Tolley®CPD

Budget 2021

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Personal and capital taxes

Rates and allowances for 2021/22

The personal allowance will increase to £12,570 and the basic rate limit to £37,700 in 2021/22. These levels will continue up to and including 2025/26. The additional rate threshold remains at £150,000. This applies equally across the UK, except that Scotland has its own income tax rate bands on general income set by the Scottish Parliament.

For National Insurance Contributions the thresholds are:

- LEL remains at £120 per week
- Primary threshold increased to £184 per week (£183)
- Secondary threshold increased to £170 (£169)
- UEL increased to £967 (£962)

The transferable marriage allowance increased to £1,260 (2020/21: £1,250).

The maximum married couples allowance (MCA) tax reducer increased to £9,125 (£9,075) and the minimum amount claimable is £3,530 (£3,510). MCA is reduced by 50% of the taxpayer's income above a certain limit. This limit has increased to £30,400 (£30,200).

The starting rate for the savings limit will remain at £5,000 and the ISA, junior ISA and child trust fund limits are unchanged for 2021/22.

The link to the CPI increase for the pension lifetime allowance has been removed for five years, so the allowance remains at £1,073,100 for 2021/22 to 2025/26.

The capital gains tax annual exemption will remain at £12,300 up to and including 2025/26.

Inheritance tax thresholds, rates and the nil rate band are unchanged until April 2026.

Income tax exemption for certain financial support payments

An exemption from income tax will apply for financial support payments made by the UK Government and devolved administrations to potential victims of modern slavery and human trafficking. The exemption will take effect retrospectively from 1 April 2009 when the financial support payments started.

Pension schemes

Legislation is to be introduced so that collective money purchase pension schemes, which will be introduced by the Pension Schemes Act 2021, can operate as registered pension schemes for tax purposes. These new schemes can be established by a single employer (or associated employers) and are designed to be less expensive for an employer to run and fund by being less administrative burdensome with overall responsibility for the scheme being shared between the scheme and members. The aim is to give a target benefit level on

retirement by pooling of risk and avoiding the need to make financial decisions at the point of retirement; a type of defined benefit scheme without the risks to an employer of having a defined benefit scheme.

Social Investment Tax Relief

Social Investment Tax Relief for both income tax and capital gains tax will be extended until April 2023.

Relief for gifts of business assets

Entitlement to capital gains tax relief for gifts of business assets is disapplied where a transferee company is controlled by a person who is not resident in the UK and who is connected with the person making the disposal. This anti-avoidance rule will be amended to ensure that it applies when the non-UK resident person gifting the asset also controls the recipient company.

Employment tax

CJRS extension and other COVID-19-related measures

CJRS

The furlough scheme is extended to 30 September 2021.

It continues in its current form until 30 June 3021. Employees will receive the same amounts as now, at least 80% of their regular pay which can be topped up to 100% by the employer.

From July, the maximum grant drops to 70% of salary for unworked hours, but the employer must still pay the employee 80% (up to the maximum £2,500).

For August and September, the maximum grant drops to 60% of salary for unworked hours, but the employer must still pay the employee 80% (up to the maximum £2,500).

As now, the NIC and pension costs will be borne by the employer, as it is now.

Home office equipment expenses

Legislation was introduced in 2020 to provide that there is no charge to tax for an amount reimbursed to an employee on or after 11 June 2020 (backdated to 16 March 2020 by concession) and before 6 April 2021 in respect of home office equipment expenses. 'Home office equipment expenses' are expenses incurred by the employee in respect of equipment obtained for the sole purpose of enabling the employee to work from home during the coronavirus (COVID-19) pandemic. There must be no significant private use. The exemption applies equally to NIC. These exemptions will now be extended to cover the 2021/22 tax year.

Employer-provided coronavirus tests

Legislation is already in place to ensure that the provision of coronavirus antigen tests (but not antibody tests) to employees by employers do not attract tax and NIC for 2020/21. These exemptions will be extended to cover 2021/22 as well.

Employer-reimbursed coronavirus tests

Finance Bill 2021 will introduce a retrospective income tax exemption for payments that an employer makes to an employee to reimburse them for the cost of a coronavirus antigen test for 2020/21. A corresponding NIC exemption has already been put in place by regulations. A similar exemption will be introduced for 2021/22 for both income tax and NIC.

