

The background of the top section of the page is a photograph of a person's hand in a grey sleeve resting on a blue bookshelf. The books on the shelf have red and blue spines. The text 'Weekly Tax Matters' is overlaid on this image in a white, sans-serif font.

Weekly Tax Matters

16 July 2010

KPMG LLP (UK)

A UK tax round-up for the period ending 16 July 2010

- Finance Bills – Progress Report
- Finance Bill: Corporation tax rate reduction - implications for tax accounting
- Bank Levy: consultation document published
- New draft HMRC guidance on company residence
- Council adopts simplified rules for VAT invoicing
- Emergency Budget Feedback Survey - how did we do?
- Other KPMG Publications
- Press releases – period ending 15 July 2010
- Key contacts

Finance Bills – Progress Report

As previously announced, the debate of Finance Bill 2010 [moved to the Committee Stage \(Committee of the Whole House\) on 12 July 2010](#). The debate continued on [13 July 2010](#) and is expected to be concluded on Tuesday 20 July 2010. The Bill is expected to receive Royal Assent before the [House of Commons rises for the summer recess on 27 July 2010](#). [Click here](#) to access the dedicated page on the Parliament website for Finance Bill 2010. *Weekly Tax Matters* will provide further updates as the Bill progresses through Parliament.

In a related development, the Government has published draft legislation on tax measures inherited from the previous Labour Government that are to be included in a third Finance Bill (the Finance (No2) Bill 2010) to be introduced in Parliament in autumn. Each piece of draft legislation is accompanied by a draft explanatory note. Comments have been invited by 3 September 2010. [Click here](#) to access these drafts.

Finance Bill: Corporation tax rate reduction - implications for tax accounting

The Finance Bill 2010 confirms KPMG in the UK's expectation that only the first one percent reduction of the announced 4 percent reduction in the corporation tax rate is to be enacted this year. This first reduction to a rate of 27 percent will be effective from 1 April 2011.

The reduction in corporate tax rates cannot be reflected in a company's accounts unless the tax rate changes have been substantively enacted (UK GAAP and IFRS) on or before the relevant balance sheet date. In the UK substantive enactment occurs when the relevant Finance Act has passed through the House of Commons. For US GAAP a company will reflect the corporation tax rate changes in its accounts on enactment of the legislation, which is when the Finance Act receives Royal Assent. Both substantive enactment and Royal Assent are expected to take place before the summer recess, so probably sometime towards the end of July 2010.

For companies preparing UK GAAP or IFRS statutory accounts whose balance sheet date is before substantive enactment but are to yet be signed, where the effect of enacted or announced changes in tax rates is expected to be material, then there should be disclosure of the announced rate changes together with, as a minimum, a general indication of the likely effect or a statement that an estimate of the effect cannot be made. In assessing the appropriate level of disclosure, any significant effect of the first one percent rate reduction on deferred tax balances at the balance sheet date would be expected to be disclosed. In many cases it may not yet be practicable to quantify the full effect of the announced further 3 percent rate reduction, particularly as this is expected to be accompanied by changes in the rate of capital allowances, which may affect the timing of reversal of temporary differences.

For companies preparing UK GAAP or IFRS statutory accounts whose balance sheet date is after the substantive enactment of the first one percent rate reduction, deferred tax would be recalculated, based on the new rate. For an entity with a 31 December 2010 year end this would mean using a rate of 27.25 percent for temporary (or timing) differences reversing in the year to 31 December 2011 and 27 percent for temporary (or timing) differences reversing thereafter. It should be noted that the effect of the re-measurement will be taken to the income statement or other comprehensive income/directly to equity depending on where the original entry to recognise the deferred tax was recorded. No account should be taken of the further 3 percent reduction although, where material, there should

Weekly Tax Matters: 16 July 2010.

be disclosure of the announced rate changes together with, as a minimum, a general indication of the likely effect or a statement that an estimate of the effect cannot be made.

For companies preparing Interim Financial Statements the position is broadly similar. Interim financial statements under both UK GAAP and IFRS should reflect tax based on rates which are substantively enacted or enacted at the interim balance sheet date and therefore if the interim balance sheet date is before substantive enactment then deferred tax will be calculated at the current tax rate of 28 percent. If material, disclosure will be required, again as previously detailed, of the nature and effect of the announced 4 percent rate reduction.

If the interim balance sheet date is after substantive enactment, deferred tax will be calculated based on the new lower rate of 27 percent as explained above. Disclosure as previously detailed would be required, where the effect is material, of the nature and effect of the further 3 percent reduction.

The position for accounts prepared under US GAAP is similar and while there is no specific guidance requiring quantitative disclosures surrounding an expected change in future tax rates, if the impact could be material, it would be expected that a company would include a disclosure similar to that for IFRS and UK GAAP. This information would be important to a user of the financial statements.

Bank Levy: consultation document published

The Government announced in the 2010 emergency Budget that it is planning to introduce a Bank Levy from 1 January 2011. HM Treasury have now published a [consultation document on technical aspects of the design and implementation of the Levy](#).

Key issues for banks to address include:

1. Global reach

UK banks should quantify the impact of the levy to demonstrate to HM Revenue & Customs (HMRC) the penal impact of a global approach, compared with a levy only on their UK operations. Banks will need to start factoring the levy into business plans and decisions on group structure and funding strategy, although such forward planning will be hampered by the fact that the final design of the levy may well differ from what is currently envisaged.

HMRC have stated that they will enter into discussions with other countries that plan to introduce a similar levy (e.g. France, Germany and US) to avoid double taxation of the same liabilities. Banks will need to be clear on the attribution of assets and liabilities between head office and branches in other countries, in accordance with OECD principles.

