

FINANCE ACT 2008

RELEVANT TO ACCA QUALIFICATION PAPERS F6 (UK) AND P6 (UK) AND CAT PAPER 9 (UK)

This article looks at the changes made by the Finance Act 2008, and should be read by students taking Paper F6 (UK) at either the June or December 2009 session. Students taking CAT Paper 9 (UK) or Paper P6 (UK) in June or December 2009 should read this article together with the relevant appendix on pages 65 to 67. The article also includes details of legislation that was enacted prior to the Finance Act 2008, but which came into effect on 6 April 2008. Students sitting Papers F6 (UK), P6 (UK), or CAT 9 (UK) in December 2008, will be examined on the Finance Act 2007, which is the legislation as it relates to the tax year 2007–08; these students should refer to the 'Finance Act 2007' article, available on the ACCA website.

INCOME TAX

RATES OF INCOME TAX

For the tax year 2008–09, the starting rate of 10% has been removed, and the basic rate has been reduced from 22% to 20%. The rates for the tax year 2008–09 are therefore as follows:

Basic rate	£1 to £34,800	20%
Higher rate	£34,801 and above	40%

Although the starting rate of 10% has been removed, a new starting rate of 10% has been introduced for the first £2,320 of savings income. However, this 10% rate only applies where savings income falls within the first £2,320 of taxable income. Income tax is charged first on non-savings income (income from employment, self-employment, or property), then on savings income, and finally on dividend income. Therefore, if non-savings income exceeds £2,320 the starting rate of 10% for savings will not apply. In this case, savings income will be taxed at the basic rate of 20% if it falls below the higher-rate threshold of £34,800, and at the higher rate of 40% if it exceeds the threshold.

Dividends continue to be taxed at the lower rate of 10% if they fall below the higher-rate threshold of £34,800, and at the higher rate of 32.5% where they exceed the threshold.

Personal allowances

Personal allowances for the tax year 2008–09 are as follows:

Personal allowance	Standard	£6,035
Personal allowance	65–74	£9,030
Personal allowance	75 and over	£9,180
Income limit for age-related allowances		£21,800

EXAMPLE 1

For the tax year 2008–09, Ingrid, aged 40, has a salary of £34,000, building society interest of £800 (net), and dividends of £9,000 (net). Her income tax liability is as follows:

	£
Employment income	34,000
Building society interest (800 x 100/80)	1,000
Dividends (9,000 x 100/90)	10,000
	<u>45,000</u>
Personal allowance	(6,035)
Taxable income	38,965
Income tax: 28,965 at 20%	5,793
5,835 at 10%	583
4,165 at 32.5%	1,354
Tax liability	<u>7,730</u>

The starting rate of 10% for savings income is not applicable because the non-savings income (£34,000 - £6,035 = £27,965) exceeds £2,320.

EXAMPLE 2

For the tax year 2008–09, Ali, aged 67, has pensions of £10,400 and bank interest of £4,000 (net). Her income tax liability is as follows:

	£
Pensions	10,400
Bank interest (4,000 x 100/80)	5,000
	<u>15,400</u>
Personal allowance	(9,030)
Taxable income	6,370
Income tax: 1,370 at 20%	274
950 at 10%	95
4,050 at 20%	810
Tax liability	<u>1,179</u>

Non-savings income is £1,370 (10,400 - 9,030), so £950 (2,320 - 1,370) of the savings income is taxed at the starting rate of 10%. The remainder of the savings income is taxed at the basic rate of 20%.

EXAMPLE 3

For the tax year 2008–09, Lorn, aged 80, has pensions of £21,000 and building society interest of £3,200 (net). Her income tax liability is as follows:

	£
Pensions	21,000
Building society interest (3,200 x 100/80)	<u>4,000</u>
	25,000
Personal allowance	<u>(7,580)</u>
Taxable income	<u>17,420</u>
Income tax: 17,420 at 20%	3,484
Tax liability	<u>3,484</u>

- Lorn's total income exceeds £21,800, so her personal allowance of £9,180 is reduced to £7,580 ($9,180 - 1,600 (25,000 - 21,800 = 3,200/2)$).
- The starting rate of 10% for savings income is not available because the non-savings income ($£21,000 - £7,580 = £13,420$) exceeds £2,320.

INDIVIDUAL SAVINGS ACCOUNTS (ISAs)

The distinction between maxi and mini ISAs has been removed, and the annual investment limits have been increased.

An individual can now invest up to £3,600 per tax year in a cash ISA, and up to £7,200 per tax year in a stocks and shares ISA. This is subject to an overall annual investment limit of £7,200. Therefore, if £3,600 is invested in a cash ISA, only £3,600 can then be invested in a stocks and shares ISA.

The income from ISAs is exempt from income tax, while a capital gain made within a stocks and shares ISA is exempt from capital gains tax.

EMPLOYMENT INCOME

Company car benefit

For the tax year 2008–09, the base level of CO₂ emissions used to calculate company car benefits is reduced from 140 grams per kilometre to 135 grams per kilometre.

The percentage used to calculate a car benefit ranges from 15% to 35%. However, a new lower rate of 10% has been introduced for motor cars with a CO₂ emission rate of exactly 120 grams per kilometre or less. This lower rate is increased to 13% (10% + 3%) for diesel cars.

EXAMPLE 4

During the tax year 2008–09, Fashionable plc provided the following employees with company motor cars: Amanda was provided with a new diesel-powered company car on 6 August 2008. The motor car has a list price of £13,500 and an official CO₂ emission rate of 122 grams per kilometre.

Betty was provided with a new petrol-powered company car throughout the tax year 2008–09. The motor car has a list price of £16,400 and an official CO₂ emission rate of 193 grams per kilometre.

