Tax changes in 2012

This article lists tax changes that took effect in 2012, or were announced in 2012 to take effect in a later year.

Payroll

Real time information (RTI) is being trialled in 2012 prior to its phased introduction between April and October 2013. This scheme requires the employer to provide much more detail with each monthly or quarterly payment. Guidance was published in a Notice of 14 February 2012. The piot scheme had just 310 participants.

On 23 February 2012, HMRC published advice on **payroll alignment** to prepare for RTI (Agent Update 28).

In 2012, it was announced that 1.6 million taxpayers will receive a **tax demand** for an average £537. Another 3.5 million will receive refunds averaging £379. The differences mainly arise from discrepancies in the PAYE system when people change jobs.

It was announced on 6 February 2012, that the **P45** tax certificate is to stay under real time information.

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.

The following changes to taxation of **company cars** were announced in 2012 Budget:

- from 6 April 2014, company cars percentages are increased by one point
- from 6 April 2015, the maximum percentage rate rises from 35% to 37%
- from 6 April 2016, the 3% supplement for diesel engines is removed

The 0% rate for zero-emission cars is planned to end on 5 April 2015.

The **company car fuel** multiplier increases from £18,800 to £20,200 from 6 April 2012.

With retrospective effect from 6 April 2011, the list price of a company car excludes **security features** required by those whose employment creates a security risk. Security features include armour, bullet-resistant glass, fuel tank modifications, and consequential modifications.

The notional value for **company vans** from 6 April 2012 is unchanged at £350. It is planned to be indexed from 6 April 2013.

It was discovered in January 2012 that Ed Lester, chief executive of the Student Loan Company, was being paid through a private company he owned and was not on a PAYE payroll. Other public officials were found to have similar arrangements. The controversy that followed led HMRC to publish proposals that all **controlling persons** must be paid through the payroll.

HMRC now accepts that **smartphones** come within the tax exemption for mobile phones provided to employees, with retrospective effect to 2007/08 (HMRC Brief 02/2012).

Household expenses rate allowance increases from £3 a week to £4 from 6 April 2012.

In at least two cases, an appeal against a **late penalty** was partly allowed because HMRC delayed notifying the taxpayer until a large penalty had built up. It should be noted that this decision was by Geraint Jones QC. Other judges have taken a different view *(Hilton Syndicate Shoot TC 1725 [2012]; Stump TC 1726 [2012]).*

From 31 May 2012, **P35 reminder letters** will be sent in the fortnight before the P35 annual return is due and before a £100 penalty has therefore been incurred. This avoids criticism that the previous system did not notify employers until September 2012 when the penalty had reached £500.

Tax relief is abolished for **luncheon vouchers** with effect from 6 April 2013. This applies for both income tax and national insurance. The relief was introduced in 1946 at 2s 3d (about 11p) a day, and was increased to three shillings (15p) in 1948 at which rate it has since remained.

HMRC confirmed that **student loan repayments** may only be deducted from pay that is subject to class 1 national insurance. Repayment cannot, for example, be deducted from payments of pension (HMRC Notice 11 January 2012).

From April 2012, HMRC may require **security** for PAYE from employers otherwise considered likely to default.

An employed accountant decided to attend an **overseas course**. The employer paid her salary while she was there, but did not pay her expenses. The employer said that attendance was a logical extension of her work but that they had not required her to attend. Thus the expenses were held not to have been "necessarily" incurred by her. Accordingly, she could not claim it as a deduction from her taxable earnings (*Ling. TC 1629 [2011]).*

The Court of Appeal upheld decisions of the tribunals regarding payment for **lost pension rights.** When a company was taken over, the new owner agreed to pay each affected employee £5,000 in respect of lost pension rights. This has, again, been held to be taxable income and not tax-free compensation *(Kuehne & Nagel Drinks Logistics Ltd v HMRC. EWCA Civ 34 [2012]).*

An employer was made liable for an **underpayment of PAYE** that arose because of improper use of the system. HMRC made the employee liable, but he successfully appealed that the employer was liable *(Blanche. TC 1697 [2012]).*

From 6 April 2013, **ordinary residence** is abolished, though overseas workday relief is retained. In the meantime SP 1/09 is put on a statutory footing. This deals with employees who are resident but not ordinarily resident in the UK and have a single contract of employment.

From 6 April 2012, the maximum amount of income tax underpayment that may be collected by adjusting a PAYE code is increased from £2,000 to £3,000.

From 6 April 2012, any **share-based payment** made to an employee after the employment has ended (and the P45 issued) must use the tax code 0T and not BR. (A similar change was made from 6 April 2011 for other forms of post-employment payments.)

HMRC accepts the judge's decision in *Agar Ltd [2011]* that it has no power to impose a penalty for late payment of PAYE for **month 12.** This is because the legislation refers to late payments in the same tax year, and month 12 is due in the next tax year. Employers who have paid a penalty may claim a refund. The law is to be changed to correct this anomaly.

On finely-balanced facts, a **share fisherman** was held to be an employee *(Barney v HMRC. TC 1695 [2012]).*

The government announced on 23 February 2012 that it has abandoned plans to introduce charges for early repayment of **student loans.**

Where an employer goes into liquidation having made **student loan deductions,** the employee may be asked to provide evidence that the deductions were made. Employers that go into liquidation often do not complete their PAYE returns. HMRC will accept a P60 or payslips as evidence *(HMRC Notice 8 March 2012).*

Entitlement to **statutory sick pay** is based on the amount of wages should should have been paid and not on the amount actually paid *(Penelope Ann Spence. TC 1908 [2012]).*

A **salary sacrifice** scheme failed when, on the facts, there was no evidence of the employees agreeing to sacrificing salary for benefit, and there was no benefit to them for doing so *(Reed Employment plc. TC 1727 [2012]).*

HMRC has introduced a **National Insurance Verification Request (NVR)** to assist employers in ensuring they have the correct national insurance number for each employee.

Consideration is being given to changes the rules for tax-advantaged **employee share schemes.**

A **shadow director** can be made personally liable for underpaid PAYE and national insurance. Such a case was heard in *Mr Michael Rangos. TC 1893 [2012].*

On 11 April 2012, HMRC stablished a **bereavement centre** to deal with the PAYE and self-assessment affairs of a taxpayer who has died. The telephone number is 0845 300 0627. The caller should select option 2 and then option 4.

Sex offenders may acquire the right to have their name removed from the register 15 years after being released from custody, following a Supreme Court ruling. There are currently 37,255 people on the register.

Income tax

From 6 April 2013, the **additional rate** of income tax reduces from 50% to 45%. The dividend additional rate reduces from 42.5% to 37.5%. There are no other changes to rates. Press reports subsequently reported that the Chancellor was content to keep the 45% rate.

The **personal allowance** increases from £7,475 to £8,105 from 6 April 2012. It is planned to increase to £9,205 from 6 April 2013. Other allowances are increased.

The threshold for **higher rate** tax reduced from £35,000 to £34,370 from 6 April 2012. It is planned to reduce further to £32,245 from 6 April 2013. The Institute of Fiscal Studies says that 1 million more people will pay higher rate by 2014 because of the combined effects of a lower threshold and fiscal drag.

From 6 April 2013, the **age allowance** starts to be phased out by freezing its value at current rates. The allowances for over-65s and over-75s will become limited to those born before 6 April 1948 and 6 April 1938 respectively.

