

the knowledge • emergency budget 2010



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Adrian Walker discusses opportunities for pension funding post budget.

It was some relief to the industry that there were no immediate changes to the pension tax relief rules for the current tax year.

The Chancellor confirmed the commitment to restricting tax relief for pension funding, but expressed concerns about the complexity surrounding the High Income Excess Relief charge proposed by the previous government. Powers to repeal the legislation introducing this charge will be in Finance Bill 2010.

The government will consult on alternative measures to restrict pension tax relief from 6 April 2011 by reforming existing pension tax allowances, principally through a reduced annual allowance.

These budget announcements create a focus on pension funding opportunities available for the current tax year. The key areas are summarised below.

individuals currently subject to anti-forestalling legislation

The limits on fully relievably accrual are the higher of:

- £20,000 special annual allowance.
- Up to £30,000 infrequent money purchase threshold.
- Protected Pension input on regular pension accrual before either 22 April, or 9 December 2009, depending on when relevant income became subject to the anti-forestalling rules.

These individuals should consider using their fully relievably allowances for the current tax year regardless of what the post 2011/12 regime might hold.

Advisers should take care if considering restructuring such clients' existing protected pension inputs into alternative arrangements before the end of the current tax year. The transitional rules governing continuance of protected inputs through alternative arrangements is restrictive and complex. Without due care, the result could be a decrease in the fully relievably accrual to the special annual allowance threshold for the 2010/11 tax year.

individuals not caught by the current anti-forestalling legislation

These clients can personally fund up to their relevant earnings for the current tax year. Where possible, it may be wise for those higher earners not caught by the £130,000 relevant income cap to make greater contributions this year, ahead of further potential government restrictions from next tax year.

Employed individuals can also receive extra funding through employer contributions. Corporation tax relief on such contributions is subject to HMRC's 'wholly and exclusively for purposes of trade' rules. However there is the possibility of using pension input periods to fund up to £510,000 in the current tax year without incurring tax liability.

While such planning considerations do not apply to all, they can speed up funding of future retirement provision, based on government suggestions about how the future shape of relievably contributions may look.

reclaiming the personal allowance

The Chancellor did not remove the loss of personal allowance for those with relevant income over £100,000. Paying fully relievably contributions to bring taxable income below the £100,000 threshold and fully regain the personal allowance will create an effective marginal relief rate of up to 60% on the contribution. The effective marginal tax rate reduces where clients need to pay larger contributions to regain the personal allowance but provide an attractive return on the contribution.

If no other changes occur from the 2011/12 tax year, the position will be greater when the personal allowance increases to £7,475 giving a 60% marginal rate to contributions through an earnings band of £114,950.

While it is likely that the current private pension system will change both in terms of the accumulation and decumulation rules, this will not be until next tax year. For many the opportunity to use the current annual entitlements as fully as possible may be a better option than waiting to see what the future may hold. With radical change in the offing, 'use it or lose it' is still the mantra of the day. •

This article is based on Skandia's interpretation of the law and HM Revenue & Customs practice as at June 2010. We believe this interpretation is correct, but cannot guarantee it. Tax relief and the tax treatment of investment funds may change.

Phil Carroll explores Capital Gains Tax post budget.



We all knew it was coming, the question was: what would change and how much pain would be suffered?

The result was that the rate of Capital Gains Tax (CGT) will be unchanged at 18% for individuals with total taxable gains and income of less than £37,400 for 2010/11 (the upper limit of the income tax basic rate band). For those with income and taxable gains of £37,400 or above, a rate of 28% will apply to some or all of the gain.

Clearly this will generate more revenue from those individuals who realise gains and are higher-rate taxpayers. So, planning opportunities such as making pension contributions to extend the upper limit of the basic rate band in the same year where capital gains are realised may well help keep the rate paid on such gains at 18%. However, this may not be appropriate for all clients, especially those with large gains, due to pension funding restrictions.

the details

For trustees and personal representatives of a deceased individual, the rate is increased to a flat 28% from 18% on all gains over the available annual exempt amount (AEA).

This represents an increase of 55% to those impacted and is consistent with previous income tax increases to discretionary trusts introduced in the March budget by the previous government.

The rate of CGT for gains qualifying for entrepreneurs' relief remains at 10% but in a popular move the lifetime limit on gains qualifying for entrepreneurs' relief is increased

from £2 million to £5 million for future gains.

The AEA remains at £10,100 for 2010/11. Where the use of this allowance saves tax at 18% a client will save £1,818 in tax but where it is available to be used to reduce gains at 28% it will be worth £2,828.

It is worth noting that gains arising before 23 June 2010 will continue to be liable to CGT at 18%. These will not be taken into

account in determining the rate (or rates) at which gains of individuals arising on or after 23 June 2010 should be charged. In working out the CGT payable, taxpayers will also be able to deduct losses and the AEA to minimise their tax liability.

Below I have outlined a short example of a CGT planning consideration for a client realising gains at the old and new rates. ●

new CGT regime in practice

In 2010/11 Alan's taxable income, after all allowable deductions and the personal allowance, is £27,400 (£10,000 less than the upper limit of the basic rate band of £37,400).

Alan sold an asset in May 2010 (before the change of rates on 23 June 2010) and realises a chargeable gain of £17,000. He is taxable at the old 18% rate but he is not sure if he should use his AEA against this gain. In November 2010 Alan sells another asset, realising a chargeable gain of £25,100. As it's after 23 June 2010 he is potentially liable to 28% on all or some of the gain. Alan has no allowable losses to set against these gains, and the AEA for 2010/11 is £10,100. Neither of the gains qualifies for entrepreneurs' relief.

Alan decides to set the AEA against the later gain (because part of that gain is liable to tax at the higher CGT rate), leaving £15,000 taxable (£25,100 - £10,100).

The first £10,000 of the £15,000 is taxed at 18% as it falls below the upper limit of the basic rate band and the remaining £5,000 would fall above this threshold and would be taxed at 28%.

With a net relievable pension contribution of £4,000 (grossed up to £5,000) his basic-rate tax threshold would be extended to £42,400 bringing the tax charge on the full capital gain down to 18% and generating a saving of £500 on that liability.

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