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## **Budget 2010**

This is HMRC's Budget 2010 letter for the Financial Services sector. It brings together in one place a summary of those measures and announcements from the Budget which we believe will be of particular interest to those working in the sector, covering direct and indirect tax issues, and issues being led by HM Treasury. Further details of proposed changes can be found in the relevant Budget notes together with appropriate contact details.

The letter also includes details of other current work relevant to the financial sector, together with contact details for that work.

As in previous years HMRC and HMT are extremely grateful to the various organisations and individuals who have contributed to the discussion of issues covered by this letter. We are grateful for your continued support and look forward to working with you again.

Jeremy Tyler

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# 1. Business wide initiatives and policy development

## Budget Measures

### **HMRC Income Verification Scheme**

Budget 2010 announces HMRC's intention to open discussions with mortgage lenders on the formal introduction of an income verification scheme to tackle tax fraud and provide lenders with greater certainty about those to whom they lend.

The Income Verification Scheme allows mortgage lenders to approach HMRC for assistance with verifying income details provided by mortgage applicants, when they have strong suspicions of fraud. This gives HMRC valuable information from lenders regarding what potential borrowers have told them about their income, and who may be committing tax fraud.

The scheme follows a successful pilot programme which operated from 2007 to January 2010. The Council of Mortgage Lenders (CML) have estimated that the pilot prevented private sector frauds totalling £111m, and have made an offer on behalf of their members to fund the service.

Following this announcement HMRC will open discussions with the CML about how the service will be relaunched and funded.

Contact point for further details: Adam Cartwright on 020 7147 2436 or [adam.cartwright@hmrc.gsi.gov.uk](mailto:adam.cartwright@hmrc.gsi.gov.uk)

## Update on other work

### **Foreign Profits: review of branch taxation**

The Budget confirmed the Financial Secretary's earlier announcement that the Government is bringing forward a review of foreign branch taxation to be conducted alongside the reform of the CFC rules, with any legislative changes also intended for next year's Finance Bill.

Contact point for further details: Andrew Page on 020 7147 2673 or [andrew.page@hmrc.gsi.gov.uk](mailto:andrew.page@hmrc.gsi.gov.uk)

# 2. Banking

## Budget Measures

### **Systemic Risk Tax**

The Government today announced that it believes progress could soon be made on an internationally coordinated systemic risk tax. Several key principles that the Government believes should guide further international work are set out in the Budget.

### **Enabling tax-advantaged investment in AIM shares**

The Government intends to consult on allowing Alternative Investment Market (AIM) shares to be eligible as a tax-advantaged investment for retail savers.

ISAs are a simple, flexible and accessible tax-advantaged savings vehicle. The Government remains committed to these objectives, and also to supporting small and growing businesses.

Currently ISA tax relief is available to shares that are listed on a Recognised Stock Exchange. The Alternative Investment Market (AIM) is a multilateral trading facility. It is not a Recognised Stock Exchange.

Unlisted shares, such as those held on AIM, already qualify for a number of other reliefs in the tax system.

The consultation will seek to explore the possible impacts of enabling AIM shares to be eligible as a tax-advantaged investment for individual investors.

Contact point for further details: Steve Lig on 020 7147 2827 or [steve.lig@hmrc.gsi.gov.uk](mailto:steve.lig@hmrc.gsi.gov.uk)

### **Indexation of ISA Limits from 6 April 2011 (BN 28)**

From 6 April 2011 the Individual Savings Account (ISA) limits will increase annually in line with the Retail Prices Index (RPI).

The new annual limits will be rounded to the nearest multiple of 120, so that individuals who save monthly will be able to calculate their monthly savings more easily.

The new limits will be calculated by reference to RPI for the September before the start of the new tax year. HMRC will announce the new limits as soon as possible after the RPI figure is published, and at least 4 months before the start of the tax year in which they will apply. So, for example, the 2011/12 ISA limits will be indexed to the published September 2010 RPI figure, rounded to the nearest multiple of 120 and announced no later than 5 December 2010. In the event that RPI is negative, the ISA limits would be unchanged.

