

# RI Main tax changes for 2013

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*This summary is of the main changes to tax and adjacent disciplines for 2013 up to August.*

## Employment

**Real Time Information (RTI)** is introduced from 6 April 2013. Some smaller employees are not required to report until 6 October 2013.

RTI means that employers must generally notify HMRC at or before each payment to employees. The P14 and P35 year-end returns are abolished. In practice, the administration will usually be handled by the payroll software. HMRC has approved software packages that meet RTI requirements (though it cannot guarantee it meets other requirements). HMRC also provides free software for employers with nine or fewer employees.

The routine of RTI requires an employer to submit:

- a Full Payment Submission (FPS) when employees are paid
- an Employer Payment Summary (EPS) each month to show any adjustments to the amount the employer owes
- an Earlier Year Update (EYU) to correct errors or make adjustments in an earlier tax year.

Small employers (fewer than 50 employees) were granted a reporting relaxation in that it may report payments once a month rather than every time a payment is made. This relaxation of rules was due to expire on 5 October 2013. On 13 June 2013, it was extended to 5 April 2014.

Yet another set of penalties is introduced from April 2014 for making errors in RTI.

In March, HMRC relaxed the RTI reporting requirements for **small businesses** (fewer than 50 employees), particularly those who pay weekly or at odd times. In such cases, RTI may be reported at the next payroll run, but no later than the end of the tax month.

The P38(S) system for **students working in vacations** is ended from 6 April 2013. This scheme allowed students to be paid without deduction of tax if their weekly or monthly earnings exceeded the PAYE limit but their annual earnings did not exceed the personal allowance. In future, students must have PAYE operated normally and claim a rebate of any overpaid tax.

RTI is slightly relaxed for **harvest casuals** who are traditionally paid on a daily basis. The employer is allowed to make weekly returns, instead of a return for every payment.

The maximum limit for a tax-free **beneficial loan** doubles from £5,000 to £10,000 from 6 April 2014. If an employer provides a free or low-interest loan of a greater amount, the employee is liable to pay tax on the value of the benefit.

The **car fuel benefit multiplier** increases to £21,100. An employee provided with fuel for personal use is taxed on the benefit calculated as this figure multiplied by the percentage from the car benefit tables according to the car's emissions.

Employees who pay the additional rate of tax (45%) are entitled to receive tax-free **childcare vouchers** up from £22 a week to £25 from 6 April 2013. This is a consequence of the reduction in the additional rate.

A new **childcare allowance** is to be introduced from autumn 2015. It is intended that this will provide basic rate tax relief on costs up to £6,000 a year, provided both parents are working, neither is claiming tax credits or universal credit, and neither parent earns more than £150,000 a year. Existing tax-advantaged childcare plans will be phased out at the same time.

Measures are to be introduced to reverse the presumption that a partner in a **limited liability partnership** is self-employed rather than an employee. Subsequent guidance suggests that the test follows that for employees generally, so genuine partners are not affected.

From 1 September 2013, there is a new category of employment status called **employee shareholder**. Such a worker has shares in his or her employer but does not have many employment law protections of employees. One of the conditions is that the worker must hold at least £2,000 worth of shares. Such shares are free of capital gains tax to a maximum of £50,000. For income tax and national insurance purposes, the employee is taxed as if he or she had paid £2,000 for them. There An employee moving to this new status must receive (tax and NI-free) independent advice first.

From April 2014, an **employment allowance** is to be introduced, allowing every business and charity to reduce its national insurance liability by £2,000 a year.

From 6 April 2013, some changes are made to **enterprise management incentive** as it relates to entrepreneurs' relief. For shares acquired under EMI, the 5% ownership requirement is removed for entrepreneurs' relief when the share is disposed of after 5 April 2013. The period in which the option is held now counts towards the 12-month period for relief. Relief is also available for replacement shares following a company reorganisation or a share exchange.

There are some administrative simplifications to the operations of tax-advantaged **employee share schemes**.

**Company car** rates are amended. The taxable value of a car is determined by multiplying its list price by a percentage taken from tables according to the car's emission figures. The percentages are generally increased by 1 point from 6 April 2013. Further changes were announced to take effect in 2015 and 2016.

From April 2013, all payments of PAYE are sent to **Cumbernauld**. The other office at Shipley has closed.

Employers are asked to mark all correspondence with one of a list of **standard headings** to allow the mail to be processed more quickly. A separate development, known as **Where's My Reply** allows taxpayers to track the progress of correspondence.

