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NEWSLETTER MAY 2010

A NEW GOVERNMENT – ANOTHER BUDGET

So we have a new government. After what many would agree was one of the most fascinating election races for many years, we now have a coalition government between the Conservatives and the Liberal Democrats.

There will, of course, be many political twists and turns to come in the forthcoming months as the two parties attempt to reach a compromise on a number of issues where differences existed during the run up to the election.

Whether this coalition will run its course until the next election in 2015 remains to be seen. What perhaps will interest many is what is going to happen on 22 June when the new government delivers its "emergency Budget". Set against a background of huge cuts to reduce the UK's budget deficit there will undoubtedly be a number of unpopular measures to be announced in the Budget. Of course, none of us outside government know for sure what will happen, but we set out below a number of probable measures.

Personal allowances

Readers will be aware that the outgoing Labour government, in its March Budget, froze the personal allowances for tax year 2010/11 to those of 2009/10. There is likely to be no change to the allowances already in force for this year, with the planned increases starting on 6 April 2011.

Just what the increase in personal allowances will be is anybody's guess at present but some economists are of the opinion that there could be further increases, dependent on the Treasury's take from probable increases in capital gains tax (see below). It is likely that the personal allowance will rise from its present level of £6,475 to £10,000 but this increase may well be introduced over a period of time. However, an initial rise of £700 in the allowance is likely to be announced in the emergency Budget, such rise to take effect in April 2011. Whilst this rise will benefit the lower paid and pensioners, anyone earning in excess of £35,400 will be worse off due to the increase in National Insurance contributions (see below).

Capital gains tax

This is the tax where major increases are highly likely. At present individuals pay capital gains tax at 18%. The likely increase will bring the rate up to 40% of maybe 50% for the highest rate of tax. This increase will prove extremely unpopular with those who have second homes and who wish to sell for a capital profit. It will also hit those that have made a gain on shares. In addition to possible increases in the rate of tax is the likely reduction in the tax free threshold.

Inheritance tax

The Conservatives have had to make a huge compromise with the Liberal Democrats on inheritance tax. There were plans to increase the tax free threshold dramatically, based to a large degree on the fact that with the huge escalation in house prices over recent years, more and more individuals were being drawn into the inheritance tax net. In their manifesto the Conservatives had promised to raise the threshold to £1 million for an individual and £2 million for a married couple. However, the Liberal Democrats have forced the Conservatives to shelve any increase in the threshold. In return, the Liberal Democrats have ditched plans for a "mansion tax" of 1% on any house worth in excess of £2 million.

Value added tax

Many economists are forecasting an increase in VAT from its present level of 17.5%. Readers will be aware that, in an effort to kick-start the economy, Alistair Darling reduced the level of VAT to 15% last year but it returned to its present level on 1 January this year. Some are suggesting that the level could be increased by as much as 2.5% to 20%, but it is likely that any increases will be phased in over a period of time. It is suggested that if the level was increased to 20%, this would cost the average household some £500 a year and, of course, would affect the lower paid as much as, if not more, than the better off.

National Insurance contributions

The increase in both employers' and employees' National Insurance contributions (NIC) was, of course, one of the major issues between Conservative and Labour during the election campaign, with an increase of 1% in the rate of NIC having been set by Labour to come into force in April 2011. Under the new government this increase will still apply for employees but not for employers.

INCREASE IN CAPITAL GAINS TAX – A WORRY FOR SAVERS

It is highly likely that the new Conservative-Liberal Democrat government will increase the rate of capital gains tax (CGT) in the forthcoming Budget. It is also the wish of the Liberal Democrats to reduce the tax-free threshold for CGT from the present level of £10,100 to just £2,000. It is estimated that if the threshold is reduced to this level an additional 750,000 individuals will pay CGT.

In addition, it would appear to be the government's intention to levy CGT on what are termed as "non-business assets" which could include second homes, shares and buy-to-lets. Note that furnished holiday lettings are not included as a non-business asset.

