

Main changes to tax in 2011

This is a summary of the main tax changes in 2011. These changes either took effect in 2011, or were announced in 2011 to take effect in later years.

Payroll

Real time information is to be trialled in 2012 prior to its phased introduction by October 2013. This scheme requires the employer to provide much more detail with each monthly payment.

Businesses were told to **clean up** their payrolls. Apparently 2009/10 PAYE returns show that the UK employees include 507 people called A N Other, 128 people with the surname Dummy and 824 people called Unknown. There are also apparently 40 employees who are more than 200 years old. About 80% of all payroll errors are wrong names, addresses and dates of birth.

The **advisory fuel rates** are now amended four times a year on 1 March, 1 June, 1 September and 1 December. From 1 June 2011, diesel cars have a new break point for engines above 1600cc capacity.

HMRC automatically assesses an employee to **fuel benefit** where an employee is provided with a car and fuel, unless the employee can demonstrate that he or she has repaid the fuel. *James Buchan Little. TC 1184 [2011]*.

From 6 April 2011, an employee who signs a P46 certificate saying this is not their only or main job, has tax deducted using **OT code** and not BR. OT must also be used if the employee is receiving a pension while still working, and for remuneration paid after finishing work.

From 6 April 2011, an employee who joins a scheme receiving **childcare vouchers** is entitled to receive the weekly maximum £55 tax-free only if they pay tax at no more than the basic rate. For additional rate payers and higher rate payers, the tax-free maxima are £28 and £22 respectively.

The open-to-all requirement for tax relief for **childcare vouchers** is amended in that a scheme may qualify when it is a salary sacrifice scheme that excludes workers whose income would fall below the national minimum wage were they to participate.

From 6 April 2011, an employee who uses his or her car for **business travel** may be reimbursed at 45p a mile (increased from 40p) for the first 10,000 miles.

A lump sum payment for use of an **employee's car for business** is taxed on the gross amount, the Upper Tier Tribunal has ruled. So if an employee is paid £600 a month and only 14p a mile, the whole £600 is taxable and the 14p is tax-free. The shortfall from the 45p a mile can only be

claimed to the extent that it is deducted from the lump sum. *Total People Ltd. UKUT [2011] and Taxation magazine 15 September 2011*

From 6 April 2012, there are three new bands of percentages for **company cars** with low emissions up to 100g/km. This limit is reduced to 95g/km from 6 April 2013.

Following criticisms by the Public Accounts Committee of MPs, HMRC has agreed to find ways to stop **late filing of P35** penalties building up without employers knowing about them. Such penalties have been overturned in several cases before the First Tier Tribunal.

The **P35 default setting** on HMRC website is for a test submission to help taxpayers familiarise themselves with the procedure. A live P35 submission requires the test submission box to be unticked. A tribunal held that an employer who failed to notice this had reasonable excuse against a penalty for late filing. *Writtle College Services Ltd. TC1325 [2011]*.

There is no taxable benefit to an employee when the employer pays the fee under the **Protection of Vulnerable Groups Scheme in Scotland** for an employee. The scheme provides similar relief when similar schemes are introduced in other parts of the UK.

Tax relief for **luncheon vouchers** and **cyclists' breakfasts** is to be abolished. However the concessionary relief for **late night taxis** is to be retained despite a previous announcement that it was to be abolished.

At present, any **disabled driver** provided with an automatic-gear company car is taxed on the lower list price of the car with a manual gear box. From 6 April 2013, this will be restricted to disabled drivers who have a blue badge.

The scope of who is an **employee** was further clarified in a case which held that session supervisors for Weight Watchers are employed. *Weight Watchers (UK) Ltd. UKUT B23 [2011]*.

The Supreme Court also gave a ruling in another case. *Autoclenz Ltd v Belcher. UKSC41 [2011]*.

A doctor who assisted a consultant cardiac surgeon was held to be self-employed. *Mitchell. TC1041[2011]*.

Self-assessment autocoding was introduced from September 2011. This allows tax codes to be adjusted automatically when relevant changes are noted by employees who submit tax returns.

From October 2011, agents no longer receive a copy of the **P2 tax code notice** sent to clients.

From 11 October 2011, a taxpayer who submits a self-assessment tax return may see their **PAYE coding notice** on-line.

A proposal was announced for **PAYE pooling** which allows two or more businesses to have a single PAYE registration.

A new tax relief is to be introduced for **security-enhanced cars** so that an employee is not taxed on armour, bullet-proof glass and similar enhancements.

It was announced HMRC may require **security** for PAYE from employers otherwise considered likely to default. This will start in 2012.

From 6 April, the multiplier used to calculate **fuel benefit** is increased from £18,000 to £18,800.

It was confirmed on 7 April, that **payrolled benefits** must still be reported on P11D. A payrolled benefit is one where tax and any national insurance is collected at source through the payroll.

From 6 April, any employer with 50 or more employees must send **P45s and P46s** on-line.

A new **D1 tax code** is introduced from 6 April. It requires 50% tax to be deducted from all earnings.

From 27 February, the bonus rates for **SAYE share option schemes** were increased.

From 15 February, the **employer's CD-ROM** is replaced by an online resource.

From 11 February, HMRC will no longer send **employer information** by post.

On 28 February, revised guidance was given on the employment status of **parish clerks**.

Consideration is being given to determine when **lecturers** are to be regarded as employees.

The maximum amount of tax that may be **recovered** by adjusting a tax code is to be increased from £2,000 to £3,000, probably from 2012.

HMRC commented on **pay-day by pay-day** schemes. These attempt to pay workers a sum that covers business travel and give tax and NI relief at source when running the payroll. HMRC says that this does not comply with PAYE law. An employer may make a separate specific payment for business travel from which PAYE and NI is not deducted. If it is included in a lump sum, PAYE and NI must be charged on the whole amount, and the employee must make a claim.

Employers who have sought to avoid income tax and national insurance by using an **employee benefit trust** are invited to settle the matter with HMRC by 31 December to avoid litigation.

A **doctor's travel** from home to various hospitals while training was ordinary commuting and not tax-deductible business travel. *Sathesh-Kumar. TC1336 [2011]*.

Another case held that a **subcontractor** could not claim travel expenses from home because that was not his normal place of work. *Hanlin. TC1078 [2011]*

Contractual **payment in lieu of notice** is taxable as earnings, even when the employer said that it would be paid gross. *McDonald. TC1308 [2011]*.

The definition of an **index-linked security** is amended to include a security linked to any index published by the Statistics Board.

Income tax

The **personal allowances** were increased from 6 April. The threshold for paying the additional rate was reduced. The tax rates were unchanged.

From 6 April, the **ISA** investment limit is increased from £10,200 to £10,680.

From 5 December, if an **ISA manager fails**, the taxpayer may re-invest in another ISA to maintain the total annual ISA exemption.

For other investments, two new vehicles were created. The Autumn Statement announced the creation of **seed enterprise investment schemes (SEISs)**. There are also provisions to remove the obstacles to forming a new **tax transparent fund (TTFs)**.

From 6 April, tax relief under **Enterprise Investment Scheme** and **venture capital trusts** increases from 20% to 30%. Further changes were announced from 2012.

The special tax provisions for **furnished holiday lettings** are tightened up from 6 April 2012. The number of days for which the property is available for letting increases from 140 to 210; the number of days for which it is actually let increases from 70 days to 105 (subject to an exception). From 6 April 2011, these rules are extended to cover properties outside the UK but within the European Economic Area.