Enterprise Management Incentives (EMI)

Where employees are furloughed, working reduced hours or taking unpaid leave due to coronavirus, they may not be able to meet the committed working time requirement of EMI. Finance Act 2020 included legislation to ensure that a disqualifying event does not occur purely as a result of any such occurrence. This has effect in relation to the period 19 March 2020 to 5 April 2021 inclusive, but it will now be extended until 5 April 2022. As previously announced, Finance Bill 2021 will legislate to ensure that new EMI options issued to

employees who have not met the working time requirement as a result of coronavirus will be qualifying EMI options. This will have effect throughout the period 19 March 2020 to 5 April 2022.

Cycle to Work scheme

Firming up a statement made to Parliament in December 2020, new legislation will introduce a time-limited easement to disapply the condition that states that bicycles and cyclist safety equipment, where obtained through a Cycle to Work scheme, must be used mainly for qualifying journeys (to or from work or in the course of work). Due to lockdown, it will not be possible in many cases for that condition to be met. Employees who joined a Cycle to Work scheme and were provided with a bicycle or cycling equipment on or before 20 December 2020 will not now have to meet the qualifying journeys condition until after 5 April 2022. However, employees who join a scheme on or after 21 December 2020 still need to meet all the conditions for the exemption.

Coronavirus support scheme: working households receiving tax credits

A one-off support payment of £500 is being made under a coronavirus support scheme to working households in receipt of tax credits. It will cover a six-month period from April to September 2021. Legislation to be included in Finance Bill 2021 will exempt this payment from income tax.

Off payroll working

The off-payroll working provisions (known as 'IR35') are changing from 6 April 2021 with the substantive rules being included in FA2020. It was announced in November 2020 that technical amendments would be made to the FA2020 provisions as there had been some unintended consequences of the legislation. Other changes to the provisions were also announced.

For IR35 to apply, there has to be an intermediary, which is most commonly a company (this is the 'personal service company'). In order to within the provisions the personal service company has to meet certain conditions, one of which is that the worker has a material interest in that company (more than 5% of the shares). To prevent avoidance of the provisions by diluting shareholdings below this figure, the conditions were updated in FA2020 so that the company could be caught where the worker receives payment for services but the wording was such that you could be caught even, for example, where the income the worker was receiving was already fully taxed as employment income. The legislation is being amended so it now makes reference to situations where a worker receives payments which are not already wholly taxed as employment income.

Another change relates to provision of information within the supply chain. There is current requirement for the worker to provide information to the potential deemed employer regarding the application of IR35 and that is to be extended so that the intermediary will have a requirement to provide necessary information. The changes will bring the intermediary into the process of confirming whether a worker is potentially caught by IR35.

There is a new Targetted Anti-Avoidance Rule which will target arrangements where the main purpose (or one of the main purposes) is to gain a tax advantage by circumventing the conditions of the provisions such that the IR35 rules do not apply.

Finally, there are specific provisions where fraudulent information is provided so that the person providing that information becomes liable for any taxes which arise by virtue of their actions. This currently only applies to the worker or anyone connected with the worker but will be extended to cover any UK-based party in the supply chain.

Car and van benefits

The amount to which the appropriate percentage is applied in determining the taxable benefit of company car fuel is £24,600 for 2021/22 (£24,500 for 2020/21).

The cash equivalent of the benefit of a company van for 2021/22 is £3,500 (£3,490 for 2020/21).

The cash equivalent of the benefit of van fuel for 2021/22 is £669 (£666 for 2020/21).

As announced at Budget 2020, the Government will legislate in Finance Bill 2021 to reduce the van benefit charge to zero for 2021/22 onwards for vans that produce zero-carbon emissions.

The following percentages have been confirmed for calculating car benefits:

- Cars registered before 6 April 2020
  - Zero-emission cars: 1% for 2021/22 then 2% from 2022/23 to 2024/25
  - Other cars: frozen until 2024/25
- Cars registered from 6 April 2020
  - All rates increase by 1 percentage point in 2021/22 and again in 2022/23 then frozen until 2024/25

The maximum figure to use remains at 37%.

Salary sacrifice arrangements and statutory parental bereavement pay

The Optional Remuneration Arrangements (OpRA) legislation removed the benefits of entering into salary sacrifice arrangements. Although these took effect from 6 April 2017, there were transitional provisions relating to provision of long-term benefits such as living accommodation and school fees which continue until 6 April 2021. These provisions applied only as long as there was no variation in the employee's employment contract.

