

Corporate and Business Tax

Corporation tax rates

The main rate of corporation tax which applies to companies with profits of more than £1.5 million remains at 28%.

The small companies corporation tax rate which applies to companies with up to £300,000 of profits remains at 21%.

The effective marginal corporation tax rate for profits between £300,000 and £1.5 million is 29.75%.

Trading loss carry back

Under current rules businesses already have a number of mechanisms to relieve trading losses against other income including past trading profits.

For example unincorporated businesses can offset unlimited trading losses against income in the preceding year. In the early years of operation an unincorporated business can carry trading losses back for three years.

The main relief for companies is a carry back of unlimited trading losses against profits made in the previous year.

A proposed revision will apply for two years and will extend the period that current trading losses from businesses can be carried back against previous profits to a period of three years with losses being carried back against later years first.

The amount of losses that can be carried back to the preceding year remains unlimited. After carry back to the preceding year, a maximum of £50,000 of the balance of unused losses is then available for carry back to the earlier two years.

The measure will have effect for company accounting periods ending in the period 24 November 2008 to 23 November 2010. For unincorporated businesses, the measure will have effect in relation to trading losses for tax years 2008/09 and 2009/10.

Capital allowances on plant and machinery

Additional capital allowances are to be available for expenditure incurred by a qualifying activity in the 12 month period commencing 1 April 2009 for companies and 6 April 2009 for individuals and partnerships. Most businesses have since 1 April 2008 (corporation tax) or 6 April 2008 (income tax) been able to claim the new Annual Investment Allowance (AIA) on the first £50,000 spent on most plant and machinery. Expenditure on qualifying plant and machinery not covered by the AIA will be eligible for a temporary first year allowance (FYA) of 40% instead of 20% Writing Down Allowance (WDA). The FYA will not apply for expenditure on integral features, cars, long life assets and assets for leasing.

Taxation of business travel

Changes are being made to the capital allowance treatment of cars. The changes will have effect from 1 April 2009 for corporation tax purposes and 6 April 2009 for income tax. The special rules that restrict the amount of capital allowances for cars costing more than £12,000 will be abolished.

- Expenditure on cars with CO₂ emissions of 160g/km or below will be allocated to the plant and machinery main pool (ie will obtain 20% WDA).
- Expenditure on cars with CO₂ emissions above 160g/km will be allocated to the 'special rate pool' (ie will obtain 10% WDA).
- Cars that have an element of non-business use will continue to be dealt with in a single asset pool to enable the private use adjustment to be made but for expenditure incurred from April 2009 onwards the rate of WDA will be determined by the car's CO₂ emissions.

Expenditure incurred before April 2009 will in general continue to be subject to the existing 'expensive' car rules for a transitional period of around five years. If any expenditure remains in a single asset pool at the end of the transitional period (unless there is any non-business use of the car) it will be transferred to the main capital allowances pool.

From April 2009 the special rules that restrict the amount of lease rental payments that can be deducted for tax purposes for a car with a retail price exceeding £12,000 will be reformed. The restriction will be changed to a flat rate disallowance of 15% of relevant payments and apply only in respect of cars with CO2 emissions above 160g/km.

The provisions also aim to ensure that only one lease restriction will apply where there is a chain of leases and that in limited circumstances there is no disallowance. One example of this is where a business rents such a car on short term hire not exceeding 45 days. Expenditure under leases that commenced prior to 1 or 6 April 2009 (that is where the car is made available before April 2009) will continue to be subject to the existing rules.

Motorcycles are to be excluded from the definition of cars and will not therefore be subject to these rules. Expenditure incurred on motorcycles on or after 1 or 6 April 2009 will qualify for the AIA or alternatively the temporary FYA.

Further extension of green technology lists

Businesses purchasing designated plant and machinery which meet energy saving or water technology criteria are eligible for 100% capital allowances. The qualifying technologies are published in lists which are reviewed annually to ensure the criteria are still relevant. This year one new technology - uninterruptible power supplies - will be added. It has also been announced that there will be other additions and removals to the sub-technology lists when all the lists are reissued later in 2009. The current lists are available on the internet at www.eca.gov.uk.

Groups and chargeable gains

A capital gains group is able to relieve a chargeable gain in one group company with an allowable loss in another group company provided the disposal was to a third party.

Changes are proposed to the legislation. Instead of deeming a transfer of an asset from one group company to another before the disposal, it transfers a gain or loss from the company making the disposal to one or more other specified companies within the group when they jointly elect. The former restrictions on the type of asset, and the circumstances under which the gain or loss arises no longer apply.

Taxation of foreign profits

The government will bring forward a package of reforms to the taxation of corporate foreign profits in Finance Bill 2009.

Foreign dividends are currently chargeable to UK corporation tax with a credit for foreign tax depending on the precise circumstances. Such dividends will generally be exempt for all companies where received on or after 1 July 2009. This will apply regardless of the level of shareholding in the foreign company.

Targeted Anti-Avoidance Rules will apply to protect against any avoidance activity seeking to exploit these dividend exemptions. The exemption will be supported by a worldwide debt cap on interest and changes to the Controlled Foreign Company rules. In addition the existing Treasury consent rules will be reformed.

Corporation tax: loan relationships

Legislation will be introduced in Finance Bill 2009 to amend the loan relationships rules affecting connected companies. Two companies are 'connected' under the loan relationships rules if one controls the other, or they are both under common control - so companies in the same group are connected.

The amendments cover:

- the release of trade debts between connected companies
- the late payment of interest between connected companies.



A creditor that formally releases a connected debtor from a trade or property business debt is denied a deduction for the loss on the debt but currently the debtor may be taxed on its 'profit' in certain circumstances. Under the first change, the debtor company will not be taxable on the release.

This is to be effective for such debts released on or after Budget Day.

Interest payable is normally allowed on the accruals basis. However a deduction for interest payable to a connected creditor that is outside the UK is allowed on a paid basis if paid more than 12 months from the end of accounting period in which it accrued. It is proposed to change this rule. Where the interest is payable to a company, unless that company is located in a tax haven, interest will be deductible as it accrues in the accounts, not when it is paid.

This change will have effect for company accounting periods beginning on or after 1 April 2009. An election for a paid basis to continue will be available for the first such accounting period only.

Goodwill and the intangible asset rules

The intangible asset regime only applies to companies and was introduced on 1 April 2002. Legislation will be introduced in Finance Bill 2009 to confirm that goodwill includes internally-generated goodwill. It also confirms that all goodwill is created in the course of carrying on the business in question and is subject to rules determining whether goodwill is treated as created on or after 1 April 2002.