Funds held to buy a business were not employed by that business and so did not count toward the 80% rules for **enterprise investment schemes**. This was decided by the Upper Tier Tribunal when the purchase of a pub fell through just before completion. *C Richards and Skye Inns Ltd v HMRC. UKUT B25 [2011]*.

From 6 April 2012, income tax at source must be deducted from interest paid on **qualifying time deposits**.

New guidance has been published on **deemed contractors** for the Construction Industry Scheme. This means that many retailers and manufacturers will not now be within the scheme.

A self-employed subcontractor should have **recognised income** in his accounts when he made an application for payment, and not waited for the contractor to issue a valuation certificate. *Smith. UKUT B16 [2011]*.

It was announced that **life assurance policy relief** is to be withdrawn from 2015. This provides 12.5% tax relief for policies taken out before 13 March 1984.

The benefit that a taxpayer may receive from a **charity** in respect of a large donation increases from £500 to £2,500 from 1/6 April. Other changes to the Gift Aid scheme were announced to take effect in 2013. Gift Aid forms were revised from 3 April, and 12 helpsheets published.

For donations to charity from 1 April, the **substantial donor** rules are relaxed.

Guidance was published on when **school charities** qualify for tax relief under Gift Aid and payroll giving.

Guidance was published on the evidence needed to justify tax relief for donations to an **overseas charity**.

Guidance was given on the correct tax treatment when a Gift Aid donation is made from a **joint account**. Broadly the charity may assume the donation is from the person who made the declaration.

New regulations will apply from 1 April in respect of **disguised remuneration** when an employee is paid by a third party.

A campaign was launched to persuade **private tutors** to declare underpayments of tax in return for a lower penalty.

Private schools won a case at the Charities Tribunal that they do not have to provide bursaries to allow poorer children to attend.

On 10 February, HMRC said that it would not question a tax deduction of £650 for an **expatriate** in the costs of preparing a tax return relating to UK and overseas tax affairs, or £250 for a UK-only return.

A new list of **professional bodies** was published. Members of such bodies may claim tax relief for their subscriptions. Listed bodies now include the Coke Oven Managers Association and the British Association of Hospitality Accountants.

From 1 February, interest paid on **dormant accounts** becomes taxable only when the true owner claims the funds and is paid them with the interest.

From 1 January 2011, subsistence allowances paid to experts seconded to **EU bodies** in the UK are not taxable.

A **junior ISA** was from 1 November 2011 with a limit of £3,600 (against the previously announced figure of £3,000). The child trust fund limit increased from £1,200 to £3,600 from 1 November.

Members of the **armed forces** will be exempt from income tax on **continuity of education allowance**. This is paid for children of service personnel whose frequent assignments in different locations prevents the children being properly educated locally.

Non-resident footballers taking part in the **Champions League Final 2013** will be exempt from income tax.

A **guitarist** did not have a separate trade as a guitar teacher. Therefore the expenses of one could be offset against the income of the other. *Moore. TC 1373 [2011]*.

The expenses of **resurfacing a farm drive** was a revenue expense, not a capital expense, and so could be deducted from farming profits. *G Pratt & Sons. TC 1269 [2011]*.

A **floating hotel** for workers building oilrigs was not a ship. Accordingly those who worked on it could not claim seafarers' earnings deduction. *Gouldson. UKUT 238 [2011]*.

A **local councillor** could claim expenses for producing a newsletter for constituents, but not for other claimed expenses. *Lorber. TC 986 [2011]*

Payments to sufferers of **Hepatitis C** from contaminated blood are tax-free from 18 May 2011. Similar payments for HIV sufferers have been tax exempt since 6 April 2010.

Corporation tax

The **main rate** of corporation tax is reduced from 28% to 26% for periods from 1 April. It is planned to reduce by one percentage point in each of the following years, reaching 23% by 2015. The small companies rate reduces from 21% to 20%.

The **annual investment allowance** reduces from £100,000 to £25,000 with effect from 1 April 2012.

It became compulsory to use **iXBRL tagging** on corporation tax returns from 1 April.

The rules for **associated companies** are amended from 1 April, so that companies are only so regarded when there is interdependence between them.

From April 2011, the maximum period for which a **short-life election** may be made is increased from four years to eight years. This is the time for which an asset may attract a capital allowance outside a pool. The consequence is that the taxpayer can claim a balancing allowance on disposal.

Capital allowances cease to be available for **industrial and agricultural buildings** from 1 April.

Where a company accounts for a **lease** under a new accounting standard, the tax treatment will follow the old standard.

HMRC is challenging **dividends from small companies** to see that:

- dividends are only paid from profits, and
- interim dividends are only paid when allowed by the articles of association.

Two companies are able to claim group relief even though they have an **overseas parent company**. *HMRC v FCE Bank [2011] UKUT 420*

Life insurance companies will be subject to a new tax regime from 1 January 2013.

From 6 December, all premiums paid by corporate members of **Lloyd's** in respect of stop-loss insurance only become tax-deductible in the year for which the profits or losses of the relevant syndicate are declared.

Some changes are made to the **debt cap** rules to resolve practical issues that have arisen.

From 15 September, **manufactured overseas dividends** cannot be used to obtain a repayment of set-off of income tax that has not been paid.

Details have been published about the **patent box**. This is a scheme to be introduced between April 2013 and 2017 whereby the exploitation of patents is subject to corporation tax at only 10%.

Details have been published of changed rules for **controlled foreign companies (CFCs)**. The broad effect is that more companies will be excluded from CFC provisions. This is part of a wider reform of taxation earned overseas.

The Court of Appeal upheld the Upper Tier Tribunal decision regarding Marks and Spencers' group relief claim for its **European subsidiaries**. This case has been running since 2005. Broadly the case has held that UK law does not comply with EU law. *HMRC v Marks and Spencer plc. EWCA Civ 1156 [2011]*.

A new **foreign branch exemption** is introduced for accounting periods beginning after 18 July 2011. This allows a company to make an election to exclude profits from its foreign branches. This is subject to many detailed provisions, including anti-avoidance rules.

A series of changes were made to two aspects of the **bona vacantia** rules. This applies when a company is removed from the register at Companies House under Companies Act 2006 s1000 or s1003, rather than being formally liquidated. The changes mean that the Treasury solicitor will not seek to claim the share capital of any amount for the Crown. For tax, there will be a new limit of £25,000 from 1 March 2012 above which a repayment of capital is taxed as a dividend and not as capital. At present there is no limit under extra-statutory concession C16.

It was announced that there will be a new tranche of **enterprise zones**. Those in assisted areas will qualify for enhanced capital allowances.

Guidance was published for the **waste industry** on what items were treated as revenue expenditure rather than capital.

Details were announced of some relaxation of the rules for **real estate investment trusts (REITs)**. Details were also announced to allow authorised investment funds to become property authorised investment funds (PAIFs).

The **business premises renovation allowance** that was due to expire in April 2012 is to be extended by five years to April 2017.

From 12 August 2011, there are changes to the rules for capital allowances for **plant and machinery** to prevent artificial avoidance by transactions designed to accelerate a claim for capital allowance.

Two new **toolkits** were published in 19 April. They relate to company losses and chargeable gains.

From 15 February, some changes are made to the administration of **transfer pricing** as set out in SP 1/11.