From 6 April 2013, a cap is introduced on **unlimited tax reliefs.** The cap is the higher of £50,000 and 25% of income. This applies mainly to loss relief and charitable donations.

From 6 April 2013, there is a limit on **life assurance premiums** of £3,600 a year. Transitional anti-forestalling provisions are introduced with effect from 6 April 2012. The effect of the relief is that payments deriving from excess premiums will become taxable.

Rules for **venture capital trusts** and **enterprise investment scheme** are amended from 1/6 April 2012 to:

- relax the rules for defining when an investor is connected to a company
- widen the definition of shares that qualify for relief
- remove the £500 minimum investment
- remove the £1 million limit on investment by one company (VCT only).

Limits for tax-advantaged investment in **venture capital trusts** and **enterprise investment scheme** are increased for shares issued from 6 April 2012 to these limits:

- the company size threshold before investment is increased from £7 million to £15 million
- the maximum investment by one individual is doubled to £1 million
- the employee limit is raised to 250 employees.

The limit for granting tax-advantaged share options under **enterprise management initiative** is increased from £120,000 to £250,000.

A new **child benefit high income charge** is introduced from 7 January 2013 to claw back child benefit paid to those with earnings above £50,000 as income tax.

There will be a consultation on simplifying tax reporting for **very small businesses** with turnover up to the VAT threshold (currently £77,000). The proposals would:

- allow cash accounting to be used
- have a simplified expense system for business use of private cars
- allow an allowance for use of the home
- introduce a disincorporation relief.

Any proposals would take effect in 2013.

The **seed enterprise investment scheme (SEIS)** is introduced for investments from 6 April 2012. It provides tax relief of 50% investment in business with assets up to £200,000 and no more than 25 employees, and subject to many other conditions.

The **trusts and estates** tax return form SA 900 has been redesigned.

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.

Life assurance premium relief is abolished from 6 April 2015. This limited relief is given under Income and Corporation Taxes Act 1988 s266, s275 and Sch 14. It provides 12.5% tax relief on premiums for policies taken out before 13 March 1984. A similar provision removes tax relief when an employer pays the premium.

From 6 April 2013, tax relief is withdrawn when someone is **required to insure family members** under an Act of Parliament. The relief (maximum £20 a year) is given in Income Tax Act 2007 s459. More generous relief can be obtained under pension provisions.

A **partnership** was excused a late filing penalty when it discovered that it had to purchase commercial software to do so, and so filed a paper return instead. The tribunal said that HMRC should have provided the software *(St George's Bricklayers TC 1636 [2012]).* This was a decision by judge Geraint Jones QC. Other judges have made opposite decisions on identical facts.

A taxpayer was not able to claim a tax deduction for **legal expenses** in fighting criminal charges for polluting a river in how drums of toxic material were dumped by his haulage business. He was found guilty. While acknowledging that there was some business interest in defending himself on the charge, the legal fees were primarily a personal expense and so not tax-deductible *(Raynor. TC 1649 [2011]).*

On the facts of the case, a **wife** was held not to be in partnership with her husband. Such could not be inferred just because they were married (in a trial reconciliation after separation), she had provided some funding for his business, it was described as a "family business", and some of the husband's customers had paid money into the wife's bank account. The tribunal held that these arrangements were what would be expected between a husband and wife, and were insufficient to establish a partnership *(Pauline Valentine. TC 1644 [2011]).*

Guidance was issued on the tax treatment for **PPI compensation payments.** These are made to individuals who were wrongly sold payment protection insurance. The compensation element itself is tax-free. In general, any interest added is taxable though many institutions may have deducted tax at source, so the amount received must be grossed up.

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

A person has a **material interest** in a company if he or she is entitled to at least 5% of its assets in a winding-up. The consequence is that the person may claim tax relief for interest on a loan to the company. A case held that this applied to an indirect loan made to one company which lends it to another *(Antoni Nowoslieski. TC 1907 [2012]).*

Changes are made to the **renewable heat incentive** (RHI) scheme from 1/6 April 2012. The changes are to restrict capital allowances to the lower rate for plant and machinery, and to deny capital allowances completely where a tariff payment is received from the Department of Energy and Climate Change.

SA Donate scheme closed on 5 April 2012. This scheme was introduced in 2005 to allow self-assessment taxpayers to nominate a charity to receive any tax refund. Little use was made of the scheme.

From the day after Royal Assent to Finance Act 2012, tax relief will be available for **gifts of pre-eminent objects** which are donated to museums, galleries or other bodies to which the public has access. The relief is 30% of the value for gifts from individuals, and 20% for companies. This supplements the existing inheritance tax Acceptance in Lieu relief. The budget for both reliefs is increased from £20 million a year to £30 million.

Non-resident athletes taking part in the **Commonwealth Games 2014** will be exempt from UK income tax. Similar arrangements have already been implemented for 2012 Olympic Games.

Model declarations and other guidance on **Gift Aid** were published on 24 February 2012. This corrects an error in previous guidance that said records should be kept for four years. Records must be kept for six years.

Further guidance on 14 March 2012, clarifies that charities accepting **telephone donations** must make it clear that they may only use Gift Aid if donors have paid sufficient income tax to cover all their charitable donations. This may be done by the operator reading from a script.

From 6 April 2012, **charities** may claim tax back under Gift Aid other than against a tax return (which had been the practice before). This has retrospective effect to 6 April 2010.

On 2 March 2012, HMRC published Guidance Note 2 on income reporting from **banks.** Topics covered include data encryption, deeply discounted securities, and unclaimed assets.

The tax-free limits for **individual savings accounts** (ISAs) was increased from £10,680 a year to £11,280 from 6 April 2012 (SI 2012 No 705).

Income tax reliefs currently available to those receiving disability living allowance will be extended to **personal independence payments** which replaces the allowance from 2013.

There will be a consultation on amending **lease premium relief** under the provisions which can require a long lease to be deemed as a short lease.

From 12 March 2012, the market known as **NASDAQ QMX Vilnius** is a recognised stock exchange under Income Tax Act 2007 s1005.

From 6 April 2015, tax relief is removed for incidental expenses in relation to **deeply discounted securities** held from before 26 March 2003. The reliefs are set out in Income Tax (Trading and Other Income) Act 2005 s439(4), 455(1) and 455(2).

Tax relief is introduced for **EU military staff** to comply with an agreement of 2003.

Payment of Continuity of Education Allowance to **military personnel** is exempted as an income tax benefit in kind from 6 April 2012.

Resettlement payments paid to **Members of Parliament** are amended to reflect changes in how such payments are made. Technical amendments were made in relation to expenses for members of devolved administrations.

It is planned to introduce a **tax transparent investment fund** in the summer of 2012.

Corporation tax

The **main rate** of corporation tax reduces from 26% to 24% from 1 April 2012. It is planned that the rate should reduce to 23% in 2013, and to 22% in 2014. The small profits rate remains at 20%. The marginal relief fraction from 1 April 2012 is 1/100. The marginal rate is 25%.

Further guidance was provided on the reform for **controlled foreign companies.** Guidance was provided on how the proposed Gateway would operate (Technical Note 1 of 1 March 2012). The 2012 Budget announced these rules will apply for accounting periods that start after 31 December 2012.

