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British Master Tax Guide

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Sarah Laing is a Chartered Tax Adviser. She has been writing professionally since joining CCH Editions in 1998 as a Senior Technical Editor, contributing to a range of highly regarded publications including the *British Tax Reporter*, *Taxes – The Weekly Tax News*, the Red & Green legislation volumes, *Hardman's*, *International Tax Agreements* and many others. She became Publishing Manager for the tax and accounting portfolio in 2001 and later went on to help run CCH Seminars (including ABG Courses and Conferences).

Sarah originally worked for the Inland Revenue in Newbury and Swindon Tax Offices, before moving out into practice in 1991. She has worked for both small and Big 4 firms. She now works as a freelance author providing technical writing services for the tax and accountancy profession.

Sarah is a director and news editor of TaxationWeb Limited (www.taxationweb.co.uk), which provides free information and resources on UK taxes to taxpayers and professionals.

Michael Steed trained with Coopers & Lybrand (now PWC), passing his ATT exams in 1992 and ATII (now CTA) VAT specialist route in 1994. He gained FTII status in 1995 with his thesis on VAT groups. He gained practical experience of both indirect and direct taxes while working for Coopers. Michael is Kaplan's leading authority on indirect taxes and works closely with both practice and industry clients providing highly bespoke products to meet their exact training needs.

Preface

The *British Master Tax Guide 2010–11* is designed primarily to assist practitioners in understanding tax liabilities and entitlements for the tax year 2010–11. It is designed not only to answer those questions which arise in the preparation of tax returns for the year, but also to provide information on the tax consequences flowing from decisions and transactions faced by taxpayers. The Guide also provides a concise but clear guide to tax for students and others who come to the subject for the first time.

The Guide has ten major chapters. The first chapter provides key dates, rates and other checklists collated in a user-friendly section. The second chapter provides a brief overview of the tax system. The third details the charge to income tax and includes full details of all the reliefs and deductions available. Similar treatments of corporation tax, capital gains tax, inheritance tax, value added tax, National Insurance contributions and other indirect taxes follow. The final chapter deals with overseas aspects of taxation.

At the beginning of each of the main chapters, there is a 'What's New' and a 'Key Points' section. 'What's New' gives a concise listing of new developments in that particular area since last year whilst 'Key Points' is a concise listing of the major issues in that area.

The Guide explains the rules affecting everyday business and personal tax questions in the simplest possible way. Examples are included throughout which illustrate the text and show how these rules apply. There are also extensive links to the in-depth commentary which can be found in CCH's *British Tax Reporter* and *British Value Added Tax Reporter*. The Guide rests on the firm foundation of legislation, statements of practice, extra-statutory concessions and other non-statutory sources, and decisions of the courts; references to which are included on separate law and source lines at the end of each paragraph for easy reference. All relevant provisions of the *Finance Act* 2010 and *Finance (No. 2) Act* 2010 have been reflected.

An exhaustive case table, legislation finding list and topical index facilitate access to the Guide.

I am grateful to Michael Steed (Value Added Tax and Indirect Taxes chapters), Julie Clift (Inheritance Tax chapter) and Jon Fursdon (Corporation Tax chapter) for their contributions.

September 2010

What's new?

INCOME TAX

- For 2010–11, the starting rate of income tax for savings is 10 per cent, the basic rate is 20 per cent, the higher rate is 40 per cent and the additional rate is 50 per cent (see 50).
- For 2010–11, the basic rate limit is £37,400 (see 50).
- The additional rate of 50 per cent is payable on taxable income exceeding £150,000 (see 50).
- For 2010–11, the 10 per cent savings rate applies to savings income only, with a limit of £2,440. If an individual's taxable non-savings income is above this limit then the 10 per cent savings rate will not be applicable (see 50).
- For 2010–11, the basic personal allowance is £6,475 (2009–10: £6,475) (see 1851), the age-related personal allowance is £9,490 (2009–10: £9,490) for those aged 65 to 74, and £9,640 (2009–10: £9,640) for those aged 75 or over (see 1874), and the married couple's allowance is £6,965 (2009–10: £6,965) for those aged 75 or over (see 1874).
- For 2011–12 the basic personal allowance will rise to £7,475. However, the basic rate limit for 2011–12 will be reduced, so that higher rate taxpayers will not benefit from the increase in the personal allowance (see 1851).
- The rate applicable to discretionary and accumulation trusts rises to 50 per cent for 2010–11. Such trusts have a basic rate band of £1,000 from 6 April 2007 (see 989).
- From 2010–11, the basic personal allowance will be subject to a single income limit of £100,000. Where an individual's adjusted net income is below or equal to the £100,000 limit, they will continue to be entitled to the full amount of the basic personal allowance. If adjusted net income exceeds the £100,000 limit, the personal allowance will be reduced by 1 for every 2 above the income limit. The personal allowance may be reduced to nil from this income limit (see 1850).
- From 2010–11 there are three rates of tax for dividends. Dividends otherwise taxable at the 20 per cent basic rate will continue to be taxable at the 10 per cent dividend ordinary rate and dividends otherwise taxable at the 40 per cent higher rate will continue to be taxable at the 32.5 per cent dividend upper rate. Dividends otherwise taxable at the new 50 per cent additional rate will be taxable at a new 42.5 per cent dividend additional rate.
- For 2010–11 the figure for calculating car fuel benefit rises to £18,000 (£16,900 for 2009–10) (see 403).
- From 2010–11, the lower threshold for company car emissions is reduced to 130g/km. It will be reduced further to 125g/km from 2011–12.
- The £80,000 cap is to be withdrawn from the calculation of company car benefit from 6 April 2011 (see 402).
- For 2010–11 the annual Individual Savings Account (ISA) savings limit is £10,200 (£5,100 in cash). From April 2011 the savings limit will be increased annually in line with inflation (see 1921).