As is the case now, following indexation, the cash ISA limit will be half the value of the stocks and shares ISA limit.

Contact point for further details: Steve Lig on 020 7147 2827 or [steve.lig@hmrc.gsi.gov.uk](mailto:steve.lig@hmrc.gsi.gov.uk)

### **Update on other work**

#### **Bank Payroll Tax (BN 2)**

The Government attaches great importance to tackling the remuneration practices that contributed to excessive risk taking by the banking industry. The Government has made clear to the sector the need to develop sustainable long-term remuneration policies that take better account of risk and facilitate the build-up of loss-absorbing capital. The Government announced in the Pre-Budget Report on the 9 December 2009 that where bank and building society employees are awarded discretionary bonuses, in whatever form, above £25,000 in the period from the Pre-Budget Report to 5 April 2010, the banks paying these bonuses will pay a bank payroll tax of 50% on the excess bonus over £25,000.

A Technical Note and draft clauses were published at 2009 PBR and further clarifications on the scope of the legislation were published on the HMRC website in

December. HMRC have also updated the frequently asked questions and answers on its website. Further draft clauses will be published in the Finance Bill, the principal changes to the draft legislation since 2009 PBR will be:

- clarification of the scope of the legislation in connection with when relevant remuneration is taken to be “awarded” during the chargeable period;
- clarification of the scope of the legislation in connection with the definition of “taxable company”;
- introduction of a 60 day rule for relevant banking employees; and
- inclusion of detailed machinery provisions for the assessment and the collection of bank payroll tax. These include provisions for penalties and interest.

Contact point for further details: Raj Nayyer on 020 7147 2521 or [raj.nayyer@hmrc.gsi.gov.uk](mailto:raj.nayyer@hmrc.gsi.gov.uk)

### **3. Asset Management**

#### **Budget Measures**

##### **Unauthorised Unit Trusts ('UUTs')**

On 21 October 2009, the Government announced that legislation will be introduced in the forthcoming Finance Bill to block certain avoidance schemes that have been notified to HMRC. Under these schemes, foreign income which has been subject to withholding tax by the relevant foreign tax authorities is paid to an unauthorised unit trust and credit for the foreign tax is claimed by the scheme's trustees. The schemes operate so as to avoid certain restrictions on the use of credits for foreign tax and, in some cases, claiming "repayment" of tax that has not been and will not be paid to HMRC.

A [Technical Note](#) was published on 21 October 2009 and was followed by [draft legislation and an Explanatory Note](#) on 3 November. All are available on the HMRC web site.

Since the publication of the draft legislation, and following discussions with stakeholders, some minor amendments have been made to limit the number of unit holders affected by the measure and to simplify the procedures concerning provision of information by trustees to unit holders.

Contact point for further details: Wayne Strangwood on 020 7147 2545 or [wayne.a.strangwood@hmrc.gsi.gov.uk](mailto:wayne.a.strangwood@hmrc.gsi.gov.uk)

##### **Collective Investment Schemes**

Since Budget 2009, the following tax changes have been made in the asset management sector:

- Amendments to the new offshore funds regulations (which came into effect on 1 December 2009) to assist with the transition to the new regime. (The offshore funds regime is being kept under review and it is expected that there will be further minor changes to deal with identified issues);

- A Commencement Order for section 103A Taxation of Chargeable Gains Act 1992 has been made which takes effect from 1 April 2010. This treats investments by corporate investors in relevant offshore funds in a similar way to shares in a company for chargeable gains purposes. (See Chapter 5 of the Budget text and a [technical note](#) which can be found on our “What’s new” page);
- The introduction of a new tax regime called “Funds Investing in Non-Reporting Offshore Funds (FINROFs)”. The regime allows UK funds to invest more than 20% of their assets in non-reporting offshore funds, without incurring an offshore income gain. (It was introduced to cater for a new regime brought in by the FSA called the Funds of Alternative Investment Funds regime.)

