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British Tax Guide:

Income Tax

Ray Chidell, Julie Clift & Trevor Johnson

General Editor

Roger Barnard

STRATEGIC PARTNER



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IN ENGLAND AND WALES

2009-10

British Tax Guide: Income Tax 2009-10



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Wolters Kluwer (UK) Limited
145 London Road
Kingston-upon-Thames
Surrey
KT2 6SR

Telephone: +44 (0) 844 561 8166
Facsimile: +44 (0) 208 547 2638
email: customerservices@cch.co.uk
website: www.cch.co.uk

About the authors

About the general editor

Roger Barnard LLB LLM FCA FTII

Roger Barnard has worked for over 30 years as a tax practitioner in a medium-sized firm. He is a Chartered Accountant and is also a Fellow of the Chartered Institute of Taxation. He has been involved for many years with the examinations of the Chartered Institute of Taxation including the setting of examination papers and marking scripts. He also holds the Advanced Financial Planning certificate.

About the authors

Ray Chidell MA (Cantab)

After qualifying as a 'fully trained' tax inspector, Ray moved into the accounting profession, working for two mid-tier firms. For over six years he was a tax partner with Mazars.

Ray has specialised in writing about employee and business tax issues, especially capital allowances. He joined CCH early in 2003 and, in that capacity, has worked on several of their leading tax products, including the *British Tax Reporter*. Other titles he has written include *P11D: Tax-efficient Benefits and Expenses* and *Capital Allowances*. Ray is also joint editor of CCH's major series on *Tax Planning*.

Julie Clift BA (Hons) CTA

After graduating, Julie worked at Arthur Andersen and then at Ernst & Young specialising in mainly personal tax issues. She then joined *The Tax Journal* as Deputy Editor before returning to practice as a Tax Editor in Deloitte & Touche's Tax Policy Group. She joined CCH as a Senior Technical Editor in 2003 and has worked on some of their leading tax products, including the *British Tax Reporter* and *Tax Adviser*. Julie is a Chartered Tax Adviser and a member of the Chartered Institute of Taxation.

Trevor Johnson FTII AITI ATT

Trevor is a past President of the Association of Taxation Technicians serving from July 2001 to July 2002 during his 14-year membership of the Council of the Association. On retiring from Council he was elected as an honorary life member of the Association and subsequently the Council established a prize bearing his name to be awarded in respect of

the Association's examinations. He continues to serve on the Association's Technical Committee.

He has also served for 12 years on the Council of the Chartered Institute of Taxation and was at different times Chairman of the Examinations Sub-Committee and of the Education Committee. Until recently he served as a General Commissioner for Income Tax.

Former contributor

The *British Tax Guide* is thoroughly updated each year to reflect new developments and to make other improvements as appropriate. Material contributed by earlier authors, however, may continue to be relevant for several years and we are particularly grateful to the following, whose past work still features on many pages of this volume:

Alison Aspin BA (Hons) CTA ATT

Alison spent several years with some of the UK's largest accountancy firms as a tax adviser specialising in high net worth individuals, partnerships and owner-managed businesses. She also spent five years as a technical adviser on the Tax Law Rewrite Project, and later worked as a technical consultant and editor before joining CCH's team of in-house editors.

Preface

The fourth edition of the *British Tax Guide: Income Tax* provides clear, practical and accessible commentary on the tax issues likely to be of widespread interest to tax advisers dealing with their clients' 2009–10 income tax affairs. To achieve this aim, it has been necessary either to omit, or to cover in summary form, some less mainstream topics. The authors welcome comments from readers about the scope and depth of the coverage.

The focus of this work is specifically on the income tax rules applying for 2009–10 and the book reflects the law as it stands at 31 July 2009 (though a few later developments have also been included where possible (eg reform of the penalty regime for the late filing of returns and payments). Changes have included statutory developments (eg capital allowances for cars; temporary extension of loss relief), the implementation of the new information powers legislation and the new appeals procedure, new case law (including the possibly surprising outcome concerning employee training costs in *Banerjee*), and updated or revised HMRC guidance and practice (scale rate subsistence costs for employees in the UK). The pace of change in the income tax world is relentless and the pages of this single volume undoubtedly contain several hundred changes arising from developments since last year's edition.