The year 2011 is not an excepted year for **tonnage tax**. This means that a company that has elected to ring-fence its shipping activities must carry out a flagging test if it starts to operate a ship that is not registered in the EU or EEA.

Energy-efficient hand-dryers are added to the scope of assets that qualify for enhanced capital allowance from a date in summer yet to be announced.

Film tax relief has been extended to 31 December 2015.

There are increases in the relief for **research and development** from 1 April. These are to be increased again from April 2012. This involves a reduction in the tax credit, abolition of vaccine research relief, removal of the minimum expenditure condition, simplifying the rules when third parties have been engaged, and ending the link with the amount of PAYE and NI paid.

Amendments are made to the **degrouching charge**.

A tax avoidance scheme that involves the **reacquisition of plant and machinery** is rendered ineffective from 9 March.

The **hire of a boat with a skipper** is not “leasing in the course of a trade”. This means that a loss qualifies for sideways loss relief. *Forbes v HMRC. TC 1278 [2011]*.

Anti-avoidance legislation is introduced from 23 March to counter a tax avoidance scheme that involves **selling lessor companies**.

On 14 June, HMRC confirmed that it would not normally seek a corporation tax return for a **stub period** when a company was removed from the register, provided no tax was at risk.

A limited partnership was not entitled to first year allowances on expenditure funded by a **non-recourse loan**. *HMRC v Tower Mcashback LLP*. UKSC 19 [2011].

The **Scottish parliament** is pressing for the right to set its own rate of corporation tax.

Capital gains tax

Entrepreneurs' relief is doubled to £10 million from 6 April.

The **annual allowance** increased from £10,100 to £10,600 from 6 April. This figure will also be used for 2012/13. In future years the allowance will rise in line with the CPI rather than RPI.

On 19 May, four new government **gilts** were added to the list of those on which capital gains tax is not payable.

Gains and losses on funds from **foreign currency accounts** are to be removed from the scope of capital gains tax from 6 April 2012.

In valuing two **companies under common ownership**, the companies had to be considered separately in valuing their shares, even though this made no commercial sense. *Marks*. TC1086 [2011].

A **painting** on display at a historic house was not plant, and was therefore not exempt from tax. *Executors of Lord Howard of Henderskelfe*. TC 1340 [2011].

A **territory release payment** payable to someone to give up a Mercedes car dealership has two elements: sale of stock and goodwill. The latter element qualifies for roll-over relief. *Mertrux Ltd*. TC1253 [2011].

Several cases were heard where claims for **main residence relief** was denied because evidence suggested that the taxpayer did not regard it as his or her main residence.

Solicitors were not **negligent** when they failed to advise a client of the capital gains tax and inheritance tax consequences of his dying while having routine heart surgery, in which he did die. *Swain-Mason v Mills & Reeve (No 2)*. EWHC 410 (Ch) [2011].

Inheritance tax

It was announced that from 6 April 2012, the rate of inheritance tax will be 36% instead of 40% if the deceased leaves at least 10% of his estate to **charity**. Further details were published in December 2012.

The **nil rate band** will rise in line with the CPI instead of the RPI from 2015/16. Until then, it is frozen at £325,000.

The **disclosure of tax avoidance schemes** rules are extended to when property is taken into a trust, with effect from 6 April.

A case held that **agricultural property relief** could not be claimed for a farm bungalow that remained furnished but unoccupied for four years while its last occupant was in a care home. *HMRC v Atkinson. UKUT. [2011]*.

A **farmhouse** that was of a size and character suitable for its 16 acres qualified for agricultural property relief even though the farm was run down and the farmhouse dilapidated. *A Golding and others. TC1211 [2011]*.

HMRC published a new inheritance tax **toolkit** to assist taxpayers in dealing with deaths after 5 April 2010.

HMRC confirmed its view that the annual 5% withdrawal permitted from **single premium life assurance bonds** is regarded as a repayment of capital and not as income, and therefore does not reduce the value of the taxable estate.

The grant of an **underlease** while retaining the benefit of covenants amounted to a reservation of benefit. *Buzzoni. TC1129 [2011]*.

The various **R185 forms** for trusts are revised from 7 April.

National insurance

From 6 April 2011, the various **thresholds** were adjusted. The £102 earnings threshold is increased to £139 for employees and £136 for employers. The employee's primary rate increases from 11% to 12%, and the secondary rate from 1% to 2%. The employer's rate increases from 12.8% to 13.8%. Other rates and thresholds were adjusted.

National insurance **thresholds and rates** for 2012/13 were published in December. The lower earnings limit rises from £102 a week to £107. The earnings thresholds for employee and employer were increased from £136 and £139 respectively to £144 and £146. The upper accruals point and upper earnings limit remain unchanged. There is no change to the rates.

Two changes were announced to the **state retirement age** at which an individual stops paying national insurance and becomes eligible for the state retirement pension. The broad change is that men and women will have a common retirement age of 66 from October 2020. It was later announced that the age will be 67 by 2028.

Rules on **disguised remuneration** apply for national insurance from 6 December 2011 — eight months after they apply for income tax.

On 20 May, HMRC announced plans to crack down on suspected **unregistered traders**. It is starting with Scottish restaurants.

The reduction in the **contracted out rebate** for defined benefit occupational pension schemes is reduced from 3.7% to 3.4% (employers) and from 1.6% to 1.4% (employees) from 6 April 2012 to 5 April 2017. This means that employees and their employers in such schemes will pay more national insurance.

An employer may have overpaid **class 1A national insurance** for the years 2003/04 to 2005/06 if they provided a director or employee with a benefit for which there was both business and personal use. This arises because the law as rewritten in Income Tax (Earnings and Pensions) Act 2003 was held not to mean the same as the previous law, even though that was the stated intention. This follows the decision in the case *Antique Buildings Ltd TC 408*.

From 3 March, all **actors** on Equity contracts are liable for class 1 national insurance when the contract is newly entered into, revised, renewed or extended. This follows the ruling in the case *ITV Services Ltd. 2011. TC836*.

It was announced that **employment support allowance** will only be paid to claimants under 20 or students under 25 if they meet the contribution conditions. This change will take effect in 2012.

Class 2 national insurance becomes payable on 31 January and 31 July.

People who bought **holiday homes** through a limited company before 5 April 2009 may be able to claim back any class 1A national insurance they wrongly paid, provided they make the claim by 5 April 2015.

The **numercard** provided to notify people of their national insurance number is replaced by a letter.

Several cases have been heard when **women** find they have insufficient national insurance record to qualify for a full pension. This includes women who forgot that they claimed the married women's exemption before 1977.

Transsexuals may now be treated as their preferred gender. The new provision applies to men born between 24 December 1919 and 3 April 1945 who have been reassigned as women before 4 April 2005. They may be able to make a claim for earlier state retirement pension and for repayment of national insurance. Both of these relate to the period between the ages of 60 and 65.

Loss relief cannot be used to reduce a payment of class 4 national insurance. The fact that HMRC may have mistakenly allowed this for some taxpayers does not give other taxpayers the right of reasonable expectation that they may claim it. *Patel. TC1228 [2011]*.

Value added tax

From 1 April, the **registration threshold** was increased from £70,000 to £73,000, and the deregistration threshold from £68,000 to £71,000. From 1 December 2012, the separate threshold for businesses not established in UK is abolished.

The **standard rate of VAT** increased from 17.5% to 20% from 4 January.

The **flat rate** percentages were amended from 4 January.