There is a list of various statutory payments which are disregarded for the purposes of determining if contractual changes have been made in relation to the employee but this list did not include Statutory Parental Bereavement Pay (SPBP) as it did not exist at the time the legislation was enacted. The legislation is therefore changed to include SPBP as a disregarded statutory payment. This will apply retrospectively for 2020/21 (but not earlier as SPBP was only brought in from 6 April 2020).

Treatment of termination payments

Changes are made to the 2018 provisions relating to the calculation of 'Post-Employment Notice Pay' on termination of employment. These were subject to consultation last summer and it has been confirmed that no changes are to be made to the draft legislation.

The new legislation includes an alternative calculation for PENP for employees who have a pay period defined in months but a notice period defined in weeks or days or where the post-employment notice period is not a whole number of months. There is also an amendment to ensure that non-resident individual is charged to UK tax on PENP to the extent that their notice period would have been worked in the UK.

Administration

Making Tax Digital

FB2021 will include provisions to extend Making Tax Digital for VAT to all VAT registered businesses with effect from 1 April 2022. Prior to this it is only mandated for those businesses with taxable turnover above the VAT threshold.

Late filing and payment penalties and interest harmonisation

A new regime is to be introduced for late filing and late payment penalties for VAT and income tax self assessment (ITSA):

- For VAT, the regime will apply for accounting periods beginning on or after 1 April 2022;

- For ITSA, it will apply for accounting periods beginning on or after 6 April 2023 for taxpayers within the Making Tax Digital regime (those with business or property turnover of over £10,000 per year) and 6 April 2024 for other self assessment taxpayers.

The measure is no surprise as it has been developed through three consultations starting in 2016, but nothing more had happened since 2018.

Late filing or submission penalties

A points-based system will come into effect. When a taxpayer misses a submission deadline, they will incur a point. Points accrue separately for VAT and for ITSA. A taxpayer becomes liable to a fixed penalty of £200 upon reaching the points threshold. The points threshold depends on the taxpayer's submission frequency: annually = two points; quarterly = four points; monthly = five points. Penalty points accrued will automatically expire after 24 months provided the taxpayer remains below the threshold. After the threshold has been reached, all points will expire after the taxpayer has met their return obligations for a set period of time based on their submission frequency: annually = 24 months; quarterly = 12 months; monthly = six months.

If the taxpayer continues to miss deadlines after they have reached the points threshold and have been issued with a penalty, they will become liable for a further fixed rate penalty for each additional missed obligation. A taxpayer will not be liable to a point or penalty if they had a reasonable excuse for not submitting on time and will have right of appeal against both points and penalties.

Late payment penalties

There will be no penalty at all if the taxpayer pays the tax late but within 15 days of the due date. The first penalty will be set at 2% of the outstanding amount if payment is made between 16 days and 30 days after the due date. It will be set at 4% of the outstanding amount if there is tax left unpaid 30 days after the due date. A second late payment penalty is then chargeable at 4% per annum, calculated on a daily basis on the total unpaid tax from day 31.

To avoid or reduce penalties, the taxpayer can approach HMRC to agree a time to pay arrangement.

Interest harmonisation

The VAT late payment interest rules will change and will be similar to those that already apply for ITSA. When an amount is not paid by the due date, late payment interest will be charged from the due date to the date the payment is received. Late payment interest will apply in relation to VAT returns, VAT amendments and assessments and VAT payments on account. HMRC will normally pay repayment interest either from the last day the payment was due to be received or the day it was received, whichever is later, until the date the repayment to the taxpayer is authorised or offset.

Tackling construction industry abuse

Draft legislation published in 2020 and subject to consultation is unchanged. Four changes are made by these provisions:

- A power to allow HMRC to amend the CIS deductions amounts claimed by sub-contractors on their RTI EPS returns where they do provide evidence of eligibility or sums deducted and do not correct the EPS at HMRC's request;

- To make it clear that the cost of materials are only not subject to deduction under the CIS where the sub-contractor directly incurs the cost of materials to fulfil a construction contract;

- Changing the definition of deemed contractors to apply CIS when construction expenditure exceeds £3m within the previous 12 months, rather than looking at it on a year-by-year basis;

- Extending the scope of the penalty for supplying false information when applying for gross payment status so that it applies where someone influences another person to supply false information or supplies false information in relation to someone else's application.