- The child element of child tax credit is £2,300 for 2010–11. The threshold for working tax credit remains unchanged at £6,420 and the withdrawal rate is 39 per cent for 2010–11 (see 1847).
- The annual investment allowance (AIA), available to businesses of all sizes for investment in most plant and machinery, is doubled from £50,000 to £100,000 from April 2010 (see 2366).
- A new anti-avoidance measure is introduced for certain arrangements entered into on or after 24 March 2010. The new measure disallows property loss relief against general income to the extent that the loss is attributable to AIA, but only where tax avoidance was a main purpose of the arrangements (see 2366).
- The categories of expenditure qualifying for accelerated allowances for energy-saving or environmentally beneficial (water-efficient) technologies are to be revised. The general category of compact heat exchangers will be removed, as will the sub-technology of liquid pressure amplification. In the water-efficiency category, the criteria for tax and showers will be tightened. The date of the changes is not yet known but they will be made by Treasury Order prior to the summer 2010 parliamentary recess (see 2376).
- The special allowance for certain buildings in enterprise zones (EZAs) will be withdrawn from April 2011 (see 2380).
- From 1 April 2010 individuals may only deduct foreign income tax from any foreign income where they have included the foreign tax in their taxable income calculation. Legislation is also introduced to reaffirm the scope of the targeted DTR anti-avoidance rule (see 1550).
- In relation to payments received on or after 6 April 2010, a new measure, similar to the current tax exemption for payments to adopters, will mean that certain payments to special guardians, and to certain carers looking after children under a residence order, will be exempt from income tax.
- The *Pensions Act* 2008 received Royal Assent on 26 November 2008. The government plans to introduce certain reforms contained in the Act from 2012 (see 429).
- Income tax relief on pension contributions will be restricted to basic rate for individuals with earnings of £150,000 or more from 6 April 2011. *Finance Act* 2009 contains anti-forestalling provisions preventing those potentially affected from seeking to forestall this change by increasing pension savings in excess of their normal regular pattern on or after 22 April 2009 (see 429).

CORPORATION TAX

- For the financial year 2010 the main rate of corporation tax is 28 per cent (see 3092); the full or main rate applies if profits exceed the upper profits limit (namely £1,500,000). The main rate of corporation tax will reduce to 27 per cent for the financial year 2011. For North Sea Oil and Gas ring fence companies the 2010 main rate of corporation tax is 30 per cent.
- For the financial year 2010, the small profits rate (formerly, the small companies' rate) is unchanged at 21 per cent (see 3092). For North Sea Oil and Gas ring fence companies the 2010 small companies rate is 19 per cent.

