public service pension scheme, or a pension scheme established by a person with permissions to establish a personal pension scheme or stakeholder pension scheme.
- 5.25. The change will allow NEST to be treated as an occupational pension scheme for the purposes of Part 4 of the Finance Act 2004. An application could then be made to HMRC for NEST to be a registered pension scheme. This would mean that members of NEST and contributing employers would be able to benefit from the tax reliefs available to registered pension schemes on contributions and investment growth and to be subject to the same tax rules as other tax-registered pension schemes.
- 5.26. This measure was previously announced at Budget 2010 and a version of this note was published as BN35. This note supersedes that version.

Stamp duty land tax: relief for overpayments (bn35)

- 5.27.** This measure will amend the SDLT (and petroleum revenue tax) error or mistake relief rules. This follows similar changes to the income tax, capital gains tax and corporation tax rules in FA 2009. The changes will provide a means of reclaiming overpayments where there is no other statutory route. They will ensure there is a comprehensive statutory scheme of remedies in such cases.
- 5.28.** The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess. To allow a transitional period in which claims can be made under the old rules, the measure will have effect on and after 1.4.11.
- 5.29.** The time limit for claiming repayments provisions for each tax is currently six years. From 1.4.11, repayments must be claimed within four years.
- 5.30.** No repayment is given where the return followed the general practice at the time it was made, or where the mistake is governed by another statutory claim.
- 5.31.** The measure will remove the requirement that the overpayment must be the result of a mistake in a return and that it must be made under an assessment.
- 5.32.** The measure will also provide that HMRC are not liable to repay an amount except as provided by the measure or by another provision of the Taxes Acts.
- 5.33.** The current restrictions on the right of appeal will be removed, allowing an appeal to the courts on the same grounds as appeals against other matters.
- 5.34.** This measure was previously announced at Budget 2010 and a version of this note was published as BN65. This note supersedes that version.
- 5.35.** A Technical Note for the SDLT part of the measure, including draft legislation, was published on 6.1.10 and is available on the HMRC website.

6. VAT

Change of standard rate (bn43)

- 6.1.** Legislation will be introduced in FB 2010 to increase the standard rate of VAT from 17.5% to 20%. The new rate will have effect for any supply made on or after 4.1.11 and any acquisition or importation taking place on or after that date.
- 6.2.** Zero-rated supplies, such as basic foodstuffs, children's clothing and books; exempt supplies, such as education and health; and supplies subject to VAT at the 5% reduced rate, such as domestic fuel and power, are not affected by this change.
- 6.3.** Detailed guidance for businesses on implementing this change has been published on the HMRC website.
- 6.4.** Changes to the Payment on Account regime thresholds will be made at a later date to maintain the *status quo* of the scheme.

Anti-forestalling legislation (bn44)

- 6.5.** FB 2010 will include legislation to counter arrangements that purport to apply the 17.5% VAT rate to goods or services to be delivered or performed on or after 4.1.11. In certain circumstances a supplementary charge to VAT of 2.5% will be due on supplies of goods or services on which VAT of 17.5% has been declared.
- 6.6.** The legislation has been targeted on artificial arrangements and is unlikely to affect suppliers conducting their business as they normally do when no VAT rate increase is anticipated.
- 6.7.** The legislation will have effect for transactions on and after 22.6.10.
- 6.8.** The legislation applies to standard-rated goods and services. It prevents forestalling by introducing a supplementary charge to VAT on the supply of goods or services where the customer cannot recover all the VAT on the supply, and one or more of the following conditions are met:
- the supplier and customer are connected parties;
 - the value of the supply (and any related supplies made under the same scheme) exceeds £100,000. But this does not apply if the prepayment or issuing an advance VAT invoice is normal commercial practice;
 - the supplier or someone connected to the supplier funds a prepayment for the goods or services; or

- an advance VAT invoice is issued where payment is not due in full within six months (except hire purchase invoices issued in accordance with normal commercial practice).
- 6.9.** The supplementary charge to VAT is due on 4.1.11 and must be accounted for on the supplier's VAT return covering that date.
- 6.10.** Similar provisions prevent the use of the grant of standard-rated rights or similar options as an avoidance mechanism. They cover cases where before the rate increase the customer is granted the right to receive goods and services after the rate increase, either free or at a discount, and the customer cannot recover all the VAT on the right or option.
- 6.11.** The charge does not apply to prepaid or invoiced rentals of land, buildings or other assets, if the period concerned is a year or less, and the prepayment or the issuing of an advance invoice is normal commercial practice.
- 6.12.** Suppliers may adjust the amount payable under contracts with customers for any supplementary charges, unless the contracts say otherwise.
- 6.13.** Guidance for businesses has been published on the HMRC website.

