

January 2008

Pre-Budget Report update

The Chancellor's Pre-Budget Report promised a number of changes, some with immediate effect and some that will take effect next tax year. The latest news on these is as follows:

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Capital Gains Tax

We think the biggest change is Capital Gains Tax or CGT.

When Gordon Brown became Chancellor, one of the first big changes he made was a major reform of CGT, including introducing taper relief, which reduces the gain on assets depending on how long you've owned them. It's interesting that the first thing his successor did is to get rid of Mr Brown's reforms.

Instead of taper relief reducing gains, which are then added to income and taxed at income tax rates, the plan is to have a flat 18% CGT rate on all gains over the annual exemption.



"Sure I'm happy to sell it to you ... just not before 6th April"

He also abolished indexation allowances that allow you to adjust the cost of assets based on inflation, and so reduce the gain. It's simpler, but there are winners and losers — and we think there are more losers than winners.

The biggest group of losers will be owners of **business assets**. This means people in business, but there are other assets that qualify, such as AIM shares or property let to unlisted businesses. (We don't think it was really intended that some of these things would qualify as business assets, but the Government, having made them qualify by mistake, wasn't prepared to admit its mistake and left them.) Up to 5 April 2008, gains on business assets will often be taxed at an effective rate of 10% or less. From 6 April, this becomes 18%. There may be some sort of "retirement relief" reintroduced, following on from business outcry, but we don't know yet if or how this will help.

What can you do? If you're thinking of selling anyway, bringing the date forward is one answer. The other is to make a disposal to a connected party to crystallise the tax bill at the current rate so that on a real, later, sale there isn't so much tax at the higher rate to pay.

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The next group of losers will be those who have **assets with significant indexation**. Often it will be assets owned since 1982 or before, where the cost is treated as more than doubled by indexation allowances. Those allowances vanish after 6 April 2008. There may be ways to “bank” those allowances, again by transferring the assets to connected parties before 5 April.

The winners will include some of **those who acquired non-business assets since 1998**, under Mr Brown’s regime where indexation had been frozen. But it’s not always that simple, because the interaction of taper relief with tax rates means that many basic rate taxpayers with fairly modest gains will nevertheless be worse off.

If you need to check how the proposals affect you, speak to your usual Critchleys contacts.

Inheritance Tax changes

At the time of the Report, this was trumpeted as the main item. In fact it’s not that exciting.

The issue is that married couples often leave all of their assets to each other in their Wills. There is no Inheritance Tax to pay on the first death, but it stores up all the assets in the estate of the survivor so that on the second death there is often more tax to pay than there needed to be. We always recommended fixing this problem by having a trust set up on the first death to use up the exempt band.

What the Pre-Budget report says is that you don’t need to bother now. If the first spouse to die doesn’t use all of his or her exempt band up, what is left can be passed over to the survivor to be used up on the second death. In fact, it is backdated in that a widow or widower who dies can now have the unused tax band of his or her deceased spouse, even though they died before the changes.

Actually, we still think setting up trusts in Wills makes sense. There may not be immediate Inheritance Tax savings but in the long term there can be benefits.

Domicile

The third big change affects those with foreign domicile. “Domicile” is a complicated concept — it means the country or legal jurisdiction where you “belong”. It matters because until now those with a non-UK domicile can benefit from special tax reliefs. The main ones are that overseas income and capital gains aren’t taxed in the UK until they are received.

The justification for keeping these rules is that they encouraged rich foreigners to come and set up base in the UK. It looks as though they have decided to limit it only to rich foreigners. If you have a foreign domicile, and you’ve been resident here more than seven years, you can continue to benefit from the special regime, but only by paying £30,000 (and by giving up certain other tax allowances). Otherwise you get taxed like the rest of us on

your world-wide income regardless of whether you remit it or not.

It seems that you can opt in or out of this regime, paying £30,000 in a year where your tax bill would be big, but accepting what we call the “arising” basis in other years.