Tackling promoters of tax avoidance schemes

As announced at Budget 2020 and following consultation, the Government will legislate in Finance Bill 2021 to take further action against those who promote and market tax avoidance schemes.

The legislation, which will take effect following Royal Assent, will:

- strengthen information powers for HMRC's existing regime to tackle enablers of tax avoidance schemes and ensure enabler penalties are issued sooner for multi-user schemes;

- enable HMRC to act promptly where promoters fail to disclose their avoidance schemes under the Disclosure of Tax Avoidance Scheme and Disclosure of VAT and other Indirect Taxes (DOTAS and DASVOIT) regimes;

- allow HMRC to stop promoters from marketing and selling avoidance schemes earlier and ensure promoters fulfil their obligations under the Promoters of Tax Avoidance Schemes (POTAS) regime;
- make further technical amendments to the POTAS regime, so the regime can continue to operate effectively;
- make additional changes to the General Anti-Abuse Rule (GAAR) so it can be used as intended to tackle avoidance using partnerships.

Follower notices and penalties

As announced by written ministerial statement on 16 December 2020 and further to the consultation concluded in January 2021, the government will legislate in Finance Bill 2021 to change the penalties that may be charged to people receiving Follower Notices as a result of using avoidance schemes. The rate of penalty will be reduced from 50% to 30% of the tax in dispute.

A further penalty of 20% will be charged if the tribunal decides that the recipient of a Follower Notice continued their litigation against HMRC's decision on an unreasonable basis. The legislation will come into effect at Royal Assent.

Tax conditionality

As announced at the time of the 2020 Budget, legislation will be introduced to make the renewal of certain licences conditional on the applicants being able to prove that they are appropriately registered for tax. Checks will be carried out by HMRC and the licencing body will have to obtain confirmation that the tax check has been completed before they can issue the licence. Those licences are:

- drive taxes and private hire vehicles;
- operate private hire vehicle firms;
- deal in scrap metal including mobile collectors of scrap metal.

This will take effect from 4 April 2022 in England and Wales and extended to Scotland and Northern Ireland in 2023.

Miscellaneous provisions

Various provisions were announced:

- Legislation will be introduced in FB2021 which will enable secondary legislation to be put in place to implement OECD rules that will require digital platforms to send information about the income of their sellers to both HMRC and the sellers themselves. A consultation about how this will work in practice will be launched in summer 2021.

- Legislation will be introduced to enable businesses importing steel from outside of the EU and UK into Northern Ireland to access UK quotas which will not be subject to the EU's safeguard tariff.

- Legislation will be introduced to update powers to make amendments to bank surcharge, bank loss restrictions and bank levy rules

- A new Financial Institution Notice will be introduced into the Civil Information Powers allowing HMRC to require financial institutions to provide them with information about a specific taxpayer without the need to apply to the First Tier Tribunal

Business Taxation

Self-employment income support scheme (SEISS)

There will be a fourth SEISS grant work 80% of three month's average trading profits, paid out in a single instalment and capped at £7,500 in total. This grant will cover the period from February to April and can be claimed from late April. Individuals must have filed a 2019/20 tax return to be eligible for the fourth grant (with filing to have been done before midnight on 2nd March) which means that some 600,000 individuals may be newly eligible for SEISS (according to the press releases on the topic). All other eligibility criteria remain as for the third grant and further details will be published in due course.

A fifth SEISS grant will be given covering May to September 2021. The value of the grant will depend on the extent to which the business continues to be affected. 80% of average trading profits will be available for those who can demonstrate that turnover has fallen by 30% or more (capped at £7,500) with others who can show a fall of less than 30% getting a grant of 30% (capped at £2,850). This grant will be claimable from late July with full details being published in due course.

Only taxpayers whose businesses have been adversely affected by the pandemic in the period in question will be eligible, provided that they are still trading or intending to resume.

Taxation of payments under the Self Employed Income Support Scheme

The FA2020 provisions relating to the Self Employed Income Support Scheme (SEISS) indicated that payments received under that scheme would be taxed in the 2020/21 tax year, regardless of the date of taxation under normal principles. As this scheme is going to continue, legislation will be introduced to specify that future payments will be taxed as income in the tax year in which they are received.

