

Winter 2009: Pre-Budget Report special edition

Banking on the bonus!

A new 50% tax applies when a bank employee is awarded a bonus of over £25,000 during the period from 9 December 2009 to 5 April 2010. There is a hint that the Government will extend the period into the following tax year. The tax is calculated on the excess over and above £25,000 and is payable by the employer. It does not impact on the tax payable by the employee - it is on top of that. Furthermore, the bank will receive no corporation tax deduction for this one-off levy.

Example: Bank decides to pay a higher rate employee a bonus of say £100,000.

	Employee gets	Revenue gets	Bank pays
New 50% bank payroll tax		£37,500	
Employers' national insurance		£12,800	
Employee tax and national insurance		£41,000	
TOTAL	£59,000	£91,300	£150,300

Research and Development tax relief

Small and medium-sized enterprises (SMEs) can reduce their taxable profits by an additional £75 for every £100 spent on qualifying R&D. Even if making losses, these companies can still benefit by surrendering part of their losses in return for a repayment of tax, thus easing cash flow in difficult times. One possible barrier has been the requirement that the SME must have ownership of the resulting intellectual property. This rule is to be relaxed and so businesses which may previously have failed to obtain R&D for this reason should now look again at claiming relief.

Some people may be put off claiming these tax reliefs because of worries about demonstrating what they do actually falls within the definition of R&D. This need not be a difficult process and over recent years Mercer & Hole have been successful in agreeing claims for several of our clients for a wide range of activities including waste disposal, food coatings and software development.

A real let down for Furnished Holiday Lets

As previously announced, the tax treatment of qualifying furnished holiday lettings (FHLs) is set to change. FHL properties are currently treated as a trading business but the Pre-Budget Report has confirmed that all properties, whether in the UK or elsewhere, will be the same from 6 April 2010.

Owners of such property therefore have until 5 April 2010 to take advantage of the current FHL tax reliefs. These include flexibility with using income losses, additional capital allowances, certain capital gains reliefs and relevant UK earnings treatment for pension purposes.

