cutting through complexity

Budget 2014

What it means for you

KPMG Commentary

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Our view

This is the penultimate budget before the 2015 general election, and the message coming from George Osborne was all about a resilient budget in a resilient economy – a budget for 'makers, doers and savers'.

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For business there was little change from the measures previously announced and published last December in the draft Finance Bill clauses. The main change was to double the annual investment allowance (which gives taxpayers a 100% tax deduction for qualifying capital expenditure) to £500,000. This will take effect from 1 April 2014, but will only last until 31 December 2015. From 1 January 2016 it will revert to £25,000 unless increased in a subsequent Budget. For small innovative, loss-making businesses there was extra help with the Research and Development credit payable increasing from 11% to 14.5%. In addition to these measures, manufacturers will be helped by the reductions in the carbon price floor resulting in reduced energy bills.

The Chancellor also announced that the European Commission has given approval for the film production reliefs to be extended. In addition changes to video games tax relief will be made to bring it in line with EU state aid requirements. Furthermore, tax reliefs for certain qualifying theatre and touring productions were announced; further consultation will take place over the next few months.

Another business sector with specific tax changes is oil and gas. In particular there will be a review looking at the structure of the North Sea oil and gas tax regime to ensure that it is fit for purpose given the mature status of the basin.

There will also be a review of the Bank Levy over the next few months with changes to take effect from 1 January 2015.

The major change that most international business will be focusing on is BEPS – the multinational project for countering base erosion and profit shifting. Currently, this is being led by the

OECD with proposals announced earlier this week for consultation. A discussion paper has also been published by the UK Government setting out their position on this topic.

For individuals, the major changes announced were for savers. The reforms to defined contribution pension schemes are fundamental. They will increase the flexibility for retirees to benefit from their pension pot by removing the obligation to convert their pension savings into an annuity. It will also be possible to draw down from a pension pot and tax will only be paid at the normal marginal rate (20%, 40% or 45%) and not the current punitive rate of 55%. These changes will fundamentally affect how people plan for their retirement and equally have a major impact on the pensions, investment funds and life insurance industries. 2014 will be a transitional year for these changes, with full implementation of the proposal occurring after 6 April 2015.

As well as the pensions changes, the two types of individual saving accounts (ISAs) will be merged into one and the annual allowance increased to £15,000 from 1 July 2014. This will increase the investment flexibility of these tax free wrappers. The 10% tax band (which most people thought had been abolished already) for savers will be abolished and a new 0% tax band on savings income introduced up to £5,000 with effect from 6 April 2015. This will only apply to individuals with taxable income, after deducting their personal allowance, of less than £5,000.

For the sin taxes (tobacco, gambling and alcohol duties) there is a mixed picture. Tobacco duties are increasing 2% above the rate of inflation for the next 5 years, whilst alcohol duties on beer are dropping by 1p and on whisky and other spirits duties are frozen. There is also help for standard ciders with duty being frozen. Bingo duty is halved to 10%, but duty on fixed odds betting terminals is increased to 25%.

So to summarise – non smoking, bingo playing OAPs who like a tipple and have healthy bank balances are the big winners of the Budget announcements yesterday, whilst earlier this week the winners were working families with children. These measures will be directly felt in the pockets of voters come 2015.

Economic implications

The Government's original strategy was to combine economic recovery with repair of the public finances over the current five-year Parliament. The good news is that we are finally getting the recovery; the bad news is that we are only halfway through what has now become a decade-long deficit reduction programme.

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In contrast with the 2013 Budget's (misplaced) gloom, this year the Chancellor presented a more upbeat outlook for the economy over the next couple of years. The Office for Budget Responsibility (OBR) even found room to raise further its December forecast for growth, now expecting 2.7% this year and 2.3% in 2015 after an estimated 1.8% last year.

It is still unclear, though, how far the balance of growth is improving. Given that consumer spending accounts for some two-thirds of total demand in the economy it is inevitable that it should do the heavy lifting in the early stages of recovery. And it now looks as if one of the factors holding spending back – the squeeze on real incomes – is about to ease as earnings growth finally outpaces inflation.

But while Mr Osborne talked bullishly about encouraging investment and exports with, for example, the extension of the annual investment allowance, the OBR has only marginally increased the expected contribution of business investment to growth. And it still sees little prospect of a rebound in net trade – hardly surprising, when the UK's single biggest export market, Europe, continues to struggle.

Unfortunately, while public borrowing is on a steadily declining path, the more robust economic backdrop in the short-term is not expected to close the budget deficit noticeably faster in the medium-term, where progress is dependent on how much headroom there is to expand output. The rapid decline in unemployment and continuing low productivity has resulted in caution about the amount of spare capacity in the economy.

This matters because the narrower this 'output gap', the less scope there is for the budget deficit to go on shrinking automatically as the economy expands and the more the need to correct it with higher taxes or larger spending cuts at some point. But this 'output gap pessimism' risks being self-fulfilling – if there is more spare capacity and we don't use it, we will indeed lose it.

No-one really knows how much headroom there is and the cost of underestimating productive potential in terms of permanently lost output and jobs, not to mention unnecessary austerity measures, would be unacceptably high. Sensibly, Mr Osborne has again opted to leave any further reparatory measures until after the election – by which time it should be clearer whether such a downbeat view of prospects is justified.

The Chancellor still expects to meet his 'primary fiscal mandate' (to balance the cyclically adjusted current budget on a five year horizon) one year early in 2017/18 but this entails a dramatic fall in government consumption from a current 21% of GDP to around 16% by 2018/19 – a level not seen since the second world war.

Against this tight financial background, the budget was by necessity pretty much a neutral budget. A bewildering array of relatively small 'giveaways' such as raising the personal allowance, help for pensioners and savers, boosting tax relief for childcare and extending 'help to buy' was offset by 'takeaways' such as further tax anti-avoidance measures.

Overall, while the economy is clearly mending, we are still in the grip of a massive fiscal squeeze. Mr Osborne specified a cap on welfare spending from 2015 but, unless the current 'output gap pessimism' proves wildly misplaced, this still leaves a lot more spending cuts – or even tax rises – to come under the next Government.

Business implications

The Chancellor delivered a Budget yesterday which put the SME community firmly at the centre of future UK economic growth with a stream of measures to help them invest, innovate, grow and export. In fact, the SME community were given the lion's share of business tax incentives announced by George Osborne.

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The Chancellor has clearly listened to the Small and Medium Enterprises (SME) community where, in a recent KPMG poll, one in five businesses that we spoke to said increased tax relief for investment in machinery, premises and technology would be the single announcement that would help with their growth agenda.

One of the most important announcements from the Budget was the doubling of the Annual Investment Allowance, which means from next month businesses will now get 100% tax relief in year one on investment in plant and machinery up to £500,000. This relief isn't due to expire now until the end of 2015 giving a longer timeframe than previously expected for SMEs to invest and take advantage of this incentive.

For those SMEs who do more than make, but also innovate, the increase in refundable R&D tax credits will be welcome. This measure will give these businesses more cash to invest during their vital early years – before they achieve profitability.

Recognising that skills and talent are at the heart of any business, the Chancellor took further steps to help SMEs invest in filling their skills gap with a funding package for an extra 100,000 apprenticeships over the next two years. Good news for businesses and also for young people looking to get a foothold in to work and to develop the skills that they need for a long term career.

Businesses will also be helped by a package of measures aimed at reducing the cost of energy and fuel, particularly for those labour intensive businesses, which in turn will help SMEs and UK business to be more competitive against their European and US counterparts.

Embedding sustainable growth in the UK economy is threatened by an over-reliance on UK consumption. We must do what we can to enable British business to tap into overseas markets through international corridors to high growth countries such as India and China. The announced changes to air passenger duty and support for our regional airports will help, but perhaps the more important measures announced yesterday are the increased practical support from UK Trade and Investment (UKTI) and the doubling of Export Finance to £3 billion, whilst cutting interest rates on this lending by a third.

This review could fundamentally change the status quo, making it more attractive to lenders and, most importantly, making it readily available for UK exporters, particularly SMEs, who can now offer overseas buyers more competitive payment terms.

There was a further recognition that SMEs play a vital part in the supply chain for the economy as a whole through the £0.5 billion support package for smaller house builders. There is clearly also a social objective behind this measure given the need to close the gap between the supply of new housing and the projected housing needs.

Finally, with a commitment to invest over £100 million in science and technology, the Chancellor signalled his belief in the value of harnessing the collective power of small clusters of like minded companies up and down the country, much like we are seeing in Tech City, which will encourage small business start ups and the creation of employment. Helping to support start-ups to that next stage of vital high growth, the Chancellor also made permanent the tax reliefs available to seed investors in these small businesses.