It is put beyond doubt that the **IR 35 regulations** apply to office-holders as well as to employees. These regulations require someone to operate their own PAYE scheme where they supply their services as a limited company in circumstances where they would otherwise be regarded as an employee.

Payments through an **employee benefit trust** are generally taxed as remuneration and subject to PAYE and national insurance. This was the consequence of PA Holdings Ltd deciding not to appeal against the Court of Appeal decision judgment in November 2011 that such payments are earnings. The matter was also legislated in Finance Act 2011.

**Bus pass salary sacrifice** schemes may lose their tax exemption. An employee is not taxed on the benefit of an employer-supported bus service, such as where the employer provides a subsidy to the bus company or where the employer pays for a new pull-in or bus stop. HMRC has wrongly given approval to schemes that involve the issue of bus passes in return for the employee sacrificing some salary. Such schemes are not approved from 1 May 2013 except that where they had already been approved, this runs until 30 April 2014.

**Advisory fuel rates** continue to be amended every three months. These rates are the amounts that may be used to avoid an employee having to pay tax on fuel benefit for a company car.

**Doctors**, known as specialty registrars, may claim tax relief for the registration fee for registering with the relevant body during training, HMRC confirmed on 14 May 2013.

**Costs lawyers** may claim tax relief for the registration fee payable to the Costs Lawyers Standards Board, HMRC confirmed on 14 May 2013.

From 8 April 2013, the Department of Work and Pensions may issue a **Direct Earnings Attachment (DEA)** notice requiring the employer to make deductions from earnings for overpaid benefits. This replaces the exotically rare Income Support Deduction Notice. The scheme is being pilot-tested until September 2013.

## **Income tax**

From 6 April 2013, the **personal allowance** is £9,440, the **additional rate** of income tax reduces from 50% to 45%, and the **higher rate threshold** reduces from £32,010 to £31,863. There are changes to other allowances.

From 6 April 2013, there is a **cap on tax reliefs** of £50,000 or 25% of income, whichever is greater. This principally affects sideways loss relief.

A new scheme of simplified income tax is introduced for **micro-businesses** from 6 April 2013. This is one whose turnover is no greater than the VAT threshold, currently £79,000 a year. A business may stay in the scheme until its turnover is twice the threshold, currently £158,000.

The new scheme broadly allows such businesses to account for income tax on the cash basis and to use fixed allowances for such matters as use of home and travel, rather than calculate an exact figure.

From 7 January 2013, the **high income child benefit charge** is payable. This recovers child benefit paid to a household where someone earns more than £50,000. The whole of child benefit is recovered for earnings above £60,000, and a portion on a sliding scale between £50,000 and £60,000. Alternatively the child benefit claimant may simply opt out of receiving benefit, and avoid the charge.

The Supreme Court gave significant rulings in two cases heard together regarding the **Hastings-Bass rule**. This rule relates to how far a trust can be set aside when the trustees have not performed their duties properly. This rule has been widely criticised as a “get out of jail free” card, allowing trustees to avoid the consequences of not setting up trusts in the most tax-effective manner. The Court’s decisions have reined back Hastings-Bass. Anyone seeking to rely on this rule or the Court’s decision is strongly advised to get professional advice.

The **Small Charitable Donations Act 2012** takes effect from 6 April 2013. This allows charities to claim tax relief on cash donations from unknown donors on a similar basis to that which already applies under Gift Aid for known donors. The scheme is subject to several conditions. Other changes made in April 2013 simplify the Gift Aid requirement for goods donated to charity shops, and allow charities to make Gift Aid repayment claims on-line.

It is confirmed that **universal credit** is exempt from income tax. This is a means-tested social security benefit that is being introduced from October 2013, replacing six existing benefits. Tax law is also being amended to reflect the introduction of personal independence payments (PIPs) to disabled people.

With retrospective effect from 5 December 2012, **patent royalties** are not deductible from all income subject to income tax. Royalties are only deductible from the income to which the payments relate.

There is a general tax relief for participants in the **sporting events** of 2013 London Anniversary Games and 2014 Glasgow Commonwealth Games.

The seven-year **Save As You Earn** scheme is withdrawn from 23 July 2013. The three-year and five-year schemes remain.

## Capital allowances

The **annual investment allowance** increases from £25,000 to £250,000 from 1 January 2013 for two years. This can create some difficult calculations for businesses. A business whose accounting period ends in February 2013 has to deal with three different rates of AIA.