The other books in the British Tax Guide series provide straightforward but authoritative commentary on the UK's other main taxes. In each book, extensive cross-referencing is provided to relevant legislation, cases and HMRC guidance as well as to CCH's in-depth commentary in the *British Tax Reporter* and *British VAT Reporter* making them an ideal desktop companion to CCH's comprehensive online services.

Ray Chidell, Julie Clift and Trevor Johnson
August 2009

What's new?

- There follows a series of summaries highlighting the main changes and developments relevant to income tax that have occurred since the last edition of *British Tax Guide: Income Tax*.
- 1-000ff.: all Key Data amended as appropriate.
- 2-070: summary of capital allowance rules for cars applying from April 2009.
- 4-000 and 4-010: company car rates applying to April 2012.
- 4-090: fuel advisory rates effective from 1 July 2009.
- 4-400: 'official rate of interest' applying since 1 March 2009.
- 4-500: amended HMRC guidance re overseas accommodation and subsistence.
- 4-550: national minimum wage figures applying from October 2009, with new table of accommodation offset rates at 4-555.
- 4-670: SAYE bonus rates applying since 29 May 2009, with effective rates from the same date (4-680). Also, a new table of 'early leaver rates' (4-675).
- 4-700 and 4-720: expanded tables re taxable and non-taxable state benefits.
- 4-900: PAYE thresholds updated to reflect changes applying from April 2009.
- 4-900: abolition of V codes from April 2009.
- 4-950: specified dates for electronic filing: data expanded and now including date for 2009–10.
- 52-000: commentary updated for the *Income Tax (Payments on Account) Amendment Regulations* 2008 (SI 2008/838).
- 53-000: harmonised interest rate legislation introduced by FA 2009.
- 57-000: FA 2009 amendments to error and mistake relief from 1 April 2010.
- 57-100: case of *Monro v R & C Commrs* and *Court of Appeal Monro v R & C Commrs* [2008] BTC 188 re tax paid under a mistake of law.

- 58-100ff.: information powers from April 2009 and FA 2009 amendments.
- 58-125: FA 2009 extension of powers to carry out inspections.
- 60-800: FA 2009 legislation to reform penalty regimes for late returns and late payments of tax.
- 61-000ff.: incorrect returns filed on or after 1 April 2009.
- 62-000ff.: new commentary on the tribunals system from April 2009.
- 63-550: the Business Payment Support Service.
- 71-100: proposed abolition of the furnished holiday lettings regime from April 2010.
- 71-150: extension of the furnished holiday lettings regime to properties within the EEA, pending its abolition.
- 72-150: taxation of amounts paid by the Financial Services Compensation Scheme representing interest.
- 73-400: tax credits for foreign dividends extended by FA 2009.
- 74-275: the Special Annual Allowance Charge introduced by FA 2009.
- 74-420: Treasury power to make regulations on treatment of payments by the Financial Assistance Scheme.
- 74-430: Treasury power to make regulations on treatment of payments under the Financial Services Compensation Scheme.
- 76-050: revised carry-back rules introduced by FA 2009.
- 76-500: decisions in *Domain Dynamics (Holdings) Ltd v R & C Commrs* (2008) Sp C 701; *Blackburn & Anor v R & C Commrs* [2009] BTC 39.
- 79-000: ISA investment limits increased by FA 2009.
- 79-600: Child Trust Funds: additional amounts for disabled children from 2010.
- 92-620: statutory deduction for subsistence costs incurred by the self-employed.
- 94-500: changes to leased car restrictions from April 2009.
- 97-080: case of *Able (UK) Ltd v R & C Commrs* [2008] BTC 3 re compensation for interruption of use of capital asset.

- 105-120: temporary extension of income tax loss relief.
- 111-600: temporary re-introduction of first-year allowances for general expenditure on plant and machinery.
- 111-875: FA 2008 rules re annual investment allowances: claiming AIAs and first-year allowances in same period.
- 111-900: annual investment allowances: changes applying from April 2009 re cars and motor cycles.
- 112-000: additional examples illustrating interplay of AIAs and writing-down allowances.
- 112-020: HMRC ready reckoner for transitional rates of capital allowances.
- 112-600ff.: Full coverage of capital allowance rules for cars applying from April 2009.
- 114-750: updated table of 'appropriate percentages' when apportioning expenditure on buildings.
- 130-275: HMRC warning re certain companies claiming not to be managed service companies.
- 130-675: updated commentary re tips and troncs.
- 132-080: expanded HMRC guidance on salary sacrifice, including interaction with statutory maternity pay rules.
- 132-270: removal from April 2011 of cap on taxable benefit re expensive company cars.
- 132-335: new rules for certain disabled drivers of automatic company cars.
- 132-340: proposed company car changes from April 2011 (discounts for alternative fuel cars).
- 132-360: revised HMRC guidance on company cars for employees in the motor industry.
- 133-150: anti-avoidance rules re lease premiums paid for employee living accommodation.
- 133-320: new commentary on travel cards.
- 133-420: HMRC guidance on condition that childcare must be made available to all employees.