Changes to flat rate thresholds and percentages (bn45)

- 6.14.** This measure recalculates percentages used in the flat rate scheme to reflect the increase in the standard rate of VAT to 20%. The table below shows the new flat rates.
- 6.15.** The VAT inclusive thresholds applicable to the scheme have also been recalculated to reflect the increase in the standard rate of VAT to 20%.
- 6.16.** The recalculated flat rate percentages and recalculated thresholds will have effect on and after 4.1.11 until further notice.
- 6.17.** Currently, a business has to leave the scheme if either its tax inclusive annual flat rate turnover exceeds £225,000 or, on a forward look, its tax inclusive turnover in the next 30 days can reasonably be expected to exceed £225,000. As a result of the increase in the standard rate of VAT to 20%, both of these exit thresholds will be increased to £230,000 to maintain the same effect.
- 6.18.** However, if a business using the flat rate scheme exceeds the annual exit threshold as a result of a one off transaction but, in the subsequent year, expects its tax inclusive annual flat rate turnover to be less than £187,500, it may remain in the scheme with the agreement of

HMRC. As a consequence of the increase in the VAT standard rate to 20% this threshold will be increased to £191,500 to maintain the same effect.

Category of business	Appropriate percentage
Accountancy or book-keeping	14.5
Advertising	11
Agricultural services	11
Any other activity not listed elsewhere	12
Architect, civil and structural engineer or surveyor	14.5
Boarding or care of animals	12
Business services that are not listed elsewhere	12
Catering services including restaurants and takeaways	12.5
Computer and IT consultancy or data processing	14.5
Computer repair services	10.5
Dealing in waste or scrap	10.5
Entertainment or journalism	12.5
Estate agency or property management services	12
Farming or agriculture that is not listed elsewhere	6.5
Film, radio, television or video production	13
Financial services	13.5
Forestry or fishing	10.5
General building or construction services*	9.5
Hairdressing or other beauty treatment services	13
Hiring or renting goods	9.5
Hotel or accommodation	10.5
Investigation or security	12
Labour-only building or construction services*	14.5
Laundry or dry-cleaning services	12
Lawyer or legal services	14.5
Library, archive, museum or other cultural activity	9.5
Management consultancy	14
Manufacturing fabricated metal products	10.5
Manufacturing food	9
Manufacturing that is not listed elsewhere	9.5
Manufacturing yarn, textiles or clothing	9
Membership organisation	8
Mining or quarrying	10
Packaging	9
Photography	11
Post offices	5
Printing	8.5
Publishing	11
Pubs	6.5
Real estate activity not listed elsewhere	14
Repairing personal or household goods	10
Repairing vehicles	8.5
Retailing food, confectionary, tobacco, newspapers or children's clothing	4
Retailing pharmaceuticals, medical goods, cosmetics or toiletries	8

Category of business	Appropriate percentage
Retailing that is not listed elsewhere	7.5
Retailing vehicles or fuel	6.5
Secretarial services	13
Social work	11
Sport or recreation	8.5
Transport or storage, including couriers, freight, removals and taxis	10
Travel agency	10.5
Veterinary medicine	11
Wholesaling agricultural products	8
Wholesaling food	7.5
Wholesaling that is not listed elsewhere	8.5

*"Labour-only building or construction services" means building or construction services where the value of materials supplied is less than 10% of relevant turnover from such services; any other building or construction services are "general building or construction services".

Zero-rating of 'qualifying' aircraft (bn39)

- 6.19.** This measure will change the definition of aircraft that can be supplied at the zero rate from one based on weight and usage to one based on the status of the customer. Supplies of aircraft will be zero-rated only where used by airlines operating for reward primarily on international routes.
- 6.20.** The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess. The change will have effect for all supplies made on or after 1.1.11.
- 6.21.** Sch 8 VATA 1994 currently provides that supplies may be zero-rated where the aircraft is of a weight of not less than 8,000kg and is not designed or adapted for recreation or pleasure use. The change aligns the domestic definition of qualifying aircraft with that in art 148 of the Principal VAT Directive.
- 6.22.** This measure was previously announced at Budget 2010 and a version of this note was published as BN46. This note supersedes that version.