The 100% first year allowance for **low-emission cars** that was due to end on 31 March 2013 has been extended by two years to 31 March 2015. However such cars acquired for leasing no longer qualify. From 1 April 2013, the qualifying limit for such a car reduces from 100 g/km to 95 g/km. It is planned that this limit will further reduce to 75 g/km between 1 April 2015 and 31 March 2018.

**Cars** that do not qualify as low-emission cars qualify for the writing down allowance of either 18% or 8% a year. The threshold for the 18% reduces from 160 g/km to 130 g/km from 1/6 April 2013.

For **research and development** expenditure incurred from 1 April 2013, a company may claim an “above the line” tax credit of 10% of their qualifying expenditure. This credit is payable to the company tax-free. It is intended to make the tax relief more obvious to shareholders. It is intended that this scheme will become mandatory from 1 April 2016.

The categories of **environmentally friendly** assets that qualify for 100% first year allowance are revised in summer 2013.

HMRC published guidance on when **polytunnels** may be regarded as plant, and thus qualify for capital allowance. A polytunnel is used to grow fruit, such as strawberries.

The 100% first year allowance on **gas refuelling equipment** is extended by two years to 31 March 2015. It is intended that it be further extended to 31 March 2018.

## Corporation tax

The main **rate** of corporation tax reduces to 23% from 1 April 2013. It is planned to reduce to 21% from 1 April 2014, and to 20% from 1 April 2015. However, the Chancellor of the Exchequer has twice reduced the rate further than he had previously announced. A main rate of 20% would mean that there is no longer a small profits rate. In the meantime, it seems that the small profits rate remains at 20%, though this has not been explicitly stated.

For a main rate of 23%, the marginal relief fraction is  $\frac{3}{400}$ , and the marginal rate is 23.75%. For a main rate of 21%, these figures are  $\frac{1}{400}$  and 21.25% respectively.

Between 1 April 2013 and 31 March 2018, a new **disincorporation relief** is to be introduced to allow small companies to revert to a sole trader or partnership status where the value of the business does not exceed £100,000. This mirrors incorporation relief which is widely used to crystallise internally-generated goodwill as a tax-free pot. This new relief, will allow businesses further opportunities to crystallise goodwill.

From 1 April 2013 (or 20 March 2013 for the last two), changes are made to the rules on **group relief**. These are broadly

- relaxing the conditions for an EEA company to surrender losses to a UK company
- ending the restriction on relief when a date has been fixed for a company to leave the group
- for controlled foreign companies changing the definition of “gross profits”
- amending the restrictions when there has been a major change in ownership or nature of the business.

In 2012, a new regime was introduced for **controlled foreign companies**. Some technical amendments are made to change the law so that it applies in the way it was intended.

The Supreme Court ruled in favour of Marks & Spencer plc in the latest twist in its long-running litigation about claiming **losses from foreign subsidiaries** against UK tax. UK law originally did not allow such a deduction. The European Court of Justice held that this contravened EU law. UK law was amended, but subject to so many restrictions as to make the law ineffective. The EU is being proceedings against the UK for failure to comply. In the meantime, tax relief for foreign losses is allowed to the extent that there are “no possibilities” of offsetting it against foreign profits. The latest issue was when the “no possibilities” test must be met. The Supreme Court ruled that it is at the end of the accounting period in which the loss arose.

From 1 April 2013, a new **creative industry tax credits** is provided on a similar basis to that already offered for films. The new relief will apply to animation, video games and television, subject to conditions.

HMRC published guidance on 4 March which dealt with the tax consequences of:

- payments to a UK company from a foreign company, particularly whether they are taxed as distributions, and
- payments to individuals from a UK company following a share reduction — whether this is a distribution subject to income tax or a refund of share capital.

The requirements for **investment trust companies** are relaxed with retrospective effect from 1 January 2012. The change means that incidental ancillary activities no longer exclude a company, provided that the substantial part of its business is investment.

From 20 March 2013, amendments are made to the rules regarding **loans to participators** in close companies. These changes are made to ensure the law works as intended.

New rules are to be introduced in 2014 on **unauthorised unit trusts**. The change is to counter tax avoidance schemes.

The **Double Taxation Treaty Passport Scheme** is amended from April 2013 to simplify procedures. The Scheme may be used when a UK company borrows money from an overseas company; the scheme cannot be used by individuals.

The government will make binding contracts with oil and gas companies on the tax-allowable reliefs for **decommissioning** of oil and gas plant.

