



Tax Update Series 2014

Michael Steed

MA(Cantab), CTA(Fellow), ATT(Fellow), MAAT

Deputy President of the ATT.



Marion Hodgkiss

BSc CTA FCA ATT



Contents

- 1 Personal allowances, tax rates and NIC issues;
- 2 Pension changes;
- 3 Savings and investment;
- 4 Business tax issues;
- 5 Tax relief on travel expenses;
- 6 Employee tax
- 7 Capital taxation;
- 8 VAT points.



1 Personal Allowances, tax rates and NIC issues



Personal allowances

	<i>2013/14</i>	<i>2014/15</i>
	<i>£</i>	<i>£</i>
Personal allowance	9,440	10,000
Age allow – 65 – 74 if 65 on 6 April 2013	10,500	10,500
Age allow – 75 or over at 6 April 2013	10,660	10,660
Income limit for Age Allowance	26,100	27,000
Married Couples Allowance	7,915	8,165
MCA minimum amount	3,040	3,140

Rates and bands

	10/11	11/12	12/13	13/14	14/15	15/16
PA	6,475	7,475	8,105	9,440	10,000	10,500
Basic rate limit	37,400	35,000	34,370	32,010	31,865	31,785
HR threshold	43,875	42,475	42,475	41,450	41,865	42,285

Rates and bands

- Note that the higher rate threshold will rise to £41,865 for 2014-15, and then to £42,285 in 2015-16;
- This move is aimed at helping middle income workers and keeps a commitment to raise the threshold by 1 per cent in 2015-16, announced at Autumn Statement 2012;
- BUT....the number of higher rate taxpayers has risen dramatically since 2010, from 3m to 4.6m (source ONS)!

Did you know....?

- 1% of taxpayers pay the additional rate of tax;
- They contribute 29.7% of income tax revenues to the Government;
- 14.7% of taxpayers pay the higher rate of tax;
- They contribute 36.8% of income tax revenue;
- 81.6% pay the basic rate of tax;
- They contribute 33.2% of income tax revenue.

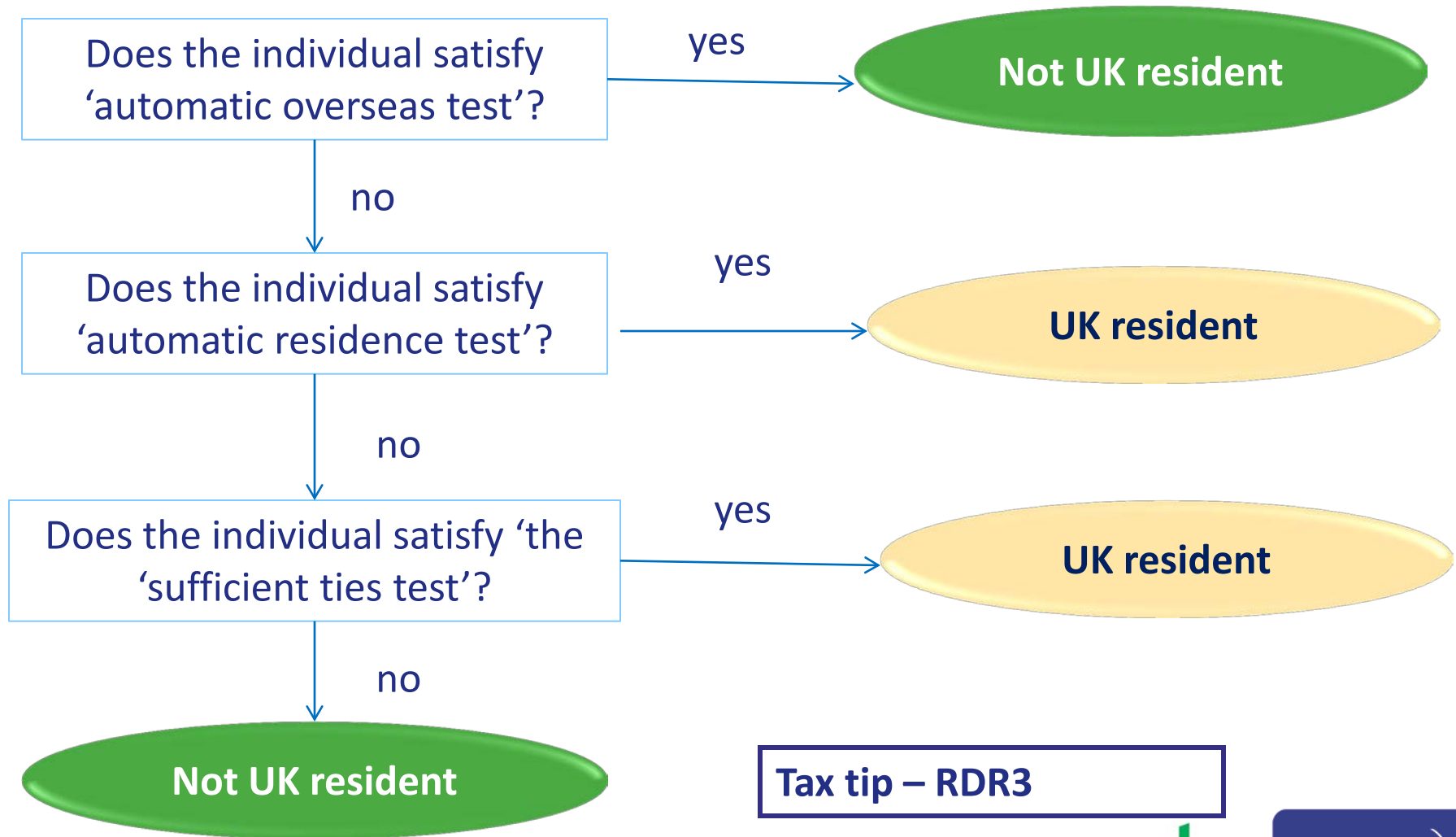
Transferable personal allowance-2015

- In the Autumn Statement, the Chancellor announced that from April 2015, a spouse or civil partner will be entitled to transfer up to £1,000 of their PA to their spouse or civil partner.
- New in the 2014 Budget is the announcement that for 2015/16, the amount which can be transferred will be increased to £1,050 and from 2016-17, the transferable amount will be 10 per cent of the basic personal allowance.
- The allowance can only be transferred where neither the transferor nor transferee is liable to income tax above the basic rate for a tax year.

Personal allowances for non-residents

- The government intends to consult on whether and how the personal allowance could be restricted to UK residents and those living overseas who have strong economic connections in the UK;
- At the moment, the PA is available to a wide selection of people, including:
 - UK tax residents;
 - Citizens of EEA States;
 - Crown servants working abroad.

Statutory residence rules

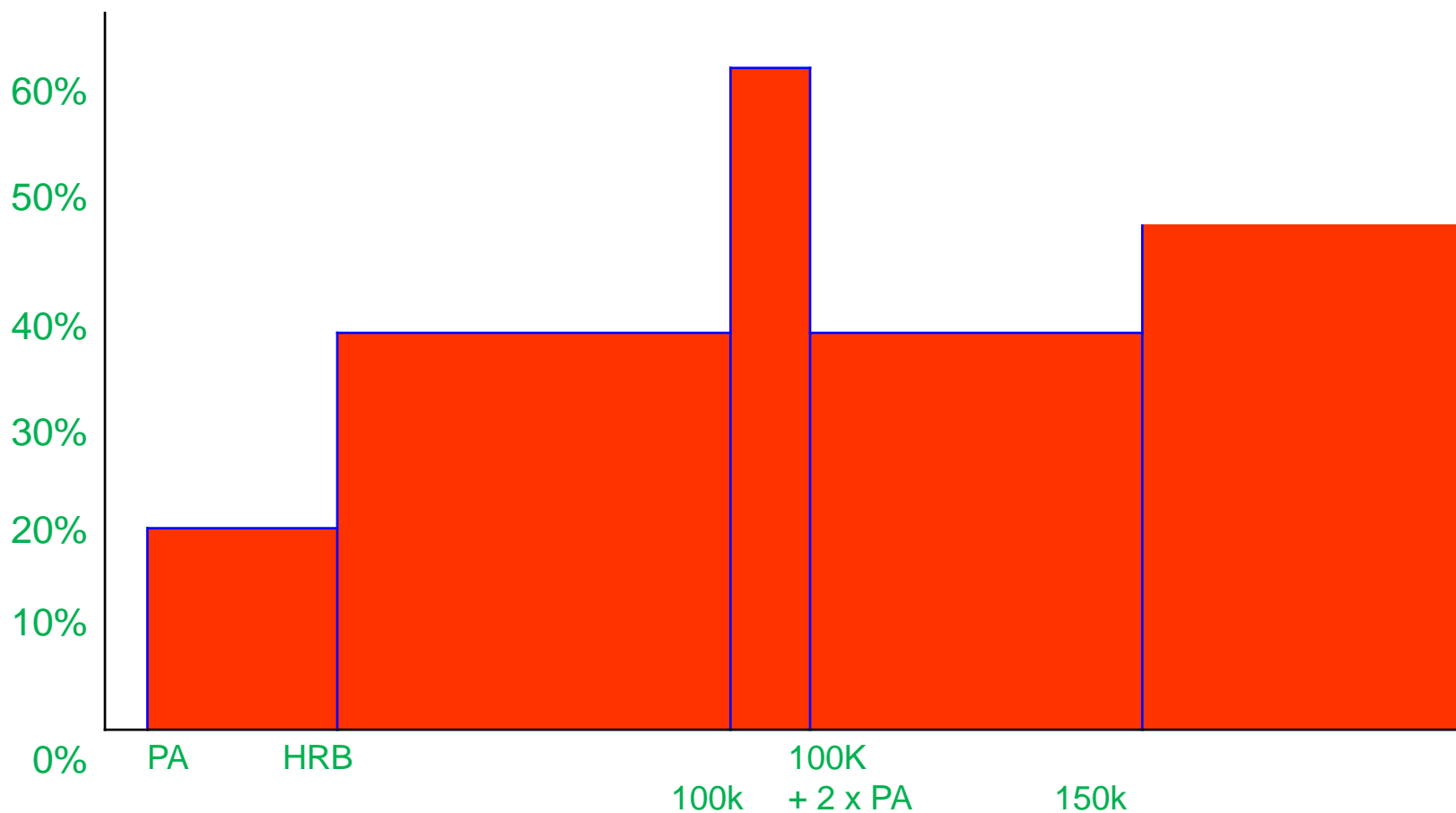


Tax tip – RDR3

Question

- UK citizen moves to Australia and rents her house whilst she is gone;
- Can she have a personal allowance to put against her letting profits?
- What difference would it make if it was an Australian citizen who had a let property in the UK?
- Tax tip: Look at RDR1 (on HMRC's website)

Marginal tax rates 2010/11 onwards



Reducing allowances

- Age allowance reduced by £1 for every £2 above income threshold
 - cannot be reduced below standard PA
- PA reduced by £1 for every £2 individual's income >£100,000
 - taxable income reduced for
 - gross personal pension contributions
 - gross gift aid

Example - David

David has earned income of £120,000 before allowances in 2014/15.