Today, the Government announced the following measures:

- The Government intends to launch a working group to consult with industry on whether establishing a tax transparent contractual fund vehicle would be beneficial for the UK;
- As a result of the introduction of the new FINROF regime, the Government will continue to work with industry to alleviate the tax issues arising for mixed funds;
- The Government intends to review the tax legislation for investment trust companies with a view to modernising the rules. A consultation document will be issued in summer 2010.

In addition, the Government also announced today that it would defer, to the autumn, its response to the 2009 consultation on charity pooled funds. (See Chapter A of the Budget text).

Contact point for further details: John Buckeridge on 020 7147 2560 or [john.buckeridge@hmrc.gsi.gov.uk](mailto:john.buckeridge@hmrc.gsi.gov.uk) or Angela Nagarajah on 020 7147 2787 or [angela.nagarajah@hmrc.gsi.gov.uk](mailto:angela.nagarajah@hmrc.gsi.gov.uk)

#### **Stamp Duty Reserve Tax Schedule 19: exemption for certain investments in Collective Investment Schemes**

HMRC will work with the investment management industry to include as ‘exempt investments’ for Schedule 19 Stamp Duty Reserve Tax purposes certain investments by a collective investment scheme (CIS) in another CIS. Broadly, the intention will be to exempt investments in underlying funds that do not largely invest in UK equities.

Contact point for further details: Jeremy Schryber on 020 7147 2788 or [jeremy.schryber@hmrc.gsi.gov.uk](mailto:jeremy.schryber@hmrc.gsi.gov.uk)

## **4. Insurance**

### **Budget Measures**

#### **Life Insurance Companies: apportionment of income and gains (BN 19)**

As announced at the Pre-Budget Report, Finance Bill 2010 will modify the apportionment rules to ensure that, when recognised, deferred profits are taxed on an appropriate basis. It has now become clear that the application of the modified rules could be avoided by the transfer of non-profit business from one non-profit fund

to another. The Government intends to legislate for an anti-avoidance rule as soon as possible in the next Parliament. A technical note published today gives details of the proposed anti-avoidance rule.

The measure will have effect for transfers of business which take place on or after 24 March 2010.

The anti-avoidance rule is an addition to, rather than a modification of the targeted anti-avoidance rules which apply to transfers of business. It will not automatically be covered by the statutory clearance procedure but HMRC understand the need for certainty of tax treatment when there is a transfer of business and will informally address any question of whether the anti-avoidance rule is engaged as part of the formal statutory clearance procedure.

Contact point for further details: Carol Johnson on 020 7147 0517 or [carol.johnson@hmrc.gsi.gov.uk](mailto:carol.johnson@hmrc.gsi.gov.uk)

### **Life Insurance: transfers of business**

Following consultation on the operation of the Transfer of Business rules amendments are proposed to sections 444ABD and 444AC ICTA 1988. The changes will address issues identified by HMRC and industry and will:

- ensure that the surplus is not taxed in both the transferor and the transferee when there is a transfer of assets in excess of liabilities;
- extend 444ABD ICTA 1988 to companies taxed on the I-E basis;
- apportion relief under section 444AC ICTA 1988 between transferees when a transferor enters into more than one Insurance Business Transfer Scheme during a period of account.

The Government intends to legislate this measure as soon as possible in the next Parliament.

Contact point for further details: Carol Johnson on 020 7147 0517 or [carol.johnson@hmrc.gsi.gov.uk](mailto:carol.johnson@hmrc.gsi.gov.uk)

### **Investor protection (BN 21)**

The recent period of disruption in the global financial markets has had a widespread impact across the world. Like many industries, the UK insurance sector has been affected. However, both the insurance industry and the UK's prudential regulatory regime for insurers have stood up well.