We don’t have the full picture of how this will work yet, and we’ll keep you informed of developments.

For up-to-date information, keep an eye on our website at www.critchleys.co.uk.

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Budget 2008

This year we are delighted to be hosting our seminars at the MINI plant in Cowley. We will be running two seminars the day after Budget Day, first at 8am with a breakfast beforehand and then again at 12.15pm followed by a lunch.

There will be plenty of opportunities for networking and to talk to our Tax, VAT and financial planning experts who will summarise this year's changes, explaining how they affect you as an individual or as a business.

Can you afford to miss this essential guide to the complexities of our ever-changing tax system?

There will also be the chance to enjoy a unique experience and go on one of their sought-after Plant Tours. (Please note that these last up to two hours and places need to be reserved in advance.)

We will once again be producing our online Budget notes immediately after the Budget is announced along with a series of updates for the agriculture, charities, property and technology sectors.

These can either be emailed automatically to you or downloaded from our website.



Please use the enclosed fax back to register for these to be emailed automatically and to secure your complimentary seminar place. Alternatively register online at www.critchleys.co.uk/budget

New Corporate Finance Partner



Justin Ray will join the Corporate Finance team on 1 March 2008. Until recently he was a Senior Manager at Grant Thornton where he advised on many significant transactions.

Justin is well known and respected in the Oxford and Thames Valley professional community and over his Corporate Finance career spanning 12 years he has successfully advised on over 50 transactions worth more than £450 million.

Justin is a fellow of the ICAEW and holds the Corporate Finance qualification, *"It is exciting to come back to Critchleys and I look forward to building on all the good work that Keith and his team have done."*

Robert Kirtland, Managing Partner, *"We are delighted that Justin is joining us as we continue to expand our presence in the Corporate Finance market."*

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Measuring and Assessing Business Risk

Many people will look at the title of this and think, 'well of course there are risks in running a business' and of course they would be right, but over the last few years much more has come out within the press and financial pages of the media about measuring and assessing risk. This is not just a concept that huge organisations need to consider.

Now all medium and large companies must include an Enhanced Business Review in their Annual Directors' Report. This review must include a fair review of the business and a description of the principal risks and uncertainties that the business faces.

Even though it is not mandatory for smaller companies to make this report, if they are operating a business of any size they should be evaluating their risks.

Indeed not only should risks be considered but ways to manage them should be thought through. So that when one of the possible eventualities occurs, the directors are ready to respond and know how to deal with it. Properly assessing and measuring business risk should not be left as 'just one of those things I might do' for a Board of any small or medium enterprise, but it is one of the tasks that a prudent businessperson should look at regularly.

Many of you will think 'ah well, I know the risks my business faces' and you probably do. But have you considered the following:

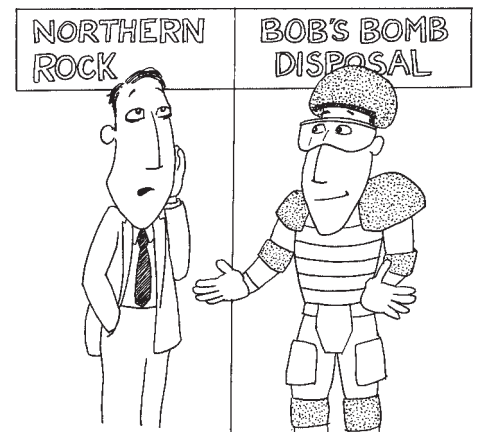
- **Have you measured which are the most important that you need to manage?**
- **Have you considered who should be doing what in order for you to be able to easily deal with the matter should the eventuality arise?**
- **Do you know which of these risks actually have the biggest effect on your business and are the most likely to affect it?**

In all cases I'm sure that some of these factors will have been looked at, but have they all? Does your enterprise have proper planning for risks? Much of this could be common sense but it needs to be looked at, planned and thought through fully and then be subject to an on-going appraisal and review so that you can see whether you are managing the risks that face your business or just sitting on them. Are the risks getting worse and therefore more likely?