Further details have been published on the **patent box.** This is to be phased in between 1 April 2013 and 31 March 2017. When fully phased in, it will allow companies to pay 10% tax on profits from exploiting patents. From 1 April 2013, 60% of the relief is available. This increases by 10 percentage points a year, reaching 100% from 1 April 2017.

It is planned to introduce an above-the-line tax relief for **research and development** from April 2013. This is expected to be more generous than existing reliefs for large companies and less generous for smaller and medium-sized companies.

It is planned to provide a measure of tax relief for “culturally British” **video games** and **television programmes.** (A similar measure was proposed in 2010 by the previous government but not proceeded with after the election.)

From Royal Assent to Finance Act 2012, company **distributions of assets** or liabilities are taxed according to the residence of the company, and not of the shareholder.

Amendments are made to the tax provisions for the **debt cap,** with effect from Royal Assent to Finance Act 2012.

From 21 March 2012, the grouping rules are relaxed so that **loan notes** issued by a company for conversion to equity in an unconnected company are no longer regarded as capital in the company.

New rules apply to **investment trusts** in relation to their exemption from corporation tax on chargeable gains. The rules take effect from 1 January 2012 (SI 2011 No 2999).

Changes are made to the tax regime for **real estate investment trusts (REITs)** from Royal Assent to Finance Act 2012. The changes include:

- abolishing the entry fee to the REIT regime
- relaxing the requirement that the REIT must be traded on a recognised stock exchange
- reducing the rules on diverse ownership
- relaxing the rules on REIT assets
- changing the rules on REIT borrowing

- various minor technical changes.

There will be a consultation on what role a **REIT** can play in developing social housing.

There will be a consultation on the tax treatment when one **REIT** invests in another.

On 16 February 2012, HMRC published details of its **Large Business Strategy.** Under this HMRC appoints a Customer Relations Manager for large businesses, including companies with a turnover above £30 million a year.

An insurance company paid £25 million to an estate agency business in return for customer contacts and an **exclusivity deal** under which the company was the only insurance company to which the estate agency would introduce its customers. The estate agency contended that the payment was a capital receipt representing the partial sale of goodwill. HMRC and the Upper Tier Tribunal held that it was an income receipt of advance commission. *(Countrywide Estate Agents FS Ltd. UKUT 470 [2011]).*

Technical changes are made to the taxation of **insurance companies,** to mirror the introduction of the Solvency II provisions on 1 January 2014.

Finance Act 2013 will include provisions allowing HMRC to sign a binding contract with oil and gas companies on the amount of tax relief they will receive from **decommissioning** assets.

Changes are made to tax rules for **field allowances** in the North Sea oil industry.

With retrospective effect from 6 December 2011, the **supplementary charge** applies to ring fence chargeable gains incurred by oil and gas companies that work in the UK.

A decision was reached on one of the many matters in the long-running group litigation action regarding **advance corporation tax** in relation to foreign subsidiaries. HMRC lost an apeal against a decision of the court requiring UK resident holding companies to have some of the tax refunded to them *(GKN Group v HMRC. EWCA Civ 57 [2012]).*

A company only has to establish the number of **associated companies** on the balance of probabilities. This number affects a company's entitlement to the small profits rate. A UK company was owned by two Liberian companies of whom other details were not known *(Seascope Insurance Services Ltd. TC 1664 [2012]).*

A case held that **consortium relief** could be claimed even when the link company was not UK-resident *(Felixstowe Dock and Railway Co Ltd. UKUT 838 [2012]).*

A long list of worldwide **research and development establishments** has been published. Payments to such bodies may qualify for tax relief under Corporation Tax Act 2009 Part 13 *(SI 2012 No 286).*

Capitalised profit that is transferred to a **share premium account** is still taxable profit. It is not exempt under Finance Act 1996 s84(2). The case concerned a company that bought loan notes in its subsidiaries, and then exchanged them for shares at a nominal value equal to the loan note, plus a premium. The case hinged on the meaning of the word "transferred" *(Vocalspruce Ltd. TC 1734 [2012]).*

The government will consult on changes to the law on **assets transferred abroad** and gains on assets held by foreign companies. The current law is Income Tax Act 2007 ss714-751 and Taxation of Capital Gains Act 1992 s13.

There will be a consultation on allowing companies that use a **non-sterling functional currency** to calculate chargeable gains in that currency from 2013.

The tax consequences of the **Olympic legacy** are set out in SI 2012 No 701.

With retrospective effect from 6 December 2011, there are amendments to the tax treatment of **Lloyd's corporate bodies** for member-level stop-loss insurance. The change aims to align the timing of tax relief with the period to which it relates. The current law is Finance Act 1994 Chapter IV Part IV.

Various technical changes are made to the taxation of **NHS bodies** to reflect changes made in Health and Social Care Act 2012.

From 1 April 2013, tax relief is withdrawn for receipts of **mineral royalties.** The relief was introduced during the 1970s to counter the effects of higher tax rates. Relief is given under Income Tax (Trading and Other Income) Act 2005 ss 157, 3198 and 340, and Corporation Tax Act 2009 ss 135, 258 and 273, and Taxation of Capital Gains Act 1992 ss201-203.

From 1 April 2013, tax relief is withdrawn for a **harbour reorganisation scheme.**

Capital allowances

Rates of capital allowance for **plant and machinery** reduce from 20% to 18%, and from 10% to 8% for periods from 1/6 April 2012.

Business premises renovation allowance, introduced for a five-year period to April 2012, has been extended by another five years to April 2017.

Changes are made to the exact scope of **energy-saving** products that qualify for 100% first year allowance.

From 1 April 2012, **research and development** tax relief is increased from 200% of expenditure by small or medium-sized companies to 225%. The alternative tax credit is reduced from 14% to 11%. Other changes are made.

There is a two-year extension to the 100% first year allowance for **refuelling equipment** for gas, biogas and hydrogen. The allowance is now set to expire on 31 March 2015.

There is a five-year extension to the availability of tax credits (payments made in lieu of unusable tax reliefs) for **environmentally-beneficial** plant and machinery. This further five-year period will run from April 2013.

From 1/6 April 2013, capital allowances are withdrawn for **flat conversions.** The allowance was introduced in 2001.

From 1/6 April 2013, capital allowances are withdrawn for **safety at sports grounds.** The allowances were introduced between 1975 and 1988.

Capital gains tax

The **annual exemption** for 2012/13 remains at £10,600. From 2013, it will be indexed to the CPI, and not the RPI. There were no changes to the rates of tax.

From 1 March 2012, any **pre-dissolution distribution** of more than £25,000 is taxed as income and not as a capital gain. This applies if a company is removed from the register of Companies House under Companies Act 2006 s1000 or s1003. It does not apply to liquidations.

Proposals were announced in 2012 Budget to charge **non-residents** CGT on the gain from selling UK residences.

From 6 April 2012, withdrawals from **foreign currency bank accounts** are not taxable.

Some technical points in relation to **entrepreneurs' relief** were answered by HMRC, and explained in a CIOT Notice of 14 February 2012.

A relief is to be introduced for **farmers** who qualify under EU Single Payment Scheme. The relief has retrospective effect from 1 January 2009.

From 6 April 2013, the CGT exemption is removed from grants for giving up **agricultural land.** No such grants have been made since 1976.

There will be some relaxation in the rules for **heritage maintenance trusts** to allow assets to be transferred between them without triggering a liability for CGT. Legislation will be included in Finance Act 2013 with retrospective effect to 6 April 2012.