Refunds of VAT are to be taxed as trading income or, if the business has ceased, as a post-cessation receipt.

The threshold for making VAT **payments on account** increases from £2 million annual turnover to £2.3 million. This takes effect from 1 December 2011 for the annual threshold, and 1 June 2011 for the in-year threshold. The in-year threshold for ceasing to be liable increases from £1.6 million to £1.8 million from 1 June 2011. Such trader must make monthly payments of VAT.

From 1 October 2011, VAT is charged on **postal services** provided by Royal Mail under an agreement with a client. Normal national postal charges remain exempt.

Any number of **trade samples** provided free with a value of £50 avoid a liability for VAT. Previously only the first sample in a year avoided VAT. Second and subsequent supplies were subject to VAT on the value. The case *EMI v UK. ECJ Case-581/08* established that UK law did not comply with EU law. The former has now been brought in line by Finance Act 2011 s74.

From 19 July 2011, **printed matter** is standard-rated provided separately in relation to a standard-rated supply.

Lennartz accounting is restricted from 1 January so that land, buildings, ships and aircraft may only be included if used for business purposes. Lennartz accounting is an alternative to the normal VAT method of apportioning business and non-business use of an asset. Under Lennartz, the trade claims back all the input tax and then pays output tax in respect of personal use.

From April 2012, **Intrastat declarations** may only be made on-line. These disclose amounts of intra-EU trade by businesses.

The **place of supply** rules are amended so that intra-EU supplies of gas, electricity and similar utilities to a non-taxable are taxed according to the country of supply from 1 January.

The scope of standard-rated **debt collecting** was widened to include “all services principally concerned with collecting payments” and not just chasing and recovering debts. This took effect from 13 January following the AXA case.

A machine providing **electronic lottery tickets** was an exempt supply of gaming, and not a standard-rated supply of amusement machine, from 20 January. This follows a ruling in a case concerning Oasis Technologies.

From 1 March, some restrictions on the **option to tax** rules are relaxed. The regulations include some anti-avoidance provisions where the developer occupies the property. This is relaxed so that the option may be exercised where someone connected with the development occupies 10% or less of the property.

From 1 March, the **change of use** regulations are amended when a building was zero-rated as being for residential or charitable use but changes to a business use within ten years. The changes simplify how the calculation is done.

On 9 February, it was announced that the provision of **sports league** services are standard-rated. They are not regarded as an exempt supply of land.

From 1 May, a business may claim input tax on **entertaining overseas customers**. This follows the European Court of Justice judgments in *Astra Zeneca* and *Danfoss* cases. It reverses the disallowance introduced in 1988.

A vehicle qualifies as a zero-rated **disability vehicle** even when the adaptation is simple. In this case the adaptation comprised fitting a steering ball to a steering wheel. The job took less than 15 minutes with a spanner. *Croall Bryson & Co Ltd. TC 1341 [2011]*.

An **American company** was entitled to claim VAT input tax relief if such could be claimed by a taxable person in the UK. Contrary to HMRC's assertion, it is not a requirement that the company must be carrying on a business. *SRI International. UKUT240 [2011]*.

A new scale of VAT **fuel rates** applies from 1 May. These apply when an employer claims input tax for car fuel that an employee may use for private journeys.

Several cases were heard where input tax was denied when the **missing trader fraud** had occurred. A case confirmed that input tax could be denied when a trader knew or should have known of the fraud. *Regent Commodities Ltd. UKUT259 [2011]*.

Professional fees incurred in a **design and build** construction contract may be included in the zero-rating of construction. HMRC said it would not seek to split off those fees and standard-rate them.

Receipts of **bank interest** are ignored in determining turnover for the purposes of calculating partial exemption. *Thexton Training Ltd and Fanfield Ltd*.

From 1 January 2012, the **connection charge** for gas and electricity to a new residential property is taxed at the standard rate and not at the 5% reduced rate. This follows the withdrawal of extra-statutory concession 3.16.

From 1 April 2011, **academies** are able to recover input tax on the same basis as a local authority school.

From 25 January, **roller blinds** are included in the scope of building materials for which a DIY house builder may claim tax relief. This follows the tribunal decision in *John Price TC873*.

A **weir** is not a building, so work on a listed weir cannot be zero-rated. *Calver Weir Restoration Project. TC 1310 [2011]*.

From 1 January 2011, the VAT relief for **gifts** up to £50 applies to each gift and not just the first in a year. This follows the European Court of Justice judgment in the *EMI* case.

The **low value consignment relief** is reduced from £18 to £15 from 1 November 2011, and is abolished from 1 April 2012.

From 2013, **imported road vehicles** entering the UK for permanent use must be notified to HMRC to check that VAT has been paid before they can be registered with the Driver and Vehicle Licensing Agency (DVLA).

Guidance was issued on how innocent traders can avoid being trapped by the **missing trader fraud**.

The European Court of Justice has upheld the **fallback** provisions explained in VAT notice 725. This explains the procedures for triangulation when a UK company buys goods in one EU member state for delivery to another. The only change relates to the concession for yachts given in Brief 12/97, which is now withdrawn.

A new **cost-sharing exemption** is to be introduced allowing a new exemption when a supply is made between members of a group.

From October 2012, the system for **registration**, deregistration and changing business details on-line is being amended. Some VAT forms will be abolished.

A builder was able to claim input tax even though he had **not traded** for four years. *Gardner. TC1320 [2011]*.

VAT law is to be changed for **local authorities** providing services that do not distort competition but could be supplied commercially. This will bring UK law into line with EU law. This issue is currently being tested in long-running litigation about car park charges.

For **caravan pitches**, the definition of “seasonal” is amended to give more accurate effect to the intention that holiday accommodation is standard-rated while permanent residences are exempt.

VAT notice 701/57 was republished and clarified that **cosmetic surgery** is exempt when provided for medical reasons but standard-rated for cosmetic reasons.

The **Listed Places of Worship** scheme was amended on 4 January 2011. It is no longer possible to claim for the cost of bells, organs, clocks and pews. The scheme is also capped at £12 million.

A trader was not able to claim that teaching dietetics and **nutritional consultation** was exempt as a supply of education. *Mrs Ruth Holmes. TC1207 [2011]*.

A case established that a **bed and breakfast business** run from a farmhouse was a separate business from the farm itself. *Forster v HMRC. TC 1319 [2011]*.

Someone who operated a website to provide **hotel accommodation** was acting as agent and not as principal. *Secret Hotels 2 Ltd. UKUT308 [2011]*.

A case held that **gym membership fees** paid for periods while the member was barred from the facilities was compensation and not payment for a supply, so no VAT was payable. *Esporta Ltd v HMRC. TC1475 [2011]*.

From 1 June 2011, it is no longer possible to recover UK acquisition VAT on a **yacht** supplied by a UK company but where it does not enter the UK.

HMRC issued Brief 27/11 saying that it accepted the First Tier Tribunal's decision that the services of an **insolvency practitioner** are within the exemption for financial services following the *Paymex* case. This covers both the nominee and supervisory stages.

Guidance was provided in a case on whether **food platters** are standard-rated as catering or zero-rated as food. *Value Catering Ltd. TC 1189 [2011]*.

HMRC has decided that children's **fur-lined hats** may come within the scope of zero-rating.

Green fees charged to non-members of a golf club qualified for exemption as a sporting service, according to the First Tier Tribunal. HMRC subsequently issued a Brief saying that the tribunal had got the decision wrong and they were ignoring it. *Bridpot and West Dorset Golf Club Ltd. TC1214 [2011]*.