Claw-back of payments made under SEISS

Legislation included in FA2020 allows HMRC to reclaim overpaid SEISS grants where the claimant did not meet the eligibility requirement at the time of the claim. Provisions are to be included which will enable HMRC to reclaim payments where a recipient of an SEISS grant stops being entitled to keep all or part of the grant due to a change in circumstances.

Class 2 and 4 national insurance limits

Class 2

The Class 2 profit threshold increases to £6,515 from £6,475, while the weekly rate is unchanged at £3.05.

Class 4

The Class 4 upper profits limit will increase to £50,270 in 2021/22 (previously £50,000) and will remain at this level up to and including 2025/26.

The lower profit limit is increased to £9,568 (previously £9,500).

The 2% and 9% rates remain unchanged.

Apprenticeships

For apprentices that are hired between 1 April and 30 September 2021, incentive payments for hiring new apprentices increased from £1,500 (£2,000 for under 25s) to £3,000 per person.

This payment supplements the existing £1,000 payment for 16 – 18 year-old apprentices and those under 25 with an Education, Health and Care Plan (EHCP).

Corporation tax rates

As widely anticipated, the Chancellor announced an increase in the rate of corporation tax but not for another two years.

For 2021 and 2022, the main rate of corporation tax (for non-ring-fenced profits) will remain at 19%.

From 1 April 2023, this rate will increase to 25% for companies with profits over £250,000. Companies with profits of £50,000 or less will continue to be taxed at 19%. Where profits fall between £50,000 and £250,000, the tax rate will be 25%, but companies will be able to claim marginal relief.

The profit limits will be divided by the number of associated companies (not the number of 51% group companies). This change will also affect the profit limits for testing whether a company has to make quarterly instalment payments.

The limits are also reduced if the chargeable accounting period is less than 12 months.

The marginal relief fraction will be 3/200ths and the marginal rate of tax between the lower and upper limit will be 26.5%.

On the basis of the information that we have, it would appear that this legislation will be closely modelled on the previous regime where different rates of corporation tax applied. The lower and upper limits will be reduced for short accounting periods and where there are associated companies.

The '51% group company test' which replaced the associated company provisions when a single rate of corporation tax was introduced will itself be repealed and a new associated company rule introduced. A company is associated with another company at a particular time if, at that time or any time in the preceding 12 months:

- One company has control of another;
- Both companies are under the control of the same person or group of persons.

There are no further details about the attribution of rights of associates in determining control. It has been confirmed that close-investment holding companies will not benefit from the small companies' rate with the Budget notes stating that the definition will 'follow' the definition previously found at section 34 CTA 2010. This is likely to catch family investment companies, although this will need to be confirmed when the draft legislation is published.

The diverted profits tax rate will also be increased to 31% from 1 April 2023 (currently 25%), maintaining the 6% differential between it and the main rate of corporation tax.

Temporary extension to carry back of trading losses

The period over which trading losses can be carried back is to be temporarily extended from 12 months to three years. This temporary extension applies for trading losses incurred by companies in accounting periods ending between 1 April 2020 and 31 March 2022 (tax years 2020/21 and 2021/22 for unincorporated businesses).

The losses will be carried back against later years first.

This extended carry back is not without restriction though. For companies there is no limit on the amount of trading losses that can be carried back to the preceding year, but, after that, a maximum of £2 million of unused losses are available for carry back against profits of the same trade for the earlier two years. This £2 million limit applies to each loss making accounting period falling within 1 April 2020 to 31 March 2022.

For individuals claiming trading loss relief there is a similar regime. The amount of trading losses that can be carried back to set against profits of the preceding year remains unlimited, and the current restrictions to carry back losses from a trade against general income will remain. There is however a separate £2 million cap that will apply to the extended carry back of losses made in each of the tax years 2020/21 and 2021/22.

Other amendments to corporate loss relief rules

The Finance Bill 2021 amends a number of rules to ensure they operate as intended.

1. Groups can nominate a company if they had not done so when a group ceased to exist. The nominated company can submit a group allowance allocation statement for periods up to the date the group ceased to exist and claim a deductions allowance. This can be done retrospectively, even if out of time.