As auditors we don't have to audit the Enhanced Business Review, our responsibility is to ensure that the right disclosures take place within the directors' report. However, if clients want us to help them to prepare a review of their risks and set up an on-going monitoring

system we are able to do that. These will hopefully help you keep on top of risk management for the future.

Of course risks may not occur. However the probability is that some of them will and all businesses need to be ready to manage them as soon as they arrive. Don't let them catch you out!



"And you thought your job was risky?"

If you have questions regarding this, please contact Anthony Harris on 01865 261100 or email aharris@critchleys.co.uk

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Tax and your second property

Most of our clients are aware now that, when they sell their homes, they usually only have to pay Capital Gains Tax (or CGT) if the property hasn't been their home throughout their period of ownership. If you have more than one property, however, the rules can get a lot more complicated. Sometimes, the Sunday papers give advice on CGT and second properties, but we've found that they often cause more confusion than they prevent.

So here is a summary of the most important rules:

1. You can only ever have one home at any one time (although there are rules which allow you to treat another property as qualifying as your home even if it isn't). Married couples can only have one home between them. If

you're married but live separately, for work purposes, that's too bad – one of your properties isn't your home.

2. You might genuinely have two places you could call home. It could be you work in London and keep a flat there and spend the weekends back in Oxfordshire – which of these is really home? – or you have a holiday home you spend so much time in that there is real doubt which is your real home. If there is such uncertainty, you can (but see 4 below) make an election to say one is to be treated as your home and the other isn't. Once you've made the election, you can change it later.

3. This is one place where the papers get it wrong. They advise on making elections on second

properties so that you can save CGT when you sell them. But you can only make an election for a property to be your home if you actually live there. You can't elect to treat an investment property as your home.

4. The other place they get it wrong is that there is a time limit for making the election – you have two years. But two years from when? Not necessarily from when you get the second property. It's two years from when the uncertainty about which is your home began. Say you inherited the old family home in Cornwall in 1990, and you let it out as a holiday cottage. In July 2006, you retired, stopped letting the cottage, and started using it as a second home, while still living in Oxford as well. You have two years from July 2006 to make an election if you want to.

5. If you don't make an election, HMRC may end up deciding which property was your home. So if you eventually (say in 2012) sold the Oxford property in the example in 4 above, you might find they consider it to have been your home and exempt, or they might not and you might have some tax to pay.

If you have a second property and some of the issues above apply to you, and you'd like to know more, speak to your usual Critchleys contact for more information.



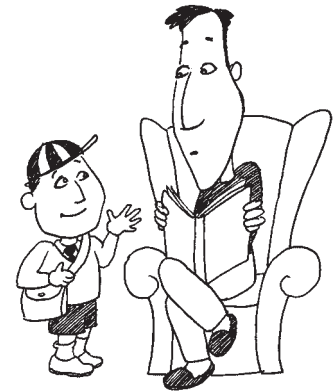
"Yes, I know we've got two years to decide, but can you please just pick one!"

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Tax tips for all

We often remind people at the end of the tax year of things they can do to minimise their tax. Actually, sometimes that's a bit late and it makes sense to remind people a bit earlier. Here are things you should consider:

