



Emergency Budget 2010 – Capital allowances commentary

The Emergency Budget, the first of the new coalition government, contained certain measures which will affect capital allowances for businesses:

- The key measure concerning capital allowances saw the announcement that the rates of writing-down allowances (WDAs) for expenditure on plant and machinery will be reduced from 20% to 18% for the main pool and from 10% to 8% for the special rate pool. The reduction in WDAs will take effect for chargeable periods ending on or after 1 April 2012 for businesses within the charge to corporation tax and on or after 6 April 2012 for businesses within the charge to income tax.

For businesses that have chargeable periods which span the date, hybrid rates will apply for the whole of the transitional period. There will be two hybrid rates, one for expenditure which currently qualifies for 20% WDAs and one for expenditure which qualifies for 10% WDAs. The hybrid rate is calculated based on the proportion of time a chargeable period falls before or after the change date, e.g. for a company with a chargeable period ending 31 December 2012 the hybrid rate would be 18.49% ($91/366 \times 20\% + 275/366 \times 18\%$) for the main pool and 8.50% ($91/366 \times 10\% + 275/366 \times 8\%$) for the special rate pool.

While any reduction in capital allowances is disappointing, when taken alongside the reductions announced in both the main rate of corporation tax (down to 24% from 2014) and the small companies' rate (down to 20% from 2011) the overall effect is a positive one for businesses. The effect is only a timing one, as to achieve 90% of WDAs will now take 12 years for main pool expenditure, up from 11 years and 28 years for special rate pool expenditure, up from 22 years.

However, with the reductions for WDAs not coming into effect until April 2012, businesses should be looking, where possible, to accelerate their capital expenditure programmes to ensure maximum benefit is taken before the change date and also focus more on identifying expenditure which qualifies for Enhanced Capital Allowances at 100% relief, where the associated net present value has increased even further;

- The other key measure announced was a reduction to level of expenditure that benefits from the Annual Investment Allowance (AIA) from £100,000 to £25,000. The reduction in the AIA amount will take effect from April 2012. Details of the transitional arrangements will be published in good time before the reduction takes effect. While the lowering of the AIA is disappointing news, especially for small and medium sized businesses, £25,000 is still a significant level for many small businesses



and consideration should be given to see if capital expenditure can be brought forward to take advantage of the higher amount up to April 2012.

- The announcement in Budget 2010 that a 100% first year allowance would be given for five years expenditure on new, unused (not second hand) zero-emission good vehicles, subject to state aid approval, will be introduced for expenditure after 1 April 2010 for corporation tax and after 6 April 2010 for income tax purposes was re-affirmed and legislation to this effect will be introduced in the Finance Bill which will be published as soon as possible after the summer recess. A zero-emission goods vehicle will qualify for the 100% FYA if:
 - It cannot under any circumstances produce CO² emissions when driven;
 - It is of a design primarily suited to the conveyance of goods or burden; and
 - The expenditure is incurred on or after 1 April 2010 (corporation tax) or 6 April 2010 (income tax) and before 1 April 2015 (corporation tax) or 6 April 2015 (income tax).

The general exclusions in section 46 Capital Allowances Act 2001 will apply, including the exclusion of expenditure on assets for leasing. There are a number of conditions around the state aid issue that means the FYA will not be available to certain businesses including those:

- In difficulty for the purposes of the *Community Guidelines on State Aid for Rescuing and Restructuring firms in difficulty (2004/C 244/02)*;
- Subject to an outstanding recovery order following a European Commission decision declaring an aid illegal;
- Engaged in the fisheries and aquaculture sectors, as covered by Council Regulation (EC) No 104/2000; or
- Managing waste for other undertakings for the purposes of Directive 2008/98/EC (e.g. a waste collector contracting with a local authority, or large retail business, to provide an integrated waste management service).

Also there will be a cap that limits the amount of expenditure that will qualify for the FYA of €85 million per undertaking over the five year life of the measure and the legislation will contain the rules on how the cap will operate. The re-affirmation of this measure shows the coalition government's intentions to encourage expenditure on green technology;



- It was announced that withdrawal of the Furnished Holiday Let (FHL) rules from April 2010, will not take place and the FHL rules will continue to apply for 2010-11. However, the government announced that it will consult over the summer about plans to reform the tax treatment of FHL from 6 April 2011 (1 April for companies) and "Question and Answer" paper was published by HMRC. The consultation will look at proposals which would:
 - Ensure the FHL rules apply equally to properties in the European Economic Area (EEA);
 - Increase the number of days that qualifying properties have to be available for, and actually let as, commercial holiday letting; and
 - Change the way in which FHL loss relief is given.

The intention is to publish more information over the summer and to have draft legislation available in the autumn for inclusion in Finance Bill 2011. The decision to retain the current system for a further year is welcomed, as is the decision to consult on a proposed new regime which should enable proper consultation, which was previously ignored, to ensure a regime that takes account of the needs of the tourist industry; and

- It was also announced that as part of the plan to deal with tax avoidance, consideration will be given as to whether there is a need for a General Anti-Avoidance Rule (GAAR). If implemented then all taxpayers (corporates and individuals) involved in transactions which mitigate their tax liabilities but not approved by HMRC, could be affected. Capital allowances are often directly or indirectly involved in these types of transactions and a GAAR could cause a high level of uncertainty as to which transactions could be caught by the rule. The review will make for some interesting debates.

If you would like further advice in any of the areas above please contact:

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