- The new *Corporation Tax Act* 2010 which is the second of two corporation tax acts rewriting the corporation tax code became effective for accounting periods ending on or after 1 April 2010 (see 3001).
- The *Taxation (International and Other Provisions) Act* 2010 has been introduced with effect for accounting periods ending on or after 1 April 2010. This act rewrites the legislation, in particular, on transfer pricing, double tax relief and the 2009 worldwide debt cap provisions.
- The *Corporation Tax Act* 2010 has renamed 'small companies' rate' the 'small profits rate' (see 3092) and has rewritten the provisions on charges on income and renamed them 'charitable donations relief' (which, since 2005, was the last remaining category of expenditure that fell within the definition of charge on income) (see 3059).
- New provisions have been introduced to restrict the availability of capital allowances following, broadly, a change in ownership of a company (see 3034).
- New provisions have been introduced to prevent corporation tax relief where a loan made by a close company to a participator is written off (see 3036).
- Changes have been made to the conditions applying to the exemption from the loan relationship charge when an impaired debt becomes held by a connected company (see 3036).
- An extended definition of charity has been introduced (see 3059).
- A new anti-avoidance provision restricting the relief available on gifts of shares to charities has been introduced (see 3059).
- The amount of the annual investment allowance has been increased from £50,000 to £100,000 with effect from 1 April 2010 (see 3034).
- A new penalty regime for failure to notify chargeability to corporation tax has been introduced (see 4952).
- HMRC have published their views on the inheritance tax consequences of company contributions to employee benefit trusts (see 4278).
- Various extra-statutory concessions have been enacted, including those allowing a negligible value claim where an asset is transferred between group companies on a no gain/no loss basis (see 3684), preventing a reduction in the base cost of a shares for CGT purposes where a transfer of an asset at an undervalue by a close company is taxable on the recipient as employment income or as a distribution (see 4278) and allowing the value of shares disposed of by a transferee company (who acquired them from another group company under a no gain/no loss transfer) to a third party to be the appropriate proportion of the value of any larger holding held by the transferor company at 31 March 1982 (see 3684).
- HMRC have published their views on the meaning of 'ordinary share capital' in the context of overseas companies following the decision in *Swift v HMRC* (see 3653).
- The dividend exemption for demergers has been extended to companies resident in EU member states (see 3200).
- HMRC have announced a delay in the introduction of managed payment plans (see 4966).
- The government has confirmed that distributions of a capital nature will be exempt from corporation on income under the new distribution exemption that applies for distributions made on or after 1 July 2009 (see 3085).

- HMRC have published guidance on the form of accounts that need to be included with a corporation tax return (see 4952).
- An additional test for the extent that losses of a company owned by a consortium can be surrendered as group relief is to be introduced (see 3812).
- Electronic filing of corporation tax returns using XBRL will be compulsory where an accounting period ends after 31 March 2010 (see 4952).
- HMRC have published the most commonly asked questions and answers in relation to the Role of Senior Accounting Officer introduced for large companies and groups (see 4959).
- The following Court decisions have been reported:
- The Upper Tribunal decision in *Dawsongroup Limited v R & C Commrs* on the meaning of investment business and expenses of management (see 4553).
- The decision in *Laerstate BV v R & C Commrs* on the meaning of central management and control for the purposes of determining whether a company is resident in the UK for UK tax purposes (see 3014).
- The decision in *Research & Development Partnership Ltd v R & C Commrs* that under the pre-2009 penalty regime, reliance on another can in some situations be a reasonable excuse (see 4980).
- The decision in *FCE Bank plc* that the non-discrimination clause of the UK-US double tax treaty enables group relief to be claimed under the pre-2000 group relief rules (see 3809).
- The decision in *Philips Electronics UK Ltd v R & C Commrs* that the requirement for the consortium relief link company to be UK resident is contrary to EU law and the subsequent announcement of correcting legislation (see 3809).
- Two further decisions in the ongoing *Marks and Spencer plc v R & C Commrs* case concerning the availability of group relief on the overseas losses of foreign companies, this time in relation to the quantification of the amount of the losses and the time on which group relief claims are taken to be made when made in a series (see 3809).
- The decision in *First Nationwide v R & C Commrs* concerning the criteria for determining whether a distribution received from a foreign company is of an income nature or capital nature (see 3085).

CAPITAL GAINS TAX

- For 2008–09 onwards the standard rate of capital gains tax is 18 per cent for individuals (see 5410).
- A higher rate of capital gains tax of 28 per cent is introduced in respect of disposals on or after 23 June 2010. The new rate replaces the 18 per cent rate in respect of trustees and personal representatives. For individuals, however, it applies in addition to the 18 per cent rate; the actual rate applicable will be determined by the aggregate of the individual's taxable income and chargeable gains (see 5410).
- The annual exemption is equal to £10,100 for 2009–10 and 2010–11 (see 6150).
- The annual exemption for most trusts is £5,050 for 2009–10 and 2010–11.
- For disposals occurring in the period 6 April 2010 to 22 June 2010, the limit for entrepreneurs' relief is £2m (£1m prior to 6 April 2010). For disposals occurring on or after 23 June 2010, the limit is £5m (see 5293).
- FA 2010 contained legislation relating to foreign currency bank accounts.