1. If you are a married couple (and when we say "married couple" this includes civil partners), with one higher-rate taxpayer and one not, you should look at how your investments (shares, bank deposits etc) are held. It is often worth putting some of the investments into the name of the one that pays tax at lower rates, to save some tax.
2. Everyone has a Capital Gains Tax (or CGT) allowance of £9,200 this tax year. If you have investments where you have made large gains, and you haven't used your allowance, it's worth considering making some sales to use up the allowance to save tax in the future. You might want to sell assets and buy them back again straight away. That's more complicated for tax than it sounds — speak to us if you want to do that.
3. And don't forget that by transferring assets to your spouse or civil partner, you can split capital gains and get the benefit of an extra exemption. But transferring to someone who isn't a spouse or civil partner doesn't work, because you're treated as if you sold the assets to them at full value.
4. Everyone also has an ISA allowance of £7,000. If you have savings, and you're not using up your ISA allowance, you're missing a trick and it's worth setting up a cash ISA, even if you don't get all the benefits an ISA can provide.
5. Do you have a second property which you let? You may be able to borrow money secured on it and get tax relief for the loan. If you also have a home mortgage (which doesn't get tax relief), restructuring your borrowings could save you tax.
6. And on the subject of second homes, see our article about this subject. It may be possible to make tax elections that will save CGT.
7. Inheritance Tax (or IHT) is complicated. However, as you may be aware, if you can give assets away and live seven years, then those assets drop out of your estate. But you don't know how long you may have left! So the trick is to make gifts as soon as possible. Gifts into trusts have special IHT benefits.
8. The one that everyone forgets is this: if you get into a regular pattern of giving away surplus income, then those gifts are completely exempt from IHT even if you don't survive seven years.



"Look Dad, not only would a cash lump sum help me invest in my pension, it's good for inheritance tax too."

9. The rules for pension contributions have become more generous in the last couple of years. You can make a pension contribution up to the level of your earnings (subject to certain restrictions — contact our Independent Financial Advisors for more details) and you get full tax relief for everything invested.
10. Don't forget that Enterprise Investment Schemes (or EIS) and Venture Capital Trusts (or VCT) allow you to reclaim tax paid when you make investments. For VCTs you can get tax relief at 30%. For EIS, it's only 20% but you can also use EIS to put off CGT and shelter your estate from IHT.

If you think you may be affected by this and for further intelligent tax tips please contact Gerry Jackson on 01865 261106 or email gjackson@critchleys.co.uk.

Our Independent Financial Advisors can be contacted through Critchleys Financial Planning on 01865 261100 or email info@critchleys-fp.co.uk

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Fee protection insurance

Tax investigations can easily cost you up to £5,000 in professional fees, and sometimes even more – an unwelcome burden in an already unpleasant situation. In many cases, businesses and taxpayers under investigation pay more in fees than the additional tax they owe.

It's a harsh reality that many people feel pressurised to pay tax they believe they don't owe, because the costs of fighting HMRC are simply too high.

Even "aspect enquiries", where HMRC simply look into limited aspects of a tax return, can drag on and turn into a nightmare.

Fee protection insurance gives you the option of staying the distance, knowing that any costs associated with contesting the enquiry will be paid for you. It is worth knowing that:

- you are twice as likely not to pay any further tax if you are insured
- you are four times as likely to escape interest and penalties if you are insured

We have improved our insurance provided by Abbey Tax Protection to offer you effective, reliable cover. They will reimburse your fees if you're affected by any of these disputes and investigations:

- Income Tax self assessment full enquiries
- Corporation Tax self assessment full enquiries
- VAT disputes with HMRC
- employer compliance disputes (PAYE, NIC, P11D)
- IR35 disputes

We'll shortly be mailing out our invitation to take up Fee Protection insurance.

Please speak to your usual contact or call Gerry Jackson on 01865 261106 if you would like further information before committing, or are unsure which type of insurance is the right one for you.

Vampire Added Tax

Here's a case that has everything. The taxpayer (Saffron Burrows) is an attractive and talented actress, who appeared in a film about evil bloodsucking monsters (there might be a metaphor for tax in there somewhere.) The case illustrates the arcana of the VAT rules on cross-border services, and the willingness of HMRC to argue rather bizarre fine points.

Fortunately, there was a sensible and happy ending. Whether there will be sequels will depend upon whether HMRC appeal their loss to the High Court.

Ms Burrows appeared in the film "Perfect Creature" which was described as a vampire action movie. She took the view that her fee for acting services was within the definition of a "cultural, artistic, or entertainment" service. Such services are taxable where the performance physically takes place, in this case, New Zealand.

