



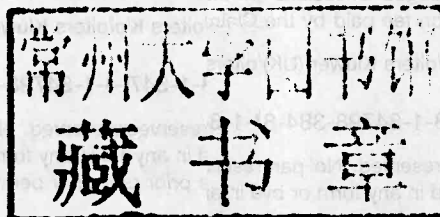
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British Master Tax Guide

2011-12

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Anne Fairgo MA (Oxon) CTA (Fellow) Barrister – Capital Gains Tax worked as a solicitor specialising in corporate tax for 15 years and recently requalified as a barrister. Anne continues to specialise in corporate tax law at the Bar with a particular focus on

Preface

The *British Master Tax Guide 2011–12* is designed primarily to assist practitioners in understanding tax liabilities and entitlements for the tax year 2011–12. 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 twelve chapters. The first chapter provides key dates, rates and other information 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 National Insurance contributions, corporation tax, etc. follow. At the beginning of each chapter 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.

This year, the opportunity has been taken to expand the commentary on certain topics including pensions, trusts and estates, capital allowances and Stamp Duty Land Tax. There is also a new chapter on compliance and administration issues (Dealing with HMRC). Further, the Guide now incorporates examples previously included in *CCH’s Master Tax Examples and Q&As*.

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 lines at the end of each paragraph for easy reference. All relevant provisions of the *Finance Act 2011* have been reflected.

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

I am grateful to the other authors and to the editor, Neil Grace, for their contributions.

Stephen Relf

August 2011

What's new?

Income Tax

- For 2011–12, 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.
- For 2011–12, the basic rate limit is £35,000.
- The additional rate of 50 per cent is payable on taxable income exceeding £150,000.
- For 2011–12, the 10 per cent savings rate applies to savings income only, with a limit of £2,560. If an individual's taxable non-savings income is above this limit then the 10 per cent savings rate will not be applicable.
- For 2011–12, the basic personal allowance is £7,475 (2010–11: £6,475) (see 1851), the age-related personal allowance is £9,940 (2010–11: £9,490) for those aged 65 to 74, and £10,090 (2010–11: £9,640) for those aged 75 or over (see 1874), and the married couple's allowance is £7,295 (2010–11: £6,965) for those aged 75 or over (see 1874).
- The rate applicable to discretionary and accumulation trusts is 50 per cent for 2011–12. Such trusts have a basic rate band of £1,000 (see 989).
- There are three rates of tax for dividends. Dividends otherwise taxable at the 20 per cent basic rate are taxable at the 10 per cent dividend ordinary rate and dividends otherwise taxable at the 40 per cent higher rate are taxable at the 32.5 per cent dividend upper rate. Dividends otherwise taxable at the 50 per cent additional rate are taxable at the 42.5 per cent dividend additional rate.
- For 2011–12, the figure for calculating car fuel benefit rises to £18,800 (£18,000 for 2010–11) (see 403).
- For 2011–12, the lower threshold for company car emissions is reduced to 125g/km. From 6 April 2012, a new set of thresholds will apply.
- The discounts for alternative fuel cars were withdrawn from April 2011 (see 402).
- The £80,000 cap is withdrawn from the calculation of company car benefit from 6 April 2011 (see 402).
- For 2011–12, the annual Individual Savings Account (ISA) savings limit is £10,680 (£5,340 in cash) (see 1921).
- The official rate of interest for 2011–12 is frozen at four per cent, subject to major changes to interest rates (see 406).
- The annual allowance for tax relief on contributions to pensions is £50,000 for 2011/12. Carry forward of unused allowance has been reintroduced (see 471).
- The child element of child tax credit is £2,555 for 2011–12. The threshold for working tax credit remains unchanged at £6,420 and the withdrawal rate is 41 per cent for 2011–12 (see 1847).
- There is a cap on tax relief for childcare from April 2011 (see 409).
- *Finance Act 2011* contains provisions for certain changes to the Enterprise Investment Scheme (see 1930) and Venture Capital Trusts (see 1950).