It is good to see that the Government is giving thought to regional and city economies and the plans laid out for growing regional airport capacity are a helpful way to ensure that the recovery is not restricted to limited pockets around the country, as is the outlined support for manufacturing.

Yet, so much more could have been done. The Local Growth Fund pot of money remains smaller than originally envisioned and measures to force local authorities to use balance sheet assets to regenerate and reinvent city and regional economies would have been helpful.

The only sting in the tail for our SME community was the lack of any firm announcements of new and/or accelerated infrastructure projects. Growing a business is important, but it is a modern infrastructure which SMEs and businesses more generally need to thrive on a global stage and the delay in getting many regional programmes up and running will hinder some of our regional business communities on their journey to growth.

Public Sector implications

Yesterday was the Chancellor's fifth budget and as was expected his focus was on measures to ease cost of living, help manufacturing and encourage savers. It was a budget focused on a retail audience and he did not outline a wide range of public sector policy measures.

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Some will breathe a sigh relief that there are no new significant announcements. However, the Chancellor's policy decisions indicate the direction of travel for public sector spending over the medium term and here there was some new news. Yesterday he extended the Autumn Statement's 2015/16 £1 billion decrease in public spending for an additional three years, netting the Treasury an additional £3 billion over the Budget period. This means the tightening of public spending will continue through 2018-19, well after the 2015 General Election. So far all political parties seem to agree with this way forward; no party has voiced dissent. Therefore it is highly unlikely we will enter a public sector spending boom-time after the election. And this does have implications for Government departments, public sector agencies and organisations.

Some Government departments and public sector organisations have kept more radical reform measures up their sleeves in the hope that the spending envelope will be loosened after the General Election. The further marginal tightening in public sector budgets announced in yesterday's budget should be seen as a sign that the age of tight Government spending is here to stay. For those organisations that have yet to begin significant or radical reforms, it really is time to begin.

Many Whitehall departments and public sector organisations have already started this work. Local authorities have cut up to 25% of budgets with limited impact on public services. Police forces have made structural reforms and managed to save significant money, money that can now be invested to make further savings. Government departments and local authorities are assessing their balance sheet assets to find new ways to use dormant or underutilised assets. The

Government departments and public sector organisations that have embraced the spirit of reform are those that have made the most progress; many have found ways to deliver new or different services at lower cost.

Yesterday's Budget reaffirms the need for all public sector institutions and organisations to think in this way and take action. Today Plan B should become Plan A.

One area where the Budget did add new pressure is on public sector pay. The Chancellor reaffirmed his intention to restrain the public sector wage bill and also announced further increases in employee contributions to public sector pensions. This has been seen as necessary for some time given the funding gaps in many public sector pension schemes. However, given the ongoing environment of reduced spending, salary freezes and lower take-home pay after pension contributions, all public sector organisations will need to find ways to keep their workforces motivated and committed during what now promises to be a long period of sustained public sector change

Tax Policy Commentary

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Tax rates and allowances

Finance Bill 2014

Finance Bill 2015

With the Budget announcements looking ahead, it's easy to forget the rates and allowances which will apply from this April (the majority of which were announced some while back). Here's a recap of the main points.

Corporate taxes

The rate of corporation tax for profits other than ring fence profits falls to 21% in April 2014 (before being unified with the small profits rate at 20% in April 2015).

Personal taxes

The income tax personal allowance increases to £10,000 from 6 April 2014 for those born on or after 6 April 1948. The personal allowance will be removed at a rate of £1 for every £2 of income over £100,000.

Broadly, income is taxed at the following rates:

- Personal allowance (up to £10,000) – 0%
- Basic rate (£10,001 to £41,865) – 20%
- Higher rate (£41,866 to £150,000) – 40%
- Additional rate (over £150,000) – 45%

As had been widely anticipated, the Chancellor has announced that the income tax personal allowance will rise to £10,500 from 6 April 2015, and the level at which higher rate tax will be paid will be set at £42,285.

From 6 April 2015 the starting rate of tax on savings income will be reduced from 10% to 0%, and the maximum amount of income subject to the 0% rate will be increased to £5,000.

The annual exempt amount for capital gains tax increases to £11,000 from 6 April 2014 (and will increase again in 2015/16 to £11,100).

The Inheritance Tax nil rate band will remain frozen at £325,000 until April 2018.

A more detailed summary of rates for 2014/15, including National Insurance contributions, can be found on KPMG in the UK's Tax Rate Card.

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Accelerated Tax Payments for follower cases and schemes covered by DOTAS or counteracted under the General Anti-Abuse Rule

Finance Bill 2014

As announced in the Autumn Statement, the Government will legislate to give HM Revenue & Customs (HMRC) the power to issue a notice to the user of a tax avoidance scheme that they should settle their dispute with HMRC when the claimed tax effect has been defeated in other litigation ('follower cases'). If the taxpayer does not settle the dispute they may risk penalties and must make upfront payments of the tax in dispute.

In Autumn Statement 2013, the Government announced there would be a four week further consultation in relation to extending this 'accelerated payment measure' to schemes falling within Disclosure of Tax Avoidance Scheme (DOTAS) regime and schemes that HMRC counteract under the General Anti-Abuse Rule (GAAR). The Budget has confirmed this extension.

The extension of the accelerated payment measure to schemes falling within DOTAS is going ahead, despite widespread concern being expressed during the consultation process due to its retrospective nature.

During the consultation process HMRC indicated that they would not necessarily issue Payment Notices in respect of all schemes that have been disclosed under the DOTAS regime. However, this latest announcement states that the measure will apply to 'all cases where there is an open enquiry or open appeal on or after the day of Royal Assent' implying up-front payment of tax will be required in all DOTAS arrangements.

The impact summary states that HMRC expect to issue Payment Notices to 33,000 individual taxpayers raising £5.1 billion of tax and 10,000 companies raising a further £2.1 billion. Payment Notices can be expected in cases where there is an open enquiry or open appeal shortly after Royal Assent.

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Other Budget Measures relating to Tax policy

The following other measures were also announced or confirmed in the Budget (references are to the Overview of Tax Legislation and Rates unless otherwise noted)

	OOTLAR ref
High-risk promoters	1.62
Legislative changes resulting from the introduction of the Scottish rate of income tax	1.69
Removal of extended time limit restriction for EU cases	1.70
Disclosure of Tax Avoidance Schemes (DOTAS)	2.27
VAT Avoidance Disclosure Regulations (VADR)	2.28
Direct recovery of debts	2.30
Devolution of tax and borrowing powers to Wales	Budget 'Red Book', 1.149
OTS review of competitiveness of UK tax administration	Budget 'Red Book', 2.217

Measures unchanged following consultation

The following measures were published as part of the draft Finance Bill clauses in December 2013 and remain unchanged.

Measure
Compensating adjustments
Administration of the Scottish rate of income tax

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Major changes to the taxation of defined contribution (DC) pension schemes

April 2015 reform – primary legislation to be published after consultation

Interim measures – Finance Bill 2014

The Chancellor has announced major changes to the tax treatment of DC pension schemes.

From April 2015 everyone aged 55 or over will have full flexibility when accessing their DC pension pot. There will be no requirement to buy an annuity – members will be able to leave their funds invested and draw as much as they wish from the fund each year, taxed at their marginal rate. It will still be possible to take 25% of the fund as a tax-free lump sum.

To help equip people to make the best decision for their circumstances, the government will introduce a new guarantee that everyone who retires with a DC pension will be offered free and impartial face-to face guidance on their choices at the point of retirement.

As a result of this reform, the Government will legislate to prevent members of public sector pension schemes transferring to a DC scheme except in very limited circumstances. The Government is also consulting on whether transfers from private sector defined benefit schemes should still be permitted, and, if so, subject to what restrictions.

As an interim measure before the full reforms are introduced, **from 27 March 2014 the Government will:**

- **reduce the flexible drawdown minimum income test from £20,000 to £12,000 per annum**
- **increase the capped drawdown limit from 120% to 150% of the annuity that could otherwise be purchased**
- **increase the 'small pots limit', raising the size of a single pension pot that can be taken as a lump sum, from £2,000 to £10,000 (and it will be possible to draw three rather than two personal pension pots this way)**
- **increase the total pension wealth that people can have before they are no longer entitled to receive lump sums under the trivial commutation rules, from £18,000 to £30,000.**

Members will welcome this flexibility in the way they can access their retirement savings. But there are a number of potentially significant implications for pension schemes in terms of member communications, investment options, and the requirement for providing guidance at retirement. Annuity businesses will need to adjust to an environment where volumes of new business could be considerably lower than previously expected.

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Protection against reduction in pensions lifetime allowance on 6 April 2014

Finance Bill 2014

The pensions lifetime allowance – the maximum amount of tax-relieved pension savings an individual can accumulate over their lifetime – reduces from £1.5 million to £1.25 million on 6 April 2014.