Since April 2008 the rate of capital gains tax has been 18%, with a reduced rate of 10% of up to £2 million within your lifetime being available in the form of entrepreneurs' relief, ie for a person who owns 5% of the shares of a company for whom he or she has worked and who has held the shares for one year or more. This reduced rate also applies to holiday lettings.

At present no one knows to what level the interest rate of CGT will be increased but many commentators believe that there will be a top rate of 40%. Another unknown factor is when the increased rate and reduced thresholds (if introduced) will take effect. The two possible start dates would be immediately after the emergency Budget on 22 June or at the start of the next tax year, ie 6 April 2011.

The above measures will affect many individuals, but those who will be hit the hardest will be savers. Many such individuals will have put aside savings in the form of shares or other assets only to see the net worth of these assets slashed by swinging increases in CGT. Once again, those who have in the past been encouraged by government to be prudent and save for their old age, will now suffer.

COMPLIANCE CHECKS AND PENALTIES

Hardly a week seems to go by without news of H M Revenue & Customs (HMRC) becoming more and more vigilant in relation to the computation and payment of taxation. Recently legislation has been introduced to standardise the powers, deterrents and safeguards across the taxes in the United Kingdom and HMRC has summarised these measures on its website, as follows:

"Compliance checks"
Every year HMRC carries out checks to see if the correct tax has been paid. From 1 April 2010 there will be one system across many of our taxes:

- to obtain information about your tax
- to inspect your business records
- for the amount of time you have to make tax claims
- for the amount of time we have to make tax assessments

New penalties
From 1 April 2010 there will be:

- an inaccuracy penalty for inaccurate tax documents and returns across most taxes
- a failure to notify penalty across most taxes when people don't tell us about a relevant obligation at the correct time, e.g. to register for a tax
- a new VAT and Excise wrongdoing penalty

Publishing details of deliberate defaulters
From 1 April 2010 under strictly controlled circumstances HMRC can publish the details of taxpayers who are penalised for deliberately evading more than £25,000 of tax.

PAYE late payment penalties
From 6 April 2010 new penalties will apply to all employers who do not pay PAYE, NICs, Construction Industry Scheme deductions and student loan deductions on time and in full. It replaces an existing penalty under the Mandatory Electronic Payment (MEP) scheme, which affected employers with 250 or more employees.

What you can do if you disagree with HMRC decisions
In most cases if you disagree with HMRC decision's, including the decision to charge a penalty, you can appeal. From 1 April 2009 HMRC has also offered the option of an internal review of tax decisions that can be appealed, with the aim of resolving issues as quickly as possible."

THE "FIT NOTE" REPLACES THE SICK NOTE

Prior to 6 April this year an employee's state of health when off work due to illness was assessed by that individual's doctor in the form of a doctor's certificate (often referred to as a "sick note"). From this date the "fit note" has replaced the sick note and it is important that all employers are aware of the rules and regulations relating to the new fit note.

The main characteristic of the fit note is that the doctor will certify whether, in his opinion, the employee:

- may be fit for work;
- may be fit for some work; or
- may be fit for no work at all.

Note the use of the word "may" above. The doctor is not given the option of stating that an employee is fit for work, only that the employee may be fit for work.

In addition, the doctor will now be allowed to (but does not have to) make suggestions as to how the employer could adapt work procedures or the work environment so as to assist the employee in returning to work. Such procedures could include altering or shortening the hours of work, adapting the workplace or amending the duties undertaken by the employee.

The employer does not have to follow the advice given by the doctor in relation to any suggested changes to work procedures etc but the employer would run the risk of an action for disability discrimination if the suggested changes were not made and it later transpired that the employee had a disability.

There are time limits which relate to the duration of a fit note. The maximum duration has been reduced from 6 months in the case of the old sick note to 3 months. However, do not confuse this duration period with the period specified by the employee's doctor as the period for which he considers the patient may not be fit for work. This can be for any period or for an indefinite period of time.

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