The rate game

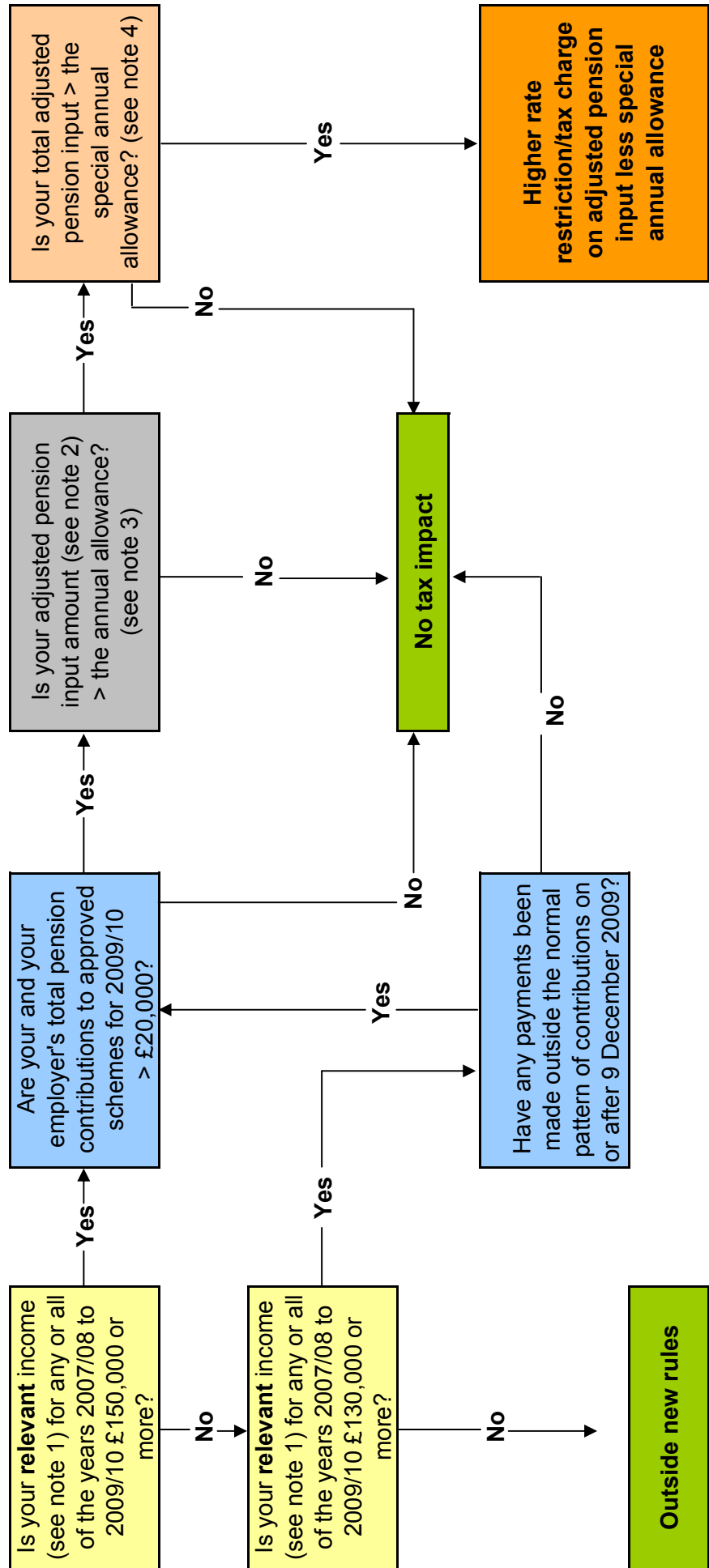


Type of Tax	Action	Change?
National Insurance	Fast Forward	0.5% increase for employers, employees and self employed from 6 April 2011
Income Tax	Pause	40% threshold frozen at £37,400 for 2010/11
Corporation tax	Pause	Small companies rate increase to 22% now deferred until 1 April 2011
Capital Gains Tax	Stop	Remains at 18%
Inheritance Tax	Rewind	Nil rate band increase reversed - held at £325,000 until 5 April 2011
Stamp Duty Land Tax	Play	Threshold reverts to £125,000 from 1 January 2010
VAT	Play	Increase to 17.5% from 1 January 2010

Do the new pension rules apply to you?

Just for clarity, whatever your income level, if you or your employer are only continuing to pay regular, frequent pension contributions you should not be caught by the new rules, at least until April 2011. However, the Chancellor has continued to tinker with the draft legislation, reducing the level of income at which the new rules might bite to £130,000 as of 9 December 2009. One major health warning is, on past performance, any draft legislation is likely to change and the flowchart and notes are based on our current understanding of the rules, updated to reflect the announcements in the Pre-Budget Report.

You should bear in mind that the flowchart and notes reflect the current position and the detail will change again from April 2011.



<p style="text-align: center;">Note 1</p> <p style="text-align: center;">Calculation of relevant income</p>	<p style="text-align: center;">Note 2</p> <p style="text-align: center;">Calculation of adjusted pension input amount</p>	<p style="text-align: center;">Note 4</p> <p style="text-align: center;">Calculation of the special annual allowance</p>
<p>Your total income (including taxable redundancy)</p> <p>Add</p> <p>The amount of any salary sacrifice arrangements made after 22 April 2009.</p> <p>Deduct</p> <ul style="list-style-type: none"> - Expenses incurred wholly exclusively and necessarily in the performance of your employment. - Losses claimed against income. - Pension contributions made personally, capped at £20,000. - Gift Aid payments made: <ul style="list-style-type: none"> • in the year (less any carried back to a previous year) • before the return for the year is submitted and claimed to 'carry back'. <p>The sum of the above is your relevant income.</p>	<p>The total pension contributions made in the year by you or your employer.</p> <p>Deduct</p> <p>The 'protected pension input amount' for the year, being the total of:</p> <ul style="list-style-type: none"> • the total of any regular (quarterly or more frequent) payments made under arrangements that started before 22 April 2009 for people with income £150,000 + and 9 December 2009 for people with income £130,000 + (but see ** below) • any other payment made in the current year before 22 April 2009 or 9 December 2009 for individuals as above. <p>The sum of the above is the adjusted pension input amount.</p> <p>** HMRC's frequently asked questions provide some relief on missed and fluctuating regular payments.</p> <p style="text-align: center;">Note 3</p> <p>The annual allowance is £20,000 less the protected pension input amount (but cannot be less than £0).</p>	<p>Calculate the total contributions paid for the current year and the previous two years less the regular (as before) contributions.</p> <p>Divide</p> <p>The total by 3 to find the mean average.</p> <p>If the average is less than £20,000 the maximum special annual allowance is £20,000.</p> <p>If the average is more than £30,000 the maximum special annual allowance is £30,000.</p> <p>If the average is between £20,000 and £30,000 the maximum special annual allowance is the average amount.</p> <p>The special annual allowance available is the above less the protected pension input amount (but cannot be less than £0).</p>