From Royal Assent to Finance Act 2013, some changes are made to the tax regime for **real estate investment trusts (REITs)**.

In 2014, a new tax relief will be introduced for certain disposals of a controlling interest to an **employee-owned structure**.

The year 2013 is not an excepted year for **tonnage tax**. This means that a merchant shipping company that elects to pay this tax must carry out a flagging test for vessels registered outside the European Union or European Economic Area.

## Capital gains tax

The **annual exempt amount** increases from £10,600 a year to £10,900 from 6 April 2013. The trust rate is half of this figure. There is no change to the rate, chattels exemption or other rates.

Capital gains tax is charged at 28% on the disposal of **residential properties** that come within the scope of the Annual Exempted Property Tax (explained later). Such properties no longer benefit from main residence relief. This tax applies for disposals after 5 April 2013. If the property was acquired before 6 April 2013, the acquisition cost is rebased to the property's value on 6 April 2013, so that pre-2013 gains are not taxed.

## Value added tax

From 1 April 2013, the VAT **registration threshold** is raised from £77,000 to £79,000. The deregistration threshold increases from £75,000 to £77,000. The registration threshold is also the limit for three-line accounts on income tax returns, and for the new cash accounting for income tax by micro-businesses. The car fuel scale charges are also revised.

From 15 April 2013, **imported vehicles** for permanent use on British roads must be notified to HMRC within 14 days and any VAT due must be made. Such a vehicle will not be registered unless these conditions are met. A new on-line system called Notification of Vehicle Arrivals (NOVA) has been set up.

From 1 August 2013, **charitable buildings** are not able to claim the reduced rate for energy-savings materials. Such supplies will be standard-rated.

There are changes made to the liability for VAT on charges for a first connection of a residential building to the **water supply**.

HMRC has changed its practice, so that **meals in hotels** will usually be standard-rated even when supplied by a caterer other than the hotelier.

A new voluntary scheme is introduced to simplify procedures for suppliers of **vehicles and boats for the disabled**.

The provision of **pension advice** to employers and the setting up of group personal pensions are both supplies subject to the standard rate of VAT. This change, announced in HMRC Brief 9/2013, follows changes of practice in the pensions industry.

From 1 April 2013, the rate of VAT on **cable car rides** reduces from 20% to 5%.

The European Court of Justice has ruled that purchasers of **solar panels** should be able to reclaim VAT if the panels provide any power to the national grid. UK law has not been changed to reflect this decision.

A new on-line **variation service** has been introduced to allow taxpayers to do more on-line, including deregistering.

The VAT exemption for **research** is withdrawn from 1 August 2013.

Changes are made to VAT arrangements for **NHS bodies** to reflect changes made by Health and Social Care Act.

## National insurance

For **class 1 national insurance**, the employee's employment tribunal rises from £146 a week to £149 from 6 April 2013. The employers employment tribunal rises from £144 a week to £148. The rates are unchanged. There are increases in the rates of classes 2, 3 and 4.

The ability of an employer to **contract out** from state second pension by a defined contribution scheme was generally ended from 6 April 2012. Some transitional provisions have been made to allow for such matters as late contributions. It is planned to end all contracting out by 2017.

**Sleeping partners** and inactive limited partners must pay classes 2 and 4 national insurance from 6 April 2013. HMRC regard such partners as always having been liable, but will not collect it for previous periods.

From April 2014, it becomes possible to collect **unpaid class 2** national insurance through PAYE. Affected taxpayers are being offered the chance to pay it before then.

**National Insurance Contributions Act 2013** is a new piece of legislation to:

- introduce the £2,000 a year employment allowance from April 2014
- extend the General Anti-Abuse Rule to national insurance
- prevent NI-avoidance by offshore payroll companies, and
- reverse the presumption that partners in an LLP are self-employed.

In May 2013, HMRC discovered that it was sending notices to employers quoting **national insurance numbers** without the final letter. National insurance numbers comprise two letters, six digits and a letter in the form AB 12 34 56 C. The advice is that the correct letter suffix should be used if known, otherwise the final letter should be omitted. An employer should not guess a letter. The irony is that this letter no longer serves any purpose. It was originally used to indicate the address of the DHSS department that kept the records of that individual.

Consideration is being given to collecting class 2 national insurance through self-assessment.

## Inheritance tax

From 6 April 2013, the tax-free limit for **non-domiciled spouses** increases from £55,000 to the figure for the nil rate band, currently £325,000.