National Insurance Contributions

- The lower earnings limit for Class 1 NIC is increased to £102 a week for 2011–12 (see Key Data for tables).
- The upper earnings limit for Class 1 NIC is £817 a week for 2011–12.
- The primary threshold for Class 1 NICs for 2011–12 is £139 per week.
- Class 2 NICs for 2011–12 are £2.50 per week (£3.15 for share fishermen).
- The Class 2 NIC small earnings exemption limit is £5,315 for 2011–12.
- The Class 3 NIC rate is £12.65 per week for 2011–12.
- The Class 4 NIC lower and upper earnings limits for 2011–12 are £7,225 and £42,475 respectively.
- The government has confirmed that a review of NICs is likely to be set in motion by the end of 2011, but reform of the system is still some time away.

Corporation Tax

- Introduction by FA 2011 of a new elective exemption regime for the foreign Permanent Establishments of UK-resident companies (see 3027).
- Reduction in the main and small profits rates of corporation tax for financial year 2011 (see 3100 and 3105).
- Reduction in the main rate of corporation tax for financial year 2012 and proposed reductions for subsequent years (see 3100).
- Proposals for the introduction of a Patent Box from 2013 (see 3100).
- Changes made by FA 2011 with regard to the associated companies rules (see 3115).
- Proposed changes to the R&D rules to be made in 2012 (see 3210).
- Increase in the rate of additional R&D relief for SMEs (see 3212).
- Introduction of new anti-avoidance provisions to restrict charitable donations relief where a 'tainted' donation is made (see 3230).
- Extension by FA 2011 of the substantial shareholding exemption to situations where a divisionalised company transfers one or more of its businesses into a new group company prior to the sale of that company (see 3430).
- Introduction by FA 2011 of a TAAR applying where the value of an asset is reduced prior to its disposal and a tax-free benefit is conferred on the person making the disposal or a connected person (see 3525).
- Introduction by FA 2011 of a six-year time limit for the application of the depreciatory transactions rules (see 3540).
- Changes made to the pre-entry losses rules by FA 2011 (see 3630).
- Introduction by FA 2011 of a new mechanism for bringing a degrouping charge into account and other changes with regard to the degrouping charge rules (see 3645).
- Introduction by F(No. 3)A 2010 of an additional test for the extent that losses of a company owned by a consortium can be surrendered as group relief (see 3695).
- Extension by F(No. 3)A 2010 of consortium relief where link company is established in the EEA (see 3698).
- Extension by F(No. 3)A 2010 of the new distribution exemption to distributions of a capital nature, backdated to 1 July 2009 (see 3900).

- Introduction by FA 2011 of new exemptions to prevent an apportionment under the CFC rules (see 4155).
- Proposals for reform of the CFC regime in 2012 (see 4180).
- HMRC guidance on the mandatory online filing of company tax returns (see 4315).

Capital Allowances

- Further changes to the capital allowances system were announced in the Budgets in June 2010 and March 2011 and are included in *Finance Act 2011*. Some of these changes take effect for capital expenditure incurred from April 2011 onwards, whilst others will take effect from April 2012 or later years.
- The maximum amount of Annual Investment Allowance, which enables businesses to claim full tax relief on most plant and machinery expenditure in the year it is incurred, is to be reduced from £100,000 to £25,000. The decrease in the limit will apply from April 2012 (see 4615).
- The rate of writing-down allowances for plant and machinery in the main rate pool will be reduced from 20 to 18 per cent. The reduction will apply from April 2012 (see 4525).
- The rate of writing-down allowances for plant and machinery in the special rate pool will be reduced from 10 to 8 per cent. The reduction will apply from April 2012 (see 4525).
- Businesses incurring expenditure on an item of plant or machinery from April 2011 onwards will be able to make a short-life asset election in respect of that item if they expect to sell or scrap it within an eight-year cut-off period rather than within a four year period as at present (see 4654).
- The list of technologies which qualify for enhanced capital allowances will be amended in summer 2011 to include certain energy-efficient hand dryers. The criteria for automatic monitoring and targeting equipment will also be revised (see 4640).
- The availability of the business premises renovation allowance which gives a 100 per cent first-year allowance on expenditure on renovating commercial buildings in assisted areas will be extended for a further five years from 2012 (see 4810).