He has paid contributions of £5,600 to a personal pension and £3,600 to charity during the year.

	£	£
Personal allowance 2014/15		10,000
Income	120,000	
Personal pension £5,600 x 100/80	(7,000)	
Gift aid £3,600 x 100/80	<u>(4,500)</u>	
	<u>108,500</u>	
PA restriction $\frac{1}{2}$ x 8,500 (the excess)		<u>(4,250)</u>
Revised personal allowance		<u>5,750</u>

Using carry back of charitable donations (AR)

- Don't forget.....
- Charitable contributions can be made in one year and carried back to the preceding one;
- The carry back has to be made in the original return, as the filing of the return for the year triggers the claim date for the carry back of the contributions.

Using family members' allowances

- Transferring assets to your family;
- Spousal/CP exemption for CGT and IHT – but not other family members (“connected persons”, so MV);
- The Settlements legislation and minor children;
- £100 de minimis.

Using family members' allowances

- Use of Gift relief under S165? – but restricted to business assets;
- Grandparent gifts- not bound by the settlements rules;
- Money to them and then to children?
- Employing teenagers in the family business - even make them a shareholder?
- NMW/ child protection issues;
- Also Companies House rules.

National Insurance issues

National Insurance – changes of rates

Class 1 – NCO	2013/14	2014/15
Employees		
Lower Earnings Limit	£109pw	£111pw
Primary threshold	£149pw/£7,755pa	£153pw/£7,956pa
Upper Earnings Limit	£797pw/£41,450pa	£805pw/£41,865
Rates applied	12/2%	12/2%
Employers		
Secondary threshold	£148pw/£7,696pa	£153pw/£7,956pa
Rate applied	13.8%	13.8%
Class 1A and 1B	13.8%	13.8%

Employment allowance

- 2014/15 – businesses and charities
- Deduct £2,000 from Employer's NIC
 - before SMP adjustments etc
- Connected businesses – only one allowance
 - companies under common control
 - one company controls another
 - charities linked if substantially same purpose
 - charities linked with trading companies they own

Employment allowance

- Only one EA even where > 1 PAYE scheme
- Not available for Class 1A or Class 1B contributions
- Not available against NIC on deemed payments for PSCs and MSCs
- Not available if business function is wholly or mainly of a “public nature”
 - mainly >50%

"Public nature" means?

- NHS services
- GP services
- managing housing stock by or for local council
- providing meals on wheels for local council
- refuse collections for local council
- prison services
- collecting debt for a Government department
- Not included
 - providing security and cleaning services for public buildings such as council or govt office
 - supplying IT services for govt or local councils

Excluded employers

- Excluded employers
 - where employed for personal, household or domestic work
 - public authorities inc local, district and parish councils
- Claim by deducting allowance from NIC due (secondary only) on FIFO basis
 - once claimed HMRC will assume ongoing eligibility for later years

Employment allowance

- If > 1 PAYE scheme and allowance not fully used against first can claim repayment at year end if others have sufficient secondary contributions paid
- If claim made post y/e allowance will be set-off against any o/s PAYE liabilities before repayment
- Must claim < 4 years of end of tax year
 - amount then c/f for later deduction unless notify repayment

Will the EA be useful to NIC salary companies?

- Will it be worthwhile for a small one-man company that takes a NIC salary and strips the rest of the profits out as dividends?
- $(X - 7956(\text{ST})) * 13.8/100 = £2,000$
- $X = £22,450;$
- So, unlikely to be of interest to the one-man-band company, (however, see next slide) but the existence of non-family employees is likely to change that decision.

Using the EA

- What difference would it make if we raised our one-man band company salary to £10,000?

2015 changes to employer contributions

- Abolition of employer contributions for employees under 21 - from April 2015;
- Exemption applies to earnings up to UEL;
- Not primary or Class 1A contributions;
- Likely to attract employers to employing younger people?

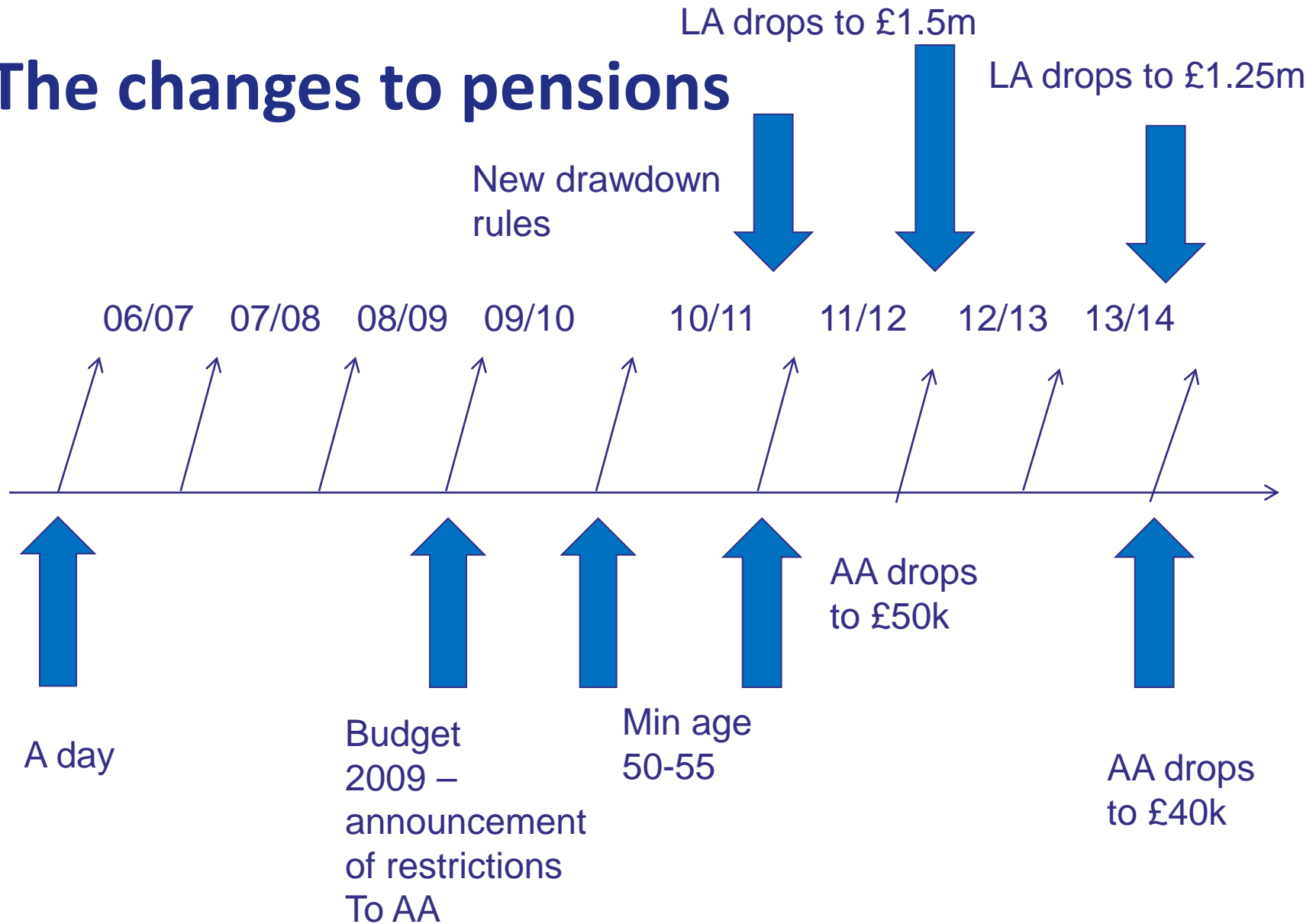
Class 2 NICs: "simplification"?