It was announced that the **nil rate band** is to remain frozen at £325,000 until 2017/18. The government made this announcement just a few weeks after announcing that the band would rise to £329,000 from April 2015. It should be remembered that this tax is very political, and that there is a general election in 2015.

With retrospective effect from 16 October 2012, the **switching** of UK assets from a trust settled by a non-UK domiciled individual to investments in OEICs and authorised unit trusts is exempt from inheritance tax.

Further conditions are added to the allowability of **deductions** from a person's taxable estate. This is to counter some artificial avoidance schemes. Inheritance tax is charged on a person's estate less outstanding liabilities, such as loans and unpaid bills at the time of death. Many IHT avoidance schemes seek to reduce the tax charge by creating artificial liabilities. To counter this, from the date of Royal Assent to Finance Act 2013:

- a liability is only allowed to the extent that it represents a sum paid to the original creditor, or to another person where there is a proper commercial reason for doing so,
- in general, no deduction is allowed when it is incurred for property that is not subject to IHT, and
- business property relief, agricultural property relief and woodlands relief will now first be offset against the value of such property before being available for offset against the estate generally.

It is possible that some of these changes, particularly the third, could create a new tax liability when there has been no intention of avoiding tax.

From 25 April 2013, **ICAP Securities & Derivatives Exchange Ltd** is added to the list of recognised stock exchanges for both income tax and inheritance tax purposes. This exchange is commonly abbreviated to ISDX. The consequence (for inheritance tax) is that securities so listed are subject to different rules for business property relief and post-death relief (where their value falls in the 12 months after death). It should be noted that some ISDX-listed securities were already regarded as quoted, as they were listed on an overseas exchange.

## Other taxes

From 1 April 2013, a new **Annual Enveloped Property Tax** is introduced (originally called Annual Residential Property Tax). This imposes an annual tax on residential property worth more than £2 million and which is owned by a company or other corporate body. A system of pre-banding checks is introduced to enable taxpayers to determine the amount payable.

The USA has delayed the withholding tax provisions of its **Financial Account Tax Compliance Act (FATCA)** by six months to 1 July 2014. Under this provision, foreign tax authorities are asked to provide the US tax authorities with details of all interest and other payments to US citizens. If the foreign tax authority decides not to do so, a 30% withholding tax is deducted from the payments. The UK government has included necessary provisions in Finance Act 2013 to allow disclosure and to avoid the withholding tax for American citizens with funds invested in UK.

It is put beyond doubt that **stamp duty land tax** is payable when property is transferred but with completion postponed for many years. This was a common SDLT-avoidance scheme. Other SDLT avoidance schemes have been outlawed.

The Scottish Parliament has passed the Building Transactions Tax (Scotland) Act 2013. This introduces a new tax, **Land Building Transactions Tax (LBTT)** which will replace stamp duty land tax in Scotland from 2015. This is one of the taxes that have been devolved to Scotland. The others are landfill tax and, to a limited extent, income tax. It has already been announced that LBTT will differ from SDLT in that it will operate on the “slice basis” rather than the “slab basis”. For SDLT, once a threshold has been reached, the higher rate applies to the whole purchase price. LBTT will charge higher rates only on the excess above the threshold, as already applies for income tax.

Consideration is being given to devolving **SDLT** to the Welsh Assembly, which currently has no tax powers.

It may be possible to claim a refund of stamp duty land tax when an interest in land was transferred in what would now be regarded as a **transfer of a going concern** for VAT purposes. The consequence is that SDLT is payable on the VAT-exclusive value rather than VAT-inclusive value. Details are set out in HMRC Briefs 30/12 and 8/13 following the Robinson Family Ltd decision.

A new provision will allow Customs officers to **detain** goods where it has a reasonable grounds for believing that they are subject to seizure. This allows the goods to be kept where they are detained and not sent away.

There is an increase in the fine for **smuggling goods** on a ship that weighs at least 250 tonnes. The maximum fine increases from £500 to £10,000.

The **hydrocarbon oil duty** of 3.02p per litre that was due to take effect from 1 January 2013 was cancelled. A further announced increase of 1.89p was deferred from 1 April 2013 to 1 September 2013, and then also cancelled.

**Alcoholic liquor duty** is increased in line with inflation for all drinks except beer, where the duty is reduced. The changes take effect from 25 March 2013.

**Tobacco duty** rates are increased by inflation plus percentage points from 20 March 2013.

The five-day period of grace for non-display of a **vehicle excise duty** disc on a road vehicle during renewal of the duty is increased to 14 days from Royal Assent to Finance Act 2013.