Capital Gains Tax

- F(No. 2)A 2010 introduced two rates of capital gains tax for individuals: a standard rate of 18 per cent and a higher rate of 28 per cent. The higher rate applies to gains in excess of any unused part of the income tax basic rate band (see 5410).
- The standard rate for trustees and personal representatives is 28 per cent.
- A special rate of 10 per cent applies to gains eligible for entrepreneur's relief.
- The annual exemption is equal to £10,100 for 2009–10 and 2010–11 (2008–09: £9,600) (see 6150).
- The annual exemption for most trusts is £5,050 for 2009–10 and 2010–11 (2008–09: £4,800).

Inheritance Tax

- The inheritance tax threshold has been frozen at £325,000 for 2011–12 to 2014–15.
- Disclosure of inheritance tax avoidance schemes from 6 April 2011.
- Amendments to excepted estates Regulations.
- Amended time limits for inheritance tax assessments and claims from 1 April 2011.
- HMRC Brief on contributions to an employee benefit trust.

Value Added Tax

- The standard rate of VAT rose from 17.5 to 20 per cent on 4 January 2011.
- VAT registration limits increased from 1 April 2011 (see 8256)
- The new VAT and services rules came into effect on 1 January 2010 (aka the new VAT package) and new rules on performance services came into effect on 1 January 2011; these changes extend the scope of the reverse charge (see 7820).
- Revised car fuel scale charges for VAT come into force with effect from 1 May 2011 (see 7762).
- 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.
- The VAT rules on samples have changed – commercial samples are now outside the scope of VAT and have been taken outside the gifts rules. This follows the EMI case at the ECJ.
- Following the Danfoss and AstraZeneca cases at the ECJ in 2010, HMRC now accept that input tax on overseas entertainment is now recoverable.

Stamp Duty Land Tax

- SDLT relief for first time buyers is available from 25 March 2010 to 24 March 2012. This extends the zero-rate band up to £250,000. It is only available for purchases of residential properties;
- FA 2010 provides that SDLT would be charged at a new rate of five per cent for residential properties only, over £1 million, from 6 April 2011.
- From 4 July 2011, customers must use the new style SDLT1, SDLT3 and SDLT4 forms and supply a unique identifier. Individual lead purchasers will need to give their National Insurance number and date of birth. Companies should use their company Unique Taxpayer Reference (UTR) or VAT registration number, whilst partnerships should use their UTR or VAT registration number.
- FA 2011 provides relief for multiple purchases of residential dwellings from the same purchaser. From Royal Assent, the chargeable consideration will be the average of the properties purchased.