Place of supply of gas, heat and cooling (bn40)

- 6.23.** The government intend to implement changes to the application of VAT to supplies of natural gas and of heat and cooling. Under existing arrangements, gas supplied via the natural gas distribution system is treated as supplied where either a wholesale customer is established or the natural gas is consumed. UK customers registered for VAT are required to account for VAT on the supplies of natural gas they receive from suppliers established abroad as a reverse charge. There are currently no rules which specifically govern the application of VAT to supplies of heat and cooling.

- 6.24.** The existing rules which also include electricity, are to be amended so as to:
- extend their scope to cover supplies in all categories of natural gas pipeline;
 - limit their scope to supplies involving natural gas pipelines located in the EU or linked to such pipelines; and
 - extend the relief from VAT at importation to all natural gas imported via a network (including liquefied natural gas by tanker).

6.25. The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess and the measure will have effect on and after 1.1.11.

6.26. This measure was previously announced at Budget 2010 and a version of this note was published as BN47. This note supersedes that version.

Postal services (bn41)

6.27. Currently, a VAT exemption applies to the conveyance of postal packets, and services connected to the conveyance of postal packets, by the Post Office company, including any wholly owned subsidiary of the Post Office company. In practice, this means Royal Mail (including Parcelforce).

6.28. The VAT exemption under group 3 sch 9 VATA 1994 will be amended to restrict the scope of the exemption to supplies of public postal services and incidental goods made by a universal service provider (USP). The exemption will only apply to supplies of services made under a licence duty, including those where - pursuant to a licence duty - the USP allows private postal operators access to its postal facilities.

6.29. Supplies of services that a USP is not required to make under a licence duty (such as those made by Parcelforce), and services provided on terms and conditions that have been freely negotiated, will in future be subject to the standard rate of VAT.

6.30. The only business directly affected by the changes is Royal Mail Holdings PLC, the universal service provider (USP) of public postal services in the UK. Some customers of Royal Mail purchasing the relevant services will also be affected, as they will now have to pay VAT.

6.31. Social mail, including stamped mail, remains exempt from VAT so private individuals should largely be unaffected.

6.32. The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess. The measure will have effect for supplies made on and after 31.1.11.

- 6.33. This measure was previously announced at Budget 2010 and a version of this note was published as BN48. This note supersedes that version.

***Lennartz* accounting: restricting application and securing revenue (bn42)**

- 6.34. Under existing arrangements, VAT on immovable property, boats and aircraft is recoverable upfront and in full on both the business and private use of an asset (subject to any partial exemption restriction). VAT is then payable over subsequent years in respect of the private use of the asset. This is known as '*Lennartz*' accounting. The changes introduced by this measure will ensure that VAT recovery is restricted only to the business use of the asset, excluding any private use by the taxpayer or the taxpayer's staff. Changes to the capital goods scheme will also be introduced so that it will take account of changes in private use over subsequent years.
- 6.35. Until a change in policy arising from a European Court of Justice (ECJ) decision, many taxpayers were incorrectly permitted to use *Lennartz* accounting (see HMRC Brief 02/10). The revenue protection legislation introduced by this measure ensures that where such taxpayers choose not to unravel these arrangements, they have a statutory obligation to continue to account for the VAT due under the arrangements. The legislation will ensure that this position is treated as having always had effect.
- 6.36. This measure was previously announced in the Budget of March 2010 and a version of this note was published as BN50. This note supersedes that version. The Government will legislate for this measure in a Finance Bill to be introduced as soon as possible after the summer recess. The changes to implement the Technical Directive and repeal the legislation relating to directors' accommodation will have effect on and after 1.1.11. The revenue protection legislation will be treated as having always had effect.

7. Miscellaneous

Oil and gas regime changes

- 7.1. Secondary legislation will be introduced to extend the scope of the ultra high pressure/high temperature field allowance.

Other press releases

- 7.2. The Budget documentation also included press releases relating to:

- Film tax relief: multi-year claims (bn12);
- Life assurance companies: changes to tax rules (bn15);
- Corporation tax avoidance: authorised investment funds (bn16);
- UK real estate investment trusts (REITs) and stock dividends (bn18);
- Insurance premium tax: increase in the standard rate and higher rate (bn19);
- Trusts compensating asbestos victims (bn24);
- Landfill tax: criteria for determining material to be subject to the lower rate (bn32);
- Aggregates levy: Northern Ireland credit scheme (bn33);
- Excise modernisation and compliance checks (bn38).