In light of this reduction, Finance Bill 2014 includes provisions allowing individuals who have total savings in registered pension schemes on 5 April 2014 worth more than £1.25 million to protect that value (subject to a maximum value of £1.5 million) as their own personal lifetime allowance. This will remain their personal lifetime allowance unless the reduced lifetime allowance rises back above it in the future, in which case the individual would be back on the standard lifetime allowance.

We anticipate it will be possible to apply for Individual Protection once the Finance Bill has received Royal Assent, anticipated to be around mid-July 2014. Individuals will have until 5 April 2017 to apply.

Under Individual Protection individuals can continue to build up benefits in registered pension schemes. This means for example that if the overall value of their benefits falls they will be able to make further contributions to top up. HM Revenue & Customs has recently published guidance on individual protection.

Up to 5 April 2014 individuals also have the option of Fixed Protection 2014. This allows them to retain an underpinned lifetime allowance of £1.5 million, provided they have no further build up of benefits in defined benefit arrangements and make no more contributions to defined contribution arrangements after 5 April 2014. It is possible to apply for both protections, with Fixed Protection taking precedence. So individuals who are or think they may be affected by the reduced lifetime allowance need to consider their pension position and make a decision before 5 April 2014 about whether or not to apply for Fixed Protection.

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Partnerships – Office of Tax Simplification (OTS) review: interim report

In January, the OTS issued its 84 page interim report following its review of the taxation of partnerships.

The general conclusion of the report is that whilst there is no overall need for a consolidated taxes act for partnerships, there does need to be a more supportive and constructive approach taken by HM Revenue & Customs (HMRC).

The report therefore sets out 12 'short term fixes' and 18 longer term areas of focus which are split into nine medium term recommendations and nine long term areas to investigate. In response to this review, the Government has announced it will adopt the following short term fixes:

- HMRC will publish a draft partnership manual for comment, linking all HMRC partnership guidance. This is expected in April 2014.
- In conjunction with the department of Business Innovation and Skills, a model partnership agreement will be re-published.
- Revised guidance on the availability of Entrepreneurs' Relief for partnerships will be issued.
- HMRC will seek to make guidance clearer on Stamp Duty Land Tax liabilities following changes in profit sharing ratios.
- Revised guidance will be issued in 2014/15 on VAT registration and grouping.
- The guidance on Inheritance Tax for partnerships, which has already been clarified, will be included in the Partnerships Manual.

They will also examine the feasibility of the following recommendations by the end of 2014:

- Amendments to the partnership and corporate tax returns.
- Streamlining the process for issuing tax references for non-UK partners.

The Government will consider any further work undertaken by the OTS on the areas they identified as longer term issues, which includes:

- Updating HMRC's Statement of Practice D12 for capital gains tax of partnerships.

- Ensuring double tax agreements fully deal with partnerships.
- Reviewing the complexities of opening year's basis periods and overlap relief.
- Looking at how to apply Annual Investment Allowance to mixed partnerships.
- Ensuring developing business structures are dealt with by the tax system.
- Research into partnership international administrative and technical issues.

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Partnerships – Salaried Members

Finance Bill 2014

The Government announced in the 2013 Budget that it would be consulting on proposals to address various anti-avoidance issues relating to partnerships. One such issue was the use of limited liability partnerships (LLPs) to disguise employment relationships.

The Government proposes to deal with this issue by removing the presumption of self-employment for individual members of LLPs and replacing it with a set of conditions to be considered in determining whether the individual is an employee. If all conditions are met, the member will be treated as an employee for tax purposes and will be subject to PAYE and taxed on benefits in kind.

The LLP will be liable to pay Class 1 National Insurance contributions on the salaried member's remuneration but will be able to claim a tax deduction for both these additional NICs and the amounts paid to the salaried members.

Draft legislation was introduced in the draft Finance Bill 2014 clauses (for further information see our report on these clauses) and revised guidance was published on 21 February 2014. This was followed by updated legislation which was issued on 7 March 2014. The latest position is as set out in the *Weekly Tax Matters* article published on 14 March 2014.

Although a House of Lords Sub-Committee recommended that these proposals be delayed until 2015, all the above measures are, with the exception of specific targeted anti-avoidance already in force, to take effect from 6 April 2014.

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Partnerships – Mixed Members

Finance Bill 2014

The Government announced in the 2013 Budget that it would be consulting on proposals to address various perceived anti-avoidance issues relating to partnerships. One such issue was the use of certain profit/loss allocation arrangements by mixed partnership members (usually individuals and companies) to reduce tax. The Government proposes to deal with this issue by reallocating profits or losses if certain conditions are met.

In the case of profits, a non-individual partner's share will be reallocated to an individual partner where an individual has the power to enjoy the non-individual partner's share or there are deferred profit arrangements in place and their share is attributable to that power/arrangement. Similar legislation has been introduced to reallocate a share to an individual who is not a partner if it is reasonable to assume that the individual would have been a partner but for the new rules and he has the power to enjoy the non-individual's profit share.

Where a partnership has losses arising from a trade or UK/overseas property businesses, which are allocated to an individual instead of a non-individual and the main purpose of the arrangements is to ensure that the individual gets the loss relief that rightly belongs to the non-individual, income tax loss and capital gains reliefs will be denied to the individual.

Draft legislation was included in the Finance Bill 2014 clauses published on 10 December 2013, for further information see our report on these clauses. Although further guidance was expected on these measures, there were no further updates in the 2014 Budget. This will instead be issued with the Finance Bill 2014 on 27 March 2014 which will include some minor amendments to the draft legislation. The rules are to take effect from 6 April 2014.

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Transfers of assets and income streams through partnerships

Finance Bill 2014

This change is part of the wider review of certain elements of the partnership rules announced in Budget 2013. It is aimed at countering 'tax attribute' schemes which involve the transfer of assets or income streams through/by partnerships where the transferor and transferee have different tax attributes, and a tax advantage is obtained as a result.

The transferor and transferee members may have different tax attributes if, for example:

- The transferee is a company and the transferor is an individual;
- The transferee has losses to use whereas the transferor does not;
- The transferee and transferor are subject to different tax rates; or
- The transferee and transferor are subject to different computational rules in relation to the asset or income.

Where there is such a disposal and a main purpose is to secure a tax advantage, the proposed rules will impose a charge to tax on the income of the person making the disposal.

The draft legislation was issued in the draft Finance Bill 2014 and our comments on the implications were set out in our draft Finance Bill 2014 commentary.

No further announcements were made in the 2014 Budget and the legislation will take effect from 6 April 2014.

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Simplification of National Insurance for self-employed

To take effect from April 2016

Following a consultation announced in Budget 2013 legislation will be introduced to simplify the administrative process of collecting Class 2 National Insurance Contributions ('NICs')for self-employed individuals, for example individual partners in a partnership.

Once introduced the legislation will allow for the collection of Class 2 NICs alongside Class 4 NICs and income tax through the self-assessment system and ensure that the requirement to register is not inadvertently overlooked.

This should be the end of an unnecessary administration burden currently faced by partners and people setting up in business.

The proposed changes will have effect from April 2016.

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Extension of Capital Gains Tax (CGT) for non-residents disposing of UK residential property to include more taxpayers and less valuable properties

Finance Bill 2015

The Chancellor announced in the Autumn Statement in December 2013 that from April 2015 a CGT charge will be introduced on future gains made by all non-residents disposing of UK residential property. Currently, with the exception of non natural persons (“NNPs”, please see below); non-residents are generally outside the scope of CGT on UK residential property.

It has been confirmed that a consultation on how best to produce the charge for non residents generally will be published “shortly after Budget”. Non-residents holding UK property therefore have to wait a little longer for details of the Government’s proposals.

Since 6 April 2013, CGT has been charged on NNPs (broadly companies, partnerships with corporate members and collective investment schemes) disposing of UK residential property for more than £2 million. For more information please see our dedicated webpage on *High Value UK Residential Property*.

Changes for NNPs were announced in the Budget 2014 such that the threshold will be reduced from £2m to £500,000. CGT at 28% will be levied on gains accruing post 6 April 2015 for properties worth over £1m to £2m and post 6 April 2016 for properties worth over £500,000 to £1m.

The Annual Tax on Enveloped Dwellings (ATED) and a 15% rate of Stamp Duty Land Tax (“SDLT”) were also introduced in 2012. Comments on the Budget 2014 changes to ATED and SDLT are included in the corporate tax section of this KPMG Budget 2014 commentary

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New ISA and changes to Junior ISA and Child Trust Fund

In effect from 1 July 2014

From 1 July 2014 Individual Savings Accounts (ISAs) will be reformed into a simpler product, the 'New Isa' (NISA), with all existing ISAs becoming NISAs.