There will be some relaxation in the rules for **community investment trust relief** with regard to how quickly on-lent funds must use the funds received.

Inheritance tax

The **nil rate band** remains at £325,000. There is no change to the 40% death rate of 20% lifetime rate.

From 6 April 2012, the rate of inheritance tax is 36% instead of 40% if the deceased leaves at least 10% of his estate to **charity**. Further details were published in December 2011. On 27 February 2012, STEP announced that it had prepared draft clauses for wills to give effect to these provisions.

A bungalow ceased to quality for **agricultural property relief** when the occupant became ill and did not live in it for four years before her death. Although her family maintained the property for her and did not let it to anyone else, that was insufficient to establish that it was agricultural property. *(HMRC v Atkinson. UKUT 206 [2012]).*

On 2 March 2012, European Commission announced plans for a single criterion for **cross-border successions,** when someone who lives in one EU state owns property in another.

There will be a consultation on simplifying the **periodic charge** on trusts. At present this charge is a maximum of 6% every ten years. The calculation of the exact figure can be complicated, particularly when there has been a change in funding during the ten-year period. Legislation will be included in Finance Act 2013.

Political parties to which a legacy may be left free of inheritance tax are Conservative, Labour, Liberal Democrat, Democratic Unionist, Scottish Nationalist, Sinn Fein, Plaid Cymru, Social Democratic and Labour Party, and (for the first time) Green Party. A party must have returned at least one MP to Parliament at the last general election AND have achieved 150,000 votes. Respect does not count as George Galloway was returned in a by-election on 30 March 2012. UKIP achieved sufficient votes but returned no MPs.

There will be a consultation on increasing the IHT-free transfer limit of £55,000 to a **non-domiciled spouse.** This rate has remained unchanged since 1982.

Where a UK-domiciled person has a **non-domiciled spouse,** consideration will be given to allowing that spouse to elect to be treated as UK-domiciled. Legislation to this effect is planned for Finance Act 2013.

National insurance

From 6 April 2012, 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.

From 6 April 2012, 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 pay more national insurance.

The **upper earnings limit** and class 4 upper profits limit changes to £41,450. This is the equivalent to the threshold at which a taxpayer may pay higher rate income tax.

The special class 2 rate for **share fishermen** increases from £3.15 a week to £3.30 from 6 April 2012.

A director was only liable to pay national insurance under a **personal liability notice** if his neglect was blameworthy. The liability for "neglect" referred to the criminal standard, not the lower standard for tort. In this case, the director had been ill. *(O'Rorke. TC1675 [2012]).*

From 6 April 2012, self-employed **lecturers** are no longer liable to pay class 1 national insurance.

In May 2012, it was disclosed that only 12,000 businesses had benefited from the **national insurance holiday** for taking on staff for new businesses in deprived areas in the first two years of its three-year life. In 2010, it was announced that 400,000 businesses would benefit.

Value added tax

The **registration threshold** increases from £73,000 to £77,000 from 1 April 2012. The deregistration threshold increases from £71,000 to £75,000. There are no changes to the rates of VAT.

VAT **fuel scale charges** are increased from 1 May 2012.

VAT is extended to most forms of **hot take-away food** from 1 October 2012. The exact scope of the change was amended in the year in response to protests.

VAT is extended to all **sports drinks** from 1 October 2012. This follows a series of tribunal hearings relating to Lucozade and similar products.

VAT is extended to all forms of **self storage** from 1 October 2012. Such charges may no longer be regarded as an exempt supply of land.

VAT is extended to **alterations to listed buildings** from 1 October 2012. Anti-forestalling provisions were introduced from 21 March 2012. The Treasury subsequently announced a grant to compensate churches affected by this new charge.

VAT is extended to **rental of hairdressers' chairs** from 1 October 2012. Such a charge may no longer be regarded as an exempt supply of land.

VAT is extended at the 5% reduced rate to **holiday caravans** from 1 October 2012**.** The 2012 Budget originally proposed that they be standard-rated, but this was changed in the face of protest.

Seasonal caravan pitches becomes subject to VAT from 1 March 2012 (SI 2012 No 58).

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 January 2012, a concession relating to **adapted vehicles for the disabled** is withdrawn. The concession allowed a car to be zero-rated as a supply for a handicapped person if it was adapted for a wheelchair user soon after supply. In future, the zero-rating only applies if the vehicle had been adapted before supply. A similar provision applies to the zero-rating of parts for boats.

Aeroplanes that has been specially adapated to be controlled by the hands alone qualified as equipment designed solely for use by a **handicapped person**. They are therefore zero-rated under Value Added Tax 1994 Sch 8 Group 12 Item 2. *(British Disabled Flying Association. TC 1580 [2011]).*

A **car** was adapted for a **handicapped person** (and thus zero-rated) even if the adjustment consists solely of fixing a spinning knob to a steering wheel of a car — a job that takes a few minutes. *(Dennis George Bunning and Christina Denise Bunning. TC 1730 [2012]).*

It was announced that the **Intrastat** thresholds for 2012 will be the same as for 2011. This provides a statistical analyiss of intra-EU trade by UK businesses. The exemption thresholds remain at £250,000 for dispatches and £600,000 for arrivals. The delivery terms threhold remains at £16 million.

HMRC confirms that **extra care accommodation** is zero-rated for construction, and for first sale or long lease (Brief 27/11).

On 23 January 2012, HMRC revised its policy for **re-registration** of a business after it has been deregistered. Proof of payment of VAT on deregistration is now accepted that VAT has been paid on pre-registration (in this case, pre-re-registration) purchases. It is no longer necessary to produce original invoices or other paperwork. This arrangement had already been largely used as an informal concession.

A **dog charity** could register for VAT even though it did not always insist on payment for its services. Goods donated to a charity are specifically zero-rated under Value Added Tax 1994 Sch 8 Group 15 Item 1. The goods do not have to be sold by the charity; it was held in *Gables Farm Dogs' and Cats' Home* that donations of stray animals were within the scope. The charity was refused registration on the grounds that it was not trading, as it did not *require* payment. The tribunal found that payment was generally expected for a dog and that was sufficient. *(Three Counties Dog Rescue. TC 1653 [2011]).*

An **invalid planning permission** allowed a couple to claim VAT input tax under the DIY Builders Scheme. They had planning permission to build a farmhouse on 100 acres of land in Exmoor National Park. The DIY scheme disallowed VAT input claims where planning permission prevented the property being sold as a separate dwelling. The tribunal held that the planning permission was not valid as it was said to be subject to an agreement that was actually made three months *after* the permission, and the permission was granted by the wrong authority. Accordingly there were no planning restrictions and VAT input tax could be claimed *(Timothy William Stevens and Sally Mary Stevens. TC 1671 [2011]).*

On the facts of the case, it was held that a **bed and breakfast business** in a farmhouse was not a separate business activity from the farm itself. *(Howard Rowland Patrick and Jennifer Rosemary Patrick. TC 1899 [2011]).*

A tribunal ruled that the **registration threshold** is reached according to the tax point. So pre-payments for courses can trigger an earlier requirement to register. It was irrelevant that the fee could be refunded if the course did not run. *(Bromley Emergency Training and Development Ltd. TC 1728 [2012]).*

Imported road vehicles for pemanent use on UK roads will have 14 days to notify HMRC so that VAT and other taxes can be paid. This will be a condition of registering the vehicle at DVLA. The change is effective from a date in 2013 to be announced.