- The government intends to go ahead with its plans to simplify the administrative process for the self-employed by using self assessment to collect Class 2 NICs alongside income tax and Class 4 NICs;
- Why does this need to be done?
- “If it ain’t broke, don’t fix it”

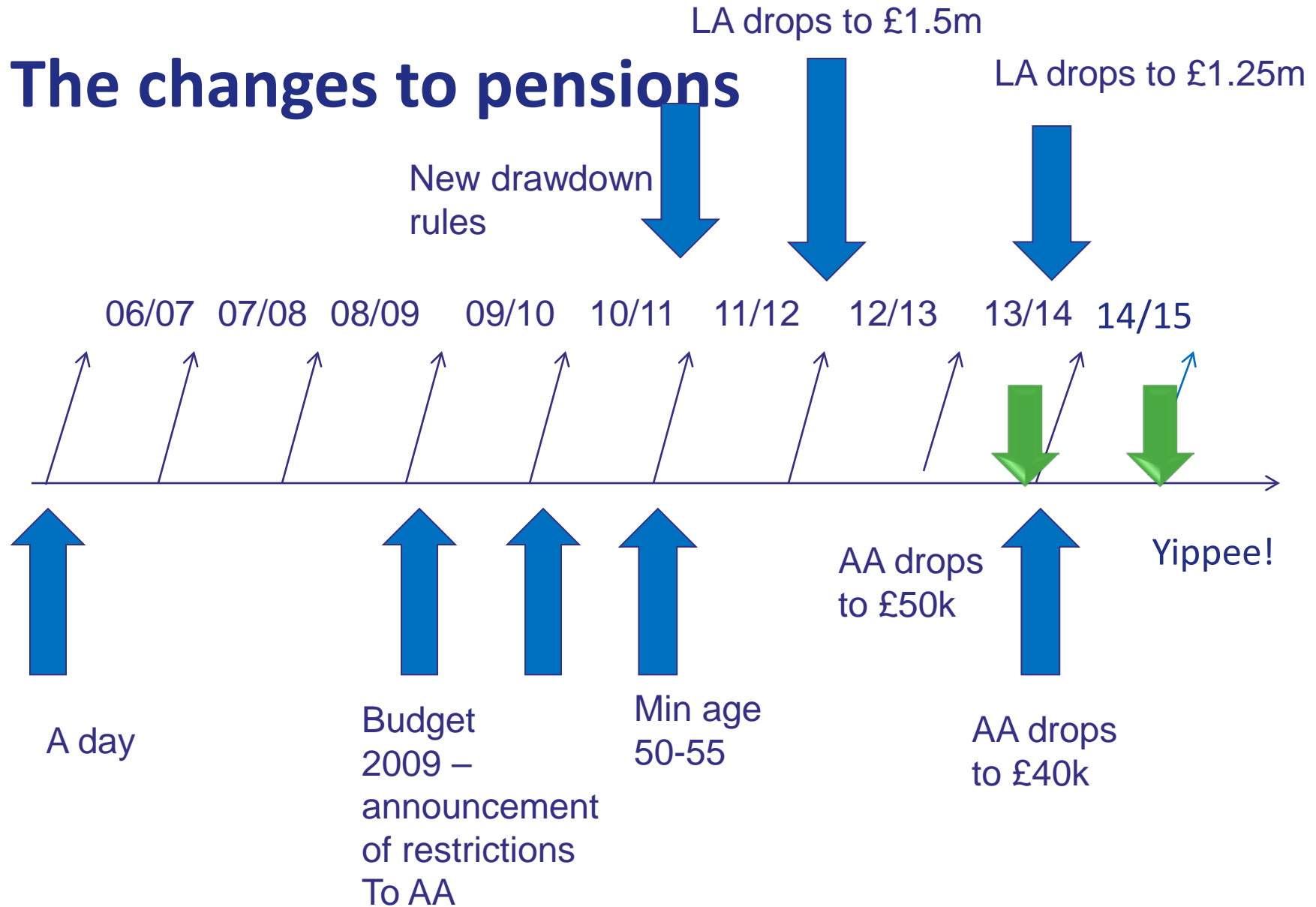
2 Pensions change



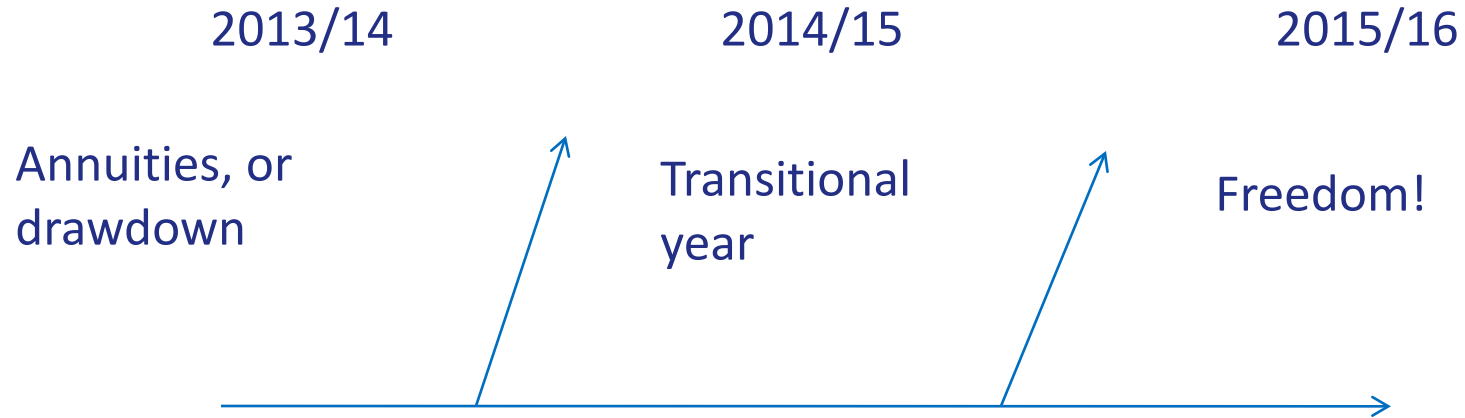
The changes to pensions



The changes to pensions



2014/15- the transitional year



**Note: money purchase schemes
(defined contribution) only – not final
salary schemes!**

Pension changes – from 27 March 2014 – transitional provisions – one year.

- Pensions flexibility - Legislation will be introduced in FB 2014 to:
- Reduce the minimum income requirement for accessing **flexible drawdown** to £12,000;
- Increase the **capped drawdown** limit to 150% of an equivalent annuity;
- Increase the total pension wealth that people can have before they are no longer entitled to receive lump sums under trivial commutation rules to £30,000;
- Increase the small pots limit, raising the size of a pension pot that can be taken as a lump sum regardless of total pension wealth, to £10,000.

Changes to pensions – a bit more detail!

- Drawdown of pension funds can either be **capped** or **flexible**. Capped drawdown is currently restricted to 120% of the basis amount (the equivalent annuity); this limit will be increased to 150%;
- Under **flexible drawdown** there is no cap provided the individual has other income of £20,000; this income threshold will be reduced to £12,000.
- Where an individual over age 60 has total pension rights under all registered pension schemes of less than £18,000 a trivial lump sum commutation can be paid of the full amount. The limit of £18,000 will be increased to £30,000.

Changes to pensions – a bit more detail!

- Currently up to two pension pots with a value less than £2,000 can be taken as a lump sum;
- The limit will be increased to £10,000 and will apply to three pension pots.
- From April 2015, withdrawals of the pension pot will be taxed at the marginal rates of the pensioner rather than at the flat rate of 55% as at present and there will be consultation with regards to the 55% rate applied to certain pensions on the death of the pensioner.

Drawdown -pensions

- A pensioner is allowed to 'drawdown' income from his pension fund of up to 120% of the relevant annuity which could have been purchased by that fund;
- This percentage is to be increased to 150 per cent for pension years starting on or after 27 March.

Pensions tax relief: abolish the age 75 rule?

- The Government has also said that it will explore with interested parties whether those tax rules, that prevent individuals aged 75 and over from claiming tax relief on their pension contributions, should be amended or abolished.

Pension tax relief – a question.....

- Robert has his own one-man band company;
- He takes an NIC salary of £7,500 each year and takes the rest of his remuneration as post-tax dividends;
- How much pension contribution can be made in 2014/15?

Auto-enrolment for pensions

- Employers required to offer pension to employees from staging date
 - www.thepensionersregulator.gov.uk/employers/staging-date-timeline.aspx
- All should be included by April 2018
- Include in existing scheme or set up new one
 - National Employment Savings Trust – NEST - can be used
 - but not compulsory
 - meant to have lower set-up and running costs

Pensioner top-ups – Class 3A NICs

- Pensioners have the right to top up their pensions by another class of voluntary NIC contributions;
- Intended to help those who will miss out on the new single-tier pension from April 2016;
- And who reach state pension age by April 2016;
- Limited window from October 2015;

Pensioner top-ups – Class 3A NICs

- Can buy up to £25 per week extra pension;
- Cost for £25 per week will be around £21,000 (about 50% of the open market cost;
- Who will take this up?
- Pensioners in good health, but not pensioners with lower life expectancy.



3 Savings and investment



Starting rate for savings income-2015

- From 6 April 2015 the starting rate of tax for savings income (such as bank or building society interest) will be reduced from 10% to 0% per cent and the maximum amount of taxable savings income that can be eligible for this starting rate will be increased from £2,880 to £5,000;
- One of the effects of this change, when combined with changes to the PA, is that savers will not be liable for tax on any interest they receive if their total taxable income for 2015-16 is less than £15,500.

Tax rates

	<i>2013/14</i>	<i>2014/15</i>	<i>Non-savings and savings</i>	<i>Dividends</i>
Starting rate to	£2,790	£2,880	10% for savings	10%
Basic rate to	£32,010	£31,865	20%	10%
Higher rate to	£150,000	£150,000	40%	32.5%
Additional rate	45/37.5%			
Rate applicable to trusts	45/37.5%			

Savings income 2015

- If the total of your taxable income for 2015-16 will be below £15,500, you will not be liable to pay tax on any of your savings income in this year.
- If your total taxable income for 2015-16 will be more than £15,500, but your non-savings income (such as earnings or pensions) will be less than £15,500, you will not pay tax on a part of your savings income;
- This will be the amount of your savings income that - when you add it to your other taxable income - comes to £15,500.

Savings income - 2015

- If your total taxable non-savings income (such as earnings or pensions) for 2015-16 will be more than £15,500, there will be no change and your savings income will continue to be liable to tax as normal.

What counts as savings income?

- Interest from savings accounts with banks, building societies and other account providers, such as credit unions;
- Interest distributions from authorised unit trusts and open-ended investment companies (OEICs);
- Income which is not interest, such as the profit on government or company bonds which are issued at a discount or repayable at a premium;
- Other types of savings income include purchased life annuity payments and gains from certain contracts for life insurance.