Charles was provided with a new petrol-powered company car throughout the tax year 2008–09. The motor car has a list price of £22,600 and an official CO₂ emission rate of 254 grams per kilometre. Charles paid Fashionable plc £1,200 during the tax year 2008–09 for the use of the motor car.

Diana was provided with a new petrol-powered company car throughout the tax year 2008–09. The motor car has a list price of £12,400 and an official CO₂ emission rate of 118 grams per kilometre.

Amanda

The CO₂ emissions are below the base level figure of 135 grams per kilometre, so the relevant percentage is 18% (15% plus a 3% charge for a diesel car). The motor car was only available for eight months of the tax year 2008–09, so the benefit is £1,620 (13,500 x 18% x 8/12).

Betty

The CO₂ emissions are above the base level figure of 135 grams per kilometre. The CO₂ emissions figure of 193 is rounded down to 190 so that it is divisible by five. The minimum percentage of 15% is increased in 1% steps for each 5 grams per kilometre above the base level, so the relevant percentage is 26% (15% + 11% (190 - 135 = 55/5)). The motor car was available throughout the tax year 2008–09, so the benefit is £4,264 (16,400 x 26%).

Charles

The CO₂ emissions are above the base level figure of 135 grams per kilometre. The relevant percentage is 38% (15% + 23% (250 - 135 = 115/5)), but this is restricted to the maximum of 35%. The motor car was available throughout the tax year 2008–09, so the benefit is £6,710 (22,600 x 35% = 7,910 - 1,200). The contributions made by Charles towards the use of the motor car reduce the benefit.

Diana

The CO₂ emissions are below 120 grams per kilometre, so the lower rate of 10% applies. The motor car was available throughout the tax year 2008–09, so the benefit is £1,240 (12,400 x 10%).

Company car fuel benefit

The fuel benefit is calculated as a percentage of a base figure that is announced each year. For the tax year 2008–09, the base figure has been increased from £14,400 to £16,900.

The percentage used in the calculation is exactly the same as that used for calculating the related company car benefit.

EXAMPLE 5

Continuing with **Example 4**. Amanda was provided with fuel for private use between 6 August 2008 and 5 April 2009.

Betty was provided with fuel for private use between 6 April 2008 and 31 December 2008.

Charles was provided with fuel for private use between 6 April 2008 and 5 April 2009. He paid Fashionable plc £600 during the tax year 2008–09 towards the cost of private fuel, although the actual cost of this fuel was £1,000.

Diana was not provided with fuel for private use.

Amanda

The motor car was only available for eight months of the tax year 2008–09, so the fuel benefit is £2,028 (16,900 x 18% x 8/12).

Betty

Fuel was only available for nine months of the tax year 2008–09, so the fuel benefit is £3,295 (16,900 x 26% x 9/12).

Charles

The motor car was available throughout the tax year 2008–09, so the benefit is £5,915 (16,900 x 35%). There is no reduction for the contributions made since the cost of private fuel was not fully reimbursed.

Diana

Fuel was not provided for private use so there is no fuel benefit.

OFFICIAL RATE OF INTEREST

The official rate of interest is used when calculating the taxable benefit arising from a beneficial loan or from the provision of living accommodation costing in excess of £75,000.

The June and December 2009 exams will use the actual official rate of interest for the tax year 2008–09 of 6.25%.

CAPITAL ALLOWANCES

Plant and machinery

There have been a number of changes regarding the allowances available in respect of expenditure on plant and machinery. The changes apply from 6 April 2008 (1 April 2008 for limited companies).

The rate of writing-down allowance (WDA) has been reduced from 25% to 20%. Where a period of account spans 6 April 2008 (1 April 2008 for limited companies), apportionment will be necessary in order to determine the rate of WDA applicable. A question **will not be set** involving apportionment as regards the rate of WDA.

First-year allowances (FYA) at the rate of 40% or 50% have been abolished. Previously, expenditure by small businesses qualified for an FYA of 50%, while expenditure by medium-sized businesses qualified for an FYA of 40%.

From 6 April 2008 (1 April 2008 for limited companies), an annual investment allowance (AIA) has been introduced. This is available to all businesses, and provides an FYA of 100% for the first £50,000 of expenditure on plant and machinery. Any expenditure in excess of the £50,000 limit will qualify for WDAs as normal. The AIA applies to all expenditure on plant and machinery with the exception of cars. If plant and machinery qualifies for the AIA, the sale proceeds from any subsequent disposal will be deducted as normal in the main plant and machinery pool.

The £50,000 limit is proportionally reduced or increased where a period of account is shorter or longer than 12 months. For example, the AIA would be £37,500 ($50,000 \times 9/12$) for a nine-month period of account.

Where a period of account spans 6 April 2008 (1 April 2008 for limited companies), then apportionment will be necessary in order to determine the amount of AIA. A question **will not be set** involving apportionment as regards the amount of AIA.

There is no change in the treatment of motor cars. However, for cars costing more than £12,000, the reduction in the rate of WDA to 20% means that the £3,000 WDA restriction now only applies where the cost, or written-down value (WDV) brought forward, is more than £15,000 ($15,000 \times 20\% = £3,000$).

The definition of a low emission motor car has been changed to one with CO₂ emissions of less than 110 grams per kilometre. This change is not particularly important, as in the exam, students will be told whether a motor car is low emission. The 100% FYA for low-emission motor cars is given in addition to the £50,000 AIA.

There is also no change in the treatment of short-life assets. However, expenditure on a short-life asset will qualify for the FYA of 100% if it falls within the annual investment limit of £50,000. If outside this limit, expenditure on a short-life asset will qualify for WDA at the rate of 20%.