From 1 March 2012, HMRC accepts that VAT exemption applies for certain **insolvency services,** particularly drawing up voluntary arrangements. Other charges made by insolvency practitioners remain standard-rated. This follows the *Paymex* decision (HMRC Brief 03/2012).

Almost all VAT-registered traders are required to submit **VAT returns** on-line from 1 April 2012 (SI 2012 No 33).

VAT **registration** is made on-line from 1 October 2012. The threshold for non-UK businesses is removed.

A **cost-sharing exemption** is introduced from Royal Assent to Finance Act 2012. This allows charities, universities, banks and other bodies to include different VAT activities within one registration. This means the activities will not charge VAT on supplies to each other. A similar concession 3.2.2 is being enacted.

VAT relief is introduced for **European Research Infrastructure Consortia** from autumn 2012.

The EU announces plans for a **One Stop Shop** which will allow suppliers of intra-EU services to pay VAT in the country where they are registered rather than in the country of their customer. It is proposed that this will first apply to telecommunications and be introduced on 1 January 2015.

Changes to legislation are made in relation to VAT supplies by **public bodies.** This has no practical implication but puts beyond doubt UK compliance with Article 13 of the EU Principal VAT Directive.

Low value consignment relief is abolished from 1 April 2012 having been reduced from £18 to £15 from 1 November 2011.

A new company could join the **simplified import VAT accounting** (SIVA) scheme when it had previously traded under another name (albeit with different directors) for the required three-year period *(Forth Wines Ltd. TC 1770 [2012]).*

HMRC now accepts that **photo books** qualify for zero-rating. These are customers' photographs bound in a book with a thicker cover. This follows the tribunal decision in *Harrier LLC.* A previous High Court decision *(Colour Offset [1995])* had suggested that an item was not a book if it looked like a photograph album. *(HMRC Brief 4/2012).*

A claim for **compound interest** on VAT could be assigned under the normal law of assignment. At present, interest on refunded VAT is calculated using simple interest. There is a legal action to say that compound interest should be used. Claims for the additional interest are being parked until the action has been settled *(New Miles Ltd. TC 1731 [2012]).*

The definition of **incapacitated person** is amended from Royal Assent to Finance Act 2012 to remove references to idiots and lunatics, which terms are now considered offensive. There is no change to the law.

Stamp duties

A new rate of 7% applies to properties whose price exceeds **£2 million**. with effect from 22 March 2012.

A new rate of 15% applies to **enveloped residential properties** bought by a company, with effect from 21 March 2012.

One fifth of all properties expected to sell for between £1 million and £1.05 million were completed for less than £1 million in 2011, and thus avoid the higher rate of stamp duty land tax, according to estate agent Frank Knight. It is believed that in many cases the buyer agreed to make a **separate payment** to the seller.

From Royal Assent to Finance Act 2012, stamp duty land tax relief is re-enacted to certain **NHS bodies** to comply with current law. It has no practical effect.

From 1 April 2013, stamp duty tax relief is removed for **harbour reorganisation** schemes.

From 6 April 2013, the SDLT relief is abolished for residential property in **disadvantaged areas** and which costs up to £150,000. This relief has not provided the desired encouragement.

Special provisions had to be made when **Birmingham Stamp Office** had problems with its telephones and faxes.

Various **reliefs for land transactions** are repealed from 6 April 2013. These all relate to transactions entered into before 2003 but not yet completed. There are believed to be no such transactions remaining.

Various **reliefs for share transactions** are repealed from 6 April 2013. These relate to transfers to the Crown (Finance Act 1946 s52), transactions on company acquisition and transfers (Finance Act 2002 s113) and transfers that attracted the £5 fixed duty before 2008 (Finance Act 185 s87(2)). These reliefs no longer have any effect.

Other taxes

From 6 April 2012, a higher rate of £50,000 is introduced for **non-domiciles** who have been UK resident for 12 of the previous 14 years.

The tax treatment for **herbal smoking products** will be aligned with those for tobacco.

Tobacco duty is increased by RPI plus 5% from 21 March 2012. This adds 37p to a packet of 20 cigarettes, 12p to a pack of five small cigars, 37p to a 25 gm pack of hand-rolling tobacco, and 20p to a 25 gm pouch of pipe tobacco.

Alcohol duties are increased by RPI plus 2% from 26 March 2012. This adds 3p to a pint of beer, 2p to a litre of cider, 11p to a bottle of wine, and 41p to a bottle of spirits.

The government is consulting on measures to prevent smuggling of alcoholic drink. Proposals include:

- fiscal marks on **beer** containers
- a licensing scheme for wholesale alcohol dealers.

Amusement machine licence duty and its related VAT is replaced by **machine games duty** from 1 February 2013. It has a standard rate of 20% and a lower rate of 5%. The lower rate applies when the cost per play is no more than 10p, and the maximum prize is £8.

In the meantime, **amusement machine licence duty** is increased from 23 March 2012 in line with RPI inflation.

The government is to consult on introducing a place of consumption tax for **remote gambling.** This to avoid gambling duties being avoided by charging UK consumers from offshore.

From 2013, **bingo duty** arrangements will be relaxed for combined bingo involving non-UK participants.

The full rate of **bank levy** (introduced in 2011) rises from 0.078% to 0.088% on 1 January 2012. It further rises to 0.105% from 1 January 2013.

Regulations were introduced for **double taxation relief for bank levy** (SI 2012 No 458). Separate regulations provide for relief against German bank levy (SI 2012 No 459 and 432).

Changes were made to bank levy for **foreign banking groups** operating in the UK.

From 10 January 2012, the 1986 rules for **Customs declarations** on postal packets are replaced by new rules. These reflect new EU law, developments in postal services, and make some other changes (SI 2011 No 3036).

Further legislative details and rates were announced for the **carbon price floor** which is to be introduced from 1 April 2013.

From 1 April 2013, **climate change levy** is extended to combined heat and power stations.

Beer duty is rounded down to the nearest penny on the monthly amount payable to HMRC. The rounding is not per container of beer *(Carlsberg v HMRC. EWCA Civ 82 [2012]).*

The excise duty relief for **black beer** is removed from 1 April 2013.

Excise duty relief for **angostura bitters** is removed from 1 April 2013.

From Royal Assent to Finance Act 2012, the drawback provisions for **rectified and compounded spirits** are repealed. This relief is in Alcoholic Liquor Duties Act 1979 s22. This provision has become redundant following other changes to the law.

Some retrospective changes were made for **landfill tax** in Scotland to correct the failure of the government to introduce EU legislation there properly in 2000.

The proposed increase for **aggregates levy** has been postponed by one year. It will now rise from £2.00 to £2.10 per tonne from April 2013.

Seven pool betting duty reliefs are abolished for **football-based trusts.** The changes take effect from 1/6 April 2013, though no relevant funds are currently held by the two remaining trusts.

From 1 April 2012, **gambling double taxation relief** is introduced for general pool betting duty, remote gaming duty and pool betting duty.

From 1 April 2013, rates of **climate change levy** are increased in line with RPI inflation.

From 1 April 2013, the reduced rate of climate change levy for **electricity production** is changed from 35% to 10% (and not 20% as announced in 2011 Budget) of the standard rate. Rates were generally increased from 20% to 35% from 1 April 2011.