In the light of reviewing other insolvency regimes across the financial services industry, the Government is seeking to refine the administration regime for insurers to ensure continuity of payments and protection for policyholders should an insurer go into administration. The proposed changes also include tax rules, where legislation will be introduced in Finance Bill 2010 providing regulation-making powers to ensure that if the Financial Services Compensation Scheme (FSCS) takes action to protect policyholders in life assurance contracts, there will broadly be the same tax treatment in place as if the FSCS had not intervened.

The Government will therefore launch a consultation on proposals to strengthen the administration regime for insurers, ensuring consistent treatment for policyholders of insurance contracts under the insolvency and administration regime.

Contact point for further details: Jon Prothero on 020 7147 2785 or [jon.prothero@hmrc.gsi.gov.uk](mailto:jon.prothero@hmrc.gsi.gov.uk) (FSCS) or Meenakhi Borooah on 020 7270 5234 or [Meenakhi.Borooah@hmtreasury.gsi.gov.uk](mailto:Meenakhi.Borooah@hmtreasury.gsi.gov.uk) (Consultation)

### **Life Insurance Policies: deficiency relief (BN 20)**

The Government intends to introduce legislation as soon as possible in the next parliament to provide that life insurance deficiency relief will be available to reduce tax due on income subject to the additional rate and dividend additional rate. This provision will take effect where individuals are entitled to deficiency relief on a surrender of their life insurance policies on or after 6 April 2010.

Contact point for further details: Jon Prothero on 020 7147 2785 or [jon.prothero@hmrc.gsi.gov.uk](mailto:jon.prothero@hmrc.gsi.gov.uk)

### **Update on other work**

#### **Life Insurance: Solvency II**

The Government has announced its intention to consult formally with the insurance industry and others on the tax implications of the implementation of the EU Solvency II Directive, expected in 2012. A [consultation document](#) was published on 10th March.

Solvency II will supersede the current regulatory reporting requirements, which at present form the basis of the life company tax regime. It will also impact on general insurers. These changes will occur against the background of anticipated new accounting standards for insurance companies.

The government has set out its intention that, when the Solvency II Directive comes into force, company accounts will form the basis for the calculation of trading profits for life companies. The consultation will:

- Explore tax issues for life companies arising out of that intention, including transitional issues;
- Explore tax implications of the Directive for general insurers;
- Provide an opportunity to consider possibilities for wider reform of life company taxation.

This formal consultation represents a continuation of an informal process which has been under way since July 2009.

Contact point for further details: Andy Stewardson on 020 7147 2600 or [andy.stewardson@hmrc.gsi.gov.uk](mailto:andy.stewardson@hmrc.gsi.gov.uk)

#### **Venture Capital Investment Partnerships (VCIPs)**

HMRC will continue to discuss changes in the tax treatment of life insurance companies' interest in a VCIP with the insurance industry.

Contact point for further details: Carol Johnson on 020 7147 0517 or [carol.johnson@hmrc.gsi.gov.uk](mailto:carol.johnson@hmrc.gsi.gov.uk)

## **Policyholder Tax**

HMRC has been working with the ABI to develop guidance on appropriate methodologies to be used in determining the deduction for policyholder tax in computing life assurance business trade profits. Existing companies are obliged by regulation to use the methodology in place or deemed to be in place in 2002. HMRC is considering whether the regulations should be amended to allow companies to discuss and agree a change in methodology with their CRM.

Contact point for further details: Carol Johnson on 020 7147 0517 or [carol.johnson@hmrc.gsi.gov.uk](mailto:carol.johnson@hmrc.gsi.gov.uk)

## **5. Direct Tax – Other Issues**

### **Budget Measures**

#### **Financial Products: debt cap modifications (BN 6)**

A draft of legislation making changes to the worldwide debt cap rules (originally in Schedule 15 FA 2009 and now rewritten as Part 7 TIOPA 2010) was published at the time of the Pre Budget Report. Consultation on the debt cap has continued. As a result, a number of further changes are to be made.