Vehicle excise duty for **heavy goods vehicles** are frozen for 2013/14. It is intended that the scheme of taxing such vehicles will be restructured in 2014.

From Royal Assent to Finance Act 2013, the rules on **abnormal rent increases** are abolished for SDLT purposes.

In 2014, the government plans to abolish stamp duty on shares quoted on the **Alternative Investment Market** and the ISDX Growth Market.

**Air passenger duty** is subject to several changes from 1 April 2013. In particular the scope of the tax is extended to include flights on aircraft weighing 5.7 tonnes.

A new **carbon price floor** is introduced from 1 April 2013. This taxes fossil fuels used to generate electricity. This is administered by changes to the climate change levy.

Certain energy-intensive industries can sign up to industry energy targets and benefit from **climate change levy** charged at 10% of the usual rate until 2023.

The Scottish Parliament has introduced legislation for the **Scottish Landfill Tax**. This replaces landfill tax in Scotland from 1 April 2015. A significant difference from the UK tax is that Scotland will tax illegal activities as well as legal ones.

The **bank levy** rose to 0.130% on 1 January 2013, and rises to 0.0142% from 1 January 2014. Some technical changes were made in relation to the levy.

**Machine games duty** was introduced from 1 February 2013. This replaced amusement machine duty.

For accounting periods beginning after Royal Assent to Finance Act 2013, **bingo duty** is amended so that foreign bingo can come within the exception for combined bingo. Combined bingo is where one game is played at more than one location. The exception avoids a double charge if all games are played in the UK. This last requirement is removed.

**Herbal smoking products** come within the scope of tobacco duty from 1 January 2014.

Northern Ireland introduces a charge of 5p for **carrier bags** from 8 April 2013. If the supplier is VAT registered, this comprises a 4.17p charge plus 83p VAT. This mirrors the scheme already introduced in Wales.

The compilation of rating lists for **English properties** is postponed to 2017 under Growth and Infrastructure Act 2013 s29. Section 30 makes provisions for Wales. Most of the rest of the Act reforms planning law.

## Pensions

From 26 March 2013, the maximum amount of **pension drawdown** increases from 100% of the basis amount (equivalent amount of pension) to 120%.

From 6 April 2014, the **annual allowance** for tax-deductible contributions is reduced from £50,000 to £40,000. This is the maximum amount of contribution for which tax relief is given. The annual allowance reduces from £1.5 million to £1.25 million.

Announcement was made to introduce a **single-tier pension** from April 2017 at an indicative figure of £144 a week. This will end the contracting-out national insurance rebate for defined benefit schemes. (The rebate for defined contribution schemes was ended in 2012.) The qualifying condition for the state pension is to be increased from 30 years of national insurance contributions to 35 years.

The **flat rate accrual amount** is increased by 1.8% to £91.00 a week. This is the figure that is used to calculate the additional pension for certain claimants.

The **state pension age** is to increase from 66 to 67 in 2026.

**Public sector** pensions are reformed under Public Pensions Act 2013.

## Tax administration

A new **statutory residence test** is introduced from 6 April 2013. Anyone who spends fewer than 11 days of a tax year in the UK is automatically non-resident. Anyone who spends more than

183 days is automatically UK-resident. Those who spend between 11 and 183 days have their residence determined by how reference to tables that set out numbers of connection factors for the actual number of days in the UK. The concept of **not ordinarily resident** is abolished. Statement of practice SP 1/09 (which refers to employees who are resident but not ordinarily resident) is amended and put on a statutory footing. On 11 May 2013, a Tax Residence Indicator was launched on the HMRC website.

A **General Anti-Abuse Rule (GAAR)** is introduced from Royal Assent to Finance Act 2013. This aims to outlaw artificial avoidance schemes without the need for legislation or litigation for each scheme. In the meantime, there has been much legislation and litigation on existing schemes. GAAR is extended to national insurance from 6 April 2014 under National Insurance Contributions Act 2013.

From 1 April 2013, a new **Managing Serious Defaulters** scheme is operated by HMRC. This subsumes the Managing Deliberate Defaulters scheme introduced in February 2011. The scheme provides close monitoring of taxpayers with a poor tax compliance record. The new scheme includes anyone who has become insolvent since 2009 as a means of avoiding tax.