From 1 April 2012, **metal recycling industries** pay climate change levy at 20% of the standard rate. The regime is the same as that which applied from 1 April 2001 to 31 March 2011, when the lower rate had to be suspended as an EU derogation from state aid expired.

From 1 April 2013, the standard rate of **landfill tax** rises from £64 per tonne to £72. The lower rate remains at £2.50 per tonne.

From 21 March 2012, the maximum credit for **landfill site operators** reduces from 6.2% to 5.6%. The Landfill Communities Fund remains fixed at £78.1 million.

From 1 April 2013, **business jets** become liable for air passenger duty.

Rates of **air passenger duty** will be indexed to the RPI from 2013.

From 1 April 2012, band A rates of **air passenger duty** rise from £12 and £24, to £13 and £26 respectively.

With retrospective effect from 1 November 2011, **air passenger duty in Northern Ireland** is reduced so that international long-haul flights are taxed at band A rates. It is planned to devolve the power to set future rates to the Northern Ireland Assembly.

New declarations are required when red diesel is used in **pleasurecraft** in UK waters.

From 1 April 2012, **vehicle excise duty** rates are increased in line with RPI inflation, apart for heavy goods vehicles whose rates are unchanged.

It was announced that the **excise duty** differential for used cooking oil will end in 2012.

In 2012/13, 85% of local authorities accepted a special government grant to **freeze council tax** for a second year. In 2011/12, all authorities accepted a four-year grant to do so.

Pensions

From 6 April 2012, a defined contribution **occupational pension scheme** cannot contract out from national insurance. A defined benefit scheme may still contract out.

NESTs start from 6 April 2012 for the largest employers.

The **lifetime limit** for pensions savings reduced from £1.8 million to £1.5 million from 6 April 2012. Those who had already accrued more benefit that the reduced limit may apply for **fixed protection** before 6 April 2012. Typically this applies if the pension scheme offers an annual pension of £75,000, or a lump sum plus an annual pension of £65,000.

In the 2012 Budget it was announced that the government plans to disallow tax and NI relief for contributions to a pension fund for **relations of an employee.** This will be introduced in Finance Bill 2013.

A warning was given about advertisements for **early release pension** offers. These offer to liberate cash from a pension fund before the age of 55. Scheme usually operate by transferring funds into (often opaque) investment funds from which sums can be repaid. It is believed that £211 million was so transferred in 2011. The Pensions Regulator points out that such schemes offer poor returns and can incur the holder in large tax charges.

Additional detailed guidance on the **annual allowance** was published on 15 March 2012. The guidance deals with:

- valuation assumptions for schemes using pre-2006 maximum limits
- dealing with "scheme pays" arrangements
- deferred member carve-outs.

(Guidance Note 13)

From 6 April 2012, a pension fund may make a payment of up to £2,000 to a member who has reached the age of 60 if that payment **extinguishes** the members' entitlements (SI 2012 No 522).

By February 2012, pension fund **deficiencies** stood at £265 billion, according to the National Association of Pension Funds.

Pension funds are not always protected from seizure in **bankruptcy.** The High Court ruled that funds could be seized when the pension fund had been used deliberately to shelter assets that should otherwise be available for creditors who had already obtained judgment *(Blight v Brewer. Ch D. The Times 10 April 2012).*

Legislation is to be introduced into Finance Act 2013 so that rules on **bridging pensions** relate to changing state retirement age.

There is to be a greater reporting requirement for **QROPS,** qualifying recognised overseas pension schemes. If a country passes laws allowing QROPS to be used for an unintended tax advantage, that country's QROPS will be excluded.

Penalties

On 16 February 2012, HMRC published a Notice saying that it expected a tax return to be submitted within 14 days of a **reasonable excuse** ending.

On 22 February 2012, the Chartered Institute of Taxation published guidance on what constitutes **reasonable excuse.**

A taxpayer did not have reasonable excuse when he relied on experience that **bank transfers** for up to £10,000 were made within 24 hours. He therefore paid his VAT of £29,346 in three tranches the day before the due date. The transfers took three days, the stated time period, and he was penalised for late payment. *(French & Co Solicitors. TC 1705 [2012]).*

A tribunal ruled that it does have power to consider a case where the taxpayer alleges a penalty is **disporportionate.** An application from HRMC to strike out such a claim was therefore refused *(Westward Group Ltd. TC 1736 [2012]).*

Tax administration

The maximum turnover limit for submitting **three-line accounts** increased from £73,000 to £77,000 from 1 April 2012 (in line with the VAT threshold).

From 16 January 2012, changes are made to regulations for **complaints and misconduct** by Customs officers. The changes are procedural, and are designed to bring Customs officers within the scope of Police Reform and Social Responsibility Act 2011 (SI 2011 No 3061).

A tax protocol with **Switzerland** was signed on 20 March 2012 to supplement the agreement of 6 October 2011. The agreements take effect from 1 January 2013.

A tax information exchange treaty with **Dominica** came into force on 23 December 2011 (but was not announced until 6 January 2012). A similar treaty with **Aruba** came into force on 1 January 2012.

The following **tax treaties** were concluded:

- Tax Treaty Protocol 2 with Singapore: 15 February 2012.

HMRC amended its practice on **Advance Thin Capitalisation Agreements** (ATCA). It replaced the previous statement of practice SP4/2007 with SP1/2012. It makes no significant changes, but updates references to tax law, and emphasises the restricted scope of an ATCA and the need for full disclosure when applying for one.

HMRC introduced statement of practice SP2/2012 on **inward investment support.** Under the scheme, HMRC will provide advice to companies who intend to invest at least £30 million in the UK or whose smaller investment is considered nationally or regionally significant.

HMRC revised statement of practice SP 1/2010 on what business may be transacted between a taxpayer and HMRC by **telephone.** This is the fifth update of this SP. The latest revision extends the scope of matters that may be so transacted.

In February 2012, HMRC started a series of 30-minute **on-line advice seminars.**

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.

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.

Another tranche of six **extra-statutory concessions** has been enacted under provisions of Finance Act 2008 s160 with effect from 1 March 2012. There is no change to the scope of the concessions. Those now enacted include:

- de minimis exemption for insurance premium tax
- reduction of cash equivalent for shared company car
- sale of memorials and niches by crematoria
- compensation for compulsory slaughter of animals
- groups of companies: arrangements for corporation tax
- distributions prior to dissolution of company

(SI 2012 No 266).

Various amendments are made to the rules for **tax tribunals.** In particular, the deadline for joining a party is extended from 28 days to 42 days (SI 2012 No 500).

The trial for **Alternative Dispute Resolution** of tax disputes has been extended to South West England, South Wales and further parts of London.

The **statutory residence test** due to be introduced in 2012, has been been deferred to 2013.

Small businesses that are registered for on-line services may access a **tax dashboard.** This gives a simple display of all payments to HMRC, repayments from HMRC, and interest and penalties. It discloses:

- corporation tax from 1 October 1993
- self-assessment from 1996/97
- PAYE from 2010/11
- VAT (when added) for current date and previous 15 months.

Retrospective anti-avoidance was announced on 27 February 2012 in relation closing a tax avoidance scheme that involved a bank buying back its own debt. The Treasury press release said "in a bold step not previously taken by this government, legislation is being introduced today that will not only prevent the scheme's use in the future, but will also act retrospectively to block its recent use".

On 13 March 2012, three further **property business loss schemes** were blocked.