Example - Cormack

	£
State pension	£5,000
Private pension	£8,000
Bank (gross)	1,000 (£200 tax credit)
Total taxable income	14,000

£	£
Non Savings Income	Savings income
13,000	1,000
(10,500) Age Allowance	
2,500	

Conclusion: No tax to pay on savings income

Changes to ISAs

- From 1 July 2014 the ISA regulations will be greatly simplified and the medium re-launched under the new name of New ISA (NISA);
- All existing ISAs will become NISAs on that date.
- Until now an investor could invest up to the ISA limit (£11,520 for 2013/14) in stocks and shares although up to half this total could be invested in a cash ISA deposit account instead (£5,760 for 2013/14);
- Many people utilise just the cash savings total and do not purchase any shares or unit trusts.

Changes to ISAs

- From 1 July 2014 the investor will be able to invest in any combination of cash or shares up to a total of £15,000;
- This means that for the first time subscribers can use the annual maximum wholly for a cash account;
- The Government accepts this may mean a shift in the composition of savings portfolios towards cash deposits.

Pensioner bonds

- A range of fixed rate bonds for those aged 65 and over will be introduced in January 2015 by National Savings & Investments, with a maximum holding of £10,000 per person;
- The interest rates to be paid will be announced in the December 2014 Autumn Statement but are currently expected to be 2.8% gross for the one-year year bond and 4% gross for the three-year bond;
- These are better than existing savings offerings, so are expected to be popular;
- Inflation expectations?

The Seed Enterprise Investment Scheme (SEIS)

- The SEIS was introduced in Finance Act 2012 as a temporary measure running from 6 April 2012 to help small, early stage companies raise equity by providing reliefs to the individuals investing in such companies;
- The reliefs available under SEIS take the form of an income tax reduction and two capital gains tax exemptions; one on the disposal of SEIS shares and the other for reinvesting chargeable gains in SEIS shares;

The Seed Enterprise Investment Scheme (SEIS)

- Legislation has been introduced in FB 2014 to make both the income tax and the CGT reliefs permanent;
- These changes will come into force from Royal Assent to Finance Bill 2014 and, for CGT reinvestment relief, have effect for 2014-15 and subsequent years.

The Seed Enterprise Investment Scheme (SEIS)

- The company's gross assets before the issue of the shares must not exceed £200,000;
- Number of full time equivalent employees less than 25;
- Permanent establishment in the UK;
- Maximum investment per person £100K;
- Maximum that can be raised under the scheme is £150K.

The SEIS – investor requirements

- As an investor you may be eligible for tax relief providing:
- You have subscribed for shares which have been issued to you and which at the time of issue were fully paid for. You may subscribe via a nominee;
- You do not have a 'substantial interest' in the company, at any time from date of incorporation of the company to the third anniversary of the date of issue of the shares.

The SEIS – substantial interest?

- 'Substantial interest' is defined as owning more than 30 per cent of the company's issued share capital, or of its voting rights, or of the rights to its assets in a winding up. Shareholdings of associates are taken into account in arriving at the 30 per cent figure;
- 'Associates' include business partners, trustees of any settlement of which the investor is a settlor or beneficiary, and relatives. Relatives for this purpose are spouses and civil partners, parents and grandparents, children and grandchildren. Brothers and sisters are not counted as associates for SEIS purposes.

The SEIS – investor requirements

- You are not employed by the company at any time during the period from date of issue of the shares, to the third anniversary of that date;
- For this purpose, you are not treated as employed by the company if you are a director of the company.
- (from HMRC website)

SEIS - conclusion

- Growing in popularity;
- Could be of interest to brother/sisters wishing to start a business;
- Each of them is best considered as a “family unit”, so include spouses, children etc;
- OK for friends and business associates as well (not bound by the “associates” rule.

4 Business tax issues

Corporate tax road map



Lowering tax rates whilst maintaining tax base

Maintaining stability – and allowing companies certainty re tax regime

Tax regime must be competitive to attract/retain business in UK

Avoiding complexity

Tax should not distort business and commercial decisions

Areas of change along the corporate road map

- Already implemented:
 - Reduction in CT rate from 23% to 21% (from 1 April 2014);
 - Worldwide debt cap;
 - Exemption of most dividend income from CT;
 - Taxation of overseas branches;
 - Controlled Foreign Companies;
 - Innovation and IP (Patent Box);
 - R&D Tax credit.

Merging CT rates

	Main rate of CT %	Small profits Rate %	Marginal rate %
FY 2012	24	20	25
FY 2013	23	20	23.75
FY2014	21	20	21.25
FY2015	20	20	N/A

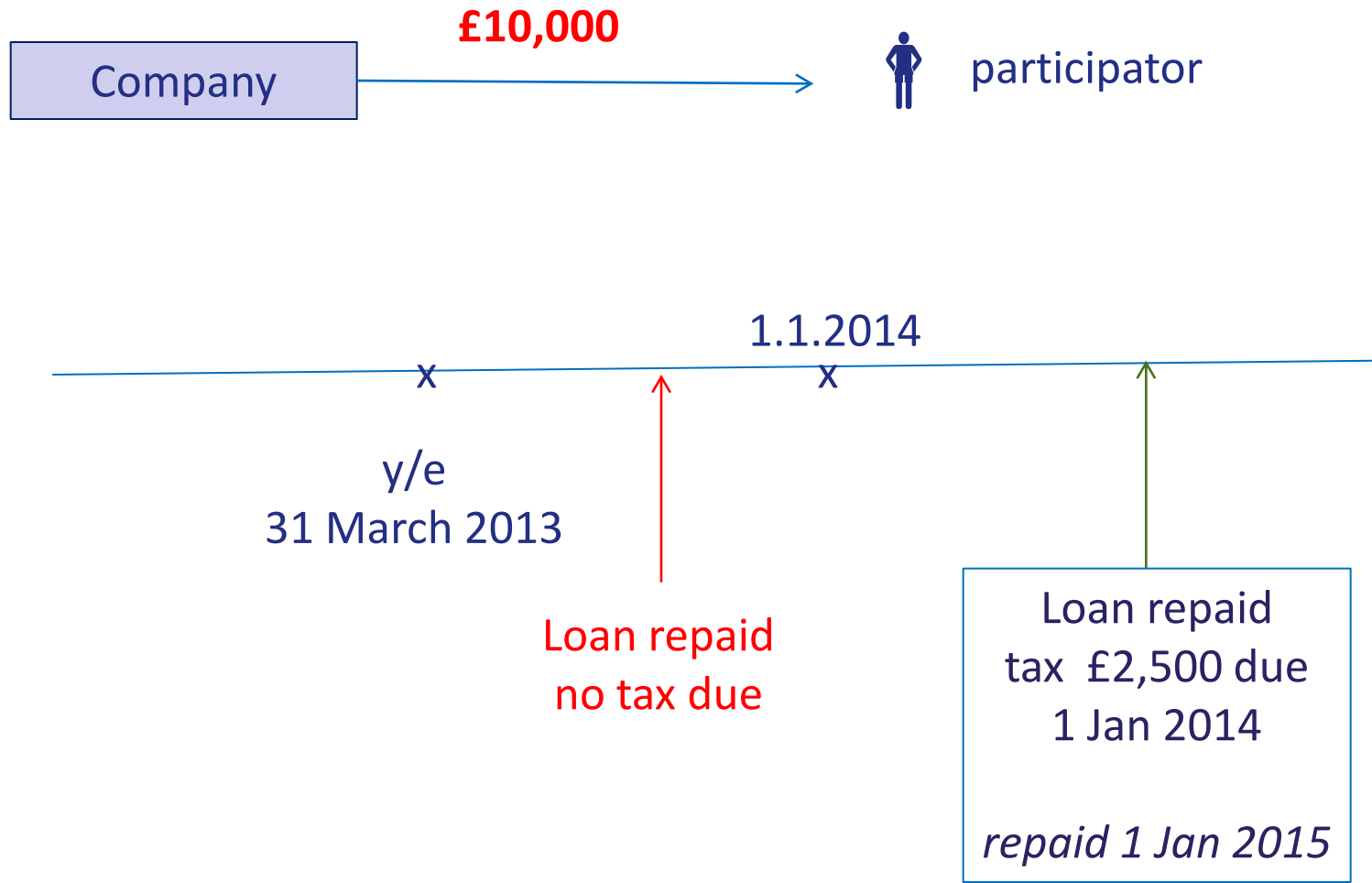
Note the implications for FY 2015 – no more associated company rules!

Quarterly CT payment rules based on limits and associates – based on Financial Reporting – so 51% subsidiaries

The Patent Box

- Companies within the charge to corporation tax that actively hold qualifying patents and some other forms of intellectual property ('IP') will qualify for a 10% CT rate from April 2013;
- Patents are used by a wide variety of businesses, but particular sectors likely to benefit are pharmaceuticals, life sciences, manufacturing, electronics, and defence.

Loans to participators – s455 charge



Loans to participators - 2

- Partial repayment triggers proportionate reclaim for coy
- Loan w/off - company recovers outstanding s455 tax
 - but no CT deduction for amount w/off
- Individual liable to IT on amount written off
 - taxed as distribution
- No IT/NIC for w/off on death of shareholder
- Don't forget BLK if interest free and n/e £5,000
 - increasing to £10,000 from April 2014

Consultation on s455 charge

- Options for further change
 1. no change
 2. increase charge from 25% to 40%
 3. reduce charge rate but impose annually
 4. use average amount outstanding for period rather than year end amount
- Announced no change to 3 and 4

Mixed partnerships

- From the Autumn Statement 2013;
- Having a corporate member in a partnership and where the profits are diverted to the corporate member;
- To save tax;
- Regarded as unacceptable to the Government;
- So the transfer is ignored and retaxed on the partners.

