

On 29 June, one week after the UK coalition Government announced the emergency budget, private client lawyers gathered to discuss the repercussions. **John Malpas** reports

# PRIVATELY OPTIMISTIC

A gathering of leading private client lawyers has given the UK coalition Government's emergency budget a cautious thumbs-up, despite the tension generated by clear differences in the pre-coalition taxation policies of the Conservatives and Liberal Democrats.

Leaders from the private client legal community gathered at the May Fair Hotel in London on 29 June – a week after the emergency budget was delivered – to debate the impact of the package of tax changes unveiled by Chancellor George Osborne.

An audience with... Private Client was hosted by tax expert William Massey QC of Pump Court Tax Chambers. The panel was made up of Maurice Turnor Gardner's Ceris Gardner, Macfarlanes partner Owen Clutton and Boodle Hatfield private client and tax head Sue Laing.

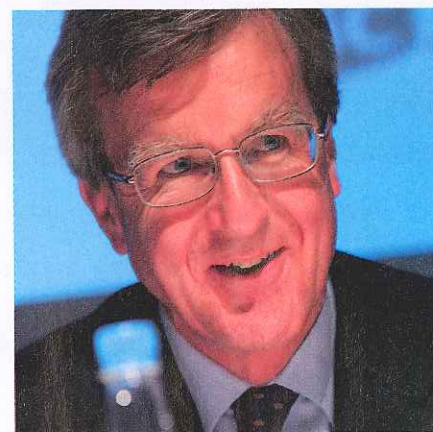
Gardner homed in on Osborne's announcement of "yet another" review of the taxation of non-domiciled individuals. She questioned why a further review was needed so soon after the last

Labour Government's imposition of a £30,000 annual charge on non-doms after they have lived in the UK for seven years.

She pointed to the Liberal Democrats' manifesto commitment to submit non-doms to full UK tax after seven years and warned the proposal would lead to a mass exodus of clients if it was implemented. "The good news is that the Government wishes to take into account the benefits brought by non-doms to the UK economy," she said. "The bad news is that non-doms are still on the agenda. Is the review purely to placate the Liberal Democrats or will real change follow?"

Clutton analysed the coalition Government's decision to raise capital gains tax (CGT) from 18% to 28% for higher earners. He said the UK's approach to CGT had come full circle since the mid-1960s, when it stood at 30%.

He highlighted the unusual decision to raise the rate on the 23 June, midway through the tax year, which has led to added complexity, especially in relation to cases where gains are assessed



**Clockwise from top left: Owen Clutton, Ceris Gardner, William Massey QC, Sue Laing**

by reference to the tax year as a whole, as is sometimes the case with the settlors and beneficiaries of offshore trusts and participants in non-resident close companies.

Many commentators had been expecting CGT to rise to 40% and Clutton said the possibility that the rate would rise again next year had been flagged up in supporting material – a move that would be in line with pre-coalition Liberal Democrat policy, but cause consternation among many Tory back-benchers who had lobbied against a CGT rise.

Inheritance tax (IHT) is another area of taxation for which the policies of the Tories and Liberal Democrats were poles apart before the election. Laing suggested the Conservatives' pre-election pledge to raise the nil rate band for IHT from £325,000 to £1m had been put on ice for the foreseeable future.

"Paragraph three of the Coalition Agreement sets out clearly that increases in the personal allowance should take priority over tax cuts, including cuts to IHT," she said.

"And, indeed, Liberal Democrats have never felt quite the same about IHT as the Tories have. Vince Cable, commenting on the proposed increase in the nil band rate, said 'it beggars belief that David Cameron wants to give the wealthiest estates

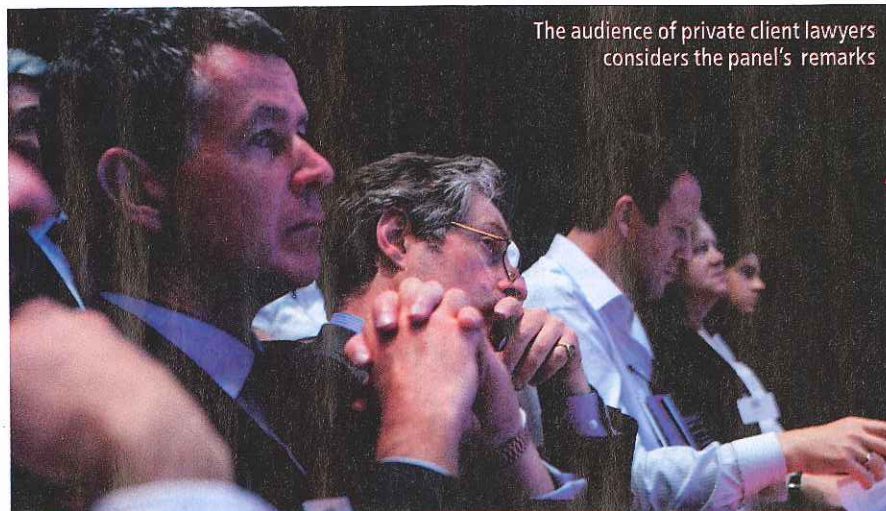
a £6bn giveaway'."

Laing went on to highlight two important consultation exercises, on whether to bring IHT on trusts within the disclosure of tax avoidance schemes regime and whether to introduce a general anti-avoidance rule, which would apply to all taxes, including IHT.

Despite concerns over specific aspects of the budget as well as the dire impact of the financial crisis, delegates and speakers gave the Government's overall approach to taxation cautious approval.

There was even some optimism that the new Government would be more ready to make the distinction between tax evasion, which is illegal, and tax avoidance, which is not. "Over the past decade or so there has been a tendency for politicians and officials to elide the concepts of avoidance and evasion," said Massey.

"But it is important to maintain a clear focal divide between the two. Evasion is dishonest and criminal. In contrast, it remains every citizen's right to take lawful steps to reduce their tax bill and thereby avoid a greater charge to tax. To lose sight of that distinction in government risks undermining the law. I'm optimistic about the new Government's approach to taxation and its approach to fairness in taxation."



**The audience of private client lawyers considers the panel's remarks**