- 133-430: additional HMRC guidance re childcare vouchers, including opportunity to save vouchers up from week to week.
- 133-560: updated rules for medical check-ups and health screenings from April 2009.
- 140-800: updated subsistence rates for lorry drivers.
- 141-025: new HMRC policy re scale rate accommodation and subsistence payments for employees working overseas.
- 141-040: new HMRC policy re scale rate subsistence payments for employees working in the UK.
- 142-000: compensation case of *Crompton v R & C Commrs* re payments made 'in connection with' the termination of an employment.
- 142-680: FA 2009 anti-avoidance provisions re employment loss relief.
- 143-450: new commentary on payroll giving.
- 143-800: expanded commentary on treatment of employee training costs, including contrasting cases of *Perrin v R C Commrs* (2008) Sp C 671 and *R C Commrs v Banerjee* [2009] BTC 323.
- 143-850: expanded HMRC guidance re exemption for welfare counselling costs.
- 145-280: new version of form P45.
- 145-425: HMRC factsheets re PAYE reviews.
- 145-400: partial relaxation of rules relating to use of form P46(Car).
- 145-520: table of surcharges for late payments of PAYE by large employers.
- 146-000: commentary on remittance basis, etc., expanded and updated.
- 146-400: case of *Torr v R & C Commrs* (2008) Sp C 679 re seafarers.
- 151-150: commentary on the anti-avoidance rules for settlements revised to reflect the House of Lords' decision in the *Arctic Systems* case.
- 150-200: extension to private landlords of special tax treatment for service charges and sinking funds held in trusts.
- 170-000ff.: commentary revised and updated for the replacement of IR20 with HMRC6: Residence, domicile and the remittance basis from April 2009.

What's new?

- 172-050ff.: FA 2009 amendments to the remittance basis.
- 173-000: FA 2009 provisions for withdrawal of personal allowances from Commonwealth citizens from April 2010.

Key Data: Income Tax

Principles of income tax

1-000 Income tax rates

(ITA 2007, ss. 6-15)

(BTR: ¶148-075ff.)

2009-10

	Taxable income band £	Tax rate %	Tax on band £
Basic rate	1-37,400	20	7,480.00
Higher rate	Over 37,400	40	

Notes

⁽¹⁾ From 2010-11, FA 2009 introduces a higher rate of 50 per cent for income above £150,000 (FA 2009, s. 6 and Sch. 2).

Rate on non-dividend savings income	10% up to £2,440 20% up to basic rate limit 40% thereafter
Dividend ordinary rate	10% up to basic rate limit
Dividend upper rate	32.5% above basic rate limit
Trust rate	40%
Dividend trust rate	32.5%

Notes

⁽¹⁾ From 2010-11, FA 2009 increases the dividend trust rate to 42.5 per cent and the trust rate to 50 per cent.

2008-09

	Taxable income band £	Tax rate %	Tax on band £
Basic rate	1-34,800	20	6,960.00
Higher rate	Over 34,800	40	

Key Data: Income Tax

Rate on non-dividend savings income	10% up to £2,320 20% up to basic rate limit 40% thereafter
Dividend ordinary rate	10% up to basic rate limit
Dividend upper rate	32.5% above basic rate limit
Trust rate	40%
Dividend trust rate	32.5%

2007–08

	Taxable income band £	Tax rate %	Tax on band £
Starting rate	0– 2,230	10	223.00
Basic rate	2,231–34,600	22	7,121.40
Higher rate	Over 34,600	40	

Rate on non-dividend savings income	10% up to starting rate limit 20% up to basic rate limit 40% thereafter
Dividend ordinary rate	10% up to basic rate limit
Dividend upper rate	32.5% above basic rate limit
Trust rate	40%
Dividend trust rate	32.5%