The major new provisions are outlined below:

- Arrangements that have the economic effect of loans, but not the legal form, are to be included as “relevant assets” or “relevant liabilities” for the purposes of the gateway test. This will include alternative financing arrangements, repos and certain PFI contracts. This will apply from 1 January 2010, but groups may elect for it to apply only prospectively;
- Securitisation companies will be excluded from the main debt cap rules, as announced at PBR. In addition the “available amount” (the worldwide financing costs of the group, derived from the consolidated financial statements) will be arrived at by deeming that the securitisation companies are not included in the consolidation. This will also apply from 1 January 2010;
- A new regulation-making power will allow special provision to be made in secondary legislation for companies that are involved in capital market arrangements, but which may still potentially have a debt cap liability because they are not “securitisation companies” for tax purposes. Regulations made under this power will allow such companies to elect for any additional tax liability arising because of the debt cap, and falling due after the Finance Bill receives Royal Assent, to be transferred to another group company. This will replace the original idea, announced at PBR, of groups being able to elect to “protect” certain companies from debt cap liability.

Contact point for further queries: Sue Davies on 020 7147 2565 or [sue.davies2@hmrc.gsi.gov.uk](mailto:sue.davies2@hmrc.gsi.gov.uk)

### **Financial Products: anti-avoidance: group mismatches**

The Government announced that it proposes to consult on the possibility of introducing a generic or principles-based rule to respond to “group mismatch schemes”. These are schemes involving intragroup loans or other financial instruments that result in one of the companies recognising a tax loss for which the other does not bring into account any corresponding taxable profit.

An HMRC discussion document, published on Budget day, sets out the context to the proposed consultation and describes some of HMRC’s initial ideas on the form that a group mismatch rule might take. It envisages that, subject to positive feedback, draft legislation may be available for 2010 Pre-Budget Report with a view to possible introduction of legislation in Finance Bill 2011.

Contact point for further details: Richard Rogers on 020 7147 2625 or [richard.rogers@hmrc.gsi.gov.uk](mailto:richard.rogers@hmrc.gsi.gov.uk) or Mark Carnduff on 020 7147 3342 or [mark.carnduff@hmrc.gsi.gov.uk](mailto:mark.carnduff@hmrc.gsi.gov.uk)

### **Financial Products: risk transfer schemes (BN 16)**

As announced at Pre-Budget Report 2009 (‘PBR’), Finance Bill 2010 will introduce legislation relating to risk transfer schemes (‘overhedging’ and ‘underhedging’ structures). The legislation, for the most part, will have effect for accounting periods on or after 1 April 2010 and there will be transitional rules to deal with schemes in accounting periods that straddle the commencement date.

There are some minor amendments to the draft legislation published in the PBR, mainly reflecting comments made by stakeholders during consultation. A regulation-making power has also been included that will enable the provisions to be extended, in the case of banks and other financial traders, to instruments other than loans and derivatives, if necessary.

Contact point for further details: Aidan Reilly on 020 7147 2575 or [aidan.reilly@hmrc.gsi.gov.uk](mailto:aidan.reilly@hmrc.gsi.gov.uk) or Paul Gilham on 020 7147 2619 or [paul.gilham@hmrc.gsi.gov.uk](mailto:paul.gilham@hmrc.gsi.gov.uk)

### **Loan Relationships: release of loans to participators in close companies (BN 15)**

The Government today announced that legislation will be introduced into Finance Bill 2010 to amend the corporation tax rules on loan relationships by providing that a close company is not entitled to a deduction for the release or writing off of a loan to a participator in that company. The measure has effect for debt (or part debt) releases or write-offs on or after Budget Day.

Contact point for further details: Mark Lafone on 020 7147 2602 or [mark.lafone@hmrc.gsi.gov.uk](mailto:mark.lafone@hmrc.gsi.gov.uk)

### **Business leasing: sale of lessors: option to elect (BN 14)**

Draft legislation was published at PBR offering a lessor company that is sold an opportunity to elect for an alternative treatment to that imposed by the original sale of lessor companies legislation. A further draft is published today that ensures that the election operates fairly and that the full amount of tax is collected on the profits of the leasing business following the sale.