LLPs and salaried members

- From April 2014, an individual will be regarded as a salaried member where all of three conditions are met:
- Condition A - disguised salary remuneration
 - it is reasonable to expect amounts payable by LLP are directly linked to performance of services for LLP
 - which 80% or more made up of disguised salary
 - Disguised salary is
 - (a) fixed
 - (b) if variable not directly linked to profits/losses of LLP or
 - (c) where in practice not affected by overall p/l of LLP

Disguised salary

- Does not include benefits
- Must be based on profits of business as a whole
 - not part of business member responsible for

Salaried Members

- Condition B – Influence
 - the individual does not have significant influence over the affairs of the LLP
 - not enough to be on management committee
 - must be over whole business not just part

Capital contribution

- Condition C
 - Member's contribution to LLP is <25% of the projected profit entitlement for the year
 - fixed profit share plus bonuses and other profit allocations
 - does not include future potential payments, current account, tax reserve account
 - If make firm commitment to contribute within 3m of 6 April 2014 will be OK
 - new members must provide capital < 2m of becoming member

Example

- Jane is a partner in a firm of solicitors and she has been offered a partnership position in another firm (an LLP);
- The partnership deed says that Jane can have the first £130,000 of profits.
- There are four partners and Jane will make the fifth;
- Will Jane be caught by the new rules?

Capital allowances

Plant and machinery

- Machinery generally easy to identify;
- Plant much more difficult – so lots of tax cases;
- Generally they turn on “function or setting”?
- They are not always intuitive.

Plant?

- What about software and website development?
- Is it capital in the first place?
- Licence to use v bespoke;
- Active or passive websites?

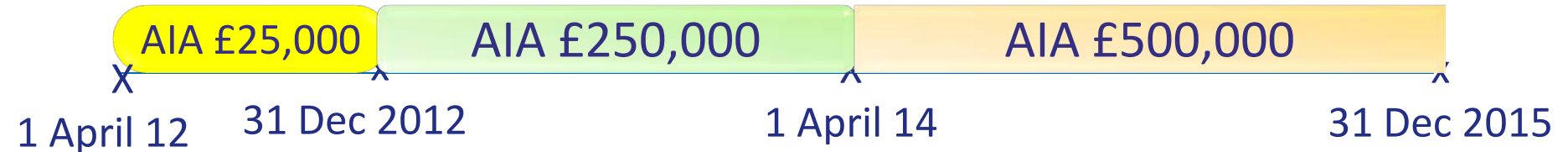
The Annual Investment Allowance

- The Chancellor announced in the Budget that the AIA is to be increased to £500,000;
- This will apply to all qualifying investments by companies made on or after 1 April 2014 (6 April 2014 for income tax).
- The calculations for businesses - it's not just simple time apportionment – there is an overlay restriction.
- From 1 January 2016, the rate will revert to £25,000.

The Annual Investment Allowance

- 1/6 April 2008 to April 2010 £50,000
- 1/6 April 2010 to April 2012 £100,000
- 1/6 April 2012 to 31 December 2012 £25,000
- 1 January 2013 to 31 March 2014/5 April 2014 £250,000
- 1/6 April 2014 to 31 December 2015 £500,000
- 1 January 2016 onwards £25,000

Example y/e 31/03/13



←→
Year ended 31.3.2013

$$(275/365) \times £25,000 + (90/365 \times £250,000) = £18,836 + 61,644$$

£80,480

Max for expenditure:

1.4.2012 – 31.12.2012 = £25,000

1.1.2013 – 31.3.2013 = unused amount up to £80,480

Example – y/e 31/03/14

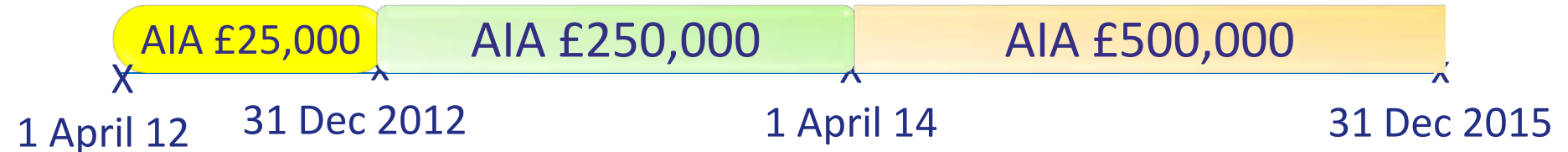


Year ended 31.3.2014

$(365/365) \times £250,000$

£250,000

Example y/e 31/12/13

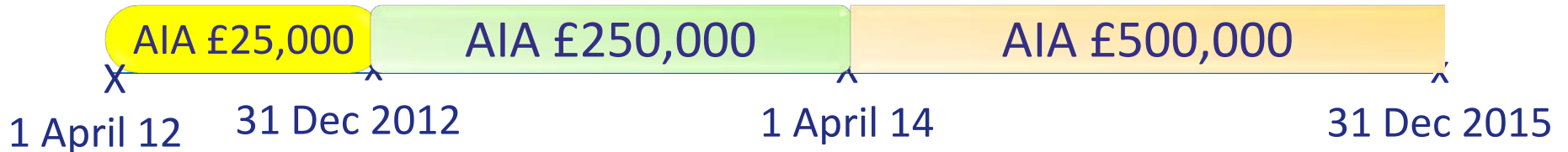


Year ended 31.12.2013

$(365/365) \times £250,000$

£250,000

Example y/e 31/12/14



Year ended 31.3.2014

$$(90/365) \times £250,000 + (275/365 \times £500,000) = £61,644 + £376,712$$

£438,356

Max for expenditure:

1.1.2014 – 31.03.2014 = £250,000

1.4.2014 – 31.12.2014 = unused amount up to £438,356

CAs for buildings

- Note how the Capital Allowances Act 2001 deals with CAs:
- S21 – Buildings –List A assets treated a buildings;
- S22 – Structures, assets and works;
- List B excluded structures
- S23 – expenditure unaffected by SS21 and 22!
- List C!

List A – assets treated as buildings

- 1 Walls, floors, ceilings, doors, gates, shutters, windows and stairs;
- 2 Mains services and systems, for water, electricity and gas;
- 3 Waste disposal systems;
- 4 Sewerage and drainage systems;
- 5 Shafts and other structures in which lifts, hoists; escalators, and moving walkways are installed;
- 6 Fire safety systems.

List B – excluded structures

- 1 A tunnel, bridge, viaduct, embankment or cutting;
- 2 Hard-standing, road, railway, car parks, runways;
- 3 Inland navigation;
- 4 A dam reservoir or barrage;
- 5 A dock, harbour pier, marina or jetty
- 6 A dike, seawall weir or drainage ditch;
- 7 Other fixed structures.

List C - Expenditure unaffected by Lists A and B

- Big list in S23 – includes:

- 1 Machinery;
- 4 Manufacturing or processing equipment;
- 7 Sound insulation;
- 9 Refrigeration and cooling equipment;
- 10 Fire alarm systems;
- 11 Burglar alarms;
- 13 Moveable partition walls;
- 15 Advertising hoardings.

Also says that the listings do not affect “integral fixtures” (S33A)

Cas for cars – general rules

- 95g/km or less are eligible for a 100 per cent FYA;
- Over 95g/km but not more than 130g/km are written down at 18 per cent per annum on the reducing balance basis; and,
- Over 130g/km are written down at eight per cent per annum, also on the reducing balance basis.
- Note, the lease rental restriction has also be reduced with effect from 1 April 2013 to disallow 15 per cent of the payments in respect of cars with emissions exceeding 130g/km.

Capital allowances for cars

- Private use (PU) or no private use?
- If PU, then treat as single asset pool: normal CAs and PU adjustment and balancing charge/allowance on sale;
- If no PU (ie employees being given company cars), then normal CAs;
- But.....
- For all new cars purchased after 1 April 2009:
- No balancing adjustment on sale;
- So...
- Normally, a long time to get your tax relief.

Question – wedding company cars

- A Wedding Company purchases two Rolls Royce Phantom cars at £100,000 each;
- No private use by directors;
- CAs?
- AIA?

5 Tax relief for travel expenses

The big picture!

- Two very different sets of rules to cover essentially the same ground!
- Self-employment test:
 - “Wholly and exclusively” (S34, ITTOIA 2005)
V
- Employed tests:
 - ITEPA 2003;
 - In particular: S336 (wholly, exclusively and necessarily incurred in the performance of their duties)

Note too.....

- The other provisions in ITEPA in respect of travel expenses:
- S337 – travel in performance of duties;
- S338 Travel for necessary attendance;
- S338 Meaning of “workplace” and “permanent workplace”

What HMRC guidance is out there?

- For self-employed people:
- The Business Income Manual (BIM);
- For employed people:
- The Employment Income Manual (EIM);
- Guide HMRC 490 (2012 version).

The OTS's contribution....

- See the OTS's report:
- **Review of employee benefits and expenses: Interim report**
August 2013 and January 2014
- A very good read!
- Compelling case for change and simplification.

The self-employed rules

Expenditure must be incurred "wholly and exclusively" for purposes of the trade

- The words used have been subject to very little alteration over the years.
- The current form of words is in S34(1)(a) ITTOIA 2005 for unincorporated businesses (and S54(1)(a) CTA 2009 for companies), which provide:
- *`In calculating the profits of a trade, no deduction is allowed for -*
 - expenses not incurred wholly and exclusively for the purposes of the trade..

BUT....

- Some apportionment is allowed under S34(2), ITTOIA 2005:
- Section 34(2) states that where an expense is incurred for more than one purpose, the law does not prohibit for a deduction for any identifiable part which is wholly or exclusively for the purpose of trade;
- Eg: Motoring costs for a sole trader – strictly fail the W&E test, but OK under S34(2).

Caillebotte v Quinn [1975] 50 TC 222,

- Mr Quinn was a sub-contract carpenter, working on sites within a 40-mile radius of his home;
- When working, Mr Quinn could not go home for lunch and bought one at an average cost of 40 pence, compared with an estimated cost of 10 pence for a light lunch at home;
- Mr Quinn attributed the additional cost to the need to eat a more substantial meal in order to maintain the energy expended in carrying out physical work and to keep warm during the winter.

Duality of purpose?