- The provisions of ESC D50, relating to compensation receipts, have been enacted from 6 April 2010 (see 5080).

INHERITANCE TAX

- The inheritance tax threshold has been frozen at £325,000 for 2010–11 to 2014–15.
- New inheritance tax penalty regime for documents filed on or after 1 April 2010.

VAT

- The standard rate of VAT is due to rise from 17.5% to 20% on 4 January 2011.
- VAT registration limits increased from 1 April 2010 (see 8256).
- The new VAT and services rules came into effect on 1 January 2010 (aka the new VAT package); this extends the scope of the reverse charge (see 7820).
- Revised car fuel scale charges for VAT come into force with effect from 1 May 2010 (see 7762).
- The concession that allows employment businesses supplying temporary staff to choose whether to charge VAT on the staff costs charged to their clients was withdrawn from 1 April 2009.
- From 1 August 2009, it is possible to revoke options to tax made on the introduction of the legislation. Revised legislation sets out procedures to be followed if an election is revoked (see 8230).
- A new regime for charging penalties for errors came into effect on 1 April 2009 (see 8520).
- From 1 April 2010, VAT returns that are paper filed must be accompanied by cleared funds by the due date and not just an uncleared cheque.
- From April 2010 all businesses with taxable turnover above £100,000 and all newly registered businesses must file their VAT returns online. Online filers must also pay online.

NATIONAL INSURANCE CONTRIBUTIONS

- The lower earnings limit for Class 1 NIC is increased to £97 a week for 2010–11 (see 110 for tables).
- The upper earnings limit for Class 1 NIC is £844 a week for 2010–11.
- The primary threshold for Class 1 NICs for 2010–11 is £110 per week.
- Class 2 NICs for 2010–11 are £2.40 per week (£3.05 for share fishermen).
- The Class 2 NIC small earnings exemption limit is £5,075 for 2010–11.
- The Class 3 NIC rate is £12.05 per week for 2010–11.
- The Class 4 NIC lower and upper earnings limits for 2010–11 are £5,715 and £43,875 respectively.
- From 6 April 2010 expenses payments to ministers of religion in respect of heating, lighting, cleaning and gardening in connection with living accommodation provided with the employment will not attract NICs (see 8780 for tables).
- HMRC are consolidating their PAYE databases into one, which will mean that an individual's total employment position can be accessed by staff on one screen.

INDIRECT TAXES

- A new electronic customs project aims to replace existing hybrid paper/electronic format transactions with EC-wide electronic ones. A modernised Customs Code has been adopted by the EC Commission (see 9510).
- The rate of Bingo duty was reduced from 22% to 20% on 29 March 2010 (see 9680).
- Cider duty rates which were increased in the March 2010 Budget were reduced in the emergency Budget in June 2010 (see 9710).
- The tobacco duty regime has been slightly amended for long cigarettes. From 1 January 2011, cigarettes longer than 8cm will be treated as two cigarettes for duty purposes (see 9720).
- In excise duties, the old paper-based system of controlling goods moving duty-free between EC Member States has gone from 1 April 2010. It has been replaced with an electronic system – the EMCS (see 9740).
- In excise duties, the REDS has gone from April 2010. The regime has been replaced with a new person, the Registered Consignee (see 9750).
- The standard rate of IPT is due to rise to 6% and the selected higher rate is due to rise to 20% on 4 January 2011 (see 9800).
- Stamp duty land tax relief was extended to cover new zero carbon flats from 1 October 2007. The relief is time-limited and will expire on 30 September 2012 (see 10216).
- The Government is developing a new duty on aviation which is plane-based rather than passenger-based (see 9760).
- The standard rate of landfill tax for active waste has been increased to £48 per tonne from 1 April 2010. It is expected to rise to £56 per tonne in April 2011. The lower rate for inactive waste remains at £2.50 per tonne (see 9950).
- Rates of climate change levy are increasing from 1 April 2011 (see 10025).
- The standard rate for aggregates levy is £2.20 per tonne from 1 April 2011 (see 10040).

OVERSEAS ASPECTS

- Finance Act 2010 contains legislation to clarify that the definition of a relevant person for remittance basis purposes includes subsidiaries of non-resident companies which would be close companies if they were resident in the UK. The change took effect from 6 April 2010.
- To ensure compliance with certain aspects of the Human Rights Act 1998, legislation was introduced by Finance Act 2009, which took effect from 6 April 2010, to withdraw the entitlement for non-resident individuals who previously qualified for UK personal tax allowances and reliefs solely by virtue of being a Commonwealth citizen (see 11700).

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Key Data