2. The change of ownership definitions (s719, s721 CTA 2010) are to apply to post-1 April 2017 loss rules on transfer of a trade.

3. The amendments will allow carried forward losses to be surrendered where the surrendering company has covered its profits fully.

4. An amendment will resolve the circularity between the group relief rules and the calculation of qualifying profits that currently exists.

5. The loss restriction calculation will be amended to cap relevant profits at nil where the allocated deductions allowance exceeds qualifying profits.

6. Only reliefs actually claimed will be included in the loss restriction calculation.

7. New rules amend the formula for allocating group deduction allowance to allow the nominated company to allocate it as they wish

8. The time limits to submit an original group allowance statement are extended to cover situations where there are enquiries into a group company's tax return

9. The requirement for a nominated company to submit a group allowance statement where no group companies have used brought forward losses in the period is removed.

Capital allowances

For companies within the charge to corporation tax, increased allowances for expenditure on plant and machinery will apply temporarily.

For qualifying expenditure incurred from 1 April 2021 up to and including 31 March 2023, companies will be able to claim:

1. a super-deduction providing a first year allowance of 130% on most new plant and machinery investments that ordinarily qualify for 18% main rate writing down allowances;

2. a first year allowance (FYA) of 50% on most new plant and machinery investments that ordinarily qualify for 6% special rate writing down allowances.

The relief will not apply to contracts entered into prior to Budget day (3 March 2021).

The general exclusions in CAA 2001, s 46 will apply (cars, zero-emission goods vehicles, electric vehicle charging points etc.) and there will be exclusions for used and second-hand assets. The rate of the super-deduction will require apportioning where super-deduction expenditure is incurred in an accounting period that straddles 1 April 2023.

Finance Bill 2021 will confirm the extension of the annual investment allowance (AIA) to 31 December 2021. Companies incurring expenditure on special rate pool assets between 1 April 2021 and 31 December 2021 might prefer to allocate the AIA to these assets and claim 100% relief instead of the 50% FYA.

On disposal of a super-deduction asset, the proceeds will be grossed up to 130% and treated as a balancing charge, rather than being deducted from the general pool.

Disposals of 50% FYA special-rate pool assets will similarly give rise to a balancing charge so the tax written down value of these assets needs to be kept separate from the pool.

Leases

The question of who gets capital allowances where leases are involved is a complex one. As part of those provisions, there are various anti-avoidance measures which are triggered where there are changes to the terms of the lease. One such situation can apply where there is an extension to the length of the lease. Measures are introduced which will allow parties to disregard the effects of the anti-avoidance provisions where the extension to a

lease term is related to Covid-19 as long as there are no other substantive changes to the terms of the lease. The relevant change must happen between 1 January 2020 and 30 June 2021. Either party can elect for this not to apply which would be binding on both parties.

Business rate repayments

This announcement was made in December 2020 but is now confirmed by the Budget. Some businesses who have received sums from public authorities as part of coronavirus support arrangements are now repaying those amounts on the basis that, with hindsight, they did not need the support.

Legislation is introduced so that a deduction may be claimed equivalent to the quantum of the payment received with the deduction being allowed in the same accounting period as the original liability would have been due and paid. The intention is to avoid any cash-flow issues for such businesses.

Corporate interest restriction rules

Two changes are made in this area.

1. The first relates to Real Estate Investment Trusts (REITs). These have special provisions concerning the applicability of the CIR rules. Only a UK company or a group headed by a UK company can be a REIT (s523 and s524 CTA 2010). Non-UK resident companies with a UK property business came within the scope of corporation tax from 6 April 2020. Finance Bill 2021 will clarify how the CIR rules will apply to such businesses in light of the rules that already apply to REITs. No details of the amendments has been available yet.

2. Finance Bill 2021 will also introduce, retrospectively, the ability of a company to claim a reasonable excuse for the late submission of a CIR return. This was omitted from the rules when first introduced from 1 January 2017.

Hybrid mismatch rules

Finance Bill 2021 will make several changes to the hybrid mismatch rules to ensure they operate as intended

Research and development SME tax relief

Companies claiming relief under the SME R&D scheme can claim a tax credit where the company has a loss which is created, or enhanced, due to the enhanced R&D relief. This is set at the limit of 14.5% of the surrenderable loss and gives a significant cash flow benefit to qualifying companies. HMRC have become increasingly concerned regarding fraud and abuse of these provisions and have been consulting for some time on a measured and proportionate response to this.