- Held: Cost of food or drink, taken in whole or in part for sustenance, is not allowable!
- “The fatal duality of purpose” (Lord Templeman);
- BIM37660 - Wholly and exclusively: duality of, or non-trade, purpose;
- From: S34 Income Tax (Trading and Other Income) Act 2005, S54 Corporation Tax Act 2009;

Newsom v Robertson (H M Inspector of Taxes) (1952) 33 TC

- A barrister had a law library and office at his home;
- Although the barrister did a considerable amount of work at home (particularly during the Court vacations when he rarely travelled to chambers) the Court of Appeal held that he was not entitled to deduct his travel expenses to and from his home;

Newsom v Robertson (H M Inspector of Taxes) (1952) 33 TC

- Denning LJ's reasoning was that a distinction had to be drawn between business and living expenses:
- “A distinction must be drawn between living expenses and business expenses. In order to decide into which category to put the cost of travelling, you must look to see **what is the base** from which the trade, profession, or occupation is carried on.....”

Newsom v Robertson (H M Inspector of Taxes) (1952) 33 TC

- In the case of a tradesman, the base of his trading operation is his shop. In the case of a barrister, it is his chambers. Once he gets to his chambers, the cost of travelling to the various courts is incurred wholly and exclusively for the purpose of his profession. But it is different with the cost of travelling from his home to his chambers and back. That is incurred because he lives at a distance from his base. It is incurred for the purpose of his living there and not for the purposes of his profession, or at any rate not wholly or exclusively; and this is so, whether he has a choice in the matter or not.
- It is a living expense as distinct from a business expense.”

Elwood (H M Inspector of Taxes) v Utitz (1965) 42 TC 482

- An individual resident in Northern Ireland, instead of staying in hotels on business visits to London, became a member of London club, in order to save money;
- In the two years in question, he visited 14 times (staying 43 nights) and 12 times (staying 29 nights). It was conceded that had such expenditure been incurred on hotels, it would have passed the “wholly and exclusively” test;

Elwood (H M Inspector of Taxes) v Utitz (1965) 42 TC 482

- Because the moneys were expended on a club membership, HMRC argued that the purpose of the expenditure must have included the following objects listed by the High Court judge thus:
- “the prestige, status, social standing, and opportunities for political and personal contacts which the club provides, and is clothed with entitlement to all the amenities and facilities which the club offers”
- The Court of Appeal of Northern Ireland accepted that these consequences followed from club membership but held that they were incidental.

Elwood (H M Inspector of Taxes) v Utitz (1965) 42 TC 482

- This case is authority for three propositions as follows:

(1) expenditure on hotels can be “wholly and exclusively” for business purposes;

(2) there is a distinction between effects which are aimed at (the purpose of the expenditure) and those which are incidental to that aim;

(3) expenditure on such hotel accommodation can be exclusively for business purposes, even though it is inevitable that such accommodation will provide warmth and shelter which, say, a park bench will not, warmth and shelter being incidental effects of the expenditure.

Mallalieu v Drummond [1983] 57 TC 330

- This case established that no deduction is available from trading profits for the costs of clothing which forms part of an 'everyday' wardrobe;
- This remains so even where the taxpayer can show that they only wear such clothing in the course of their profession. It is irrelevant that the person chooses not to wear the clothing in question on non-business occasions, the only question is whether the clothing might suitably be worn as part of a hypothetical person's 'everyday' wardrobe.

Mallalieu v Drummond [1983] 57 TC 330

- Most professionals have to keep up appearances but their clothing costs are not allowable (even where they amount to a quasi uniform as in **Mallalieu v Drummond**).
- The cost of clothing that is not part of an 'everyday' wardrobe (for example a nurse's uniform or evening dress ('tails') worn by a professional waiter) faces no such bar to deduction.
- Deduction OK for protective clothing and uniforms;
- See also: BIM37910 - Wholly and exclusively: expenditure having an intrinsic duality of purpose:
- Clothing

Tim Healy case 2012



- Tim Healy v HMRC (March 2012)
 - Lived in Cheshire with family
 - working in London on theatre run
 - rented flat rather than hotel
 - o cheaper than hotel
- Costs deductible for tax as wholly and exclusively for purposes of profession
 - London was held not to be his permanent base
 - Subsistence exp and taxi fares disallowed

Not W&E for
profession

Lack of
evidence

Where are we now?

- Case appealed by HMRC
- UT remits case back to the FTT for a re-hearing!
- Single (business) purpose or duality of purpose?
- What conclusions can we draw?



What about subsistence costs for the self-employed?

- S57A Income Tax (Trading and Other Income) Act 2005;
- BIM47705 - Specific deductions - travel and subsistence: expenditure on meals and accommodation;
- Occasional journeys outside the normal pattern and itinerant trades;
- A deduction is allowable for reasonable expenses on food and drink for consumption by the trader either at a place to which the trader travels in the course of the trade or while travelling in the course of the trade, if certain conditions are satisfied.

And these conditions are....?

- A deduction must be allowable for the cost of travelling to the place and either:
- the trade is **an itinerant trade** at the time the expenses are incurred; or
- the trader does not travel to the place more than occasionally in the course of the trade and either:
 - the travel concerned is not part of the trader's normal pattern of travel in the course of the trade; or
 - the trader does not have such a normal pattern of travel.

Overnight subsistence and accommodation expenses

- Where a business trip by a trader necessitates one or more nights away from home, the hotel accommodation and reasonable costs of overnight subsistence are deductible.
- The reasonable costs of meals taken in conjunction with overnight accommodation are allowable, whether or not paid on the same bill.
- The same treatment may be extended to traders who do not use hotels, for example, self-employed long distance lorry drivers who spend the night in their cabs rather than take overnight accommodation.

Employee travel and subsistence expenses

Where is the workplace?

- Basic rule in ITEPA that travel expenses to and from a permanent workplace are not allowable;
- S338 and S339, ITEPA 2003;
- Permanent workplace means?

Permanent workplace

- Workplace employee regularly attends in performance of duties
 - and is not temporary;
- Does not have to be all week
 - can have more than one PW;
 - Consider:
 - pattern of work
 - client and employer expectation
 - facilities available.

Temporary workplace

- Place an employee attends to perform duties
 - which is not a permanent workplace;
- Limited duration – 24 month rule
 - employee assigned to new workplace
 - <24m – all travel allowed
 - >24m – none allowed
 - Change of circumstances effective from date of change and not backdated;
- A contract for < 24m does not make workplace temporary if travelling to same place for period of contract = permanent

Temporary workplace

- For the purposes of operating this rule HMRC regards a period of continuous work to be one where the employee spends 40 per cent of their working time at that place;
- Even if an employee spends less than 40 per cent of their working time at a place the workplace will not be considered temporary if the employee's attendance at that place is regular and ongoing.
- For the self-employed there is no formal rule but HMRC operate a less generous six month limit on what is a temporary workplace.

Duties defined by reference to a particular area

- Some employees do not have a single site as a permanent workplace but they have a job where their duties are defined by reference to a particular geographical area;
- For these employees the geographical area is their permanent workplace;
- In each case the test will be whether the employee's duties are defined by reference to a particular geographical area.

Fixed-term appointments

- A period of attendance at a place is not regarded as of limited duration or for a temporary purpose if it is all or almost all of the period for which the employee is likely to hold, or continue to hold, the employment.
- **HMRC Example**
- Everton is taken on for a fixed term employment of 18 months to work at a particular site. No relief is available for the cost of travel to and from the site during that period.

HMRC example

- Felicity is employed as a research scientist on a fixed term contract lasting 15 months. Most of her work is to be done in research laboratories in Upminster but in order to familiarise her with equipment which is new to her, her employer first sends her to the manufacturer's premises in Inverness;
- Felicity is entitled to relief for her travel to Inverness, but not for her travel from home to Upminster because it is the place where she will carry out duties for almost all of her employment.

N Ratcliffe v HMRC 2013

- Travel to and from temporary workplace?
 - temporary = not permanent
 - usually < 24 months;
- Mr R worked for company with 3 contracts
 - first – retainer contract to work at various locations
 - other 2 – short term where he worked at same place;
- Travel allowed for first contract but not other 2
 - both permanent workplaces as contract < 2 years and required to work their for duration of contract.

Subsistence – an HMRC example

- Michael is required to spend three months working at the site of one of his employer's clients;
- He travels to the site each Monday morning, stays in a hotel close to the temporary workplace and travels home late each Friday evening, eating dinner on the way;
- During the week he takes some of his meals in the hotel and others at a nearby restaurant;
- The cost of the accommodation and all the meals are part of the cost of his business travel.

Subsistence

- For employees, there are no separate and distinct rules about subsistence expenses (food and accommodation);
- The OTS report commented that employers and employees would benefit from some clear separate rules on what type of subsistence expenses qualify;
- Perceived inequalities were highlighted. For instance, an individual who is out for the day travelling for business can claim a tax deduction for a lunch that they purchase on the go, but someone who prepares a packed lunch at home to take with them can claim nothing.

Subsistence – OTS comments

- Employers also gave examples of when they provide food at the office or even hotel accommodation to facilitate long working hours to complete a project;
- Neither the employers nor employees consider the provision of food or accommodation in these circumstances as a benefit and do not think that they should be taxed on the costs;
- It is accepted that working lunches are not taxable on employees where there is a free or subsidised canteen, but arguably this is unfair and costly for those employers who don't have such facilities;
- It is probably outdated, given the reducing numbers of 'canteens' and potentially discriminatory against smaller businesses.

Occasional employee subsistence rates

EIM05231 - Employment income: scale rate expenses: subsistence expenses: table of benchmark scale rates

2009 benchmark rates for use when paying employees travelling for business purposes

- journey not part of ordinary commute
- employee actually buys food/drink

Can agree dispensation

- or tick box on P11DX and use the rates

Possible agreement to allowing self-employed to claim subsistence when away from home/office?