2006–07

	Taxable income band £	Tax rate %	Tax on band £
Starting rate	0– 2,150	10	215.00
Basic rate	2,151–33,300	22	6,853.00
Higher rate	Over 33,300	40	

Rate on non-dividend savings income	10% up to starting rate limit 20% up to basic rate limit 40% thereafter
Dividend ordinary rate	10% up to basic rate limit
Dividend upper rate	32.5% above basic rate limit
Rate applicable to trusts	40%
Dividend trust rate	32.5%

2005-06

	Taxable income band £	Tax rate %	Tax on band £
Starting rate	0– 2,090	10	209.00
Basic rate	2,091–32,400	22	6,668.20
Higher rate	Over 32,400	40	

Rate on non-dividend savings income	10% up to starting rate limit 20% up to basic rate limit 40% thereafter
Dividend ordinary rate	10% up to basic rate limit
Dividend upper rate	32.5% above basic rate limit
Rate applicable to trusts	40%
Dividend trust rate	32.5%

2004-05

	Taxable income band £	Tax rate %	Tax on band £
Starting rate	0– 2,020	10	202.00
Basic rate	2,021–31,400	22	6,463.60
Higher rate	Over 31,400	40	

Rate on non-dividend savings income	10% up to starting rate limit 20% up to basic rate limit 40% thereafter
Rate on dividend income	10% up to basic rate limit 32.5% thereafter
Rate applicable to trusts	40%
Schedule F trust rate	32.5%

1-020 Personal allowances and reliefs

(ITA 2007, ss. 35-46)

(BTR: ¶155-000ff.)

Type of relief	2009–10 £	2008–09 £	2007–08 £	2006–07 £	2005–06 £	2004–05 £
Personal allowance⁽²⁾						
Age under 65	6,475	6,035	5,225	5,035	4,895	4,745
Age 65–74	9,490	9,030	7,550	7,280	7,090	6,830
Age 75 & over	9,640	9,180	7,690	7,420	7,220	6,950
Married couple's allowance⁽¹⁾						
Born before 6 April 1935; Age up to 74	6,865	6,535	6,285	6,065	5,905	5,725
Born before 6 April 1935; Age 75 & over	6,965	6,625	6,365	6,135	5,975	5,795
Minimum amount of allowance	2,670	2,540	2,440	2,350	2,280	2,210
Maximum income before abatement of reliefs for older taxpayers:	22,900	21,800	20,900	20,100	19,500	18,900
Abatement income ceiling						
Personal allowance:						
Age 65–74	28,930	27,790	25,550	24,590	23,890	23,070
Age 75 & over	29,230	28,090	25,830	24,870	24,150	23,310
Married couples allowance						
Born before 6 April 1935; Age up to 74	37,320	35,780	33,240	32,020	31,140	30,100
Born before 6 April 1935; Age 75 & over	37,820	36,260	33,680	32,440	31,540	30,480
Blind person's allowance	1,890	1,800	1,730	1,660	1,610	1,560
Life assurance relief (policies issued before 14 March 1984)	12.5% of premiums	12.5% of premiums	12.5% of premiums	12.5% of premiums	12.5% of premiums	12.5% of premiums
'Rent-a-room' limit	4,250	4,250	4,250	4,250	4,250	4,250

Notes

⁽¹⁾ Relief is given at a rate of 10%.

⁽²⁾ Individuals earning in excess of £100,000 will get a reduced personal allowance from 2010–11 (FA 2009, s. 4).

1-040 Submission dates for 2009–10 personal tax returns

(TMA 1970, s. 8)

(BTR: ¶180-050)

TMA 1970, s. 8 contains provisions concerning submission dates for returns issued on or after 6 April 2009 which relate to 2009–10, as follows:

- paper returns (whether or not HMRC is to calculate the tax liability) must be filed by 31 October 2010; and
- online returns must be filed by 31 January 2011.