The overall **annual subscription limit will be increased to £15,000** for 2014/2015 and for the first time ISA savers will be able to subscribe the full amount to a cash ISA.

New rights will be given in relation to the transfer of funds between stocks and shares and cash accounts and the rules regarding permitted investments for NISAs will be widened. In connection with these changes, legislation will be introduced (after consultation has taken place on the technical detail) to allow peer-to-peer loans to be made within the confines of a NISA.

From 1 July 2014 the **annual subscription limit for Junior ISAs and Child Trust Funds (CTFs) will be increased to £4,000.** In addition, the qualifying investments for CTFs, Junior ISAs and NISAs will be extended to include Core Capital Deferred Shares issued by a building society. These changes follow on from the Government's announcement in December 2013 that savings in a CTF will be able to be transferred to a Junior ISA from April 2015.

These measures are good news for savers who have been suffering for the last five years or more in a low interest rate environment. Individuals will now be able to save almost three times as much cash into an ISA and not pay any tax on their interest. One might though ask whether the Chancellor is going out of his way to help savers now because he does not see any prospect of interest rates rising any time soon.

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Tax efficient investments

Finance Bill 2014

Social Investment Tax Relief (SITR)

Budget 2013 announced the introduction of new tax relief for investment in 'social enterprises' including charities, community interest companies and community benefit societies. For further information please see our report *Finance Bill 2014 Draft Clauses*.

We now know that the rate of income tax relief for the new SITR will be 30% and will be introduced with effect from 6 April 2014. An eligible organisation can receive up to €344,827 (roughly £290,000) of investment over three years under the scheme.

Further draft guidance will be published on 27 March 2014.

Seed Enterprise Investment Scheme (SEIS)

SEIS was originally introduced with effect from 6 April 2012 and was intended to end on 6 April 2017. Income tax relief is available at 50% on the cost of certain shares up to a maximum annual investment of £100,000. Capital Gains Tax relief is available on half of any gains that are re-invested into qualifying SEIS investments; this relief was due to end on 5 April 2014.

It has been announced that the scheme will now be made permanent and the income tax and capital gains tax reliefs will be extended. This will be welcome support to small companies seeking to raise funds.

Misuse of tax efficient investments

As announced in Budget 2013 and the last Autumn Statement, legislation will be introduced with effect from 6 April 2014 to restrict individuals' entitlement to Venture Capital Trust (VCT) income tax relief where investments are conditionally linked in any way to a VCT share buy-back, or have been made within six months of a disposal of shares in the same VCT.

Rules will also be introduced to prevent VCTs from returning capital that does not relate to profits on investments and allowing HMRC to withdraw tax relief in all cases if VCT shares are disposed of within five years of acquisition.

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Delivering tax-free childcare

Finance Bill 2015

On 18 March 2014 the Government has announced changes to the Childcare scheme announced at the Autumn Statement. The new scheme will be introduced from autumn 2015, with eligible families with children under five being helped when the scheme is rolled out. A change from the original proposal is that children under 12 will be included in the first year.

To be eligible:

- families will have to have both parents in work (and the one parent in the case of lone parent families);
- each parent must earn a minimum of £50 per week or £605 per quarter;
- each parent must earn less than £150,000 a year (this includes income from all sources); and
- the family must not be receiving support through tax credits or later, Universal Credit.

The family will receive relief of 20% of their yearly childcare costs up to a maximum £10,000 per child equivalent to relief of £2,000 (an increase from the original proposal of £6,000 per child or £1,200).

Key features of the scheme include:

- Parents will be required to open an online childcare account for each child and make payments into these accounts to meet their childcare costs. These payments will then be topped up by the Government. Employers may play a role in administering these payments.
- For every 80p families pay in, the Government will put in 20p up to an annual maximum for each child of £2,000.
- Employers may wish to be involved with the scheme on a voluntary basis. They will be able to take either an 'information role' (solely providing information about the scheme) or a 'payment role' (making payments directly to the employee's childcare account).
- Parents will be able to use the vouchers for any Ofsted regulated childcare provider in England and the equivalent bodies in Scotland, Wales and Northern Ireland.

The legislation to enact the proposed changes has not currently been published.

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Personal Allowances for Non-Residents

Consultation forthcoming

The Government is to consult on the possible **restriction of the UK personal allowance to only those individuals who are resident in UK** or those who live overseas and have strong economic connections in the UK. The personal allowance is restricted in this way in many other countries, including most of the European Union.

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Consultations

The Government has announced that the following measures will be subject to consultation over the coming months.

Review of rules re benefits given to donors by charitable organisations

Inheritance Tax (IHT): Simplification of trust charges and the division of the nil-rate band

Qualifying non-UK pension schemes

Pensions tax: abolish the age 74 rule

Increased pension flexibility

Dependants' Scheme Pension

Inheritance tax exemptions

Personal allowances for non-residents

Capital gains tax: non residents and UK residential property

Use of convertible loans in Enterprise Investment Schemes (IES) and Seed Enterprises Investment Schemes (SEIS)

Including peer to peer loans within individual Saving Account (ISA) eligible investments

Other Personal Tax measures

The following other measures were also announced or confirmed in the Budget (references are to the Overview of Tax Legislation and Rates **unless otherwise noted).**

	OOTLAR ref
Increase in limits under employee share schemes	1.8
Government responses to Office of Tax Simplification (OTS) review of tax advantaged share schemes	1.9
Government responses to Office of Tax Simplification (OTS) review of tax unapproved share schemes	1.10
Income tax exemption for non-UK resident competitors at Glasgow Grand Prix (athletics) 2014	1.12
Power to make income tax and corporation tax provision for major sporting events	1.13
Inheritance tax: liabilities and foreign currency accounts	1.14
Remittance basic – capital gains tax and split year treatment	1.15
Capital gains business asset roll-over relief	1.19
Excluding Department of Energy & Climate Change (DECC)-subsidised activities from qualifying for the venture-capital schemes	1.59
Venture Capital Trusts (VCT) share premium accounts	1.60
Voluntary Class 3a NICs	Budget 'Red Book' 2.62

The following measures were published as part of the draft Finance Bill clauses in December 2013 and remain unchanged.

Measure
Income tax: indexation
Inheritance tax: periodic charges on trusts
Vulnerable beneficiary trusts
Capital gains tax private residence relief final period exemption
Changes to qualifying loan interest relief
Cultural Gifts Scheme (CGS)

Corporate Tax Commentary

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Research and Development (R&D) Tax Credits

Finance Bill 2014

The Chancellor has announced an increase in the rate of the Research and Development (R&D) payable tax credit for Small and Medium Sized Enterprises (SMEs) from 11% to 14.5%. The rate increase will apply to qualifying expenditure incurred on or after 1 April 2014.

This measure will increase the cash paid to innovative start-ups by HM Revenue & Customs from around £24 to over £32 for every £100 spent on qualifying R&D. This will be a welcome boost to the many start-up SMEs that are loss making at the outset, where the R&D cash credit allows them to continue to invest in innovation.

This is a significant increase in the R&D payable credit. Eligible companies will now be able to receive support from the Government for around a third of their qualifying R&D costs. The Government has estimated that the rate increase will provide £130 million of extra funding per annum by 2018/19. We therefore anticipate seeing an increase in the 800 science and technology companies that Government figures show currently benefit from this credit.

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The increase in Annual Investment Allowances to £500,000

Finance Bill 2014

Annual Investment Allowance (AIA) was introduced in 2008 to allow taxpayers to claim a 100% first year tax deduction on up to £50,000 of plant and machinery expenditure per year. This includes expenditure on long-life assets and integral features as well as general plant and machinery. In the case of groups of companies the AIA applies per group rather than per company and AIA is not available for expenditure on cars. The availability of AIA provides a cash flow advantage since plant and machinery would generally only qualify for relief at either 8% or 18% on a reducing balance basis depending on the type of asset acquired.

There have been various changes to the amount on which AIA was available. The Finance Act 2013 announced the last change when the amount of expenditure on which AIA could be claimed rose to £250,000. This rate was available for a two year period commencing from 1 January 2013 and ending on 31 December 2014. Following this date, from 1 January 2015, the rate would then fall to £25,000.

It has been announced that for expenditure from 1 April 2014 (for corporation tax) and 6 April 2014 (for income tax), the limit will be raised to £500,000 and this will be available until 31 December 2015. There are transitional rules that will apply in respect of chargeable periods spanning the effective date.

The aim of this change is to bring forward business investment in plant or machinery. Consideration should therefore be given to use this increase in the AIA while the rate is at its current level to take advantage of the 100% first year deduction. The discounted cash flow benefit of the increase could be in excess of £12,000 per year.

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Other capital allowances changes

Finance Bill 2014

Enterprise zones

Enterprise zones were introduced in 2012 as designated areas throughout the country where enhanced capital allowances of 100% are available on expenditure on new plant and machinery.