Other Indirect Taxes

- The EC Commission is committed to implementing electronic customs in the EU and to replace the current hybrid system of part-paper and part-electronic systems with a totally electronic customs regime. To this end, a Modernised Community Customs Code (Reg 2008/450) has been adopted, but not yet implemented. It aims to simplify legislation and to streamline customs processes.
- The Import Control System has been adopted by the UK from 1 January 2011. Most goods now arriving into the EC must be pre-notified by an Entry Summary Declaration (ENS) which is submitted to the office of first entry in the EC (OoFE).
- Following the 9/11 attacks, the USA brought pressure on other trading blocks to police the supply chains of goods moving round the world. As a result, the EC has implemented the concept of the Authorised Economic Operator (AEO), which gives a certain status and credibility to importers and exporters in the EC.
- For excise duties, the Excise Movement and Control System (EMCS) is an electronic system for monitoring and controlling movements of duty-suspended goods across the EC. The EMCS covers both intra UK movements and intra EC movements. The movements need guarantees to cover the duty at stake.
- From 1 January 2011, the electronic administrative document (eAD) replaces the old paper AAD (Accompanying Administrative Document).
- For Gaming Duty, the Gross Gaming Yield threshold for each duty band is increased for accounting periods starting on or after 1 April 2011 (see 9690).
- The amount of Amusement Machine Licence Duty that is paid on licences for all categories of gaming machines is increased from 25 March 2011 (see 9700).
- The excise duty on alcohol increased from 28 March 2011 (see 9710).
- The rate of tobacco duty increased from 23 March 2011 (see 9720).
- The Government was developing a new duty on aviation which would have replaced air passenger duty, but these plans have been shelved after international pressure and fears about its legality (see 9760).
- The standard rate of landfill tax has been increased to £56 per tonne from 1 April 2011. It will increase to £64 per tonne in April 2012. The lower rate for inactive waste remains at £2.50 per tonne (see 9950).
- Legislation is phasing out the exemption from landfill tax for waste disposed to landfill as a result of reclamation of contaminated land. Applications for certificates of exemption are no longer being accepted. Certificates held after 1 December 2008 will expire on 1 April 2012 (see 9950).
- Rates of climate change levy are increased from 1 April 2011 and are due to rise again in 2012 (see 10025).
- The standard rate for aggregates levy is £2 per tonne. The planned increase to £2.10 per tonne has been deferred until 2012 (see 10040).

Dealing With HMRC

- From 6 April 2011, new penalty provisions apply in relation to the late filing of a return (see 12201ff.).

- From 6 April 2011, the application of new penalty provisions in relation to the late payment of tax was extended (see 12207).
- With effect from the autumn of 2011, HMRC intend to use their inspection powers to conduct 50,000 business records checks every year and impose penalties for unsatisfactory records (see 12407).
- In July 2011, HMRC published a Consultation Document on the concept of voluntary contractual disclosure (see 11960).
- Since 6 April 2011, penalties of up to 200 per cent can be charged for an inaccuracy in a return or document where that relates to certain offshore income, gains or assets (see 12024).
- Since 6 April 2011, penalties of up to 200 per cent can also be charged for a failure to notify that relates to an offshore matter (see 12129).
- New penalty provisions apply where a personal tax return for 2010/11 or any later tax year is filed late (see 12201ff.).
- New penalty provisions apply from 6 April 2011 where tax is paid late in respect of the 2010/11 tax year or any later year (see 12207).
- In July 2011, HMRC published an updated version of its Litigation and Settlements Strategy (see 12600).
- *Finance Act 2011* includes detailed provisions on HMRC's power to obtain data from third parties. These provisions take effect from 1 April 2012 (see 11414).
- *Finance Act 2011* includes provisions that will enable HMRC to seek tribunal approval for the imposition of daily penalties not exceeding £1,000 for each day where information has not been provided despite the imposition by an HMRC officer of a daily penalty not exceeding £60. These provisions take effect from 1 April 2012 (see 11418).

- The excise duty on alcohol increased from 25 March 2011 (see 9716).
- The rate of tobacco duty increased from 23 March 2011 (see 9720).
- The Government was developing a new duty on aviation which would have replaced an passenger duty, but these plans have been shelved after international pressure and fears about its legality (see 9760).
- The standard rate of landfill tax has been increased to £50 per tonne from 1 April 2011. It will increase to £64 per tonne in April 2012. The lower rate for inactive waste remains at £2.50 per tonne (see 9920).
- Legislation is phasing out the exemption from landfill tax for waste disposed to landfill as a result of reclamation of contaminated land. Applications for certificates of exemption are no longer being accepted. Certificates held after 1 December 2008 will expire on 1 April 2012 (see 9950).
- Rates of climate change levy are increased from 1 April 2011 and are due to rise again in 2012 (see 10029).
- The standard rate for aggregates levy is £2 per tonne. The planned increase to £3.10 per tonne has been deferred until 2012 (see 10040).

Dealing With HMRC

- From 6 April 2011, new penalty provisions apply in relation to the late filing of a return (see 12201ff.).

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