Contact point for further details: Jo Brindley on 020 7147 2571 or [jo.brindley@hmrc.gsi.gov.uk](mailto:jo.brindley@hmrc.gsi.gov.uk)

### **Pensions: implementing the restriction of pensions tax relief (BN 33)**

The Government announced at Budget 2009 its intention to restrict tax relief on pensions savings with effect from 6 April 2011 for high income individuals. A consultation document, including a consultation stage Impact Assessment, on the implementation of the restriction of pensions tax relief was published at the Pre Budget Report 2009.

The Government have today published a final Impact Assessment and a summary of consultation responses.

Contact point for further details: Paul Cottis on 0115 974 2420 or [pensions.policy@hmrc.gsi.gov.uk](mailto:pensions.policy@hmrc.gsi.gov.uk)

### **Pensions: laying of Treasury Order to set the lifetime allowance and annual allowance from 6 April 2011 (BN 34)**

Tax-relieved saving in a registered pension scheme for an individual is subject to an overall limit called the lifetime allowance (LTA). This was set at £1.5 million when it was introduced in April 2006 and will rise to £1.8 million in 2010-11. The annual contributions limit on which tax relief can be claimed is called the annual allowance (AA). This was set at £215,000 when it was introduced in April 2006 and will rise to £255,000 in 2010-11.

As announced in the 2008 Pre Budget Report, the 2010-11 LTA of £1.8 million and the AA of £255,000 will continue to apply, with their rates held constant, for a further five tax years, i.e. up to and including the tax year 2015-16. A Treasury Order has been laid before Parliament today to put this into effect.

Contact point for further details: Sue Marsh on 0115 974 3068 or [pensions.policy@hmrc.gsi.gov.uk](mailto:pensions.policy@hmrc.gsi.gov.uk)

### **Pensions: other changes to pensions taxation (BN 35)**

Other changes to pensions taxation announced today are:

- the National Employment Savings Trust will be allowed to operate as an occupational pension scheme for tax purposes and to register with HMRC;
- the tax liability on any interest charges on late pension contributions made by an employer to qualifying pension schemes will be removed; and
- the tax rules on unauthorised borrowing by registered pension schemes will be amended to exempt borrowing linked to the cost of establishing and operating such a scheme subject to certain conditions.

Contact point for further details: Beverley Davies on 020 7147 2869 or [pensions.policy@hmrc.gsi.gov.uk](mailto:pensions.policy@hmrc.gsi.gov.uk)

### **Double Taxation: countering double tax relief avoidance (BN 17)**

The Government has introduced legislation to stop activities designed to increase the amount allowed by way of credit or deduction in respect of foreign tax.

The amendments to the double tax relief rules in the Taxation (International and Other Provisions) Act 2010 (TIOPA) will ensure that a person may only deduct foreign tax from any foreign income where that person has included the foreign tax in his or her taxable income. Other amendments to TIOPA will reaffirm the scope of the targeted DTR anti-avoidance rule.

The amendments to the manufactured payments regulations in SI 1993/2004 focus on the offset rules in regulation 9 and will stop financial traders effectively obtaining relief for foreign tax twice. Certain other provisions in the regulations which prescribe that double tax relief is available will be repealed.

HMRC Contact point for further details: Giles Horridge on 020 7147 2654 or [giles.horridge@hmrc.gsi.gov.uk](mailto:giles.horridge@hmrc.gsi.gov.uk)

### **Transactions in securities schemes (BN 41)**

The 2007 Pre-Budget Report launched a review aimed at simplifying anti-avoidance legislation whilst protecting tax revenues. The Transactions in Securities legislation was identified as a suitable candidate for simplification. Proposals for change were widely welcomed in a public consultation carried out in the summer of 2009.