The relief was initially introduced for a five year period ending on 31 March 2017. The Budget has announced that this is to be extended to 31 March 2020. Furthermore, a new Enterprise Zone is to be introduced in Coleraine, Northern Ireland.

Business Premises Renovation Allowances (BPRA)

BPRA provides 100% tax relief for building and conversion works undertaken to bring a property unoccupied for 12 months in a disadvantaged area back into commercial use. New legislation will clarify that only the following expenditure will qualify for the relief:

- the actual costs of construction and building work (relating to renovation and conversion);
- certain specified activities (such as architect's fees); and
- certain associated unspecified activities (such as project management services), which are limited to 5% of the actual costs incurred.

Additional changes to existing legislation include a reduction of the window for balancing events from seven to five years under certain circumstances, and a provision for withdrawal of the relief where it has been claimed on capital expenditure incurred where the work is not completed within 36 months of incurring the expenditure.

There are also revised rules on which categories of qualifying plant and machinery are eligible for BPRA. This requires detailed analysis for all projects in order to identify the extent to which BPRA is available.

Finally, legislation will be introduced to deny BPRA where State Aid is received in any other form that relates to the conversion or renovation works to which BPRA would otherwise apply.

Enhanced capital allowances

Enhanced capital allowances give 100% tax relief when expenditure is incurred on certain technologies. The scope of the relief is to be extended to cover active chilled beams and desiccant air dryers with energy saving controls.

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UK priorities for the G20-OECD project for countering Base Erosion and Profit Shifting

Relevant legislation to be included in future Finance Bills

In July 2013 the OECD released an Action Plan on Base Erosion and Profit Shifting (BEPS). The Government has now published a paper that sets out the key factors that it will take into account when developing its policy towards the BEPS negotiations, and discusses each of the 15 Actions to address BEPS.

The Government is committed to the ambitious BEPS project timetable and considers that international cooperation is the only way to counter tax avoidance in the global economy, and that acting unilaterally would be ineffective and counterproductive. The paper sets out the principles that the Government will follow in assessing any solutions developed through the BEPS process.

The UK Government supports the different Actions, but makes the following key points:

- *Strengthening CFC rules (Action 3)* – The Government's view is that, having recently reformed the UK's CFC rules, it is not anticipated that the UK rules will require further substantive changes;
- *Limit base erosion via interest deductions (Action 4)* – In the design and application of any structural interest restriction rules (e.g. earnings-stripping rules or interest allocation across the group), careful consideration will need to be given to the impact on infrastructure projects and the financial sector;
- *Counter harmful tax practices (Action 5)* – One of the focuses here is on how to more clearly define the requirement for 'substantial activity' in a jurisdiction for companies to qualify for preferential tax regimes. The Government believes that most of the activities currently qualifying for the UK Patent Box would meet any such substance test; and
- *Country-by-country reporting template and transfer pricing documentation (Action 13)* – the Government's view is that the aim of country-by-country reporting should be to provide tax authorities with high-level information to help them efficiently identify and assess risks without imposing a significant compliance burden on businesses.

We share the Government's view that international cooperation is the most effective way to address these issues. However, it will be interesting to see in practice how the Government evaluates the different BEPS proposals against its stated principles.

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Consultation on the modernisation of corporate debt and derivative contracts

Finance Bill 2014

Finance Bill 2015

A consultation on the modernisation of corporate debt and derivative contracts commenced in 2013 and is ongoing. The Government has confirmed it will introduce most of the changes arising from the consultation process in Finance Bill 2015, including changes to the rules dealing with partnerships holding loan relationships and derivatives which were previously intended for Finance Bill 2014. However, **two specific changes will be included in Finance Bill 2014:**

'De-grouping' charges

Legislation will be introduced to modify the rules on 'de-grouping' charges. Currently if a loan relationship or derivative contract is transferred between group companies, it is deemed to take place for a consideration which results in the transferor not bringing into account a profit or loss. Where the transferee company leaves the group within six years of the transfer, any unrealised profit is brought into account at that point; however, unrealised losses are not brought into account, except in limited circumstances. The law will be changed so that unrealised losses will also be brought into account where a transferee leaves a group within six years.

This change addresses concerns that a de-grouping event could result in a one-sided adjustment on the sale of a portfolio of loan relationships or derivatives, particularly where there are assets and liabilities standing at both a gain and a loss. It also brings the loan relationship provisions into line with de-grouping provisions for capital gains and intangibles. It will apply where transferees leave groups on or after 1 April 2014.

'Bond funds'

The 'bond fund' rules require UK corporate investors to treat certain holdings in units or shares in a collective investment scheme as loan relationships, in particular when at least 60% of the funds are invested in debt instruments. It is proposed that the anti-avoidance provisions relating to 'bond funds' will be enhanced and that additional clarifications will be provided on the operation of the rules.

Further details are expected to be announced. These changes will take effect for accounting periods beginning on or after 1 April 2014.

The anti-avoidance measures will need to be carefully targeted so that they only affect the specific tax avoidance arrangements envisaged.

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Avoidance schemes involving the transfer of corporate profits

Finance Bill 2014

An anti-avoidance measure is being introduced to counter arrangements where profits are transferred between group companies for tax avoidance purposes. The measure will apply **where companies in a group enter into arrangements which result in what is, in substance, a payment from one company to another of all or a significant part of the profits of the paying company (or another company in the group).**

The provision is intended to apply to arrangements which transfer profits, rather than the payment of expenses which are deductible in arriving at profits.

If there is a deduction which would otherwise be allowable then this will be disallowed. Alternatively, if there is no deduction to disallow, the taxable profits are increased (e.g. if profits are diverted to another group company). In either case, no adjustment is made to the profits of the other group company, i.e. the adjustment is one-sided.

The new provision **will apply to payments made on or after 19 March 2014** that arise from arrangements entered into on any date.

Draft legislation has been published together with examples of what is and what is not expected to be caught. For example, a royalty or similar payment based on profits might be caught if the arrangements transfer a significant part of the profits and their main purpose is tax avoidance. In addition, interest charged at an excessive rate might be regarded partly as a payment to distribute profits and so could fall within this provision. In this respect, there appears to be no priority rule between this provision and transfer pricing.

Companies should review arrangements which could be said, in substance, to give rise to a transfer of profits to assess whether they could be caught.

On 5 December 2013, a similar measure was introduced with immediate effect which only applies to derivative contracts (section 695A CTA 2009 – disguised distribution arrangements) and this is unchanged from the revised version issued on 23 January 2014. Part of the reason for introducing the new measure is to counter arrangements being entered into to circumvent section 695A but the scope is not limited to this.

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Defined Contribution pension schemes – Impact on pension providers

April 2015 reform – primary legislation to be published after consultation

Interim measures – regulations

The Chancellor has announced major changes to the tax treatment of defined contribution (DC) pension schemes and technical details of these changes are discussed in the Personal Tax section above.

Whilst the announcement represents an opportunity for the 'self service' financial providers and wealth managers, the announced changes to DC pensions schemes will shake up the business models of players in the pensions and annuity industries. The Government considers that current tax rules stifle innovation and estimates that this year alone an extra 85,000 people will be eligible to access flexible drawdown based on the changes from 27 March 2014.

The removal of an obligation to buy an annuity opens up a whole range of alternative options with the Government expecting providers to have 'much greater freedom to innovate and create products and processes which better meet the evolving needs of consumers'. The announced changes therefore present both a significant risk to annuity providers, but also an opportunity in terms of assessing and responding to future customer needs. Providers already selling 'innovative' annuities will need to assess the impact of Government proposals on these products.

It is also recognised by the Government that this fundamental change will impact financial markets particularly on gilts and corporate bonds. It may also reduce the supply of investment into areas such as infrastructure, mortgages, equity release, property and social housing which typically back annuity products.

The Government has also announced free, impartial at-retirement guidance for all members. Although there is an initial £20 million fund to develop this initiative, the method of funding this guidance in the long term is unclear. The cost for workplace pensions may ultimately fall on the employer.

The consultation will run for 12 weeks and the pensions industry should urgently review these proposals so that they can actively participate in this process.

It is also important to note that those who have already purchased an annuity will remain bound by the contract they have made with their annuity provider.

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Corporate Tax – Partnership measures

Finance Bill 2014

The Government announced in the 2013 Budget that it would be consulting on proposals to address various partnership anti-avoidance issues. These included:

- Salaried members;
- Mixed member partnerships; and
- Transfers of assets and income streams through partnerships.