The fee for paying tax by **credit card** increased from 1.25% to 1.5% from 2 April 2012 *(SI 2012 No 689).*

The Court of Appeal held that HMRC used the wrong procedure to **investigate** a tax return when a taxpayer amended his return to claim loss relief. HMRC used its powers under Taxes Management Act 1970 Sch 1A and issued a county court summons. The Court of Appeal agreed with the taxpayer that the county court had no authority to hear the matter, quashed its decision and sent the matter to the First Tier Tribunal under s9A *(HMRC v Cotter. EWCA Civ 81 [2012]).*

The 2012 Budget introduced anti-avoidance measures involving:

- **capital allowances** for plant and machinery acquired under hire purchase
- **sub-sales** of land to avoid stamp duty land tax
- inheritance tax avoidance using **offshore trusts**
- **corporate settlor-interested trusts**
- **sale of lessor companies**
- long funding **leasing** of plant and machinery
- sale of **life assurance policies**
- exploitation of tax relief for **site restoration** payments.

The Treasury is considering using **dynamic scoring** in costing tax changes. This will reflect changes in behaviour expected from the tax change. So increasing income tax from 40% to 50% will not generate a quarter more revenue from those incomes, but will generate less income as taxpayers find ways to avoid the higher rate.

From 6 April 2013, tax relief is withdrawn for interest earned on **tax reserve certificates.** Such certificates were issued between 1941 and 1975, when they were replaced by certificates of tax deposit. The relief is given by Income Tax (Trading and Other Income) Act 2005 s750 and Corporation Tax Act 2009 s1283.

From 6 April 2013, tax relief is withdrawn for payment made to **land assessors** who were made redundant in 1947. This relief has long been otiose.

The government was reported to be considering making tax returns available to the courts when assessing the amount of **fine** that a person could be required to pay.

HMRC's **remit** for 2012/13 is to improve tax collection, deliver cost reductions, improve services for individuals and businesses, and to implement real time information. The remit was introduced in 2010 as a means for the Chancellor to state what he expects from HMRC.

Tax compliance

HMRC confirmed that payments of tax made using the **Faster Payment Service** (which HMRC accepts from 16 December 2011) may be made on a non-banking day. Otherwise, if tax is due on a non-banking day, HMRC must receive payment by the previous banking day (HMRC Notice 12 January 2012).

HMRC launched its new **Contractual Disclosure Facility** on 31 January 2012. Under this, a taxpayer suspected of fraud may enter into a contract to disclose within 60 days all fraud. In return, HMRC agrees not to institute criminal proceedings. Instead, the matter will be settled using civil penalties.

On 19 January 2012, HMRC published revised code of practice COP 9 where **fraud** is suspected.

From Royal Assent to Finance Act 2012, HMRC is given a new **information power** to require a data holder to provide the name, address and date of birth of a taxpayer. The main use of the power is for banks to provide such details in respect of a bank account number.

The evaluation of the **single compliance process** has again been put back, now to September 2012. It was originally to have been completed in January 2012, and was then put back to May 2012. The project started in December 2010. It aims to provide a single check for all relevant taxes for small and medium-sized businesses.

On 28 February 2012, HMRC published a Brief on **managing significant tax disputes.** Elements of the new procedures include:

- the appointment of a new Assurance Commissioner
- all cases involving more than £100 million in tax will be referred to three Commissioners.

On 26 January 2012, the European Union started proceedings against the UK for not complying with EU law in regard to **taxes paid in mistake of law.** This requires tax to be refunded when it was paid under a mistake of law. Although Finance Act 2007 s107 does introduce such a provision, it is not comprehensive enough and was not subject to adequate transitional provisions.

The 31 January **deadline** for submission of tax returns was extended by two days to 2 February in case any returns were delayed by industrial action at HMRC (announced by CIOT on 27 January 2012).

HMRC announced that a record 90.4% of taxpayers filed their **self-assessment tax returns** on time. Of the 9.45 million returns filed on-line, a record 7.65 million (80.9%) were filed electronically. The busiest day was the deadline of 31 January when 445,000 returns were filed. Of these, 37,460 returns were filed in the one hour from 4pm to 5pm. Apparently, 1,100 people filed their return on Christmas Day, and 8,935 on New Year's Day, of whom 102 people saw in the New Year filing their tax return.

A tax avoidance scheme that exploited the rules for **post-cessation tax relief** was rendered ineffective from 12 January 2012, even though HMRC believes the schemes were ineffective anyway. The anti-avoidance rules disallow such relief where it arises from an arrangement designed to avoid tax.

On 3 February 2012, HMRC announced that it was postponing its planned **small business records check** programme after a trial programme. The programme found 28% of businesses had inadequate records, with 11% seriously inadequate. Complaints included that HMRC was imposing requirements not demanded by law, and were subverting relationships between small businesses and their tax advisers. An on-line training video was launched on 13 February 2012.

On 8 February 2012, further **tax cheats campaigns** were launched. They concentrate on:

- missing tax returns from higher rate taxpayers,
- home improvement trades (such as roofing, carpentry, window fitting), and
- direct selling.

On 14 February 2012, HMRC launched the **Electricians'** Tax Safe Plan for voluntary disclosure by 15 May in return for a lower penalty. A similar plan for **teachers and coaches** expired on 31 March 2012.

On 23 February 2012, 30 new **task forces** were introduced to counter tax evasion in the rag trade, the motor trade, and in indoor and outdoor markets. On the same day, a further task force was announced for **Scottish landlords.**

A scheme to target **on-line traders** was launched on 14 March 2012 where lower penalties apply for voluntary disclosure before 14 June 2012.

Liechtenstein Disclosure Facility deadline has been moved from 31 March 2015 to 5 April 2016.

A taxpayer cannot avoid penalties for non-compliance with a disclosure notice from HMRC on the grounds that to do so would contravene **data protection** laws. It was reasonable for him to check this, but having done so, he no longer had an excuse for continued non-compliance *(Douglas Benn-Macrae. TC 1894 [2012]).*

In February 2012, new powers were announced to require **security for PAYE** in the form of a cash deposit or a bond payable on demand from an approved financial instution.

Two changes are made to disclosure of tax avoidance schemes, **DOTAS regulations** for stamp duty land tax:

- grandfathered schemes must now be disclosed
- the property value threshold is removed.

The changes take effect from Royal Assent to Finance Act 2012.

A First Tier Tribunal decided it should proceed with a hearing when the taxpayer had sent in a **medical certificate** confirming he was not well enough to attend, but did not indicate when he probably would be. Its normal practice is to adjourn a hearing when a party is unwell, but it could not agree an indefinite adjournment. The case related to whether someone was an employee. It was held that he was. *(Wright (No 2). TC 1660 [2011]).*

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 13 March 2012, HMRC announced the creation of a new **cyber crime team** to tackle Internet-based crime. It aims to recover £7 billion in undeclared tax.