The result is that there will be introduction of a limit on the R&D tax credit which an SME can claim to £20,000 plus 300% of its total PAYE and NIC liability for the period. This is all the PAYE and NIC, not that which relates to R&D workers plus some PAYE and NIC liabilities of

connected person doing subcontract work for, or providing workers to, the company. There are provisions to stop double counting.

A company will be exempt from the cap if its employees are creating, preparing to create or managing Intellectual Property and it does not spend more than 15% of its qualifying R&D expenditure on subcontracting R&D to, or the provision of externally provided workers by, connected parties. This is designed to assist companies who are genuinely engaged in R&D but have low PAYE and NIC liabilities.

This will take effect for accounting periods beginning on or after 1 April 2021.

Interest or royalty payments to connected companies in the EU

From 1 June 2021, interest or royalty payments made from the UK to a connected EU company (where there is a 25% relationship between the payer and payee) will no longer automatically be paid without deduction of withholding tax. Instead, the treatment of these payments will be governed solely by the reciprocal obligations under the relevant double tax agreements.

In the absence of any provision in a double tax agreement, the UK payer will be required to withhold basic rate tax at source.

The Government intends to repeal the UK domestic legislation that gave effect to the EU Interest and Royalties Directive for payments made on or after 1 June 2021. This measure ensures that EU companies no longer receive any more favourable treatment than companies based elsewhere in the world.

Freeports

The Budget included an announcement on the location of eight English freeports. Once tax sites within these freeports have been designated, businesses in those tax sites will be able to benefit from a number of tax reliefs. These include:

1. an enhanced rate of structures and buildings allowance (SBA) of 10%, which will have effect for qualifying expenditure where the first contract for construction of the relevant structure or building is entered into on or after the date the freeport tax site is designated. To qualify, the structure or building must be brought into use on or before 30 September 2026;

2. a 100% enhanced capital allowance, which will be available for expenditure on plant and machinery incurred on or after the date the freeport tax site is designated until 30 September 2026;

3. stamp duty land tax (SDLT) relief for purchases of land or property, subject to that land or property being acquired and used for qualifying purposes and subject to a control period of up to three years. It will apply to qualifying transactions with an effective date from the date the freeport tax sites are designated until 30 September 2026.

4. Full business rates relief for new businesses and old businesses expanding for five years from the date of first relief

5. Relief from employers' NIC on eligible employees from April 2022 until at least April 2026 with the intention to extend the relief to April 2031

The Freeports will be located in East Midlands Airport, Felixstowe & Harwich, Humber, Liverpool City Region, Plymouth and South Devon, Solent, Teesside and Thames.

Oil and gas Taxation qualifying decommissioning expenditure

Oil and gas companies operating within the UK or the UK Continental Shelf can claim 100% capital allowance for qualifying decommissioning costs.

S163 CAA 2001 has been amended to include expenditure incurred in anticipation of the approval of an abandonment programme and (New) s163A disqualifies some of the expenditure if the asset on which the expenditure is incurred is not included in an approved abandonment programme, or covered by a specific agreement, within 5 years of the end of the accounting period in which the expenditure was incurred

Property taxes

Temporary SDLT nil rate band

The temporary increase in the stamp duty land tax (SDLT) nil rate band for residential property in England and Northern Ireland that was due to end on 31 March 2021 will be extended. The nil rate band will continue to be £500,000 for the period to 30 June 2021. From 1 July 2021 until 30 September 2021, it will be £250,000, and it will return to the standard amount of £125,000 from 1 October 2021.

Non-resident SDLT surcharge

It has been confirmed that the Government will introduce a 2% SDLT surcharge with effect from 1 April 2021 where non-UK residents purchase residential property in England and Northern Ireland.

The draft legislation was consulted on last year and was criticised for being complex, particularly in the way it defined non-residence. No details have yet been released regarding whether any changes will be made to the draft provisions.

