

# What's ahead

## Dates for your diary

### February

- 07** **CJEU hearing:** *Test Claimants in the FII Group Litigation v HMRC* C-35/11: Franked investment income, preliminary ruling to clarify CJEU ruling in C-446/04.
- 08** **CJEU hearing:** A C-33/11: Preliminary ruling on application of VAT exemption related to international transport where an aircraft is chartered to another airline and used by its own shareholder for private purposes.
- 10** **Consultations:** Closing date for comments on draft Finance Bill clauses published on 6 December 2011.  
**Parliament:** House of Commons in recess, returning 20 February.
- 14** **Upper Tribunal hearing:** *HMRC v General Motors Acceptance Corporation UK plc* TC 504: VAT, bad debt relief.
- 16** **Consultations:** Closing date for comments on draft regulations on PAYE and share-based payments.  
**CJEU hearings:** *Bawaria Motors Spółka z o.o. and Minister Finansów* C-160/11: VAT special margin scheme for taxable dealers, application to supplies of second-hand motor vehicles.  
*HMRC v Philips Electronics UK Ltd* C-18/11: EU law, validity of ICTA 1988 ss 403D, 406.  
*Santander Asset Management SGIC SA, on behalf of FIM Santander Top 25 Euro Fi v Direction des résidents à l'étranger et des services généraux* C-338/11 to C-347/11: The difference in treatment for withholding tax purposes between outbound dividends paid to non-resident UCITS with legal personality and dividends paid to resident UCITS with no legal personality.  
**CJEU judgments:** *Varzim Sol - Turismo, Jogo e Animação, SA v Fazenda Pública* C-25/11: Portugal, compatibility of Art 23 of the CIVA on deductible proportion of VAT with Art 17(2) and (5) and Art 19 of Sixth VAT Directive.  
*T.G. van Laarhoven v Staatssecretaris van Financiën* C-594/10: VAT and private use of cars, deductible input tax.  
*Eon Asset Management OOD v Direktor na Direktsia 'Obzhalvane i upravlenie na izpalnenieto'* C-118/11: VAT, (a) acquisition of goods and services either used initially for an activity which is not taxed or not used at all but subsequently included in the taxable activity of the taxable person and (b) option for Member States to exclude certain goods and services from the right of deduction.
- 17** **Parliament:** House of Lords in recess, returning 27 February.

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### One minute with ...

#### What difference do you see between working in practice or in industry?

In a lot of ways it is similar, albeit for just one demanding client (and minus the time sheets of course). I think the breadth of tax issues that have to be dealt with at a good working level is far wider in industry than one individual would experience in practice, but practice offers greater depth of knowledge in specific taxes.

#### What is the biggest problem facing tax directors today?

Lack of time, and increasing complexity. The level of tax reporting has increased significantly in recent years which reduces the time available to provide tax advice and business support.

#### Name a recent piece of work of which you are most proud

Getting 30 Finance Controllers from around the world to understand tax accounting in just three hours and seeing them actually enjoy it too. The seemingly impossible achieved!

#### Where do you stand on the introduction of a GAAR?

A GAAR strikes me as a cop out against specific rules, and would therefore create more uncertainty. Adam Smith was correct in saying that one of the canons of a good tax is certainty, and I don't believe a GAAR would provide that. The tax disclosure rules have significantly reduced tax 'mischief' because the Treasury find out about loopholes faster and are able to block them sooner. Adding to uncertainty will simply slow the system down, and make the UK a less attractive place.

#### If you could make one change to UK tax law, what would it be?

Significantly lower corporate tax (how about 5%)? That would bring in a huge amount of investment, additional jobs, and a significant addition to payroll taxes for the Exchequer. It would free up a lot of HMRC's time spent on corporate tax scrutiny, when the bulk of the tax take relates to PAYE and NI.



**Simon Nuttall**  
Head of Tax,  
Bodycote Plc

#### Tax competitiveness – are we moving in the right direction?

A tentative yes – I think the political will is there, but the drafting detail remains to be seen. The probability of a significant number of the FTSE 350 rebasing themselves overseas was very high two years ago, but recent announcements appear to have stemmed the tide.

#### What has HMRC got right?

CFC reform, and tentative acceptance that not all business transactions are tax motivated.

#### What has HMRC got wrong?

Calling taxpayers 'customers' – a real customer has a choice. I also don't think HMRC invests enough in its people, and as a result it doesn't reach its full potential.

#### What are your views on the 50% income tax rate?

The 50% tax rate is purely a political tax and perhaps achieves a political aim as a result, but it does dent the attractiveness of the UK to investors and is at a level where the people impacted by it, start to look at ways around it. It should be removed as soon as possible, but that will be driven by politics I fear.

#### If you weren't a tax director, what would you be?

A builder. I like building and creating things, it gives me a sense of satisfaction, and a completely different set of problem-solving skills.

*Interview by Georgiana Head*  
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