An **employment agency** providing temporary staff could charge VAT on its commission only, and not on the whole supply to the client, according to the First Tier Tribunal. HMRC subsequently issued Brief 32/11 saying they thought this decision was wrong and they were ignoring it. *Reed Employment Ltd. TC1069 [2011]*.

Wrong advice from HMRC's National Advice Service creates a legitimate expectation that bound HMRC. The fact that the advice was unwritten was irrelevant. *A Noor. TC1209 [2011]*.

Moldova, a new member of the European Union, was found to have committed serious breaches of EU law in its conduct of a VAT case.

Stamp duties

From 6 April, **stamp duty land tax** rises from 4% to 5% on properties costing more than £1 million.

From 4 July, new forms are required for reporting **stamp duty land tax**.

Various **avoidance schemes** are made ineffective from 24 March.

From a date to be announced, stamp duty land tax on a **bulk purchase** may be calculated by the average price of the properties.

Other taxes

The **bank levy** was introduced, imposing a new tax from 1 January on specified liabilities as shown in banks' balance sheets. The full rate rises from 0.078% to 0.088% on 1 January 2012.

From 1 March 2011, the rates of **bank levy** were increased from that previously announced. The overall effect is that banks will pay the full rate that was to apply only from 2012. The rate rises again from 1 January 2012.

From 1 April, a new lower rate of **climate change levy** is introduced for supplies of natural gas in Northern Ireland. Previously such supplies were not levied, to encourage switching to gas.

From 1 April, changes were made to the scope for material that qualifies for the lower rate of **landfill tax**. In particular, turf and peat were removed.

A change is made to the rules for charging **insurance premium tax** on policies for vehicles which are sold for less than the cost of providing the insurance. From 1 April, only the cost is subject to the higher rate of 20%. The extra is subject to the standard rate of 6%.

The government abandoned plans to change **air passenger duty** to a charge per flight instead of per passenger.

A proposed increase in **aggregates levy** for 2011 has been postponed by one year.

From 23 March 2011, anti-forestalling measures are introduced to prevent avoidance of the new **carbon price floor** charges to be introduced in 2013.

The **fuel duty escalator** introduced in 2009 is abolished. This increases the duty on road fuel. The duty was reduced by 1p a litre from 23 March. It was announced that the duty differential for used cooking oil will end in 2012. The government has applied to the European Union for permission to reduce fuel duty by 5p a litre for remote islands.

Time limits for **excise duties** are generally increased from three to four years from 1 April 2011.

From autumn 2011, **beer duty** is increased for beers with a strength above 7.5% and reduced for those with a strength below 2.8%.

Rates of **alcoholic liquor duty** were increased from 23 March.

Rates of **tobacco duty** were increased from 23 March. They were also restructured to provide a proportionately larger increase for cheaper cigarettes.

A taxpayer may be considered to have **abandoned goods**, and thus avoided the need to pay duty on them, when he tipped cigarettes over a Customs officer's head. *David Kelsall. TC1297 [2011]*

Rates for **amusement machine duty** were revised from 23 March.

New guidance was given in notice 205 on the new aluminium **Customs seals**.

Rates of **vehicle excise duty** were increased from 1 April, except for heavy goods vehicles. Higher rates were introduced for vehicles without road-friendly suspension.

Gaming duty rates were increased from 1 April.

From 24 March, the supplementary charge on **oil and gas production** increased from 20% to 32%.

Business rates relief that was due to expire on 30 September 2011 is extended by one year.

A new system of **business rates** is to be introduced in 2013 that allows local authorities to keep some of the funds collected.

Certain reliefs under **climate change levy** were suspended on 1 April pending renewal of permission from the European Union.

The minimum indicative level for importing **cigarettes and tobacco** from another EU state was reduced from 3,200 cigarettes to 800, and from 3 kilograms of tobacco to 1 kilogram. An individual may still bring in any quantity for personal use, but may be required to demonstrate this purpose if the quantity is above the level.

Lights did not benefit from Customs duty for **medical appliances** when there was no evidence that anyone used them for the stated medical treatments. *Outside In (Cambridge) Ltd. TC 1294 [2011]*.

The European Union proposed a **financial transactions tax** from 1 January 2014. This was part of the proposals for dealing with the eurozone crisis. The UK vetoed these proposals which means that the other 26 EU states must create new bodies to administer the changes and cannot use EU bodies.

Council tax was frozen for a second year. The government put forward a proposal that any council tax increase above 3.5% had to be put to residents in a binding referendum.

Carrier bags in Wales are subject to a minimum 5p charge. This includes VAT if the business is registered. The proceeds are taxable profits.

A so-called **death tax** of £180 is being considered for all deaths to fund medical examiners. Since 2000 there has been such a charge of £160 for cremations.

France increased its capital gains tax on property that could have a significant impact on British owners.

The government ruled out a new tax on elderly people to pay for their **care**.

Pensions

Two changes were announced to the **state retirement age** at which an individual stops paying national insurance and becomes eligible for the state retirement pension. The broad change is that men and women will have a common retirement age of 66 from October 2020. It was later announced that the state retirement age will be 67 by 2028.

The **annual allowance** for tax-relieved pension contributions is reduced from £255,000 to £50,000 from 6 April. For the purposes of carry-forward of unused allowances, the figure of £50,000 is also used for tax years from 2008/09.

Later in the year, HMRC changed its interpretation on the **carry-forward** of this £50,000. The main change is that an unused allowance for one past year is not allocated to another past year if the consequence is that no additional tax relief is thereby gained.

The **lifetime allowance** is reduced from £1.8 million to £1.5 million in April 2012. There are some provisions, such as “fixed protection” that may be of benefit to affected taxpayers.

The amount that may be commuted for **trivial pensions** is fixed at £18,000. Previously this was 1% of the lifetime allowance.

Letters started to be sent out to employers in May reminding them of their duties in relation to **NESTs**, the new pension scheme in which employees will be auto-enrolled. NESTs start from 6 April 2012 for the largest employers.

From 6 June, new **drawdown pension tables** must be used. They were published on 17 February as a replacement for the 2006 tables. These tables are used when someone aged 75 or over has not annuitised their pension fund.

Interest charged by the Pensions Regulator for late payment of pension contributions is made exempt from tax.

From 6 April, the requirement to **annuitise** a pension at 75 is removed.

From 6 April, changes are made to the information that must be included in a **return** from a scheme administrator.

A new provision is to be introduced to allow individuals aged over 60 to commute one or two **small pension pots** of up to £2,000 a year into a tax-free lump sum. This is in addition to the existing rules on commuting trivial pensions.

The low earnings threshold for **State Second Pension (S2P)** is £14,100 for 2011/12. Someone who qualifies for S2P but has earnings below this threshold accrues pension entitlement as if their earnings were at the threshold.

An individual who incurs a **pensions annual allowance charge** of more than £2,000 may have that charge paid from their pension benefit. The charge arises if a person makes pension contributions that take them above either the annual limit or lifetime limit.

The European Court of Justice has been asked to give a ruling on whether a pension fund must pay VAT on **investment management services**. The case is being brought by the Wheels Common Investment Fund that has £6 billion managed for Ford Motor companies.

New guidance on **auditing** occupational pension schemes was given in APB Practice Note 15.