There are the following exceptions:

Circumstances	Filing date
Return issued after 31 July 2010 but before 31 October 2010	3 months from the date of issue (paper returns); 31 January 2011 (online returns)
Return issued after 31 October 2010	Three months from date of issue
Taxpayer wishes underpayment (below £2,000) to be coded out under 2011–12 PAYE (paper returns)	31 October 2010
Taxpayer wishes underpayment (below £2,000) to be coded out under 2011–12 PAYE (online returns)	30 December 2010

1-300 Payment dates 2009–10

(TMA 1970, ss. 59A, 59B)

(BTR: ¶181-200 & 181-250)

Tax is paid on 31 January next following the year of assessment as a single sum covering capital gains tax and income tax on all sources. Interim payments on account may be required. No interim payments are required for a year of assessment if the tax paid by assessment for the preceding year was less than £500 or 20% of the total tax liability for that year. This threshold will rise to £1,000 for payments on account due in January and July 2010.) These will normally be half the amount of the net tax payable for the preceding year, but may be reduced to half the current year's liability, if less. Net tax is previous year's tax after taking off tax deducted at source and tax on dividends. For 2009–10, the following due dates apply:

First interim payment	31 January 2010
Second interim payment	31 July 2010
Final balancing payment	31 January 2011

Note

If a return is not issued until after 31 October 2009 and the tax payer has notified chargeability by 5 October 2009, the due date for the final payment becomes three months from the issue of the return (TMA 1970, s. 59B).

1-350 Main penalty provisions

Individuals: 2009–10

Offence	Penalty ⁽¹⁾⁽²⁾
Late return (TMA 1970, s. 93; BTR: ¶186–100) ⁽³⁾⁽⁴⁾ : <ul style="list-style-type: none">• if paper return not filed by 1 November 2010 or online return not filed by 1 February 2011• if paper return still not filed by 30 April 2011 or online return still not filed by 31 July 2011• if paper return not filed after November 2011 or online return not filed after 1 February 2012• for continuing delay	£100 £100 Tax geared Up to £60 per day
Failure to notify chargeability (TMA 1970, s. 7; BTR: ¶181–800)	Tax geared
Failure to take reasonable care with a return (FA 2007, Sch. 24; BTR: ¶186–225) ⁽⁵⁾ <ul style="list-style-type: none">• standard amount• where the inaccuracy is deliberate but not concealed• where the inaccuracy is deliberate and concealed	30% of potential revenue lost 70% of potential lost revenue 100% of the potential lost revenue
Failure to keep and retain tax records (TMA 1970, s. 12B; BTR: ¶180–250)	Up to £3,000 per year of assessment
False statements to reduce interim payments (TMA 1970, s. 59A(6); BTR: ¶181–200)	Tax geared
Failure to produce documents required in connection with an enquiry (FA 2008, Sch. 36, para. 39 and 40; BTR: ¶184–900) <ul style="list-style-type: none">• standard amount• continued failure	£300 daily penalty of £60
Tax-related penalty where significant tax is at risk (FA 2008, Sch. 36, para. 50)	amount decided by Upper Tribunal

Notes

- (1) Interest is charged on penalties not paid when due. The due date is 30 days after the notice of determination of the penalty is issued.
- (2) A defence of 'reasonable excuse' may be available.
- (3) Late return penalties are cumulative, e.g. for a return six or more months late there are two £100 penalties.
- (4) The two fixed £100 penalties are reduced if the total tax payable by assessment is less than the penalty which would otherwise be chargeable.
- (5) There is a disclosure reduction for telling (30 per cent), helping (40 per cent) and giving access (30 per cent) (FA 2007, Sch. 24, para. 10).

1-400 Interest 2009–10

(TMA 1970, s. 86)

(BTR: ¶181-400)

Interest is payable from the 'relevant date':

Payment	Relevant date
First interim payment ⁽¹⁾	31 January 2010
Second interim payment	31 July 2010
Final payment	31 January 2011
Tax due on an amendment to a return	31 January 2011
Tax due on determination of appeal	31 January 2011

Notes

- (1) Where the taxpayer has provided HMRC in good time with the information required to issue a statement of account ahead of the payment date of 31 January, but no statement is received before 1 January, interest on the tax to be paid will run from 30 days after the taxpayer is actually notified rather than from 31 January.
- (2) Where notice to make a return is issued after 31 October 2009, then, provided there has been no failure to notify chargeability under TMA 1970, s. 7, the relevant date becomes the last day in the period of three months beginning with the day notice to make a return was given.

FA 2009, ss. 101, 103 and 104 and Sch. 53 contain provisions to harmonise interest regimes across all HMRC taxes and duties.