Expenses

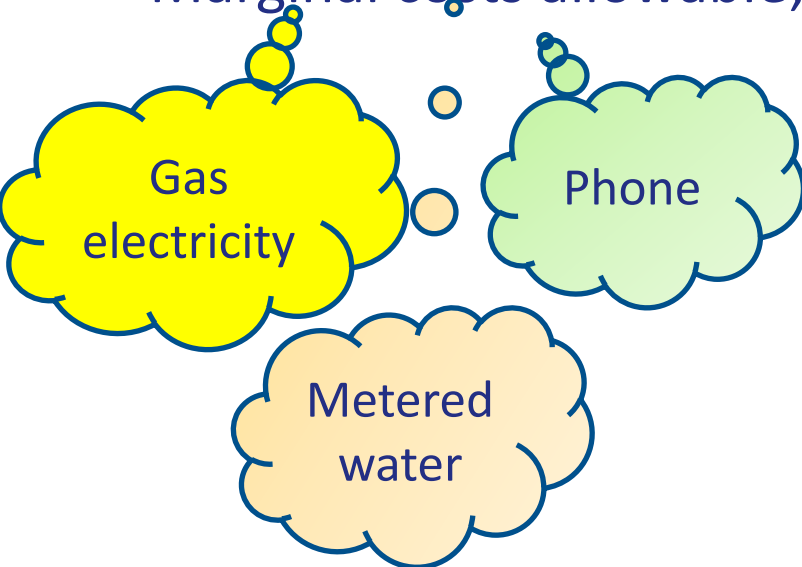
- Breakfast (irregular early starters)
 - up to £5
 - worker leaves home before 6am (earlier than usual)
- One meal rate (5 hour rate)
 - Up to £5
 - Worker away > 5 hours
- Two meal rate (Ten hour rate)
 - Up to £10
 - Worker away > 10 hours
- Late evening meal – irregular late finishers only
 - Up to £15 - after 8pm

OK, so what about working from home?

At the moment.....

No choice

- S336, ITEPA;
- Substantive duties;
- No employer premises reasonably available;
- Marginal costs allowable;



Choice

- s316A, ITEPA;
- Reasonable employer contribution tax free;
- £4pw from April 2012;

Working from home – travel costs

- If the duties of the employment require the employee to live in a particular location, and to do some of their work at home (for example, because the employer does not provide appropriate facilities in the location where the work has to be done) the employee will be entitled to relief for the expenses of travelling from home to other workplaces in the same employment.

An HMRC example

- Gunther is an area sales manager who lives in Glasgow. He manages his company's sales team in Scotland. The company's nearest office is in Newcastle, and Gunther is therefore obliged to carry out all his administrative work at home, where he has set aside a room as an office.
- Gunther is entitled to relief for the expenses of travelling to the company's office in Newcastle, as well as for journeys within Scotland.

Travel

- Home as permanent workplace
 - must be objective requirement of duties to work from home
 - not a choice by the employee
- Site-based workers
 - Sites may be regarded as temporary workplaces
 - change in site must have substantial effect on employee's journey
 - IT consultant working for client in Square Mile?
 - or substantial affect on cost of travel

New Image Training Ltd (2012)

- Company set-up for training
 - registered office and business from home
 - o operated from clients premises
 - car only used for business purposes
 - then acquired new business premises
- HMRC – taxable benefit
- Tribunal – individual had two permanent workplaces and driving between 2 not private use.
 - no taxable benefit



Conclusions

- Byzantine complicated, unfit for purpose;
- Need for self-assessment;
- Needs total restructuring!



6 Employee tax issues



RTI penalties

- New timetable for introduction of automatic in-house penalties
- Late filed returns – from October 2014
- Late payment – April 2015
- From April 2014 interest will be charged ‘in-year’ rather than post year end

Company cars



- Taxed on % of list price when new
 - reduced for capital contributions \leq £5,000
- % depends on CO₂ emissions
 - add 1% for each 5g/km > baseline
 - becomes 2% from 2015/16
- Penalty for diesels – add 3%
 - abolished from 2016/17
- Never >35% (37% from 2015/16)
- Reduced if not available for period > 30 days
- Reduced for contributions towards running costs

Example

Vauxhall Insignia 1.8i List price £19,831

CO2 emission 139g/km – petrol engine

Basic rate taxpayer 2013/14

139 rounded down to 135 $(135 - 95) = 40/5 = 8 + 11 = 19\%$

Taxable benefit for P11D $19\% \times £19,831 = £3,768$

Tax due: $20\% \times £3,768 = £754$

Class 1A NIC $13.8\% \times £3,768 = £520$

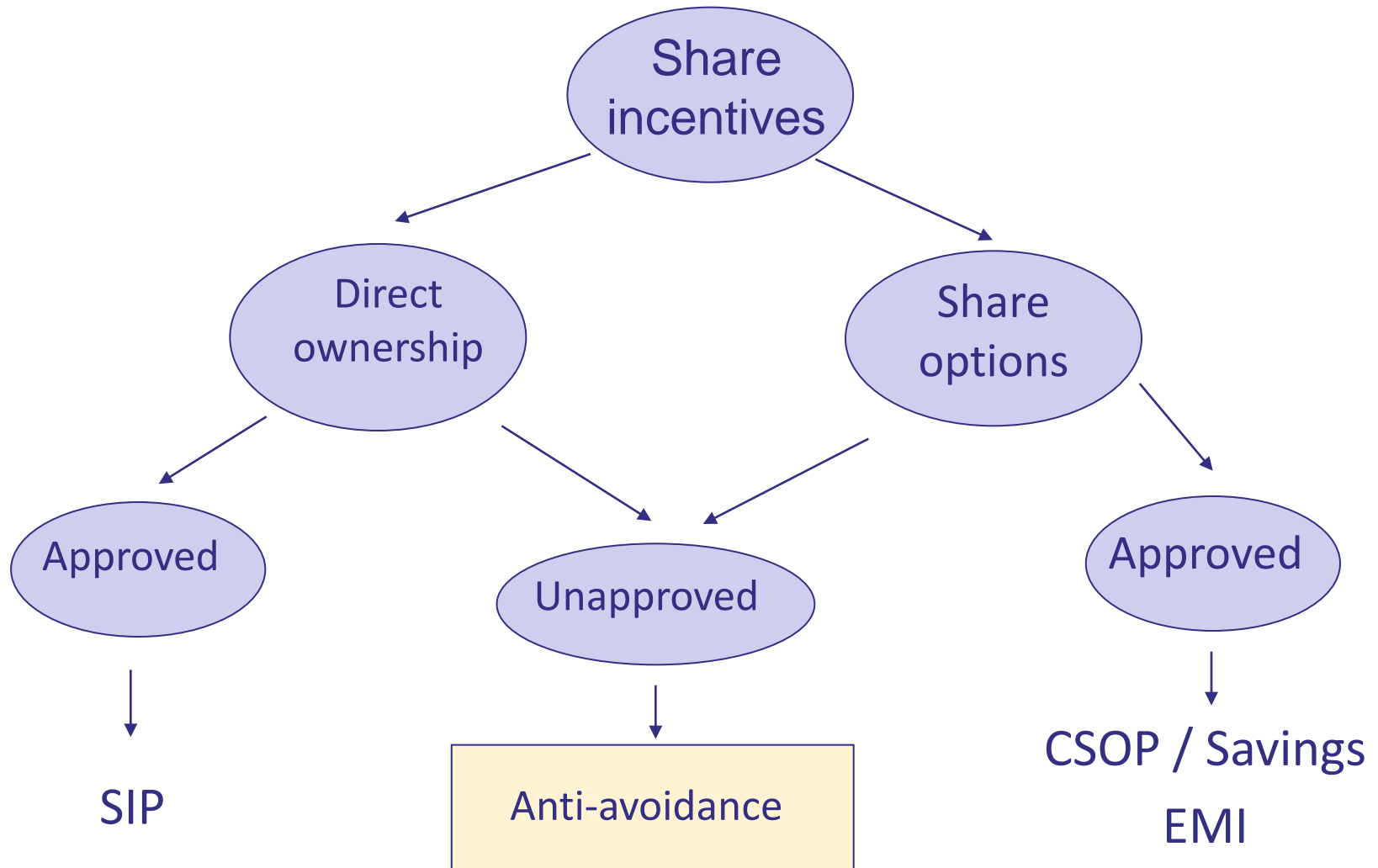
Van taxation

- The Van Benefit Charge (VBC) will increase in line with inflation for 2015/16. The increase will be based on the September 2014 RPI figure.
- We already knew that the van benefit for 2014/15 is £3,090.

Exemption threshold for cheap employee loans

- The current statutory threshold for the cash equivalent of taxable cheap loans to be treated as earnings of the employment from £5,000 to £10,000;
 - official rate of interest to be 3.25%
- As long as the total outstanding balances on all such loans do not exceed the threshold at any time in a tax year, there is no tax charge;
- From 6 April 2014.

Employee share schemes - overview



Share schemes

- Changes from 6 April 2014
 - SIPP free share limit raised to £3,600
 - Partnership shares £1,800
- SAYE schemes – max monthly savings raised to £500 per month for schemes set up from 6 April 2014
- Currently full OTS review - changes being made now
 - on-line self-certification of schemes
 - electronic submission of returns – inc Form 42
 - CT relief for cost of shares issued to internationally mobile employees from 6 April 2015

OTS review of benefits and expenses

- OTS review of employee benefits and expenses
- In response to the Office of Tax Simplification (OTS) report on employee benefits and expenses published on 29 January 2014, the government will consult on a package of four simplifications based on the OTS recommendations, with a view to introducing legislation in FB 2015.

OTS review of benefits and expenses

- The package consists of the following:
- Abolishing the threshold for the taxation of benefits-in-kind for those employees who earn less than £8,500, with action to mitigate the effects on any vulnerable groups disadvantaged by the reforms;
- Introducing a statutory exemption for trivial benefits;
- Introducing a system of voluntary payrolling for benefits-in-kind; and
- Replacing the expenses dispensation regime with a reimbursed expenses exemption.

Tax-free childcare

- The government will start to roll out the new Tax-Free Childcare scheme from autumn 2015;
- The scheme provides 20% support in the form of vouchers which can be used to pay for childcare. The maximum support has been increased to £10,000 per year for each child, ie it is worth up to £2,000 per child each year.
- It will be available to all eligible families with children under 12, which is an improvement on the initial proposal to make it available to younger children first and gradually bring in older children (up to the age of 12).