Social security and statutory payments

From 6 April, **statutory paternity pay** is renamed ordinary statutory paternity pay. There is a new additional statutory paternity pay where someone claiming statutory maternity pay may transfer up to six months of leave and pay to her partner.

From 6 April, the **rates** of all statutory payments are increased. Statutory sick pay is payable at £81.60 a week, and statutory maternity pay at £128.73 from the seventh week.

From 6 April, a **small employer** may reclaim 103% of statutory maternity pay, statutory paternity pay and statutory adoption pay, instead of 104.5% previously.

Statutory sick pay recovery may only be made in the month for which it should have been paid. It cannot be claimed in a later month when the employer has withheld it.

From 6 April, a child becomes entitled to **free school lunches** and free board and lodging on a **school trip**, when the parent is entitled to child tax credit but not to working tax credit, and the child credit is based on an annual income below £16,190.

The **permitted work higher limit** increased from £95 a week to £97.50 from 1 October 2011. This is the amount that may be earned by someone claiming certain income-related benefits for 52 years, or claiming for longer while under medical supervision. There is no change in the £20 limit that otherwise applies.

A **new enterprise allowance** was introduced on 5 January for those who start enterprises after three or more months of unemployment.

The European Parliament last year voted to increase the minimum period of **statutory maternity pay** from 14 weeks to 20 weeks, and for it to be on “full pay”. The UK is refusing to implement this, saying that is unreasonable and unaffordable.

The Supreme Court ruled that deduction cannot be made from future social security payments in respect of overpayments subject to a **debt relief order**. *R v DWP (Payne)*. SC. *The Times* 28 December 2011.

It was reported that another 80 judges have been engaged to clear the backlog of **social security cases**.

Details were published that the **universal credit** to be introduced in 2013 will be paid monthly and will replace six existing means-tested benefits.

The **Social Fund** is to be replaced by local provisions from 2013. This Fund is the safety net of the social security system.

From April 2011, the availability of **crisis loans** under the Social Fund is restricted. Such loans will generally no longer be available for cookers, beds and some other items. The rate paid for living expenses reduces from 75% to 60%, and there is a cap of three loans in a year.

Personal independent payments will replace disability living allowance in 2013.

The government decided not to scrap the **mobility allowance** of £51 a week. It had planned to do so on the grounds that local councils provided adequate transport.

The government has scrapped the planned 10% reduction for **housing benefit** for long-term jobseeker's allowance claimants.

The government is considering allowing up to one third of social security benefits to be confiscated as **finances**.

The government is considering extending from two years to five years the time that an **immigrant** must wait before being eligible for social security benefits.

A six-week reconciliation did not end the duty of an absent parent to make **child maintenance payments**. Normally a reconciliation must last for six months before a child maintenance order ceases the Court of Appeal ruled. *re Brough*. CA. *The Times* 7 November 2011.

A local authority does not have to provide **night care** to a woman who needs help going to the toilet, the Supreme Court ruled. *R (re McDonald) v Kensington and Chelsea Royal Borough Council*. SC. *The Times* 7 July 2011.

Penalties

The new **self-assessment** tax return penalty started in April. Anyone who is late with a tax return is liable to a penalty, even if no tax is due.

Proposals have been announced for a **contractual disclosure facility (CDF)** to be introduced in cases of suspected tax fraud. This is designed to make it worthwhile for people to confess promptly, and to avoid lengthy and extended litigation.

From 6 April 2011, penalties for **offshore non-compliance** is linked to the tax transparency of the country involved. Where the country has automatic exchange of information with the UK, the penalty remains at 100% of the tax involved. Where information is provided on request, the penalty increases to 150%. Where there is no exchange, the penalty increases to 200%.

In a whole series of tribunal decisions, HMRC was criticised for saying that **reasonable excuse** for a tax penalty had to be something exceptional. The tribunal said that the words have their ordinary meaning which is wider in scope. It could include a taxpayer reasonably believing that no tax was due.

HMRC was told by a judge that it must respond within three days to an e-mail about **e-filing problems**. *Louise Fernandez. TC1123 [2011]*.

A tribunal ruled that HMRC's **standard letter** on a voluntary late filing comprises reasonable excuse for the late filing penalty but not for late payment of tax. *Mrs Denise Williams. TC1251 [2011]*.

The issue of how far **disproportionality** may be used as reasonable excuse, following the *Energys* decision, remains unclear. Disproportionality was allowed in *Total Technology (Engineering) Ltd. TC1323 [2011]* but not in *Eastwell Manor Ltd. TC1155 [2011]* and *Saint-Gobain Building Distribution Ltd. TC1311 [2011]*.

The already tough penalties for the **Construction Industry Scheme** were made even tougher from 5 November with automatic penalties for any late return even if no tax is involved.

HMRC cannot reject a tax return submitted on a **photocopied form**, nor impose a penalty based on consequential non-submission. *Scotts Glass and Glazing Services. TC1355 [2011]*

HMRC cannot reject a corporation tax return because the **accounts are unsigned**. *Codu Computer Ltd. TC1055 [2011]*.

On 23 February, HMRC published new guidance on how it will deal with **deliberate defaulters**. This will usually involve greater scrutiny for between two and five years.

Between 1 March and 31 May, **plumbers**, gas fitters and similar people could voluntarily disclose undeclared tax in return for a lower tax penalty.

Some taxpayers did not receive **self-assessment notices** until August 2011. Such taxpayers will not be subject to a penalty if the tax is paid by 27 September 2011.

A tribunal held that a reasonable belief that **someone else** had filed a tax return could be reasonable excuse against a tax penalty. *Leachman. TC 1125 [2011]*.

A penalty for carelessness could not be **suspended** for a one-off mistake. Suspension is designed to ensure that a mistake is not repeated. *Fane. TC 1075 [2011]*.

A discovery assessment and a penalty notice were properly made for a careless error, even when the true position was correctly stated on **attached pages**. *Moore. UKUT 239 [2011]*.

A company successfully argued against a penalty for **late VAT registration**. HMRC admitted that it was having difficulties in VAT registrations in 2008, so the tribunal preferred the taxpayer's evidence that the forms had been sent in time. *McMullen Holdings Ltd. TC1187 [2011]*.

A taxpayer required to **produce documents** in the custody of someone else must at least ask them to produce the documents before refusing to pass them to HMRC. *Parissis. TC1083 [2011]*.

Costs were awarded against HMRC when they withdraw an appeal at a late stage because they realised they had not followed their own procedures. *Executors of Atkins. TC1318 [2011]*.

Costs could be awarded against HMRC even when all the issues have been resolved. The case concerned a "ridiculous" claim made by HMRC against a Lloyd's Name. *Executors of David Atkins. TC1318 [2011]*.

A boat finisher was able to have four out of five VAT default surcharges set aside on the grounds that he was dependent on **one customer** who was taking longer and longer to pay. *Paul Hoskins Ltd. TC1385 [2011]*.

The standard of proof in a case for **seizure of assets** is the civil standard, not the criminal standard, according to the Supreme Court. *Serious Organised Crime Agency v Gale. SC. The Times 17 November 2011*.

The **Serious Fraud Office** said on 5 September that it may ask companies to produce tax records when investigating non-tax offences.

Fujitsu claims to have developed **tax fraud software** that it is trying to sell to HMRC.

Business secretary **Vince Cable MP** who has repeatedly stated his desire to clamp down on tax avoidance was fined £500 for failing to register for VAT.