Draft legislation and guidance has previously been issued in respect of the above measures. No further announcements were made in the 2014 Budget and the legislation will take effect from 6 April 2014. For more information on these measures, **please refer to the 'Personal Tax' section of this Budget Commentary.**

For alternative investment fund managers (AIFMs) constituted as LLPs, a mechanism will be provided whereby the LLP itself can retain profits on behalf of individual members subject to the 'deferred remuneration' provisions of the AIFM Directive and to account for tax thereon. Where this mechanism is adopted, the Financial Conduct Authority (FCA) accepts that the required deferral can be on a net of tax basis, whereas otherwise deferral must be on a gross basis. Revised draft legislation and guidance is anticipated in Finance Bill 2014.

Legislation to clarify the taxation of loan relationships and derivative contracts held by partnerships will now be deferred to 2015.

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Creative Sector Tax Reliefs

Finance Bill 2014

Theatre tax relief

The Government has confirmed the introduction of a theatre tax relief which is set to benefit the performing arts, particularly regional touring productions including plays, musicals, dance and opera. The measure, first announced at Autumn Statement 2013, is likely to be seen as a significant funding boost for an industry which has reportedly suffered from cuts in funding to the arts.

The relief will apply to expenditure incurred on or after 1 September 2014 and is expected to operate in a similar way to the existing film tax relief, providing a tax rebate on 80% of a production's eligible expenditure. The announcement confirmed the payable credit would be 25% for qualifying touring productions and 20% for other qualifying productions. Further details will be included in a consultation document expected to be launched within the next week as the timetable, which requires legislation to be included in Finance Bill 2014, is very tight. It is anticipated that there will be no requirement for productions to meet a cultural test, a requirement of the film tax relief.

Film tax relief

The British film industry and visual effects industries will welcome the Chancellor's announcement that changes to the film tax relief have now received EU State Aid approval. The changes include an increase in the rate of relief from 20% to 25% on the first £20 million of qualifying production costs on large budget films; a reduction in the minimum UK expenditure requirement from 25% to 10% and a modernisation of the cultural tests.

Video games tax relief and high-end television tax relief

The video games tax relief rules will be changed so that it will apply to goods and services provided from within the European Economic Area and subcontracting will be capped at £1 million per game. The relief is still subject to EU State Aid approval and it seems that these changes are designed to achieve this.

Legislation will also be clarified in relation to the video games tax relief and high-end television tax relief so that only games or television programmes qualifying for the relief need to be treated as separate trades. Businesses in the gaming and TV industries had been concerned that the requirement for separate trades applied even where relief wasn't being claimed.

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Taxation of the oil and gas sector

Finance Bill 2014

Finance Bill 2015

Bareboat chartering measure

The Government will introduce a cap on the tax relief available for companies who provide drilling or accommodation services in the UK where a bareboat chartered asset is used in providing those services. A cap on the amount of cost that can be deducted in respect of the charter will be calculated by reference to the historical cost of the asset plus an amount to represent financing costs. The resultant profits will be subject to a 'ring fence' such that losses from non-chartering activities may not be utilised against them.

The measures have been subject to informal consultation. The industry has expressed concerns about the impact of the rules on the cost of exploration and development and UK competitiveness. The confirmed rules reduce the breadth of assets impacted by the legislation and provide for a small increase in the permissible costs. However, widespread concern remains about the long term impact.

Other measures

A new field allowance will be introduced in 2015 to reduce the rate of tax payable by companies investing in high-pressure high-temperature fields. The allowance is expected to be equal to 62.5% of qualifying capital expenditure.

Following the publication of the Wood Review, the Government will establish a new regulatory oil and gas body which, together with Government and industry, will review the oil and gas fiscal regime to ensure it is fit for purpose and remains competitive.

Other measures impacting the oil and gas sector were mostly pre announced and include:

- The broadening of the scope of the Substantial Shareholding Exemption and reinvestment relief to benefit pre-trading companies;
- The exclusion of Research and Development Allowances from the anti-loss buying rules introduced in Finance Bill 2013 which will also be welcomed by pre-traders;
- Tax relief through Mineral Exploration Allowances will be introduced for planning and permitting costs which will benefit those engaged in onshore activities; and
- A new onshore allowance and extension of the Ring Fence Extension Supplement as announced in Autumn Statement 2013 to support shale gas investment.

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Extension to the super (15%) rate of SDLT and to the scope of the annual tax on enveloped dwellings

The super (15%) rate of Stamp Duty Land Tax (SDLT) will apply with effect from 20 March 2014 for purchases of dwellings for more than £500,000 by companies and certain other vehicles (subject to transitional rules).

The current exemptions from this rate for businesses such as property development, rental, or trading businesses will apply, but should be shown in the land transaction returns submitted to HM Revenue & Customs.

In addition, **from 1 April 2015 the Annual Tax on Enveloped Dwellings (ATED) will be extended to dwellings valued at over £1 million up to £2 million (£7,000 per annum) and from 1 April 2016 further extended to**

Finance Bill 2014

dwellings valued at over £500,000 up to £1 million (£3,500 per annum).

As with SDLT, the current reliefs from ATED will continue to apply for entities holding affected dwellings for business purposes, but returns are required to be submitted.

The extension of the 15% rate and ATED is likely to significantly increase what is already a heavy administrative burden for property businesses even though no tax is due by virtue of the reliefs. This appears to be recognised by the Government. It will consult on possible options to simplify the administration before April 2015.

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Seeding relief for SDLT to be reintroduced?

Not yet defined – future consultation

The Government will consult on the stamp duty land tax (SDLT) treatment of the seeding of property authorised investment funds and the wider SDLT treatment of co-ownership authorised contractual schemes. SDLT is often seen as a barrier to establishing vehicles for collective investment in real estate. The reintroduction of seeding relief would remove that barrier and significantly encourage the use of vehicles that have to date been relatively overlooked as real estate fund vehicles, particularly given the recent industry trend for life companies to transfer assets into more widely held authorised funds.

Such a relief was previously introduced for unit trust schemes before its abolition three years later. The Government will be aware of the risk of any relief being abused and is likely to impose restrictions to ensure that the relief is only available for genuine funds.

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Consultations

The Government has announced that the following measures will be subject to consultation over the coming months

- Bank Levy Redesign
- Review of loan relationships and derivative contracts (other than measures already announced above)
- UK oil and gas fiscal regime – ultra high pressure high temperature cluster allowance
- Enhanced Capital Allowances (ECA) for zero emission goods vehicles
- Gift Aid digital

Other Corporate Tax measures

The following other measures were also announced or confirmed in the Budget (references are to the Overview of Tax Legislation and Rates unless otherwise noted).

	OOTLAR ref
Bank levy redesign (banding model)	1.21
Amendment to loss buying rules	1.22
Section 212 Finance Act 2012: Insurers' solvency 2 regulatory capital securities	1.26
Abolition of schedule 19 (SDRT)	1.27
Establishing charities for tax avoidance	1.67
Public Works Loan Board limit (PWLB)	1.71

The following measures were published as part of the draft Finance Bill clauses in December 2013 and remain unchanged.

Measure
Code of Practice on taxation for banks
Bank levy rates
Bank levy review
Amending loss relief provisions
Controlled foreign companies (CFC): profit shifting
Stamp duty: House of Commons resolution provisions
Changes to the debt cap provisions
Double taxation relief: revenue protection
Avoidance scheme using total return swaps
Corporation tax: avoidance involving losses
Stamp duty land tax (SDLT): charities relief
Corporate gift aid for Community Amateur Sports Clubs
Loan relationships: release of debts: financial institutions in resolution
UK management of offshore funds
Stamp duty and stamp duty reserve tax on junior shares

Employee Issues Commentary

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Offshore employment intermediaries

Finance Bill 2014 and other measures

The Government has confirmed that following the consultation by HM Revenue & Customs (HMRC) new rules to address PAYE/NIC by offshore employment intermediaries will apply from 6 April 2014. Separate rules will apply to oil and gas workers on the UK Continental Shelf.

The introduction of the new rules is intended to address arrangements where it is argued that no 'personal service' is provided by the workers who are supplied by an offshore employer so that the existing legislation (particularly as regards NIC) is ineffective. The personal service requirement is removed and all that is now needed is that the person 'works for' someone. In this situation the last UK-based intermediary between the offshore employer and the end-user will be liable for any PAYE/NIC; where there is no such UK intermediary the UK end-user will be responsible.

For oil and gas workers carrying on an employment on the UK Continental Shelf a modified regime will apply. In this situation where the offshore employer has an associated company based in the UK, responsibility for accounting for PAYE/NIC will rest with that company. Where there is no UK associated company responsibility will rest with the oil field licensee; unless the offshore company is 'certified' as voluntarily accounting for PAYE/NIC. The rules excepting mariners from secondary NIC are also tightened and will only apply to specified workers in employment on fixed offshore installations.

There will also be reporting responsibilities in relation to any workers for whom it is considered that PAYE/NIC does not apply under the new rules. This will be on a quarterly basis, but the detail is still to be decided. Reporting will not apply until the beginning of 2015/16.

