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BUDGET 2011

property face2face
The Nottingham Property Network

The announcements relevant to property investors and developers

THE IMPACT ON BUSINESS

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The Budget

- The Plan for Growth
  - Enterprise Zones
  - Planning regime and Land Auctions
- Tax Rates and allowances
- Furnished Holiday Lettings
- Pensions
- Disguised remuneration
- HMRC powers, deterrents and safeguards

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Rates and allowances

- Increase in personal allowance to £8,105 for 2012
  - Higher rate tax payers benefit
- 10% Entrepreneurs relief on first £10m chargeable gains (but only on qualifying property)
- Reminder
  - National insurance increases of 1% for employer and 1% for higher rate employees
  - Income tax 20%/40%/50%
  - Capital Gains tax 28%

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Rates and allowances (cont.)

- Phased reduction in large company CT rate from 28% to 23% by 2014.
  - Legislating reduction to 26%/25% effective April 2011/12
- Reduction in small company rate to 20%
  - Effective April 2011
- Capital allowances
  - 8%/18% Effective April 2012
  - AIA £25,000 Effective April 2012
  - Extension of BPRA

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Rates (SDLT/VAT)

- No change to the rates
- Effective increase in SDLT due to VAT changes
- Residential over £1m rate increases to 5%
- Avoidance
  - *"The Government today announces that it will examine whether further changes to the rules on stamp duty land tax on high value property transactions are needed to prevent avoidance in this area"*
    22 June 2010 Emergency budget

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Furnished Holiday Lettings

- FHL in both the UK and EEA
- Period available for letting increases 210 days (140)
- Period actually let increases to 105 days (70)
- Losses only set against FHL income
- FHL favourable tax reliefs compared to normal buy to let:
  - capital allowances;
  - Certain capital gains reliefs (including business asset roll-over relief, entrepreneurs' relief); and
  - relevant UK earnings when calculating the maximum relief due for an individual's pension contributions.

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Pensions

- Annual allowance £50k from £255k
- Carry forward of unused relief for 3 years
  - Example
- Lifetime allowance £1.5m from £1.8m
  - Preservation of £1.8m for large funds
- Removal of requirement to acquire an annuity at 75
- Attack on EFURBS through disguised remuneration avoidance

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Pensions example

Tax Year	**Pension contribution**	**Old Rules**	**New Rules**
2008/09	£20,000	No carry forward of unused allowance	Carry forward for three years
2009/10	£20,000	No carry forward of unused allowance	Carry forward for three years
2010/11	£10,000	No carry forward of unused allowance	Carry forward for three years
2011/12	Maximum contribution £150,000 at marginal tax rate		

Disguised Remuneration

- Anti-avoidance aimed at employment income diverted through a “third party”
- Complex set of rules with very broad application
- Affects many remuneration arrangements:
  - Employee benefit trusts
  - Deferred bonus plans
  - EFURBS

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HMRC Powers, Deterrents and Safeguards

New provisions

- Data gathering powers
- Security for non payment of PAYE/NIC

Reminder

- Name and shame – publishing details of deliberate tax defaulters
- Managing deliberate defaulters
- Compliance checks
- Penalty regime

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The announcements relevant to property investors and developers

STRUCTURING PROPERTY TRANSACTIONS

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Example Investment Income

Property acquired for £5m at a yield of 6%

	UK Individual or Partnership £000's	Company (Dividend) £000's	Company (Retained) £000's
Rent	300	300	300
Allowances	(0)	(0)	(0)
Taxable Profit	300	300	300
Income tax 50%	150	N/A	N/A
Corporate tax 20%	N/A	60	60
Tax on distribution	N/A	87	N/A
Total tax	150	147	60
Effective tax rate (%rent)	50%	49%	20%

Capital allowances

- Rates of allowances to fall to 18/8% from the current 20/10%
- A tax relief available for capital expenditure
- For example office blocks tend to have around 30% of total cost qualifying for allowances
- Claim and shelter tax on the first few years of rents – the reduction in rates does not materially change this!

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Example Investment Income with allowances

Property acquired for £5m at a yield of 6% with 30% of cost qualifying for 18% allowances

	UK Individual or Partnership £000's	Company (Dividend) £000's	Company (Retained) £000's
Rent	300	300	300
Allowances	(270)	(270)	(270)
Taxable Profit	30	30	30
Income tax 50%	15	N/A	N/A
Corporate tax 20%	N/A	6	6
Tax on distribution	N/A	106	N/A
Total tax	15	112	6
Effective tax rate (%rent)	5%	37%	2%

Example Investment gains

Property acquired for £5m sold for £10m 5 years later

	UK Individual or Partnership £m	Company (Dividend) £m	Company (Retained) £m
Gain	5	5	5
Indexation Allowance	(0)	(0.5)	(0.5)
Taxable Profit	5	4.5	4.5
Capital gains tax 28%	1.4	N/A	N/A
Corporate tax 23%	N/A	1.0	1.0
Tax on distribution	N/A	1.4	N/A
Total tax	1.4	2.4	1.0
Effective tax rate (%rent)	28%	48%	20%

Implications for structuring

- Double taxation of <u>income</u> does not arise for 50% tax rate individuals
- Corporate ownership allows income to roll up at relatively low rates of taxation – especially for property traders
- Consider company ownership to roll up until future tax rates for individuals fall?
- Interaction with capital allowances and capital gains

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This presentation covers the budget material and property structuring matters on a generic basis and does not take into account the circumstances of individual tax payers. Action should not be taken on matters set out in this presentation without taking specific professional advice in advance.

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