An **offshore disclosure facility** is offered for UK taxpayers who have funds in Guernsey, Jersey or Isle of Man on which UK tax is payable but has not been paid. Such taxpayers have until 30 September 2016 to pay the tax with interest and penalties. Under tax disclosure treaties with these Crown Dependencies, the information will be available to HMRC. Taxpayers who have not paid will be liable to higher penalties, possible criminal prosecution and risk having their name published as a tax cheat.

Similar arrangements have now been made with **British overseas territories**, namely Anguilla, Bermuda, British Virgin Islands, Montserrat, and Turks & Caicos. These territories now share tax information with the authorities in the UK, France, Germany, Italy and Spain.

The law on **overpayment relief** is amended to make clear that the four-year time limit for claiming overpaid tax runs from when the mistake arose, and not when it was discovered. This means that where overpaid tax is discovered more than four years later, it is not possible to make a claim.

With retrospective effect from 6 April 2012, there are changes to the rules for **transfer of assets** and capital to another EU state. The objective is that this does not trigger a tax charge where the transfer is purely as a consequence of the free movement of goods, trade and labour within the European Union.

From Royal Assent to Finance Act 2013, UK financial institutions are allowed to provide financial data on individuals to the **United States** without breaching data protection law. In 2010, the USA passed its Foreign Account Tax Compliance Act (FATCA). This requires non-US financial bodies to pass details relating to US citizens to the Internal Revenue Service, its tax-collecting

body. Failure to comply means that the USA imposes a 30% withholding tax from that institution's US income.

From Royal Assent to Finance Act 2013, HMRC may serve a notice on businesses that process **credit and debit cards** requiring them to provide information about transactions.

From Royal Assent to Finance Act 2013, HMRC has a new power to **withdraw** a notice to file a self-assessment return. This corrects an oversight in previous legislation.

UK taxpayers with deposits in **Switzerland** are to be taxed. Those who opened an account before 1 January 2011 which was still open on 31 May 2013 may make a one-off payment to settle all past tax liabilities or allow details to be divulged by the bank to HMRC. From 1 January 2013, interest may either be declared or will have a withholding tax deducted by the Swiss authorities.

HMRC expanded the scope of its **affluent unit**. This unit gives particular attention to the tax affairs of people earning more than £150,000 a year and who have a personal wealth of more than £2.5 million. The expanded unit will now deal with taxpayers with a personal wealth of £1 million.

From 1 April 2013, **government procurement policy** changes so that the government will not buy goods or services from businesses that engage in tax evasion or aggressive tax avoidance. Suppliers bidding for government contracts worth more than £5 million must self-certify that they have not incurred any occasion of non-compliance under GAAR, DOTAS or the Halifax principle in the previous six years, but not before 1 October 2012.

HMRC published its first two lists of **tax defaulters** under its "name and shame" policy.

The tax campaigning group UK Uncut failed in its High Court case to challenge the "sweetheart deal" HMRC negotiated with **Goldman Sachs** in 2010. HMRC leader Dave Hartnett allowed the bank a longer time to pay and forgot to charge interest. The judge found that HMRC acted within its powers though he made many criticisms of HMRC in what he said was "not a glorious episode in the history of the Revenue". Hartnett was wrong to have considered Goldman's threat to withdraw from the banking code to embarrass the Chancellor. The judge also criticised HMRC procedures for making such agreements. Those procedures have already been amended.

From Royal Assent to Finance Act 2013, HMRC officers will have powers to use **criminal asset recovery powers** under Proceeds of Crime Act 2002. At present, HMRC have to ask the police to use these powers.

HMRC has replaced many 0845 **telephone numbers** for helplines with 0300 numbers, which will usually cost the caller less.

HMRC successfully challenged many artificial **tax avoidance schemes**. These include schemes involving film rights, Gift Aid, among others. Various offers were made during the year for those who participate in such schemes to settle in return for a lower penalty and avoiding possible criminal charges.

HMRC has joined **Twitter**. It can be followed on Twitter@HMRCgovuk.

## Other matters

The Accounting Standards Board has published new **accounting standards** to replace all existing standards from 2015, though some earlier adoption is permissible. There is a separate standard for small and medium-sized entities.

From 30 April 2005, the rules for a **share buy-back** are made easier. The change is made to Companies Act 2006 by SI 2013 No 999. The idea is to encourage employee share ownership by allowing employers to buy back shares when employees leave to reissue to new employees. Employers have been reluctant to introduce schemes for fear that the company could have significant shareholders in the hands of former employees with no commitment to the company.