We understand that HMRC will issue updated guidance shortly; however it is clear that many practical issues will need to be resolved in the very short timeframe to 6 April 2014. Consideration will also need to be given to the contractual arrangements in the labour supply chain in order to ensure compliance and to manage any additional costs.

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Onshore employment intermediaries – false employment

Finance Bill 2014

The Government is taking measures to prevent false self-employment through UK intermediaries. The Finance Bill will amend s44 of ITEPA 2003 (application of provisions to agency workers) as follows:

- The rules will apply to workers who provide services to a person (the client) under or in consequence of a contract with a third party (the agency).
- Workers within the scope of the revised legislation will be treated as employees of the agency for tax purposes, unless it can be demonstrated that no party exercises supervision, direction or control (SDC) over the worker.
- If treated as an employee, all remuneration receivable by the worker (from any person) as a consequence of the provision of services is to be treated as earnings from the deemed employment and subject to PAYE accordingly.
- If the agency is provided with a fraudulent document by the client or a 'relevant person' to evidence that the new rules do not apply to the worker, then the worker will be treated as holding an employment with the provider of the fraudulent document, and not the agency.

Parallel rules will apply for NIC purposes.

HM Revenue & Customs (HMRC) have already confirmed that, in their view, the revised agency rules would not, under normal circumstances, apply to personal service companies.

Guidance has been issued by HMRC on the application of the SDC test with a series of examples, albeit that the many shades of grey in real life will make this test difficult to apply. **The need for agencies to be able to evidence that SDC is not present in order to for the worker to be considered self-employed is also expected to lead to uncertainty. Businesses within the staffing sector will need to consider carefully how they can put in place controls and monitoring activities to satisfy HMRC that the SDC tests are correctly applied**. Where they are now caught by the new rules, they will also need to factor in the additional secondary NIC costs.

The Government have also introduced an associated Targeted Anti-Avoidance Rule (TAAR). The TAAR will bring arrangements into the new rules if the main purpose, or one of the main purposes, of the arrangements is to fall outside the new rules.

A new quarterly reporting will be introduced for the agency from the first quarter of 2015/16.

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Employee share plans

Finance Bill 2014

Finance Bill 2015

As announced last December, several major changes to both approved and unapproved share plans are due to take effect on various dates starting from April 2014. The proposals include a move to online registration and filing of annual returns for share plans, which will require both new and existing plans to be registered by 6 July 2015.

There will also be changes to the tax treatment of awards held by internationally mobile employees (IMEs), which will particularly impact on UK-inbound IMEs with existing share incentives. These changes had been due to take effect for awards granted from September 2014. However, in response to concerns about the complexity of changing the tax treatment of share incentives part way through a tax year, **it has now been announced that these changes will be delayed until April 2015**. There is also a suggestion in the Budget commentary that the statutory corporate tax deduction for share incentives will be extended in relation to IMEs, although we will need to await the draft legislation for further details.

A consultation on two further recommendations made by the Office of Tax Simplification in January 2013 has also been announced. **The first is to change the current rule under which employees are taxed on acquisition of a beneficial interest in shares so that, unless employees elect to be taxed on acquisition, the tax point will be delayed until the security can be sold for cash i.e. becomes 'marketable'**. This would be a significant change were it to go ahead. **The second is to introduce a new vehicle for holding shares (such as a statutory 'safe harbour' employee benefit trust) to help employers manage their share plans**. This is in response to concerns that legitimate employee benefit trusts used in conjunction with share plans are subject to complex anti-avoidance legislation.

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Artificial use of dual contracts by non-UK domiciles

Finance Bill 2014

In the Autumn Statement it was announced that the Finance Bill 2014 would include provisions aimed at preventing the avoidance of income tax by a small number of non-UK domiciled individuals who work under arrangements commonly known as 'dual contracts'. The announcement stated that tax was avoided 'by creating an artificial division of the duties of one employment between contracts in both the UK and overseas'. Non-UK domiciled individuals were then able to take advantage of the remittance basis of taxation relating to that overseas contract whereby income is not subject to UK income tax unless remitted to the UK.

Yesterday the Chancellor announced a number of changes to the original proposals following representations (from KPMG in the UK and others) that included the observation that the original draft legislation was too widely drawn and caught arrangements that were effected for commercial and regulatory reasons.

The draft legislation will be amended to **prevent the legislation catching directors with less than a 5% shareholding in the company's ordinary share capital. The amended legislation will also take account of employment contracts held for regulatory or other legal reasons.**

The original legislation included a comparative rate test such that to escape being caught, earnings from the offshore contract had to be subject to a foreign tax rate equivalent to at least 75% of the additional UK rate of 45%. **This comparative test is being amended to 65% of the additional rate of 45%**. This will benefit, for example, US citizens who will be able to more easily assess whether they are caught by this anti-avoidance legislation or not.

The Government has also confirmed that the intention is that deferred remuneration that is received after 5 April 2014 but relates to employment duties performed in tax years before 2014/2015 will not be subject to the new anti-avoidance rules. This point wasn't clear in the original draft legislation.

The legislation will apply from 6 April 2014. The amended legislation will be included in the Finance Bill which will be published on 27 March 2014.

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Government response to Office of Tax Simplification (OTS) review of employee benefits and expenses

Finance Bill 2015

Following the Office of Tax Simplification (OTS) report on Employee Benefits and Expenses published on 29 January 2014, the Government will consult on four recommendations:

- **Employers being permitted to voluntarily process through payroll specified benefits and expenses;**
- **Introducing legislation to exempt all qualifying business expenses paid for or reimbursed by employers from P11D reporting requirements so as to remove the requirement for P11D dispensations;**
- **Abolishing the £8,500 threshold for the taxation of benefits in kind; and**
- **Introducing a statutory definition of 'trivial benefits'.**

Taken together these measures should reduce the administrative burden on employers, particularly in terms of the preparation of forms P11D. The introduction of the voluntary payrolling of benefits will put on a statutory footing a practice currently used by some employers. Having a voluntary rather than mandatory system will enable employers to consider whether the cost of adjusting their processes can be justified and will enable employers providing benefits that are difficult to payroll to continue with the current system.

The intention is to introduce legislation to enact these measures in Finance Bill 2015, most likely to take effect from April 2015.

The Government has also confirmed that it will review the tax treatment of travel and subsistence expenses.

In response to the work of the OTS and the suggestion of a fundamental review of Government policy on the taxation of benefits, David Gauke MP stated that 'The Government recognises both the complexities [highlighted] in the report, and the need to reform policy to reflect our 21st century workplace and labour market, so it will also call for evidence on modern remuneration practices to inform future policy in this area'.

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Construction Industry Scheme (CIS) consultation

Consultation

The CIS arrangements apply to any business involved in construction operations as a contractor or acting as a subcontractor. A business is considered to be a contractor if its business is in construction or any other business that spends in excess of £1 million on construction on average over three accounting periods. Significant penalties can be applied where businesses fail to register or submit monthly returns.

In summer 2014, the Government will consult on options to improve the operation of the CIS for smaller businesses and to introduce mandatory online filing for contractors. The Government also plans to hold discussions with industry on revisions to reporting obligations and improvements in registration for joint ventures.

It is understood that HM Revenue & Customs (HMRC) had previously considered changes to CIS and the consultation will be a continuation of this. Any revision that makes the operation of the scheme simpler to enable businesses to comply is to be welcomed, as are changes to the registration requirements for joint ventures. These have historically been problematic as the legislation has not always kept pace with commercial practice e.g. non-incorporated joint ventures.

More will be known about the criteria and response deadlines once the consultation document is issued in the summer.

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Company cars and vans

Finance Bill 2014

Finance Bill 2015

Company car tax rates

The Chancellor has confirmed that from April 2016, the appropriate percentage of the list price subject to tax for 0-50g/km vehicles will be 7%, rising to 9% and 13% in 2017/18 and 2018/19 respectively. For vehicles in the 51-75g/km category the appropriate percentages will be 11% in 2016/17, rising to 13% and 16% in 2017/18 and 2018/19 respectively.

Cars with emissions in excess of 75g/km will see successive 2% rises in the list price percentage in both 2017/18 and 2018/19, with a maximum cap of 37% remaining in place until 5 April 2019. Incentives for Ultra Low Emission Vehicles will be subject to review in the 2016 budget.

Van Benefit Charge

The Van Benefit Charge for 2015/16 will continue to increase by reference to the Retail Prices Index (RPI). For 2014/15 the charge will be £3,090. This figure will increase for 2015/16 by reference to the September 2014 RPI figure.

A reduced charge for zero-emission vans will be extended on a tapered basis until 5 April 2020. Such vans will be subject to 20% of the standard charge in 2015/16, followed by rates of 40%, 60%, 80% and 90% in subsequent tax years, before aligning with the standard rate in 2020/21. This measure will be subject to review in Budget 2016.