EXAMPLE 6

Ming Ltd prepares accounts to 31 March. The tax written down value of the company's general pool at 1 April 2008 was £16,700. The following transactions took place during the year ended 31 March 2009:

		Cost/(Proceeds)	
		£	
12 May 2008	Purchased equipment	61,400	
8 June 2008	Purchased motor car (1)	14,200	
2 August 2008	Purchased motor car (2)	10,900	
19 October 2008	Purchased motor car (3)	13,800	
8 January 2009	Sold a lorry	(7,600)	

Motor car (3), purchased on 19 October 2008, is a low-emission car. The lorry, sold on 8 January 2009 for £7,600, originally cost £24,400.

Ming Ltd's capital allowance claim for the year ended 31 March 2009 is as follows:

	Pool	Motor car	Allowances
	£	£	£
WDV brought forward	16,700		
Additions qualifying for AIA			
Equipment	61,400		
AIA – 100%	(50,000)		50,000
	11,400		
Other additions			
Motor car (1)		14,200	
Motor car (2)	10,900		
	39,000		
Proceeds – Lorry	(7,600)		
	31,400		
WDA – 20%	(6,280)		6,280
WDA – 20%		(2,840)	2,840
Addition qualifying for FYA			
Motor car (3)	13,800		
FYA – 100%	(13,800)		13,800
WDV carried forward	25,120	11,360	
Capital allowances			72,920

Where the balance of unrelieved expenditure in the main plant and machinery pool is less than £1,000, then it is now possible to write-off this unrelieved expenditure immediately.

EXAMPLE 7

Nin prepares accounts to 5 April. The tax written down value of her general pool at 6 April 2008 was £940.

Nin's capital allowance claim for the year ended 5 April 2009 is as follows:

	Pool	Allowances
	£	£
WDV brought forward	940	
WDA	(940)	940
WDV carried forward	-	
Capital allowances		940

A special rate pool has been introduced from 6 April 2008 (1 April 2008 for companies), with a rate of WDA of 10%. This special rate pool is for expenditure on long-life assets and on plant and machinery integral to a building. Previously, long-life assets would have qualified for WDAs at the rate of 6%, while plant and machinery integral to a building would have been treated as normal plant and machinery.

A number of items of plant and machinery are treated as being integral to a building, particularly:

- electrical and lighting systems
- cold water systems
- space or water heating systems
- powered systems of ventilation, cooling, or air purification
- lifts and escalators.

The capital allowance tax rules that applied up to 5 April 2008 (1 April 2008 for limited companies) **are not examinable** from the June 2009 sitting onwards.

INDUSTRIAL BUILDINGS ALLOWANCES

Capital allowances for industrial buildings are to be phased out. This is to be achieved by an annual 25% reduction in the amount of allowance available over a four-year period. For the tax year 2008–09 (the financial year 2008 for limited companies), the WDA is therefore reduced from 4% to 3% where a new industrial building is acquired, or where an existing industrial building continues to be owned.

Where a limited company's chargeable period falls into two financial years, then apportionment will be necessary in order to determine the rate of WDA applicable. A question will not be set involving apportionment.

From the June 2009 sitting onwards, questions **will not be set** involving WDAs on the purchase of a secondhand industrial building.

EXAMPLE 8

Scuba Ltd makes up its accounts to 31 March. The company purchased a new factory from a builder on 1 July 2008 for £240,000 (excluding the cost of land), and this was immediately brought into use.

For the year ended 31 March 2009, Scuba Ltd can claim a WDA of £7,200 ($240,000$ at 3%).

PENSION SCHEMES

Annual allowance

The annual allowance for the tax year 2008–09 has been increased to £235,000.

Although tax relief is available on pension contributions up to the amount of earnings for a particular tax year, the annual allowance acts as an effective annual limit.

Any tax-relieved contributions in excess of the annual allowance are taxed at the rate of 40%, thus cancelling out the tax relief that will have been given.

Lifetime allowance

The lifetime allowance for the tax year 2008–09 has been increased to £1,650,000. The lifetime allowance applies to the total funds that can be built up within a person's pension schemes. Where the limit is exceeded there will be an additional tax charge when that person subsequently withdraws the funds in the form of a pension.

EXAMPLE 9

For the tax year 2008–09, Frank had trading profits of £350,000 and made gross personal pension contributions of £250,000.

Frank has earnings of £350,000 for the tax year 2008–09. All of the contributions of £250,000 therefore qualify for tax relief, and he will have paid £200,000 (250,000 less 20%) to the personal pension company. Higher-rate tax relief will be given by extending Frank's basic rate tax band for the tax year 2008–09 to £284,800 (34,800 + 250,000). However, there will be a tax charge at the rate of 40% on the excess of contributions above the annual allowance of £235,000. His income tax liability for the tax year 2008–09 is as follows:

	£
Trading profit	350,000
Personal allowance	<u>(6,035)</u>
Taxable income	<u>343,965</u>
Income tax: 284,800 at 20%	56,960
59,165 at 40%	<u>23,666</u>
	80,626
Excess contribution charge	
15,000 (250,000 - 235,000) at 40%	<u>6,000</u>
Tax liability	<u>86,626</u>

CORPORATION TAX

Rates of corporation tax

For the financial year 2008, the small company rate of corporation tax has increased from 20% to 21%, and the full rate of corporation tax has decreased from 30% to 28%. The lower and upper limits are unchanged.