Tax-free childcare

- The Government has also announced that all families eligible for universal credit will benefit from support for childcare at 85%.
- The current scheme of employer-supported childcare will continue for those already in the scheme but no new members will be allowed to join;
- Existing participants will be able to choose whether they want to stay in or move to the new scheme.

7 Capital taxation

CGT – the PPR

- As announced in the Autumn Statement the final period of ownership of a private residence which qualifies for relief will be reduced from 36 months to 18 months from 6 April 2014.
- There will be exceptions such that some disabled persons and people moving into care homes will continue to have a final exemption period of 36 months.

CGT: gains by non-residents

- Also announced in the Autumn Statement was the intention to charge capital gains tax on future gains made by non-UK-residents on the disposal of a residential property;
- A consultation document on this proposal is anticipated in the near future.

By the way.....

- Spousal/CP backdating;
- Inter-spouse/CP transfers normally fall outside the scope of both CGT and IHT;
- The basic CGT rule is that a disposal for CGT purposes still occurs under an inter-spouse transfer, but rather than being made at MV, it takes place at a 'no gain/no loss' value (but only if the spouses are living together).

Interspousal transfers

- Where the spousal transfer is a PPR, then there is an extra angle to consider:
- The transferee spouse's period of ownership is deemed to commence not at the date of transfer but at the date of the original acquisition by the donor spouse;
- It is effectively backdated.

Interspousal transfers

- Conditions must be fulfilled in order for the ‘backdating’ to apply;
- It is important that **both** conditions apply as at the date of transfer:
 - 1 The spouses must be married and living together **and**
 - 2 The property in which the interest is being transferred must be ,or has been nominated as, the couples’ main PPR.

Example

- Jane and Tom meet and both have their own flats;
- They decide to marry and Tom sells his own flat (no CGT as it's his PPR);
- Tom moves in with Jane on their marriage and shortly afterwards she transfers half the flat to him;
- They sell the flat some years on;
- Tom's PPR is effectively backdated to Jane's original purchase date- so no CGT problem.

IHT

- IHT Nil band retained at £325,000



IHT – Trust charges simplification

- Inheritance Tax (IHT): Simplification of trust charges and the division of the nil-rate band – The Government will consult on revised proposals for simplifying the calculation of the IHT trust charges and dividing the nil-rate band available to trusts created by the same settlor;
- Income not distributed after 5 years will be treated as capital for exit and periodic charge calculation
- Legislation will be introduced in Finance Bill 2015.

Non-domiciled spouses

- From 6.4.13, a non-domiciled spouse can elect to be UK domiciled for IHT purposes
 - will enable them to qualify for full spouse exemption
- irrevocable but will automatically cease when electing spouse has been non-UK resident for 4 consecutive tax years
 - Election must be made in writing by non-dom spouse:
 - within lifetime of both spouses, or
 - within 2 years of death of UK dom spouse
 - can choose date from which election is to apply (not pre 6.4.13)

Example – Non-domiciled spouse election

Oscar died on 1 July 2013, leaving his estate worth £1.2 million to his wife, Birgit, who is non-UK domiciled. Oscar had not made any lifetime transfers.

Calculate the tax due on Oscar's death assuming:

1) No election is made

2) Birgit elects to be UK domiciled for IHT purposes

Example - Solution – no election

	£
Death Estate	1,200,000
Less: Spouse exemption (restricted)	(325,000)
	<hr/>
	875,000
Less: Nil rate band	(325,000)
	<hr/>
Chargeable	550,000
	<hr/>
Tax @ 40%	220,000

Example - Solution – Election

	£
Death Estate	1,200,000
Less: Spouse exemption	(1,200,000)
	<hr/>
	Nil
	<hr/>

Non-domiciled spouse election (cont'd)

- Need to consider carefully the impact of the election
 - short term benefit may be outweighed by increased liability in the future
 - consider impact re excluded property
- Election likely to be beneficial where UK domiciled spouse has greater wealth

Lower rate of IHT

- Taxable estate charged at lower rate of 36% where $\geq 10\%$ of 'baseline amount' left to charity

Exclude relief for charitable gift

- Baseline amount

	£
Value of estate	x
Less: Relief/exemptions	(x)
Available NRB	(<u>x</u>)
Baseline amount	<u>x</u>

Example – Lower rate

Ken died on 15th August 2013. His estate consisted of:-

	£
Family home and possessions	400,000
Cash	350,000
Shares in MRC Ltd	150,000
(trading co: Ken had owned the shares for 15 years)	

Liabilities at the date of death amounted to £20,000.

Ken had given his son £200,000 in July 2011 – this was his only lifetime transfer. He left the family home and possessions to his wife, the shares in MRC Ltd to his son, a charitable donation of £100,000 and the residue to his brother.

Calculate the IHT due on the death estate.

Example Solution

Baseline amount

Value of estate

Less: liabilities

BPR

Spouse exemption

NRB (325,000 – 194,000)

£

900,000

(20,000)

(150,000)

(400,000)

(131,000)

199,000

Baseline amount x 10%

19,900

7/11 PET	200,000
AE x 2	(6,000)
	<hr/>
	194,000
NRB	(194,000)
	<hr/>
	Nil
	<hr/>

£100k > £19,900

∴ 36% rate applies

Example Solution (2)

IHT on Death

	£
Gross Estate	900,000
Less: Liabilities	(20,000)
BPR	(150,000)
Spouse exemption	(400,000)
Charity exemption	(100,000)
	<hr/>
	230,000
Less: NRB	(131,000)
	<hr/>
	99,000
	<hr/>
99,000 @ 36%	35,640
	<hr/>



8 VAT points



Registration and de-registration issues

- From 1 April 2014, the VAT registration limit is raised to £81,000;
- The de-registration limit is raised to £79,000;
- Note the link to the cash basis for unincorporated businesses;
- Probably linked to future increases in the VAT threshold.

Overseas traders

- The UK has always allowed its domestic VAT registration threshold (currently £81,000) to apply to Non Established Taxable Persons (NETPs) who make taxable supplies in the UK, as well as to UK businesses.
- NETPs include, for example, non-UK traders at farmers' markets or Irish service suppliers working across the land border.
- However, a decision (Schmelz C-97/09) in the CJEU (the European Court of Justice) has confirmed that only businesses established in a Member State can benefit from its domestic VAT registration threshold.

Overseas traders

- Therefore, a new Schedule 1A to the VAT Act 1994 and other consequential changes were made in Finance Act 2012 and came into force on 1 December 2012;
- Details in R&C Brief 31/12 for NETPs in the UK;
- Don't forget that this operates in reverse – UK businesses operating in other Member States for the first time will need to be aware of this.

Practical problem with registration

- Once the threshold has been breached it is vital that either registration is undertaken; or
- HMRC is contacted and told that the breach is not expected to re-occur, so a formal release from the registration process (an exception under Para 1(3), Schedule 1, VATA 1994) takes place;
- If this does not happen, then the first registration period runs from the date that the threshold was first breached
 - i.e. the date that the business should have been registered

Exemptions from registration

- The other possible option is an exemption under Para 14, Schedule 1, VATA 1994, for those who breach the registration threshold;
- On the grounds that the taxpayer makes zero-rated supplies and that it would be cheaper for HMRC to not register them (ie no reclaims of input tax!)

Person or business?

- Always the taxable person;
- Recent (2013) case: TC 02819 George Christadoulou;
- Classic husband and wife case – separated business?
- Sole Trade hairdressing salon (H) and restaurant (? Sole trade or partnership?)
- HMRC said two sole trades, both H, so aggregated for VAT purposes and so big assessment for undeclared VAT.

Person or business?

- Confused factual evidence from the appellant – H asserted that the restaurant was a partnership;
- The definition of a partnership is that contained in s 1 of the Partnership Act 1890. Section 2(3) of that Act contains the rules to determine whether a partnership does or does not exist;
- The question whether the Appellant and his wife were in partnership depends on the facts and on the true nature
- of the relationship and not on the label.

Person or business?

- You must look at the substance of the relationship between the parties, and a relationship is not a partnership simply by calling it one;
- The burden of proving the existence of the partnership is on the Appellant. The relevant facts are, or should be, within his own knowledge.

Person or business?

- “The definition of a partnership is both short and simple. A written partnership agreement may extend to many pages and deal with a multitude of different matters, but there is no requirement, in statute or elsewhere, for any measure of complexity, nor indeed for a partnership agreement to be in writing;
- All that is required is that the partners carry on a business in common, with a view to profit.”
- (from *Colin Summers & Christopher Summers v Revenue & Customs* [2012] UKFTT 590 (TC))

Sole trade or partnership?

- H's restaurant accounts and tax return were signed off as a sole trader from 2003 to 2010, when he registered it as a partnership in response to the HMRC visits;
- He said he didn't understand what he was signing and that it had always been a partnership;
- The restaurant licence and liquor licence were in joint names;
- His wife worked for free (so no employee implications);

Sole trade or partnership?

- All of the income from the Restaurant was returned solely in H's self-assessment - also is a factor that suggests that H was sole proprietor of the Restaurant;
- However, it was not conclusive;
- If income of a partnership or of joint proprietors is incorrectly returned as income of one of the partners or proprietors alone, that does not negate the existence of a partnership;

Conclusion

- The Tribunal held that the evidence pointed both ways, but on balance (and only just) that the restaurant was a partnership;
- Our professional view: make sure that the labels and the substance of a business sing from the same hymn sheet.

Distance sellers – points to note

- Affects registered traders in one Member State selling to “punters” in other Member States;
- Affects B2C transactions – not B2B!
- OK to charge local VAT until the relevant “distance selling threshold” has been passed;
- (35,000 Euros or 100,000 Euros).
- Then register locally and charge local VAT.

VAT: prompt payment discounts

- Legislation will be introduced in FB 2014 to amend the UK VAT legislation on prompt payment discounts so that it is clearly aligned with EU legislation with effect from 1 April 2015;
- The Government will consult on implementation prior to the 1 April 2015 change coming into force;
- A TIIN is available at Annex A of HMRC's OOTLAR.