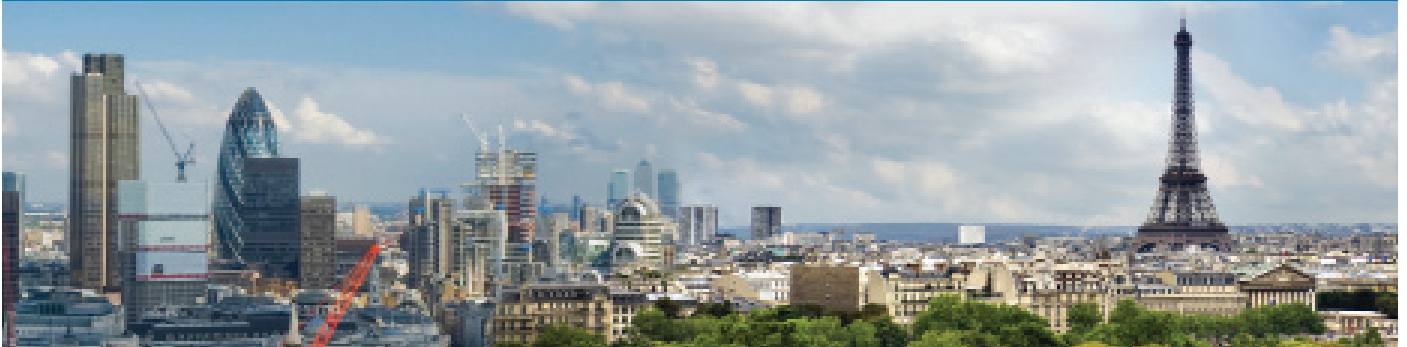


## Autumn update: Private Clients



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### Introduction

On 6 December the Treasury released over 1,000 pages of draft legislation and notes which are likely to form part of Finance Act 2012. While this publication confirmed a number of initiatives announced in both the March budget and the consultation documents released over the summer, the draft legislation provides clarification of a number of issues affecting private clients which are summarised below:

### Seed enterprise investment scheme

A new 'Seed Enterprise Investment Scheme' (SEIS) will be introduced with effect from 6 April 2012. The scheme is similar to the existing Enterprise Investment Scheme (EIS) scheme but is targeted at small start up companies. Individuals will be able to subscribe for up to £100,000 of shares each year and obtain income tax relief at 50%. To qualify for the scheme the company must have assets of less than £200,000, fewer than 25 employees and be carrying on or intending to carry on a new business in a qualifying trade. Additionally, gains realised in 2012-13 will be exempt from CGT if the proceeds are

reinvested into shares within the SEIS scheme. As is the case with EIS shares, gains made on SEIS shares will be exempt from CGT. The relief will only be available if the individual investor has less than a 30% stake in the SEIS qualifying company.

### EIS & VCTs

The following changes are being made to the treatment of EIS and Venture Capital Trust (VCT) investments:

The main change which will affect private clients is that the £500,000 annual EIS limit for income tax and capital gains tax relief will be increased to £1million.

The criteria for companies that qualify for the EIS and VCT schemes are being relaxed and the rule regarding investors with a connection to the company is being changed so that an investor will no longer be connected to the company solely by breaching the loans threshold.

### Gifts of pre-eminent objects to the nation

The draft legislation confirms the previously announced measure to encourage lifetime giving of works of historical, scientific or national

interest. Relief will allow individuals and companies (but not trusts or personal representatives of estates) to offer pre-eminent objects to the nation in return for a reduction in the donor's tax liability. The relief will be 30% of the value of the gift offset against income tax or capital gains tax, or 20% offset against corporation tax. Individuals will be able to utilise the relief at any point in the five year period beginning with the start of the tax year in which the donation is made.

Pre-eminent objects include works of art and other items of national, scientific, historic or artistic interest, but exclude land and buildings. Whether an item will qualify as pre-eminent will be determined by the relevant Minister.

An item gifted under this scheme will be exempt from any CGT or IHT which would otherwise be chargeable on disposal, and will not constitute a remittance if the item was purchased by a non-domiciliary from relevant foreign income or capital gains.

### Inheritance tax: reduced rate for estates leaving 10% or more to charity

In line with the consultation document released over the summer, Finance Act 2012 will introduce legislation to provide that

on deaths after 5 April 2012 an IHT rate of 36% will apply where 10% or more of the estate has been left to charity.

The proposed legislation will only apply to assets passing on death and will therefore not apply to lifetime gifts, such as transfers into trust. The estate passing on death will be divided into three components:

- the free estate, being assets owned outright by the deceased,
- certain trust property in which the deceased had a qualifying life interest, and
- jointly held property passing by survivorship.

The relief can apply to each of these components in isolation and therefore it is possible for one component to qualify for the reduced rate while another does not. However, it is also possible for the components to be combined so that a component which would not qualify in isolation can be combined with a component which would qualify to allow both to benefit from the reduced rate.

The 10% threshold is based on the amount transferred on death by a component of an estate after deducting all exemptions, reliefs and any nil rate band available.

## Swiss agreement

The tax cooperation agreement between the UK and Switzerland will come into force in the UK as soon as the agreement itself is brought into force. This will be no earlier than 1 January 2013. The agreement has three main effects:

- To impose a one off levy on accounts in Switzerland held by UK residents unless the individual

authorises disclosure of the accounts.

- To impose a withholding tax on income and gains arising on the Swiss accounts from 1 January 2013 unless the individual authorises disclosure of the accounts.
- To provide enhanced exchange of information between HMRC and the Swiss tax authorities.

## Minerals Royalties

With effect from 6 April 2013 the current rules which provide for receipts of mineral royalties to be charged 50% to income tax and 50% to capital gains tax, will be abolished. Consequently, all mineral royalties received after 5 April 2013 will be subject to income tax.

## Statutory Residency Test

In the 2011 budget, the government announced the intention to introduce a statutory definition of UK tax residence for individuals and on 17 June 2011 the Treasury published a consultation paper outlining the government's proposals for the new statutory test of what constitutes tax residence in the UK.

The government's objective is to replace the current uncertainty that has arisen as to what constitutes UK tax residency, following a number of recent tax cases.

The new test was due to come into force from 6 April 2012 but due to the consultation raising a number of detailed issues requiring careful consideration, the statutory residency test will not be introduced until 6 April 2013.



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