A taxpayer may claim **costs** against HMRC where its conduct at a tribunal has been unreasonable, but not just because the taxpayer won. HMRC was considered to have acted unreasonably in the case *Kevin John Bellechambers. TC 1809 [2012].*

A **confiscation order** is restricted to the net proceeds of crime. An order could not be made for the costs of a crime, nor against assets where there was no evidence of hiding. The case concerned two directors convicted of operating the “missing trader” VAT fraud, in which £12 million of tax revenue was involved. The judge ordered that confiscation orders be made for

£92 million, which was the gross figure. A lower figure was substituted by the Court of Appeal *(R v Ahmad. EWCA Crim 391 [2012]).*

If a **confiscation order** fails to realise the full sum, a court may order seizure of assets legally acquired after a prison sentence. The Supreme Court so ruled in a case concerning drug trafficking, but equally applies to tax offences *(re Peacock. SC. The Times 8 March 2012).*

On 7 March 2012, the Director of Public Prosecutions (DPP) ordered the **Crown Prosecution Service** to release more information to the public about tax-related prosecutions. The DPP is satisfied that disclosing information beyond what is disclosed in court is permissible under Commissioners for Revenue and Customs Act 2005 s40.

The **Treasury Select Committee** of MPs has again attacked HMRC. It said that HMRC should abandon attempts to maximise revenue at all costs and instead concentrate on getting voluntary compliance from taxpayers. The heavy-handed approach of automatic penalties is building up resentment among taxpayers that discourages honest compliance.

Other provisions

The spring bank holiday was moved and an additional public holiday added to celebrate the Queen's diamond jubilee on 4 and 5 June. **The Queen** addressed both houses of Parliament on 20 March when she observed that, in her 60 years as monarch, she had signed 3,500 Acts of Parliament and had 12 prime ministers.

There is a major reform of means-tested **social security** benefits in 2013. Universal credit replaces six means-tested benefits. Personal independence payments replace disability living allowance. These and other changes are made by Welfare Reform Act 2012, on which there is a separate article on this website.

Postage rates rose sharply on 30 April 2012. First class letters rose from 46p to 60p; second class from 36p to 50p. This is intended to make the Post Office profitable enough to be privatised. It follows a general deregulation of postal services from March 2012.

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

Social security rules have been amended so that periods of **additional paternity pay** count towards benefit entitlement (SI 2012 No 766).

Guidance has been produced by HMRC on how to avoid overpayments of **tax credits.** The commonest reasons for overpayments are:

- not notifying HMRC of a change of circumstances
- payments are based on wrong information

• not renewing a claim in time.

The renewal deadline each year is 31 July. Tax credits are a means-tested social security benefit that support 10.3 million children in 6.4 million families.

The European Court of Human Rights found that requiring repayment of social security benefits was not a breach of **human rights.** The claimant alleged that she had been discriminated against, contrary to Article 14, because her circumstance had changed. The court found that the repayment was required because she failed to notify HMRC of the change *(B v United Kingdom. Application 36571/06. ECHR. The Times 6 April 2012).*

Tax credit appeals may be heard by the First Tier Tribunal as was always intended. This right was accidentally omitted under SI 2009 No 56 but has now been corrected by SI 2012 No 533.

The annual review of the 180,000 goods used to determine the **consumer price index** has added teenage fiction, iPads, cans of Guinness, baby wipes, pineapples, hot oat cereals, and take-away chicken and chips. The following items have been dropped: printing colour films, step-ladders, glass casserole dishes, outdoor adventure boots, and boiled sweets. The scope of the goods is reviewed annually according to changed consumer spending habits.

The government has announced plans to introduce **alcohol unit price** of 40p per unit during 2014. In 2012, Asda sold 20 cans of Stella Artois for £10. That would rise to £17.60.

There was considerable discussion during the year on whether **senior politicians** should disclose their tax returns. During the London mayoral contest, the two main contenders did disclose their returns. Boris Johnson (Conservative winner) disclosed income of £473,280 and tax of £213,749. He was criticised for earning £339,625 from outside activities. Ken Livingstone (Labour) disclosed income of £94,568 and tax of £34,661. However he was criticised for paying £238,000 into a limited company (whose returns were not disclosed). The prime minister and Chancellor were among those reported to be willing to disclose.

Consumer insurance disclosures are amended under Consumer Insurance (Disclosure and Representations) Act 2012. The main change is to switch the onus from the customer making a full disclosure to the company asking the right questions.

The **eurozone** remained in permanent crisis during 2012, with Greece struggling to remain a member while its population voted for parties that opposed the necessary austerity programme.

On 22 April 2012, **Companies House** changed the layour of its website. The main change is to provide a dashboard for companies to see what details it has filed.

The government proposed a **"home extension tax"** by requiring anyone adding an extension or conservatory to their property to ensure the whole house is environmentally friendly. It was estimated that this would increase costs by 10%.

A proposal was made by Dr Mike Rayner from Oxford University to introduce a **fat tax** of 12p on food and drink with high fat content. Such a tax is charged in Denmark. He believes this would compensate the NHS from the £5 million a year cost of treating obesity.

From 21 May 2012, the **National Savings** NS&I Investment Account became a postal-only account. Investors can no longer deal with their accounts at post offices. On 27 July 2012, the NS&I Easy Access Savings Account closed completely.

Work fitness tests for incapacity benefit claimants are "deeply flawed", according to Paul Farmer, one of four people overseeing the tests. Farmer is chief executive of Mind, the mental health charity.

Legal history was made on 18 April 2012, when a Scottish High Court judgment was recorded by **television cameras.** At present movie and still cameras are banned from all courts with limited exceptions for the Supreme Court. This exception was part of a trial to relax this law.

In the USA, the **Paying a Fair Share Act 2012** failed to get the 60% vote needed in the Senate to prevent opponents talking it out by filibustering. The Act imposed new taxes on the wealthy. It was supported by President Obama and a majority of Senators.

The European Court of Justice ruled that a permant contract of employment derived from a **fixed-term contract of employment** need not have identical terms and conditions, provided the new contract is not disadvantageous to the employee overall (*Huet v Université de Bretagne. ECJ Case C-251/11. The Times 7 May 2012).*

Scotland was found to have acted legally when it banned **cigarette machines** and displays of cigarettes, the Court of Appeal ruled. The devolved assembly has not exceeded its devolved powers when it passed the Tobacco and Primary Medical Services (Scotland) Act 2010 *(Imperial Tobacco Ltd v The Lord Advocate. Inner House, Court of Session. The Times 9 April 2012).*

On 10 May 2012, it was reported that the **Border Agency** was detaining white travellers solely to avoid accusations of racial bias. During the year, the Agency was repeatedly criticised for long delays in clearing passengers at airports.

The UK suffered a **double dip recession** when figures announced on 25 April 2012 showed that the UK had sustained two consecutive quarters of negative growth.

The CBI and other business leaders have protested at a change in tax law in **India** that allows the government to claw back tax on any deal made by a company in the previous 50 years involving Indian assets. The law was changed when the Indian Supreme Court found in favour of Vodafone who successfully appealed against a £3.1 billion tax charge for its acquisition of Hutchinson Essar in 2007.

Corporate fraud is estimated to cost £73 billion a year, according to the National Fraud Authority. This equates to £1,400 per person in the UK, or 1.4% of business turnover. The figure is much higher than expected.

All 5p and 10p coins minted from 1 January 2012 will be made of **nickel-plated steel** instead of solid cupronickel. This means that the coins will be magnetic, as "copper" coins have been since 1992. The new 5p and 10p coins are slightly thicker. The change does not affect 20p or 50p coins. Older coins remain legal tender. The British Medical Journal criticised the move, as 10% of women and 1% of men have a skin allergy to nickel.

And a **final thought:** "We live less than human lives if we think just of our own individual good" *(Archbishop of Canterbury in sermon to mark the Queen's diamond jubilee).*