New rates of **national minimum wage** apply from 1 October 2013. They are (with the previous rates in brackets): adult rate £6.31 an hour (£6.19); 18-20 year olds £5.03 (£4.98); 16-17 year olds £3.72 (£3.68); apprentices £2.68 (£2.65); accommodation offset £4.91 a day (£4.82).

From 1 December 2012, the **Disclosure and Barring Service (DBS)** is formed by merging the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA). DBS aims to prevent unsuitable people working with children or vulnerable adults. From 17 June 2013 it offers an Update Service for a subscription. The Exchequer Secretary to the Treasury, David Gauke MP, said that there is no taxable benefit to the employee when the employer pays or reimburses this charge for employees.

From 15 July 2013, the maximum amount of **social security** payable is restricted to £500 a week for a household or £350 for an individual. Certain benefits, such as for disability, are excluded from the cap. The cap was tested in four London boroughs before being applied nationally.

From 29 July 2013, an employee will usually have to pay an up-front **tribunal fee** to bring a claim for unfair dismissal or other matter before an employment tribunal. The fee for unfair dismissal is £250 to file a claim, and £950 for it to be heard. For an appeal to the Employment Appeal Tribunal, the fees are £400 and £1,200 respectively. Claimants who cannot afford these fees may apply to the tribunal under a remissions scheme.

From this date, there is also a cap on the maximum claim for **unfair dismissal** equal to 12 months' salary, or the current limit of £74,200. From 2014, the indexation of employment limits will move from February to April to align with the tax year.

From 25 June 2013, the **Employment Appeal Tribunal** may be a judge sitting alone.

From the same date, the rules on compromise agreements, now called **settlement agreements**, are relaxed to make it easier to conclude. An employee who makes such an agreement cannot bring proceedings in respect of the same issue.

From 25 June 2013, there is no longer a qualifying period of employment for dismissals for **political opinions** or affiliations.

From 25 June 2013, **whistleblowing** is only protected if disclosure is in the public interest.

**Croatia** joined the European Union on 1 July 2013 becoming the 28<sup>th</sup> member state. This immediately affects national insurance liabilities for employees who move to or from Croatia to work.

Shareholders of companies are required to approve the company's **directors' remuneration policy**. Some restrictions are imposed on directors' pay (Enterprise and Regulatory Reform Act 2013 ss 79-82).

From April 2015, it is planned to introduce **shared parental leave** so that parents may share the leave as they wish. It is also planned to increase statutory adoption pay so that adopters receive 90% of earnings for six weeks (as for statutory maternity pay). Fathers will acquire a new right to paid leave for up to two ante-natal visits.

The **Agricultural Wages Board** was abolished on 25 June 2013.

The **UK Border Agency** is to be split into two, it was announced in March 2013. One body will deal with immigration and visas, and the other will enforce immigration law.

From 1 October 2013, employers cease to be liable for **third party harassment**.

The Supreme Court ruled in July 2013 that claims by the Pensions Regulator in respect of an **insolvent company** rank with other unsecured creditors. This landmark decision was reached in a case concerning Nortel Networks and Lehman Brothers. It overturns decisions of the lower courts which held that members of the pension scheme ranked before other unsecured creditors.

In August 2013, the High Court ruled that administrators of an insolvent company may not use funds ring-fenced for its **undefunded pension scheme** to settle the company's debt to the scheme trustees. The case concerned Kaupthing, Singer & Friedlander which was put into administration in 2008. This case clarifies the scope of Pensions Act 1995 s 75.

A new statute codifies the existing laws on when a person may be **presumed dead**. The main condition is that it is thought that the person has died or the person has not been seen for seven years (Presumption of Death Act 2013).

The **Competition Commission** and **Office of Fair Trading** are to be abolished, and their duties transferred to the new Competition and Markets Authority (Enterprise and Regulatory Reform Act 2013 ss25-28).

The government announced plans to make the **Highways Agency** an independent but publicly-owned company, with £12 billion annual funding to maintain roads.

A new **National Crime Agency** is to be formed (Crime and Courts Act 2013 s1).

The government passed a law to permit **same sex marriage** from a date to be announced. Such couples would have no rights or duties beyond those already applicable to civil partnerships.

The Bank of England announced that it will be issuing a new **£5 note** in 2015 depicting Sir Winston Churchill, and a new £10 note in 2017 depicting Jane Austen. Existing bank notes remain legal tender.

The Royal Mint produced various collectors' coins including a £5 coin and a silver penny in July to mark the birth of Prince George, son of Prince William and the Duchess of Cambridge.