2. Non-UK banks' branch liabilities

A big question for foreign banks is how they determine the relevant liabilities for their UK branches. The consultation document proposes two possible methods, based in part on the existing branch capital attribution methodology that is used for tax purposes to determine the notional capital required in a branch. Both methods raise significant concerns as many branches do not recreate a full branch balance sheet for tax purposes. For example, banks with a global trading book need to know how they should allocate liabilities to their UK operations.

	<p><i>3. Intra-group lending</i> Inter-company balances within the UK are excluded. However, UK liabilities in respect of loans from non-UK group companies are treated as short-term liabilities. They will be subject to the higher levy rate unless it can be demonstrated that the loan is backed by external long-term funding. Banks that base their group treasury function in the UK will be adversely impacted and should lobby for the exclusion for all intra-group funding. The different treatment for UK to UK loans and UK to non-UK loans risks a discrimination challenge under EU law.</p> <p><i>4. Netting derivatives</i> Under the current proposals, banks with derivative assets and liabilities will only be allowed counterparty netting of exposures in accordance with Basel II.</p> <p><i>5. Insured retail deposits</i> Retail deposits covered by a statutory, or State-run, guarantee or insurance scheme are excluded. Banks should lobby for the exclusion of other retail deposits – it is possible that HMRC have underestimated the extent to which many retail deposits are not covered by such a scheme (for instance UK deposits in excess of £50,000).</p> <p><i>6. Sovereign debt repos</i> The exclusion for repo liabilities secured against sovereign debt may be extended to all high quality assets currently permitted by the FSA to be included in a bank's liquid assets buffer. Banks may wish to lobby for this extension, although the tone of the consultation document suggests that favourable changes to one aspect of the levy are likely to be matched by adverse changes elsewhere, with a view to ensuring that the levy raises revenue in accordance with HM Treasury's initial estimate (an annual figure of £2.5 billion is mentioned, although the actual yield may be well in excess of that).</p> <p>Comments have been requested by 5 October 2010.</p>
<p>New draft HMRC guidance on company residence</p>	<p>New draft guidance on the situations in which HM Revenue & Customs (HMRC) will not usually review a company's residence status has been published for comment on the HMRC website. The draft guidance includes a number of examples of situations where HMRC will not normally argue that a company is UK resident - these focus mainly on the residence of board directors and where board meetings are held. HMRC are inviting comments; if you have any points you would like to be made please speak to your usual contact in KPMG in the UK's Tax and Pensions practice.</p>
<p>Council adopts simplified rules for VAT invoicing</p>	<p>At an ECOFIN meeting on 13 July the Council has adopted the amendments to the Directive as regards the rules on invoicing. The aim of the proposal was to increase the use of electronic invoicing, reduce burdens on business, support small and medium sized enterprises (SMEs) and help Member States to tackle fraud. As well as aiming to simplify and harmonise invoicing rules it is also intended to eliminate the current barriers to e-invoicing by treating paper and electronic invoices equally. The new rules will have effect from 1 January 2013.</p> <p>To read the Council's press release, click here.</p> <p>For the final version of the changes, click here, with a subsequent addition here.</p>

Emergency Budget Feedback Survey - how did we do?	<p>As part of a continual review of our Budget Campaigns, we would be grateful if you could take the time to complete our short online survey. This should take you no longer than five minutes to complete and will help us to ensure we are providing our clients with the best commentary possible.</p>
Other KPMG publications	<p>You may also be interested in the following recently released publications:</p> <ul style="list-style-type: none"> • Indirect Tax Update 27/10 – week commencing 12 July 2010 – KPMG in the UK's weekly update on indirect tax matters. • Taxation of cross-border mergers and acquisitions – This is an overview of international tax issues that may affect cross-border mergers and acquisitions by KPMG International. • Portugal Tax Update – This is an update from KPMG in Portugal of changes to Portuguese tax law.
Press releases for the period ending 15 July 2010	<p>15 July 2010 – HM Revenue & Customs – Urgent reminder for tax credit claimants This press release announces that HMRC is sending an urgent reminder to tax credit claimants to renew their claim by 31 July or have their payments stopped.</p>

Key contacts for this week's edition

Name	Title of the article	Phone number	Email address
Neil Henderson	Finance Bill: Corporation tax rate – reduction implications for tax accounting	020 7694 3466	neil.henderson@kpmg.co.uk
Mark Couch		0121 232 3640	mark.couch@kpmg.co.uk
Liz Elsworth		020 7311 5809	elizabeth.elsworth@kpmg.co.uk
Tony Urwin	Bank Levy: consultation document published	020 73115744	tony.urwin@kpmg.co.uk
Tom Aston		020 7311 5811	tom.aston@kpmg.co.uk
Alastair Munro	New draft HMRC guidance on company residence	020 7311 4786	alastair.munro@kpmg.co.uk
Bob Lewis		020 7311 3445	bob.lewis@kpmg.co.uk
Peter Booth		020 7311 3071	peter.booth@kpmg.co.uk
Stephen Powell	Council adopts simplified rules for VAT invoicing	020 7311 2746	stephen.powell@kpmg.co.uk
Karen Killington		01293 652 083	karen.killinton@kpmg.co.uk

Weekly Tax Matters: 16 July 2010

The information contained herein is of a general nature and is intended to provide an overview of UK tax developments, together with certain overseas tax developments likely to be of interest to a UK audience. It is not intended to provide a complete update on all (UK or non-UK) tax-related developments, nor to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2010 KPMG LLP, a UK limited liability partnership, is a subsidiary of KPMG Europe LLP and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative, a Swiss entity. All rights reserved.
KPMG and the KPMG logo are registered trademarks of KPMG International Cooperative, a Swiss entity.