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Tax administration

From 16 December 2011, HMRC can accept payments using **Faster Payments Service (FPS)** offered by the banks. This allows payments to be made by the end of the following working day at the latest. In practice, payments are usually made within an hour or so.

From 1 April 2012, the **One Click Registration** will allow someone to register for PAYE, corporation tax, self-assessment and at Companies House in one go. It is later hoped to add VAT registration.

On 9 August 2011, HMRC moved its **bank accounts** from Bank of England to NatWest.

HMRC announced in June 2011 that it was scanning all **incoming mail** to send to the correct department within 36 hours of its receipt.

A new clearance and approvals document CAP 1 has been published that allows taxpayers in some cases to get clearance on how **recent tax legislation** affects them.

From November, HMRC has extended the scope of taxpayers who receive **SA252 letters**. These invite the taxpayer to contact HMRC if they believe their tax is wrong. These letters are sent to individuals who do not file self-assessment returns but who pay tax at the higher rate. They are now also being sent to taxpayers who pay tax only at the basic rate but whose tax affairs are complex.

Where there is a change to **generally accepted accounting principles (GAAP)**, tax law is amended. The effect of this is to ensure that all profit is taxed once and only once, and allowable expenses are allowed once and only once.

Guidance has been provided on **Schedule 1AB claims** for overpayment of tax. This follows a case where a business paid employees overtime outside the payroll and accounting records. They were made to pay the PAYE and NI that should have been deducted but were not allowed to claim relief for the overtime against their profits.

Details have been published relating to **tax agents**. A scheme of registration is to be piloted in 2012. Provisions for dishonest agents are expected to become law in 2013. Advice was published on speeding up the authorisation process.

A tax co-operation agreement was signed between the UK and **Switzerland** on 6 October 2011. This provides for one-off payments in respect of past tax liabilities and a new regime to collect UK tax on money squirrelled away in Swiss bank accounts. The agreement takes effect from 1 January 2013.

In June, guidance was published that taxpayers who have returned to or remained in the UK because of political unrest in the **Middle East** may claim tax exemption where this affects their residence status. The provisions apply to workers in Bahrain, Egypt, Libya, Syria and Yemen.

A **Jersey-resident** taxpayer was held to be UK resident because he spent more than 183 days in the UK. The fact that this was because of his son's poor health was not relevant. *Ogden. TC1077 [2011]*.

Following summer **riots** and other civil disorder, the government introduced a package of measures (including tax measures) to assist affected bus and individuals.

Provisions for **incapacitated persons** are to be amended, so that they are treated the same under tax law. The definition is to be amended to delete references to idiots and lunatics, which have now become perjorative terms.

Following criticisms from the Public Affairs Committee of MPs, HMRC has published guidance on **taxpayer confidentiality**. It has also appointed two new Commissioners, and made some procedural changes.

In the face of criticism over HMRC handling of **sweetheart deals**, and the perception that big companies get better treatment than small ones, HMRC agreed that deals will be approved by different officers from those who had negotiated them.

The HMRC **staff survey** for 2011 revealed that only 15% of staff believed that the department is managed well, and only 22% are proud to tell friends where they work.

HMRC tax offices were subject to various **one-day strikes** in protest at pension reforms and a new attendance management policy.

In an astonishing outburst, judge Geraint Jones QC said that HMRC's conduct "smacks more of the conduct of a **disreputable debt collector** than of responsible conduct by an organ of the state". He was criticising the aggressive letter sent to a charity while it was resolving a tax issue. *HMD Response International. TC1322 [2011]*.

Following a year of sustained criticism, HMRC's permanent secretary **Dave Hartnett** announced he was taking early retirement in 2012. Chairman Mike Clasper stands down at the end of a three-year contract, and commissioner Dame Lesley Strathie stood down for health reasons.

HMRC had announced plans to list **tax avoidance schemes** that it is challenging. HMRC then dropped this idea, and announced that it is looking at alternatives.

Five specific task forces were set up to target **tax evasion** by:

- scrap metal dealers in Scotland,
- construction businesses in North West and North Wales,
- all taxpayers in the South East considered not to be paying enough tax,
- fast food outlets in Scotland, and
- landlords in the North West and North Wales who own or rent out three or more properties.

HMRC set up four specialist teams to handle **compliance checks** into tax affairs of small and medium-sized enterprises. These are businesses with a turnover of up to £30 million and with fewer than 250 employees.

Graham Aaronson QC published his report on whether a **general anti-avoidance rule (GAAR)** should be introduced. He broadly concludes no, but suggests that rules could usefully be introduced to protect legitimate tax planning. His report is not likely to be enacted.

HMRC has published new **Toolkits** on national insurance contributions, property rental, and capital v revenue expenditure. It has updated existing Toolkits.

HMRC has joined the **Twitter** social network website under the name @hmrc.gov.uk. It sends out about two tweets a day.

From 1 December, taxpayers using the **Liechtenstein Disclosure Facility** must produce a confirmation of relevance to HMRC.

A **Delaware limited liability corporation (LLC)** was treated as a partnership for US tax purposes (though it could be treated as a separate entity). A UK taxpayer unsuccessfully argued that the LLC was fiscally transparent and therefore his share of its profits came within the scope of the double taxation treaty. The Upper Tier Tribunal found that it was not fiscally transparent, and his profits were therefore taxable as distributions. *George Anson. UKUT B21 [2011]*.

The **SA361 payment slip** was redesigned and made available on HMRC website.

The rules on disclosing **tax avoidance schemes** were tightened up from 1 January. In particular marketed schemes must be disclosed earlier, and HMRC have more powers to demand information.

On 1 March, HMRC confirmed that the turmoil in Egypt, Libya and Tunisia qualify as **exceptional circumstances**. As a consequence someone who cannot leave the UK to return there will not lose their status as non-resident if that results in them being in the UK for more than 90 days.

From 1 April, the charge for paying tax by **credit card** is increased from 1.25% to 1.4%.

It is proposed that, from April 2012, the £30,000 annual **non-domicile** charge be increased to £50,000 for those who have lived in the UK for 12 years.

Twenty-one new **enterprise zones** are to be created. Only those zones in assisted areas will qualify for generous capital allowances.

From 1 April, equitable liability is replaced by **special relief**. This provides tax relief of last resort when a taxpayer has not been able to challenge a tax demand using other procedures.

Several extra-statutory concessions were **enacted** in a statutory instrument on 30 March.

HMRC announced that it would start a new **business records check** in autumn. It was later revealed that they had started in April.

In a further depersonalisation of HMRC, its **addresses** on certain forms will be replaced by PO Box numbers.

New on-line forms have been introduced to register new business **partnerships** for both income tax and class 2 national insurance.

Guidance is produced on the procedure when a **partner** does not agree his share of partnership profits as disclosed by the partnership. Broadly the partner and partnership should try to agree the figure. Failing that, the partner should declare the figure he or she believes is correct and disclose in the white space that this differs from the partnership figure. This follows the issues raised in the case *Self v Morgan. TC 46 [2009]*.

The government has announced plans to change the rules on **residence**, and has produced some guidance. The statutory residence test due to be introduced in 2012, has been deferred to 2013.

HMRC will be given more **information powers** to bring it to the standard required by the Global Forum on Transparency and Exchange of Information for Tax Purposes.

HMRC agreed to work on improvements to its much-criticised poor service when people try to call by **telephone** to sort out their tax affairs.