The aim of this simplified legislation is to ensure that transactions in securities that fall within the specified circumstances and which involve tax avoidance are within its scope, whilst at the same time excluding genuine commercial transactions that do not have a tax avoidance motive.

These changes more effectively focus the legislation on transactions in securities that have been entered into with a main purpose of tax avoidance although adopting a new narrower definition of an income tax advantage will remove many individuals from the scope of the legislation.

Contact point for further details: Hussein Saleh on 020 7438 7215 or [hussein.saleh@hmrc.gsi.gov.uk](mailto:hussein.saleh@hmrc.gsi.gov.uk) or Chris Orchard on 020 7147 0396 or [chris.orchard@hmrc.gsi.gov.uk](mailto:chris.orchard@hmrc.gsi.gov.uk)

### **Venture Capital schemes (BN 12)**

The Government has announced that it intends on working with industry to examine the evidence base for possible improvements to the Enterprise Investment Scheme and Venture Capital Trusts.

Contact point for further details: David Harris on 020 7147 2562 or [david.harris@hmrc.gsi.gov.uk](mailto:david.harris@hmrc.gsi.gov.uk)

### **Update on other work**

#### **Financial Products: Forex matching: changes to “bringing into account” provisions**

Regulations have been laid to amend The Exchange Gains and Losses (Bringing into Account Gains and Losses) Regulations 2002, generally known as the “EGLBAGL Regulations” – SI 2002/1970.

The EGLBAGL Regulations provide for foreign exchange gains or losses on liabilities or currency contracts, which have been left out of account because the instrument hedges exchange risk on investment in a foreign operation, to be taxed or relieved.

Where the investment takes the form of shares in a subsidiary, a disposal of the shares (other than one to which Substantial Shareholdings Exemption applies) triggers the bringing back into account of the exchange gains or losses as a chargeable gain or allowable loss.

The main effect of the amendments is that such gains or losses will no longer be “free-standing”. Instead, a gain will be added to the disposal consideration for the shares, while a loss will be subtracted. This removes certain anomalies resulting from the interaction between the EGLBAGL Regulations and the provisions of TCGA 1992. In particular, it ensures that “brought back into account” gains or losses can be reallocated within a group under section 171A TCGA 1992, and that indexation allowance is applied only to any net gain on a share disposal after the effect of currency hedges has been taken into account.

The change will apply to disposals on or after 6 April 2010.

Contact point for further details: Sue Davies on 020 7147 2565 or [sue.davies2@hmrc.gsi.gov.uk](mailto:sue.davies2@hmrc.gsi.gov.uk)

### **Loan Relationships: changes in accounting standards (BN 7)**

As announced in the Pre-Budget Report, legislation will be introduced in Finance Bill 2010 to provide a regulation-making power to amend the corporation tax rules on loan relationships and derivative contracts in response to changes in accounting standards on financial instruments. In the light of the publication of International Financial Reporting Standard 9 in November 2009, and other announcements made to date by the International Accounting Standards Board, it is anticipated that amendments will be required to tax rules on hybrid debt, impairment, hedging, and derecognition. A meeting of the IAS 39 Working Group has been arranged to discuss these proposals further.

Contact point for further details: Tony Sadler on 020 7147 2608 or [tony.sadler@hmrc.gsi.gov.uk](mailto:tony.sadler@hmrc.gsi.gov.uk)

### **Loan relationships: debt buy backs**

As announced in Written Ministerial Statements on [14 October](#) and [9 November](#) 2009, the Finance Bill contains a change to the loan relationships rules on releases of debts between connected companies. Where a company buys debt issued by a connected company and that debt is trading at a discount to the amount borrowed, there will in future be an exemption from a ‘deemed release’ on the debtor company where the acquisition is part of a corporate rescue. This exemption will apply where there is a change of ownership of the debtor company, and the debtor company is likely to meet insolvency conditions. There will also be exemptions where the debt is acquired in exchange for the issue of equivalent new debt or the issue of shares. If the debt acquired by the connected company is subsequently released intra-group, there will be a tax charge on the discount at which it was acquired. The measure is intended to prevent the use of the current exemption from deemed releases of impaired debt to avoid the tax charge that would normally arise where a company is released from its liability, while continuing to facilitate genuine company rescues and self-rescues. Transitional rules apply to transactions that were in train at the time of the Written Ministerial Statements.