HMRC argued that only live performances can be taxed in this way. The principal objection appeared to be that the ultimate viewer of a film might watch it anywhere, whereas a live performance would occur in a fixed place.

So as a UK based actress Ms Burrows should have charged VAT.

In my view this analysis overlooks some rather obvious issues. Ms Burrows' customer is a production company, not the viewer.

The service she performs is materially the same whether live or for the cameras. Moreover, live performances may be recorded or broadcast globally. But above all of this is that the rules for taxing "cultural, artistic, or entertainment" services are, by VAT standards, logical and sensible. The objectives are to provide certainty of treatment, to prevent disputes between taxing authorities, and to prevent tax loss. The way the rules should work is that if Ms Burrows works in the UK, UK VAT is due, and if she works overseas, it isn't.

If HMRC were right, and film acting fees are taxed according to where the artiste is based, I suggest they all move to LA.

For more information on intelligent VAT planning, please contact Steve Chamberlain on 01865 261100 or email schamberlain@critchleys.co.uk

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The Critchleys' MINI



Passers-by outside Critchleys were reminded of *The Italian Job* when a fleet of branded-MINIs arrived at the Firm's Oxford office as part of a new company car scheme.

Robert Kirtland commented on the rationale behind the Firm's innovative idea, "We have fantastic staff who work incredibly hard and wanted to reward their excellence and commitment with a company car scheme that reflected this. The MINI Cooper's modern and stylish look is the ideal complement to our brand, with its classic design, Oxford roots and sense of innovation."

Robert Pinheiro, Marketing Manager added, "We're hoping that the Critchleys' MINI will become iconic in Oxford's contemporary culture further reinforcing our position as 'The Oxford Accountant'".

Events 2008: what's coming up

What's important to you about your investments?

Investment Management Seminar

- 26 February – North Oxford Garage BMW, Wolvercote Roundabout, Oxford

Critchleys Financial Planning and Tilneys Private Wealth Management are hosting an investment management seminar.

PlaN

- 4 March – The Magalden Centre Oxford Science Park, Oxford

Critchleys' quarterly property networking forum.

Management Buy-outs – making the transition from manager to owner

- 12 March – Blake Laphorn Tarlo Lyons, Seacourt Tower, Botley, Oxford

Critchleys are hosting a seminar on Management Buy-Outs together with Blake Laphorn Tarlo Lyons and the Royal Bank of Scotland. The purpose of this seminar is to explore the accounting, legal and banking issues arising in MBO transactions and to look at ways in which to ensure that a company is both suitable and adequately prepared for the MBO process.

Please contact Robert Pinheiro on 01865 261144 or email rpinheiro@critchleys.co.uk for more information on any event

landtax llp

Critchleys and A B Edwards & Co are pleased to announce the formation of landtax llp on 1 March 2008. The result of a joint venture between Critchleys and tax specialists A B Edwards & Co, landtax llp will be providing specialist tax and strategic planning advice to landowners to protect the family assets from the ravages of Inheritance Tax and Capital Gains Tax. The business will be based at A B Edwards & Co's existing premises in Long Hanborough and will continue the ethos of providing a truly personal service with each client having a dedicated consultant looking after their affairs.

Robert Kirtland said, "We are delighted to be working with Tony Edwards and his team of consultants to form this new business. Landtax llp will be one of the most experienced tax advisors to landowners in the

country and a firm that can truly be called specialists. In this complex fiscal regime there is no substitute for the best advice, and landtax llp is uniquely placed to provide it. The association with Critchleys also allows the provision of a full range of accountancy services if required."

Tony Edwards comments, "I have enjoyed enormously being able to run a small specialist team but it has become apparent over the last few years that, moving forward, it is not tenable for us to continue to provide clients with the type of service they have come to expect without 'back office' support. The formation of landtax llp gives the opportunity to maintain the ethos of the existing practice but to give clients and staff the assurance of continuity in the future".