Marginal relief eases the transition from the small company rate to the full rate of corporation tax where profits fall between £300,000 and £1,500,000. The fraction used in the calculation of marginal relief for the financial year 2008 is 7/400th. The effective marginal rate of corporation tax on profits that fall between the £300,000 and £1,500,000 limits is reduced from 32.5% to 29.75%. The corporation tax rates for the financial year 2008 can therefore be summarised as follows:

Level of profits	Effective rate
Up to £300,000	21%
£300,001 to £1,500,000	29.75%
Over £1,500,000	28%

In the June and December 2009 exams, corporation tax information will be given in the 'Tax Rates and Allowances' section of the paper, as follows:

Financial year	2006	2007	2008
Small companies rate	19%	20%	21%
Full rate	30%	30%	28%
Lower limit	300,000	300,000	300,000
Upper limit	1,500,000	1,500,000	1,500,000
Marginal relief fraction	11/400	1/40	7/400

EXAMPLE 10

For the year ended 31 March 2009, Easy Ltd has profits chargeable to

corporation tax of £40,000 and FII of £10,000.

For the year ended 31 December 2008, Moderate Ltd has profits chargeable to corporation tax of £40,000 and FII of £10,000.

For the year ended 31 March 2009, Difficult Ltd has profits chargeable to corporation tax of £600,000 and FII of £50,000.

For the year ended 31 December 2008, Hard Ltd has profits chargeable to corporation tax of £600,000 and FII of £50,000.

Easy Ltd

Corporation tax is £8,400 (40,000 at 21%) as the profits of £50,000 (40,000 + 10,000) are less than £300,000.

Moderate Ltd

The profits of £50,000 (40,000 + 10,000) are less than £300,000. Because the company's accounting period straddles 31 March, the corporation tax liability is calculated as follows:

	£
Financial year 2007	
40,000 x 3/12 = 10,000 at 20%	2,000
Financial year 2008	
40,000 x 9/12 = 30,000 at 21%	<u>6,300</u>
Liability	<u>8,300</u>

Difficult Ltd

Marginal relief applies, as the profits of £650,000 (600,000 + 50,000) are between £300,000 and £1,500,000. The company's corporation tax liability is as follows:

	£
600,000 at 28%	168,000
Marginal relief	
7/400 (1,500,000 - 650,000) x 600,000/650,000	<u>(13,731)</u>
Liability	<u>154,269</u>

Hard Ltd

The profits of £650,000 (600,000 + 50,000) are between £300,000 and £1,500,000. Because the company's accounting period straddles 31 March, the corporation tax liability is calculated as follows:

	£
Financial year 2007	
600,000 x 3/12 = 150,000 at 30%	45,000
Marginal relief	
1/40 (1,500,000 - 650,000) x 600,000/650,000 x 3/12	<u>(4,904)</u>
Financial year 2008	
600,000 x 9/12 = 450,000 at 28%	126,000
Marginal relief	
7/400 (1,500,000 - 650,000) x 600,000/650,000 x 9/12	<u>(10,298)</u>
Liability	<u>155,798</u>

Note that there are alternative ways of calculating the tax liability for Hard Ltd, but this approach is the most straightforward as there is no need to apportion any figures.

CAPITAL GAINS TAX

Individual exemption limit

The annual individual exemption limit for the tax year 2008–09 has increased from £9,200 to £9,600.

Capital gains tax reform

There has been a major reform of capital gains tax with the aim of simplifying the capital gains rules for individuals.

Tax rate

Previously, capital gains were taxed as if they were savings income. For the

tax year 2008–09, there is just a single rate of capital gains tax of 18%. This rate is used regardless of the amount of taxable gains or taxable income. The due date is unchanged, so a capital gains tax liability for the tax year 2008–09 will be payable on 31 January 2010.

Withdrawal of reliefs

The indexation allowance and taper relief have been withdrawn for disposals of assets from 6 April 2008 onwards.

All other reliefs, such as rollover relief, holdover relief, and rollover relief on the transfer of a business to a limited company, continue to be available.

EXAMPLE 11

Andy sold a factory on 15 February 2008 for £320,000. The factory was purchased on 24 January 1990 for £164,000, and was extended at a cost of £37,000 during March 2000.

Andy incurred legal fees of £3,600 in connection with the purchase of the factory, and legal fees of £5,800 in connection with the disposal.

Andy's capital gains tax liability for the tax year 2008–09 is as follows:

	£	£
Disposal proceeds		320,000
Cost	164,000	
Enhancement expenditure	37,000	
Incidental costs (3,600 + 5,800)	<u>9,400</u>	
		<u>(210,400)</u>
		109,600
Annual exemption		<u>(9,600)</u>
		<u>100,000</u>
Capital gains tax: 100,000 at 18%		<u>18,000</u>

Andy's capital gains tax liability will be due on 31 January 2010.

Entrepreneurs' relief

To compensate for the withdrawal of taper relief, a new relief has been introduced from 6 April 2008 that can be claimed when an individual disposes of a business or part of a business. The relief covers the first £1m of qualifying gains that a person makes during their lifetime, and reduces those gains by a factor of 4/9ths. This gives an effective capital gains tax rate of 10% (18% x 5/9ths) for gains covered by the relief. Gains in excess of the £1m limit are taxed as normal at the 18% rate. There is no age requirement in order to claim the relief, but assets must have been owned for one year prior to the date of disposal in order to qualify. Entrepreneurs' relief is available for the following:

- A disposal of the whole or part of a business run as a sole trader. Relief is only available in respect of capital gains arising from the disposal of assets in use for the purpose of the business. This will exclude capital gains arising from investments.
- The disposal of shares in a trading company where an individual has a 5% shareholding in the company and is also an employee of the company. Provided the company is a trading company, there is no restriction to the amount of relief if it holds non-trading assets such as investments.