Fuel scale charges – car and van

From 6 April 2015 the fuel benefit charge multiplier will continue to increase by reference to RPI for both company cars and vans. For 2014/15 the fuel scale charge for cars will be based on a multiplier of £21,700, whilst for vans the charge will be £581. Both figures will increase for 2015/16 by reference to the September 2014 RPI figure.

The above measures are in line with previous expectations and include elements which are consistent with the Government's ongoing policy of incentivising low emission vehicle use.

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VAT: changes to the place of supply rules

Finance Bill 2014

As expected the Budget makes reference to the 2015 place of supply changes in relation to certain supplies of broadcasting, telecommunications and e-services (BTE) services. This measure is the UK's adoption of the final part of the VAT package; a series of changes which have been implemented in stages since they were agreed by EU Member States in 2008.

From 1 January 2015, the place of supply of BTE services supplied to EU non-business customers will change. Under the current rule, VAT is accounted for where the supplier belongs. From 2015 the new place of supply for these services will be where the customer belongs. A number of other changes are also being introduced. For example, to remove a potential avoidance opportunity, non-taxable legal persons' place of belonging will change from where they are legally constituted to where their central functions are carried out or where they have a relevant establishment. To minimise the impact on small e-services developers, the new rules aim to make electronic marketplaces and App Stores responsible for VAT, where such services are sold through their platforms.

As a result of these changes, businesses will have an obligation to account for VAT in multiple Member States. As a result a Mini-One Stop Shop (MOSS) simplification scheme will be implemented. Under the MOSS, suppliers have the option to register in just one Member State and account for the relevant VAT on a single electronic MOSS VAT Return (except for sales in Member States where the supplier has a fixed establishment). MOSS will be an easement for some, but won't necessarily be the best option for all suppliers. Businesses will need to consider the administration of submitting multiple VAT returns against the requirements of MOSS. More details can be found on KPMG in the UK's dedicated webpage here.

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VAT Prompt Payment Discounts (PPD)

Finance Bill 2014 and Provisional Collection of Taxes Act resolution

EU law is clear that where a Prompt Payment Discount (PPD) is offered, VAT can be accounted for on the discounted amount, but only if the discount is taken up. HM Revenue & Customs (HMRC) have, however, historically interpreted UK law to allow suppliers to account for VAT on the discounted price offered even when the discount is not taken up. In the vast majority of situations the PPDs were offered in business to business (B2B) supplies where any adjustment to the output tax was reflected in a reduction in input tax recovery. However, increasingly PPDs are being offered to final consumers (B2C).

For supplies made on and after 1 April 2015, UK law on PPDs will be amended to make it clear that VAT will be due on the actual consideration paid. Pursuant to this amendment, UK law will be more clearly aligned with EU law.

Some suppliers of telecoms and broadcasting services in particular have been offering PPDs to final consumers. This has resulted in a VAT loss for HMRC where the PPD has not been taken up, because the VAT accounted for on the supply is less than the VAT fraction of the consideration received for that supply. This measure will, therefore, be implemented earlier, from 1 May 2014, for supplies of telecoms and broadcasting where there is no obligation to provide a VAT invoice.

There is a warning that the 1 April 2015 date may be brought forward for other supplies too, if this is deemed necessary to protect the revenue.

Although HMRC won a case on PPDs that were not taken up, many years ago, (Saga Holiday Ltd [2004] UK V18591), and the current UK legislation could be interpreted as being in line with EU law already, HMRC have continued to permit suppliers, apart from tour operators, to use the more favourable PPD interpretation. This amendment will remove any ambiguity, ensure that the UK is compliant with EU law, and that the VAT declared by the supplier is proportional to the amount paid by the customer.

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Air Passenger Duty: banding reform

Finance Bill 2014

Air Passenger Duty (APD) is charged according to destination and class of travel (based on seat pitch which is determined by reference to leg room). Currently there are four destination bands and three rates for the different classes of travel within each band i.e. for each of the destination bands there is a reduced, standard and higher rate. The higher rate only applies to flights aboard aircraft of 20 tonnes and above with 19 seats or fewer. APD normally increases on 1 April each year, according to the RPI.

APD changes announced in the 2014 Budget will affect the carriage of passengers on and after 1 April 2015.

The number of destination bands is to be reduced to two, by merging the 4000 and 6000 mile bands into the 2000 mile band. The higher rate of APD will be set at six times the reduced rate that is charged for the lowest class of travel.

From April 2015 there will be one band for short haul trips of up to 2000 miles from London, and another for all long haul trips over 2000 miles. The consequence of this change is that APD on trips to emerging long haul destinations that prior to 2015 were in the 4000 or 6000 mile destination bands will be reduced in most cases. The exception will be for passengers travelling on higher rate aircraft where the APD will increase, as it is currently only four times the reduced rate.

It is anticipated that lowering the cost of many long haul flights will contribute to UK growth opportunities.

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Carbon price floor: reform and other technical amendments

Finance Bill 2014

The Government will limit the difference between the carbon price implied by the Carbon Price Floor (CPF) and the EU allowance price to £18 per tonne of carbon dioxide (tCO2) from 2016-17 to 2019-20. The CPF trajectory will remain unchanged. However, where this leads to a UK-only Carbon Price Support (CPS) rate of more than £18/tCO2, the CPS rate will be capped at £18/tCO2.

The CPS rate for 2016-17 will therefore be set at £18/tCO2. The Government will review the CPF trajectory for the 2020s, including whether a continued cap on the CPS rate might be necessary, once the direction of reform of the EU Emissions Trading System is clearer.

Planned increases in CPS rates of Climate Change Levy (CCL), including the changes previously announced for solid fuel, remain unchanged from 1 April 2014 and 1 April 2015. Published rates are:

Supplies of commodity liable to:	2014-15	2015-16	2016-17
CPS rates of CCL			
Natural gas (£ per kilowatt hour)	0.00175	0.00334	0.00331
LPG (£ per kilogram)	0.02822	0.05307	0.05280
Coal and other taxable solid fossil fuels (£ per gross gigajoule)	0.81906	1.56860	1.54790
CPS rates of fuel duty			
Gas oil; rebated bioblend; kerosene (£ per litre)	0.02642	0.04990	0.04916
Fuel oil; other heavy oil; rebated light oil (£ per litre)	0.03011	0.05730	0.05711

This should see lower energy prices for consumers. Energy intensive industries will also welcome the price floor freeze but the Carbon Price Floor is effectively a mechanism under which those who are heavy carbon emitters pay tax that is hypothecated to subsidise investment in green technologies. It had been anticipated that the price would rise to £35/tCO2 by 2019/20 so the price freeze will mean businesses will be paying £2 billion less to the Government over the next five years.

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Consultations

The Government has announced that the following measures will be subject to consultation over the coming months

VAT: zero-rate for adapted motor vehicles for wheelchair users

Tobacco Minimum Excise Tax (MET)

Tobacco controls and revenue protection

Tobacco controls and revenue protection

Exempting satellites from Insurance Premium Tax

VAT: reverse charge

VAT: refunds for public bodies

Other indirect tax measures

The following other measures were also announced or confirmed in the Budget (references are to the Overview of Tax Legislation and Rates unless otherwise noted).

	OOTLAR ref
Tobacco duty rates	1.37
Alcohol duty	1.38
Remote gambling tax reform	1.39
Gaming duty	1.40
Bingo duty	1.41
Machine games duty	1.42
Aggregates levy: suspension of certain exemptions, exclusions and reliefs	1.45
Landfill tax rates	1.46
Climate change levy (CCL): exemption for energy used in metallurgical and mineralogical processes	1.47
Climate change levy (CCL) main rates	1.48
Carbon price support (CPS) rates of climate change levy (CCL)	1.49
VAT: The revalorisation of fuel scale charges is no longer part of the Budget process	1.50
Vehicle Excise Duty (VED) rates for cars, vans, motorcycles and motorcycle trade licences	1.51
Vehicle Excise Duty (VED) classic vehicle exemption	1.52
Heavy Goods Vehicle (HGV) road user levy	1.53
VED rates for Euro IV and V light goods vehicles	1.54
VAT: revalorisation of registration and deregistration thresholds	1.72
Value of landfill communities fund (LCF)	1.74
Carbon price support (CPS) rates of fuel duty	1.75
Alcohol fraud	2.20
Fuel duty	2.24

The following measures were published as part of the draft Finance Bill clauses in December 2013 and remain unchanged.

Measure
VAT refunds for Health Research Authority and Health Education England
Vehicle excise duty (VED) for heavy good vehicles (HGVs)
Vehicle excise duty (VED)
Modernisation of ships' stores
Customs and excise modernisation

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