Contact point for further details: Aidan Reilly on 020 7147 2575 or [aidan.reilly@hmrc.gsi.gov.uk](mailto:aidan.reilly@hmrc.gsi.gov.uk) or Tony Sadler on 020 7147 2608 or [tony.sadler@hmrc.gsi.gov.uk](mailto:tony.sadler@hmrc.gsi.gov.uk)

## **Loan Relationships: relationships treated as loan relationships etc: repos**

As announced by Written Ministerial Statement on 9 February, legislation has been introduced to put beyond doubt that a possible defect in the corporation tax legislation applicable to sale and repurchase (repo) transactions cannot be exploited in avoidance schemes or used in non-avoidance cases to generate artificial tax losses for companies.

The legislation will ensure that manufactured payments received in the course of repos must be taken into account for tax purposes if they are taken into account in arriving at accounting profits.

Further detail can be found at [here](#).

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## **Collection of income tax deducted at source from interest and similar payments**

The Government launched a [consultation document](#) on 5 March 2010 to invite views on possible changes to the rules on the collection of income tax deducted at source from interest, patent royalties and annual payments as they currently apply to deposit takers, building societies, companies, individuals and other non-corporate persons. The consultation will close on 28 May 2010.

Contact point for further details: Nicky Rass on 020 7147 2802 or [nicola.rass@hmrc.gsi.gov.uk](mailto:nicola.rass@hmrc.gsi.gov.uk)

## **Corporation tax on chargeable gains: related companies simplification review**

The Government continues to make progress on the Related Companies Simplification Review, which was launched at the 2007 Pre-Budget Report. As part of its work in this area, the Government published a consultation document on 22 February 2010 containing detailed proposals to simplify the capital gains legislation for groups of companies. This proposes changes to the rules on capital losses after a change of ownership, value shifting and degrouping charges. The [consultation document](#) including draft legislation is available on the HMRC and HMT websites

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## **Alternative finance: property refinancing**

The 2009 Pre-Budget Report announced that, subject to satisfactory safeguards, the Government intends to make changes for alternative property refinancing (APR) arrangements that do not include payment of interest, so that they have the equivalent tax treatment to conventional secured loans. Work on this has continued since the PBR and draft legislation has been circulated, with a draft explanatory note, through the Islamic Finance Tax Technical Working Group.

APR arrangements could have capital gains tax consequences, as they are typically structured so that the original owner of a property sells it to a financial institution, renting it back for a temporary period, after which the original owner buys it back. The initial sale could generate a taxable capital gain. The intention is to provide relief

from such charges, provided changes can be made subject to satisfactory safeguards.

As work on the capital gains position has progressed, it has emerged that APR arrangements could lead to uncertainty in relation to the capital allowances treatment of the property in question. The Government today announces that it intends to provide clarification of how the capital allowances regime will interact with the 2009 Pre-Budget Report changes. Any alterations to the capital allowances rules will be designed to ensure that in normal circumstances the entitlement to allowances remains with the original owner, and appropriate safeguards will also be included.

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## **6. Indirect Tax**

### **Update on other work**

#### **Insurance Premium Tax (BN 18)**

The Government announced a measure at PBR to close down an Insurance Premium Tax (IPT) avoidance scheme. The measure taxes 'administration fees' artificially carved out of taxable insurance premiums under separate contracts with private individuals in order to avoid IPT. The draft legislation issued for comment at PBR was agreed following consultation with industry representatives. This draft has now been amended, however, to take account of further industry concerns that the measure went wider than intended. The draft legislation published today replaces that announced at PBR and is effective from today.

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