Relief can also be claimed where an associated disposal is made at the same time as the main disposal. Associated disposals **are not examinable**.

EXAMPLE 12

Michael made the following disposals during the tax year 2008–09:

- On 30 June 2008, Michael sold a business that he had run as a sole trader since 1 January 2002. The sale resulted in the following capital gains:

	£
Goodwill	260,000
Freehold office building	370,000
Freehold warehouse	<u>170,000</u>
	<u>800,000</u>

The assets were all owned for more than one year prior to the date of disposal. The warehouse had never been used by Michael for business purposes.

- On 25 January 2009, Michael sold a 30% shareholding in Green Ltd, an unquoted trading company. The disposal resulted in a capital gain of £450,000. Michael had owned the shares since 1 March 2003, and was an employee of the company from that date until the date of disposal.

Michael's capital gains tax liability for the tax year 2008–09 is as follows:

	£	£
Goodwill	260,000	
Freehold office building	<u>370,000</u>	
	630,000	
Entrepreneurs' relief (630,000 x 4/9ths)	<u>(280,000)</u>	
		350,000
Freehold warehouse		170,000
Shareholding in Green Ltd		
	450,000	
Entrepreneurs' relief (370,000 x 4/9ths)	<u>(164,444)</u>	
		<u>285,556</u>
		805,556
Annual exemption		<u>(9,600)</u>
		<u>795,956</u>
Capital gains tax: 795,956 at 18%		<u>143,272</u>

- Entrepreneurs' relief of £630,000 is utilised on the disposal of Michael's sole tradership. Therefore, £370,000 (1,000,000 - 630,000) is available when the shares in Green Ltd are disposed of.

Share identification rules

The withdrawal of the indexation allowance and taper relief has resulted in the share identification rules being simplified. Disposals of shares from 6 April 2008 onwards, are matched with purchases in the following order:

- shares purchased on the same day as the disposal
- shares purchased within the following 30 days
- shares in the share pool.

The share pool aggregates all purchases except for those made on the same day as the disposal, or within the following 30 days.

EXAMPLE 13

Kim has had the following transactions in the shares of Long plc:

1 June 2001	Purchased 4,000 shares for £6,200
30 April 2006	Purchased 2,000 shares for £8,800
15 May 2008	Purchased 500 shares for £2,500
15 May 2008	Sold 4,500 shares for £27,000

Kim's capital gain for the tax year 2008–09 is as follows:

	£	£
Purchase 15 May 2008		
Proceeds (£27,000 x 500/4,500)	3,000	
Cost	<u>(2,500)</u>	
		500
Share pool		
Proceeds (£27,000 x 4,000/4,500)	24,000	
Cost	<u>(10,000)</u>	
		<u>14,000</u>
		<u>14,500</u>

Share pool

	Number	Cost
	£	£
Purchase 1 June 2001	4,000	6,200
Purchase 30 April 2006	<u>2,000</u>	<u>8,800</u>
	6,000	15,000
Disposal 15 May 2008 (15,000 x 4,000/6,000)	<u>(4,000)</u>	<u>(10,000)</u>
Balance carried forward	<u>2,000</u>	<u>5,000</u>

The disposal is first matched with the same day purchase and then against the share pool.

EXAMPLE 14

Simone Ltd has one employee who is paid £50,000 per year, and was provided with the following taxable benefits during the tax year 2008–09:

	£
Company motor car	6,400
Car fuel	5,070
Living accommodation	1,800

The capital gains tax rules that applied up to 5 April 2008 are **not examinable** from the June 2009 sitting onwards.

Limited companies are not affected by these changes. In particular, they continue to be entitled to the indexation allowance, and the share identification rules are unchanged.

NATIONAL INSURANCE CONTRIBUTIONS

Class 1 and Class 1A National Insurance Contributions (NIC)

For the tax year 2008–09, the rates of employee Class 1 NIC are unchanged at 11% and 1%.

The rate of 11% is paid on earnings between £5,435 per year and £40,040 per year, and the rate of 1% is paid on all earnings over £40,040 per year.

The rate of employer's Class 1 NIC is unchanged at 12.8%, and is paid on all earnings over £5,435 per year.

The rate of Class 1A NIC that employers pay on taxable benefits provided to employees is also unchanged at 12.8%.

In the June and December 2009 exams, the Class 1 and Class 1A NIC information will be given in the 'Tax Rates and Allowances' section of the paper, as follows:

		%
Class 1 Employee	£1–£5,435 per year	Nil
	£5,436–£40,040 per year	11.0
	£40,041 and above per year	1.0
Class 1 Employer	£1–£5,435 per year	Nil
	£5,436 and above per year	12.8
Class 1A		12.8

The Class 1 and Class 1A NIC liabilities are as follows:

	£
Employee Class 1 NIC	
40,040 - 5,435 = 34,605 at 11%	3,807
50,000 - 40,040 = 9,960 at 1%	<u>100</u>
	<u>3,907</u>
Employer's Class 1 NIC	
50,000 - 5,435 = 44,565 at 12.8%	<u>5,704</u>
Employer's Class 1A NIC	
13,270 (6,400 + 5,070 + 1,800) at 12.8%	<u>1,699</u>

Class 2 and Class 4 NIC

For the tax year 2008–09 the rate of Class 2 NIC has been increased to £2.30 per week.

The rates of Class 4 NIC are unchanged at 8% and 1%. The rate of 8% is paid on profits between £5,435 and £40,040, and the rate of 1% is paid on all profits over £40,040.