ATED rates

The table below summarises the charges for both 2020/21 and 2021/22:

Taxable value of the property	Charge for tax year 2020 to 2021	Charge for tax year 2021 to 2022
£500,001 to £1,000,000	£3,700	£3,700
£1,000,001 to £2,000,000	£7,500	£7,500
£2,000,001 to £5,000,000	£25,200	£25,300
£5,000,001 to £10,000,000	£58,850	£59,100
£10,000,001 to £20,000,000	£118,050	£118,600
£20,000,001 and over	£236,250	£237,400

Housing Co-operatives

ATED and a 15% SDLT charge are levied on companies which acquire interests in UK residential property above a threshold value (currently £500,000) unless the purchase falls within one of the reliefs or exemptions. There is a relief for registered providers of social housing abut some housing co-operatives do not fall within the relevant definition. The definition is being extended to include housing co-operatives within the meaning of the Housing Associations Act 1985. There are various consequential amendments.

VAT and indirect taxes

VAT registration / deregistration thresholds

The current VAT thresholds for registration and deregistration (£85,000 and £83,000 respectively) will be maintained until 31 March 2024.

Reduced rate for the hospitality industry extended

The reduced rate of 5%, which currently applies to certain supplies relating to hospitality, hotel and holiday accommodation and admission to certain attractions, will be extended until 30 September 2021. A new reduced rate of 12.5% will then apply until 31 March 2022, after which the standard rate will apply.

The following businesses qualify:

- Hospitality: supplies in the course of catering including supplies of hot and cold food and drink to be consumed on the premises and supplies of hot takeaway food and drink to be consumed off the premises;
- Accommodation: the provision of hotel and holiday accommodation, pitch fees for caravan parks and tents and related facilities;
- Attractions: admission to attractions not covered by the cultural exemption.

Regulation 55K of the VAT Regulations will be amended to ensure that businesses using the flat rate scheme will also benefit.

New payment scheme in respect of deferred VAT

As a result of coronavirus, businesses were allowed to defer VAT liabilities falling due between 20 March 2020 and 30 June 2020 until 31 March 2021.

It was subsequently announced (on 24 September 2020) that businesses would be able to pay that deferred VAT in up to 11 monthly interest-free instalments as long as the business signs up for the instalment option by 21 June 2021. This measure will be legislated for in Finance Act 2021.

The legislation will also provide for a penalty of 5% of the outstanding VAT if a business has not, by 30 June 2021:

1. paid its liability under the deferral scheme in full;
2. opted in to the in new payment scheme; or
3. made alternative arrangements to pay by 30 June 2021.

The application of the penalty will be at the discretion of HMRC. It will apply instead of the normal default surcharge regime.

Indirect taxes

Various announcements are made and can be found in the Budgets documents relating to the various duties levied by the Government. Specific measures of relevance are discussed below.

Red diesel

The Government is legislating to remove the entitlement to remove red diesel and rebated biofuels from April 2022 other than in relation to some sectors.

Seize in situ

Seized goods which are kept on the trader's premises are known as 'goods seized in situ'. A civil penalty is being introduced for unauthorised removal of goods that fall within the category to take effect from the date of Royal Assent.

Plastic Packaging Tax

Legislation will be included in FB2021 to introduce a new plastic packaging tax to take effect from 1 April 2022. This will be at a rate of £200 per tonne of plastic packaging which contains less than 30% recycled plastic content.

Measures announced but not to be legislated in FB2021

Some of these have already been mentioned, but below are the additional points to note.

Electronic sales suppression

The Government is to introduce new powers to tackle electronic sales suppression in the next Finance Bill to attack those producing and using electronic sales suppression software and hardware.

EMI

There is a call for evidence on how to expand the current EMI scheme to offer effective support for high-growth companies seeking to recruit and retain key employees.

R&D tax reliefs

There will be a review of R&D tax reliefs to ensure that the UK remains a competitive location for research based business by ensuring the reliefs are fit for purpose and effectively targeted.

Bank surcharge

There is to be a review of the bank surcharge of 8% to ensure that the increase in CT rate, combined with the surcharge, does not make the UK an uncompetitive environment for such businesses.

Apprentice payments

Government is to extend and increase the payments made to employers in England who hire new apprentices. A new apprentice hired between 1 April 2021 and 30 September 2021 will result in a payment of £3,00 to the employer per new hire compared with £1,500 under the old scheme (or £2,000 if they were aged 24 or under).

Combatting COVID-19 fraud

The Government is to invest over £100 million in a Taxpayer Protection Workforce of 1,265 HMRC staff to combat fraud within Covid-19 support packages including the CJRS and SEISS.