HMRC said that it had not changed its criteria for **Time to Pay** arrangements, and that more than 80% of such requests were approved. The small fall in the acceptance rates is because of repeated requests, and because less justifiable cases are being requested.

HMRC could not issue a **discovery assessment** when there was nothing to discover. The case concerned a blatant tax avoidance scheme that has been disclosed in the white space on the tax form, but not noticed by HMRC at the time. *Charlton. TC1317 [2011]*.

A message sent by **fax** indicating an intention to appeal legally constituted the appeal, and so could bring the appeal within the required time limit. *Greenoaks Pharmacy Ltd. TC1118 [2001]*

Provisional Collection of Taxes Act 1968 is amended to reflect the fact that parliamentary sessions now start in spring.

The April 2011 edition of **R40 forms** showed the date for the year ending 5 April 2012 rather than 5 April 2011. The form is used to claim overpaid tax on savings interest.

The Supreme Court is to rule on whether **legal professional privilege** is restricted to lawyers, or whether it can apply to accountants advising on tax law.

HMRC asks people not to send **thank you letters** to them as it clutters up their filing system!
TAXline April 2011.

Other provisions

Cheque cards generally ceased to be effective from 1 July. However the banks decided not to discontinue cheques in 2018 as previously announced.

The European Union has proposed a Directive to replace and modernise various **accounting Directives**. The aim would be to extend the scope of small and medium-sized companies, and to provide further compliance relief for the smallest businesses.

The European Union has produced a new Directive on **interest and royalties**. This aims to treat foreign royalties on the same basis as domestic royalties. There will be tax consequences.

Various changes in **employment law** have been announced. These include extending the qualifying period for unfair dismissal claims from one year to two, introducing provisions to avoid the need for employment tribunal hearings in simple disputes, and other reforms of employment tribunals.

An employee accrues **holiday pay** during sick leave, even when sick for the whole year and when the employee has not applied for holiday leave. *NHS Leeds v Lamer. UK EAT 0088 [2011]*.

A new scheme for **mortgage application fraud** started on 1 September. Under this scheme, a mortgagee who suspects an application may send it to HMRC who will check the income declared on the form with that on a tax return. The lender pays a fee of £14.

The law on **forfeiture** in inheritance has changed. This treats someone whose inheritance is forfeited (such as someone who murdered the deceased) as having died immediately before the deceased. The consequence is that their descendants can inherit.

The Legal Services Board is to investigate the **will-writing** industry.

A claimant who wished to bring proceedings on behalf of an intestate person must first have **letters of administration**. *Millburn-Snell v Evans. CA. The Times 17 June 2011.*

Companies House has launched the **eReminder** service that send an automatic e-mail when a return is due.

Companies House has abandoned plans to require **annual returns** to be filed in iXBRL from March 2013 as previously announced.

Arrangements have been put in place to allow the £15,000 threshold for **student loan repayments** to be increased to £21,000.

From 1 October, new laws will give **agency workers** many new rights. They will broadly have the same rights as employees after 12 weeks.

The nation had an additional **bank holiday** on 29 April to celebrate the wedding of Prince William to Kate Middleton. There is an additional bank holiday in 2012 to celebrate the Queen's diamond jubilee.

The Supreme Court ruled that an employer may require an employee to take his **holiday leave** when the employee is not obliged to be working anyway. *Russell v Transocean International Resources Ltd. SC. The Times 6 December 2011.*

National minimum wage rates increase from 1 October.

The adult rate increase by 15p to £6.08 an hour;

The rate for 18-20 year olds increase by 6p to £4.98 an hour;

The rate for 16-17 year olds increase by 4p to £3.68 an hour; and

The rate for apprentices increase by 10p to £2.60 an hour.

The accommodation offset rises from £4.61 a day to £4.73.

A **Living Wage** campaign has signed up more than 100 employers even though it is not legally enforceable. The rates are £7.20 an hour outside London and £8.30 in London. The rates are generally about 20% higher than the national minimum wage.

The **Chartered Institute of Payroll Professionals** received its royal charter on 1 January 2011.

Bribery Act becomes law from 1 July. It creates a new offence of not taking adequate steps to prevent bribery (even if none has occurred). It also raises fears that generous hospitality and payments that are customary in some overseas countries could now be seen as bribes.

New rights on **consumer lending** took effect on 1 February.

Some fees for **Companies House** were reduced from 6 April when information is filed or requested on-line.

Various proposals have been put forward by the European Union to introduce more competition for **audit work**. One proposal is that auditors may not be allowed to advise on tax.

Proposals to extend the **Time to Train** programme have been shelved. In 2010, employees at firms with 250 or more employees were given the right to request flexible working. Plans to extend this to smaller employers have been shelved.

Suppliers are to be banned from imposing additional charges for accepting payment by **debit or credit card**. The change is expected to take effect from the end of 2013. Stores have agreed to stop offering discounts to customers who take out a store card.

The Bank of England provided £75 billion in a second tranche **quantitative easing**. This has the same economic effect as a tax. In December, the European Central Bank provided €489 billion in liquidity to more than 500 European banks. The bank rate remained at 0.5% from 9 March 2009, making this the longest period of stable base rates since 1959.

The government has abandoned plans to give **cohabiting couples** rights similar to those for married couples. Such a law has existed in Scotland since 2006. It has announced plans to allow gay marriages by 2015.

The government has announced that it is to end the **Private Finance Initiative** that has been used since 1992 to fund certain public infrastructure projects.

The **Co-operative Society** has successfully bid to take over 632 branches of Lloyds TSB that the government required them to give up in a move to improve banking competition.

Post Offices ceased handling **National Savings** from 28 November 2011. Fixed interest and index-linked certificates were withdrawn on 7 September 2011.

Various changes are planned to **copyright law**. This includes extending the protection for recorded music from 50 years to 70 years, probably from 2014. It will also legalise the copying of a CD on to a computer or personal device.

The European Court of Justice ruled that **motor insurance** companies could not discriminate against men by charging them higher premiums.

Cigarette machines are banned from 1 October 2011.

A commercially sensible transaction entered into in good faith is not caught by the **anti-deprivation rule**, the Supreme Court held. This rule is designed to ensure that all creditors in a liquidation are treated fairly. The case concerned a synthetic loan agreement with Lehman Brothers who became insolvent in 2008. *Belmont Park Investments Pty Ltd v BNY Corporate Trustee Services Ltd*. SC. *The Times* 15 August 2011.

A company that was fined for **negligence** cannot appeal on the grounds that the fine will put it out of business. *R v Cotswold Geotechnical (Holdings) Ltd*. CA. *The Times* 20 July 2011.

Under insolvency law, the term “**book** or paper affecting or relating to the company’s properties or affairs” includes computer records. *R v Taylor (re George Charles)*. CA. *The Times* 24 June 2011.

The Financial Services Authority is introducing the **Retail Distribution Review** to impose new rules on suppliers of domestic financial products from 31 December 2012.

The **Post Office** announced several changes to its services in relation to compensation claims.

In changes to **currency**, a new £50 notes was issued on 2 November. Two new Olympic coins have been minted containing one kilogram of gold or silver and legal tender for £1,000 and £500 respectively. Commemorative 50p coins and a £5 coin were minted for the 2012 Olympic Games. In February 2012, a commemorative £2 coin is to be minted to mark Charles Dickens' bicentenary. A commemorative £5 coin will be minted to mark the Queen's diamond jubilee.