In the June and December 2009 exams, the Class 4 NIC information will be given in the 'Tax Rates and Allowances' section of the paper as follows:

		%
Class 4	£1–£5,435 per year	Nil
	£5,436–£40,040 per year	8.0
	£40,041 and above per year	1.0

EXAMPLE 15

Jimmy is a self-employed builder and Jenny is a self-employed consultant.

Their trading profits for the tax year 2008–09 are respectively £25,000 and £50,000. Class 4 NIC liabilities for the tax year 2008–09 are as follows:

		£
Jimmy	25,000 - 5,435 = 19,565 at 8%	1,565
Jenny	40,040 - 5,435 = 34,605 at 8%	2,768
	50,000 - 40,040 = 9,960 at 1%	100
		<u>2,868</u>

The starting threshold of £5,435 for Class 1 and Class 4 NIC is normally aligned with the income tax personal allowance. However, this is not the case for the tax year 2008–09, as the personal allowance is £6,035.

VALUE ADDED TAX

Registration and deregistration limits

The limit of annual turnover above which VAT registration is compulsory has been increased from £64,000 to £67,000, and the deregistration limit has been increased from £62,000 to £65,000.

Errors in a VAT return

The limit for voluntarily disclosing net errors made in a VAT return has been increased from £2,000 to the higher of £10,000 or 1% of turnover for the VAT period. A business can voluntarily disclose net errors below the limit by entering them on the next VAT return without this resulting in a serious misdeclaration penalty or penalty interest.

Misdeclaration penalty

The amount of penalty that can be charged as a result of making a misdeclaration has been changed. Previously, the penalty was 15% of the amount of understated VAT. The penalty that can now be charged is determined according to the new penalty regime introduced for incorrect returns, which is covered in the following section on tax management.

TAX MANAGEMENT

Enquiries into self-assessment corporation tax returns

Previously, HM Revenue & Customs (HMRC) normally had until 12 months after the tax return filing deadline in which to notify a limited company that they intended to enquire into its self-assessment corporation tax return. This enquiry window has now been changed to 12 months from the date that a corporation tax return is received by HMRC.

Penalties for incorrect returns

A single new penalty regime has been introduced for incorrect returns. As far as Paper F6 (UK) is concerned, the new penalty regime applies to incorrect self-assessment tax returns, self-assessment corporation tax returns, and where a misdeclaration has been made on a VAT return.

The amount of penalty is based on the amount of tax understated, but the actual penalty payable is linked to the taxpayer's behaviour, as follows:

- There will be no penalty where a taxpayer simply makes a mistake.
- There will be a moderate penalty (up to 30% of the understated tax) where a taxpayer fails to take reasonable care.
- There will be a higher penalty (up to 70% of the understated tax) if the error is deliberate, and an even higher penalty (up to 100% of the understated tax) where there is also concealment of the error.

However, a penalty will be substantially reduced where a taxpayer makes disclosure, especially when this is unprompted by HMRC. For example, if a taxpayer makes an unprompted disclosure of an incorrect return following a failure to take reasonable care, the penalty could be reduced to nil.

Interest on underpaid and overpaid tax

The assumed rates of interest on underpaid and overpaid income tax, Class 4 NIC, capital gains tax, and corporation tax are based on the actual rates in

force (for income tax purposes) at 6 April 2008. For the June and December 2009 exams, the assumed rate of interest on underpaid tax will therefore be 7.5%, and the assumed rate of interest on overpaid tax will be 3.0%. ■

David Harrowven is examiner for Paper F6 (UK)

APPENDIX 1: CAT PAPER 9 (UK)

This appendix outlines the effects of the changes made in the Finance Act 2008 on the June and December 2009 sittings of CAT Paper 9, *Preparing Taxation Computations* (UK). The sub-headings refer to the headings given in the main article on Paper F6 (UK).

INCOME TAX

Rates of income tax

The revised thresholds and the rates of tax shown will be used in CAT Paper 9 (UK). No questions will be set using the old 10% starting rate for 2007–08. The use of the 10% rate for savings income is examinable.

The application of the 20% rate to gift aid donations and personal pension contributions is examinable.

Personal allowance

Only the personal allowance for people under 65 is examinable. Information on the higher allowances and the restriction limit will not be given on the CAT Paper 9 (UK) 'Allowances and Rates' sheet.

ISAs

This area is not in the CAT Paper 9 (UK) syllabus (with the exception of knowing that ISA income is tax free).

Employment income

All information relevant to car and fuel benefits will also apply to CAT Paper 9 (UK).

Official rate of interest

The rate of 6.25% will be used.

BUSINESS TAX

Capital allowances for plant and machinery

The new rate of 20% writing-down allowance (WDA) will apply to CAT Paper 9, but no questions will be set on the old rate of 25%, or on the 'hybrid' rate, where accounting periods straddle 6 April 2008. The special rate pool is not in the CAT Paper 9 (UK) syllabus.

Annual investment allowance (AIA)

The new AIA will be examinable, but no questions will be set where an accounting period straddles 6 April 2008. As a result, no questions will involve the old first-year allowances, apart from the 100% allowance available to short-life assets where they fall within the annual investment limit of £50,000.

Industrial buildings allowance (IBA)

The only rate of IBA to be used will be 3% (75% of the old 4% rate). No questions will be set involving periods straddling tax years.

PENSION SCHEMES

The revised annual allowance limit of £235,000, and the lifetime allowance of £1,650,000, will apply to CAT Paper 9 (UK).

CORPORATION TAX

Rates of corporation tax

These will affect CAT Paper 9 (UK) in exactly the same way as they affect

Paper F6 (UK). The same detail on rates will be supplied in the CAT Paper 9 exam. A question on a chargeable account period spanning two financial years and involving a change of tax rate will not be set.