Whilst we hope that this flowchart is helpful in determining how the new rules apply to you, we are on hand to help with the numbers. In addition, our financial services arm, Nightingale Associates, can assist with pension planning and investment.

Crackdown on Tax Avoidance

The Chancellor's Pre-Budget Report inevitably includes measures aimed at combating tax avoidance. These specifically target schemes which counter:

- Inheritance Tax charges on property entering trusts
- the transfer of an entitlement to benefit from capital allowances on plant or machinery
- tax reliefs for the leasing of plant and machinery.

Time to disclose?

For some time HMRC have been taking steps to improve the tax take on offshore income. Two years ago they launched, with little publicity, the Offshore Disclosure Facility (ODF) which promised a cap on penalties of 10% of the undisclosed tax, as well as the tax and interest. HMRC had obtained details of offshore accounts from five high street banks and in many cases wrote to the account holders suggesting a disclosure.

However the ODF was not as successful as HMRC had hoped, so this year not one but two disclosure opportunities were launched:

The New Disclosure Opportunity (NDO) - The NDO was launched on 1 September 2009 following HMRC's request for details of offshore accounts from over three hundred banks and financial institutions. This time the deal on offer is again a penalty limited to 10% (plus the tax and interest of course) provided HMRC did not write to the account holder in 2007. If a previous letter was received from HMRC then the penalty will be 20%. The disclosure can cover up to twenty years.

Initially HMRC said that account holders had until 30 November 2009 to submit a notice of intention to disclose to be followed up with a disclosure (and payment) by 31 January 2010 (on paper) or 12 March 2010 (online). HMRC have now extended this first deadline to 4 January 2010 and are continuing to write to account holders as they obtain information from the banks.

Liechtenstein Disclosure Facility (LDF) - In addition to the NDO, HMRC have launched the LDF which is aimed at those who have interests in Liechtenstein. Because it only covers a maximum of ten years and provides a much longer timescale to make the disclosure (the deadline being March 2015), the LDF is a more attractive proposition. HMRC acknowledge that it may be possible, in certain circumstances, to take advantage of the more favourable terms of the LDF by transferring undisclosed offshore assets to Liechtenstein before March 2015. The LDF also gives greater assurance against criminal prosecution.

NDO v LDF - The question therefore is whether to utilise the NDO or the LDF. The one thing that HMRC have made very clear is that if they instigate an enquiry into a tax return which results in a tax liability which could have been disclosed under either facility, they will seek a higher penalty of up to 100% of the tax due. It would therefore seem sensible to notify an intention to disclose under the NDO by 4 January and, if necessary, consider a switch to the LDF later.

December Consultation Document - Alongside the Pre-Budget Report (PBR) HMRC published a consultation document about tackling offshore evasion which includes some additional proposals regarding compliance penalties. The first proposal is an obligation to notify the existence of offshore accounts within a time limit (60 days from opening the account is mentioned). Failure to notify is likely to result in a minimal fixed penalty.

The second and more scary proposal deals with the situation where an unknown account is discovered during an enquiry. In this case, there could be an additional tax geared penalty of up to 100% of the tax arising on that account. When taken with existing penalties, this could mean that, in an extreme case, the liability could amount to 200% of the undisclosed tax plus interest plus, of course, the tax itself.

It would seem that the original deadline for the NDO was extended to accommodate the proposals in the PBR and is a clear message that HMRC expect disclosures by 4 January. Therefore, now is most definitely the time to consider making a disclosure if you have any undisclosed tax liabilities. If you wish to discuss this please speak to your usual Mercer & Hole contact.

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