CAPITAL GAINS TAX (CGT)

The new flat rate, the new annual exemption, the abolition of indexation allowance (IA), and taper relief for individuals are all in the CAT Paper 9 (UK) syllabus. No questions will be set requiring knowledge of IA (for individuals) or taper relief.

Entrepreneurs' relief

This will be examinable. The examiner will clearly state if an asset is a business asset. Associated disposals will not be examined.

Share matching rules

The new rules will be examined.

NATIONAL INSURANCE CONTRIBUTIONS

The new rates and thresholds for NIC Classes 1, 1A, 2 and 4 will apply to CAT Paper 9.

VALUE ADDED TAX

Registration and deregistration limits

Both the revised limits for registration (£67,000) and deregistration (£65,000) will apply for the 2009 papers.

TAX MANAGEMENT

Interest on underpaid and overpaid tax

The calculation of this remains outside the CAT Paper 9 (UK) syllabus. ■

Keith Molson is examiner for CAT Paper 9 (UK)

APPENDIX 2: PAPER P6 (UK)

This appendix should be read by students taking Paper P6 (UK) at either the June or December 2009 sitting. All the changes relating to Paper F6 (UK) set out in the main article are relevant to Paper P6 (UK). This appendix summarises the additional changes that apply to the Paper P6 (UK) syllabus. All the exclusions set out in the Paper F6 (UK) article apply equally to Paper P6 (UK) unless they are referred to in this appendix.

Students sitting Paper P6 (UK) in December 2008 will be examined on the Finance Act 2007, which is the legislation as it relates to the tax year 2007–08. Accordingly, these students should refer to the Finance Act 2007 article published on the ACCA website.

INCOME TAX – SCOPE

Residence

In order to determine whether or not an individual is resident or ordinarily resident in the UK, it may be necessary to count the number of days spent in the UK in the tax year. Prior to the Finance Act 2008, days of arrival and departure were not counted as days spent in the UK. This rule has been changed so that an individual is now regarded as being present in the UK on any day when they are still in the UK at midnight at the end of the day in question.

Foreign dividends

For 2008–09, UK resident individuals holding less than 10% of the shares of a non-UK resident company will be entitled to a 10% tax credit. The tax credit operates as it does in relation to dividends from a UK-resident company; the foreign dividend income is grossed up at 100/90, the gross income is taxed at 10%/32.5%, and there is a 10% tax credit. The tax credit is not repayable in cash.

Domicile and the remittance basis

An individual who is a UK resident is taxable on overseas income as well as UK income. Up to and including 2007–08, overseas income was taxed on the remittance basis if the individual was either non-ordinary resident or non-domiciled in the UK. Chargeable gains realised on assets situated overseas by UK residents or ordinarily resident individuals, who were not UK domiciled, were also taxed on the remittance basis.

The remittance basis continues to be available in respect of both income and chargeable gains. However, from 2008–09, an individual who has been UK resident for at least seven of the nine preceding tax years must now pay a tax charge on their unremitted income/gains of £30,000 in order to claim the remittance basis. This charge is payable in addition to the tax due on any amounts remitted to the UK.

UK resident individuals who satisfy the residency conditions but choose not to pay this tax charge will be subject to UK tax on all of their overseas income/gains, regardless of whether or not amounts are remitted to the UK (subject to a de minimis of unremitted amounts of £2,000). Each year, individuals will need to choose whether to pay the £30,000 charge and claim the remittance basis, or pay tax on their worldwide income and capital gains.

The term 'remittance' has always covered the use of overseas income to settle debts overseas where the money was borrowed by the taxpayer in the UK, or was borrowed overseas and brought into the UK, as well as simply bringing the overseas income directly to the UK. For 2008–09, untaxed overseas income will be regarded as being remitted to the UK if it is used to purchase goods or services on or after 12 March 2008, and these goods or services are subsequently brought into the UK. There are a number of exemptions to this rule including personal items (clothes, shoes, jewellery and watches), items imported for a short period of time or for repair, and items costing less than £1,000.

For 2008–09, individuals who claim the remittance basis will no longer be entitled to income tax personal allowances or the capital gains tax annual exemption.

INCOME FROM EMPLOYMENT

Enterprise Management Incentives (EMI)

A qualifying company (broadly a trading company with gross assets not exceeding £30m) may grant share options under an Enterprise Management Incentives scheme to eligible employees. There is usually no income tax or National Insurance Contributions (NIC) on the grant or exercise of such options. For 2008–09, an additional condition must be satisfied in order for a company to qualify for the scheme: the company, together with its subsidiaries, must have fewer than 250 full-time employees at the time the options are granted. In addition, the limit on the value of shares over which an employee can hold options granted via an EMI scheme has been increased to £120,000 (previously £100,000) at the date of grant.

EXEMPTIONS AND RELIEFS

Enterprise Investment Scheme (EIS)

Individuals who invest in qualifying Enterprise Investment Scheme shares are able to claim 20% income tax relief in respect of the amount invested, subject to an annual investment limit. For 2008–09, the annual investment limit has been increased to £500,000 (previously £400,000).

CAPITAL ALLOWANCES

Plant and machinery

The changes made to plant and machinery capital allowances set out in the Paper F6 (UK) article, together with the related exclusions, also apply to Paper P6 (UK). For the purposes of Paper P6 (UK), candidates also need to be aware of the following additional points.

The annual investment allowance (AIA) may be split between related businesses or companies, or between group companies. Businesses or companies owned by the same individual(s) will be regarded as being related if they are engaged in similar activities or share the same premises. In such

circumstances, the owner of the businesses or companies can choose how to allocate the single AIA between them. Unrelated businesses or companies owned by the same individual(s) will each be entitled to the full AIA.

A group of companies is entitled to a single AIA, and the group can choose how to allocate the AIA between its members. The company law definition of a group (essentially a majority shareholding) is used for these purposes. Accordingly, companies in a group relief group or a capital gains group are also in a group for AIA purposes.

The 10% rate of writing-down allowances in respect of plant and machinery integral to a building applies to both initial and replacement expenditure. Replacement expenditure occurs where more than 50% of an asset is replaced in a 12-month period. This prevents a tax deduction being claimed for the repair of such assets where such repairs are substantial.

Industrial buildings allowances

The changes made to industrial buildings allowances set out in the Paper F6 (UK) article, together with the related exclusions, also apply to Paper P6 (UK).

CORPORATION TAX

Capital allowances

Enhanced capital allowances

Expenditure on energy-saving or environmentally-beneficial plant and machinery qualifies for a 100% first-year allowance. Where a company has made a loss, it may surrender that part of the loss relating to such allowances in exchange for a payment from HM Revenue & Customs (HMRC) equal to 19% of the loss surrendered. Such a claim can only be made where the company is unable to use the losses in the current accounting period against its own profits, or via group relief. The claim is made in the company's corporation tax return.

The maximum payment that a company can claim is the higher of £250,000 and its total PAYE and NIC liabilities for the relevant accounting period. Where any of the qualifying plant and machinery is sold within four years of the end of the relevant accounting period, there will be a claw-back of an appropriate part of the payment made and a reinstatement of the losses.

Research and development

An additional tax deduction is available where companies incur revenue expenditure on research and development. The size of the additional deduction depends on whether the company is a small or medium-sized enterprise (SME) or a large enterprise. The definition of an SME is to change from a date yet to be announced. Questions in the 2009 exam sittings will state whether or not a company is an SME for the purposes of research and development.

The additional tax deduction available to SMEs will increase to 75% (previously 50%) from a date yet to be announced. Equal credit will be given in the 2009 exams to candidates who give an additional tax deduction of either 75% or 50%. The additional tax deduction available to large companies increased to 30% (previously 25%) on 1 April 2008.

A limit has been introduced on the additional tax relief available to SMEs. This limit is not within the Paper P6 (UK) syllabus.

Where an SME makes a trading loss, it may claim a repayment from HMRC up to a maximum of a percentage of its qualifying research and development expenditure multiplied by 175%. The percentage that can be reclaimed is to be reduced from 16% to 14% from a date yet to be announced. Equal credit will be given in the 2009 exams to candidates who use either 16% or 14%.

VALUE ADDED TAX (VAT)

Land and buildings and the option to tax

A trader can opt to tax the otherwise exempt supply of an 'old' (ie more than three years) freehold commercial building or the grant of a lease. The legislation in this area has been rewritten and a number of minor changes have been introduced. These changes will not be examined in 2009.

CAPITAL GAINS TAX

Capital gains tax reform

The changes made to capital gains tax set out in the Paper F6 (UK) article above also apply to Paper P6 (UK). The following additional rules introduced by the Finance Act 2008 apply to Paper P6 (UK) only.

THE SCOPE OF CAPITAL GAINS TAX

Domicile and the remittance basis

As noted above, from 2008–09, individuals who claim the remittance basis will no longer be entitled to the capital gains tax annual exemption.

In the past, capital losses realised by non-UK domiciled individuals in respect of assets situated overseas were not available for relief in the UK. From 2008–09, such losses will be available for relief provided they have arisen in a year where the individual is taxed on the arising basis. Individuals who have not claimed the remittance basis from 2008–09 will obtain relief for such losses automatically; other individuals will be required to make an election in order to claim relief.

Exemptions and reliefs

Entrepreneurs' relief

Entrepreneurs' relief provides an effective rate of capital gains tax of 10% for the first £1m of qualifying gains. In addition to the qualifying disposals set out in the Paper F6 (UK) article, the relief is also available on the disposal of a share in a partnership by a partner, and on associated disposals. Associated disposals are disposals of assets owned by an individual but used by their personal trading company or a partnership in which they are a partner, which take place at the same time as the sale of the partnership or company. In order for full relief to be available for associated disposals, the individual must not have charged rent to the business for the use of the assets.

INHERITANCE TAX

The nil-rate band

The nil-rate band for 2008–09 is £312,000 (for 2007–08 it was £300,000).

A standard element of inheritance tax planning has always been to ensure that both spouses or civil partners make full use of their nil-rate bands. This was achieved via a combination of interspouse transfers (in the situation where one spouse had insufficient assets) and bequests made directly to children rather than to the surviving spouse.

The Finance Act 2008 has removed the need for much of this planning by enabling any amount of the nil-rate band that has not been used at the time of a person's death to be transferred to their spouse or civil partner who dies on or after 9 October 2007. As a result of this, a spouse or civil partner can now leave the whole of their estate to the surviving spouse or partner with no adverse inheritance tax consequences. The surviving spouse or partner will receive the benefit of their own nil-rate band and any unused amount of their spouse's nil-rate band when leaving their estate to their children.

STAMP DUTY AND STAMP DUTY LAND TAX

The rates and limits for 2008–09 are the same as those in 2007–08. There are no examinable changes to these taxes in respect of the exams in 2009.

FURTHER READING

The changes introduced by the Finance Act 2008 will be incorporated into the following articles scheduled for publication in future issues of *student accountant*: 'international travellers', 'trusts, tax and financial planning', 'corporation tax' and 'capital taxes'. The articles will also be published on the ACCA website. ■

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