Budget 2016

What it means for you
KPMG commentary

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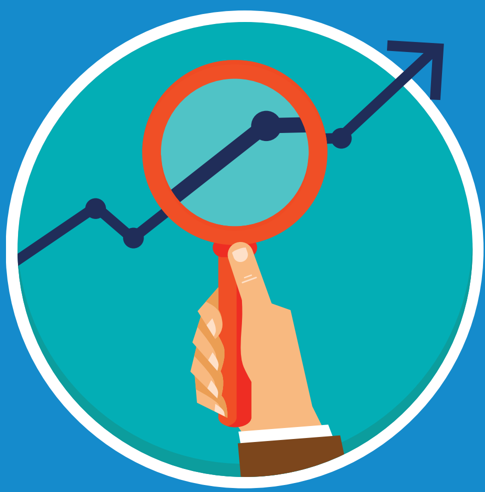

The Chancellor of the Exchequer presented a worsening economic picture at Budget 2016, mainly caused by lower international growth and less UK productivity improvements. But whilst Government spending was cut to keep within his fiscal principles, from a tax perspective the measures announced in the Budget were broadly financially neutral. However, there were significant tax raising proposals counteracting large tax giveaways.

The main beneficiaries of the Chancellor's largesse were small businesses, entrepreneurs and higher rate tax payers. Large international companies are subject to a number of tax raising measures to help fund this.

The increase in the personal allowance to £11,500 in 2017 together with the increase in the higher rate threshold to £45,000 will provide higher rate tax-payers with a £500 tax saving, compared with only a £100 saving for basic rate taxpayers.

The changes in the commercial Stamp Duty Land Tax (SDLT) rates will increase the overall amount of tax paid, but for acquisitions of commercial property less than £1.05 million the SDLT payable will be less. This will be a benefit to small businesses whilst large businesses will pay more. Large businesses that are occupiers under rental leases will also be hit by a higher SDLT charge where the net present value (NPV) of rent payable over the life of a new lease exceeds £5 million. The 3% top up for acquisitions of additional residential property will also apply to large investors; previously it was proposed that an exemption would apply for owners of 15 properties or more.

Similarly the conclusions to the Government's review of the business rates system has resulted in a large increase in the small business rates relief to £15,000, and a future indexing based on CPI rather than RPI. However, it is also proposed for more regular valuation reviews, every three years.

There are some major changes to the use of losses by companies, getting rid of the streaming rules from April 2017. This would enable losses arising after April 2017 to be offset against any future profits in any group company. However, only 50% of profits over £5 millon will be able to be offset against losses. This is likely to adversely impact large companies, whilst simplifying the position for small companies and groups.

The continued introduction of the OECD proposals on base erosion and profit shifting (BEPS) shows the Chancellor's hard approach to international businesses. New rules on restriction of tax deductions on interest payments, based on a limit of 30% of profits before interest, tax, depreciation and amortisation, will also have no impact on a significant number of small business, as there is an exemption for companies with less than £2 million net interest payments. The extension of the new hybrid instrument rules and the strengthening of the withholding tax rules on royalty payments are other elements of the Government's continued changes to international taxation.

These adverse changes to large companies will be partially mitigated by a reduction of the rate of corporation tax to 17% from 2020. In addition, the change to bring forward corporation tax payments by four months for large taxpayers has been deferred by two years. This will give large companies a short breathing space before the large cash outflow is due. Together this reflects a widening of the corporation tax base, with a lowering of the effective rate.

For employers, there will be changes to the rules on termination payments from April 2018 including greater alignment between the income tax and NIC treatment. From April 2017 there will also be a new requirement for employers in the public sector to assess whether the IR35 rules apply to contractors engaged via personal service companies and, if so, to account for tax and NIC at source. And there is a shot across the bows on salary sacrifice arrangements, albeit no action is to be taken against pension saving, childcare and health-related benefits such as cycle-to-work.

Entrepreneurs are well catered for in the Budget. Whilst a number of commentators feared that Entrepreneurs' Relief would be restricted, instead a new £10 million lifetime limit has been introduced for external investors into unlisted companies who hold their shares for at least three years. This will assist the angel investor community, particularly on investments through partnership investment vehicles where the Enterprise Investment Scheme and Seed Enterprise Investment Scheme are not available.

The reduction of capital gains tax to 10% for basic rate taxpayers and 20% for other taxpayers is another unexpected change. This reduction in rate will not impact on the rate payable on carried interest, nor on residential property. The lower capital gains tax rates will increase the focus on the tax equivalent to alchemy — the conversion of income into capital. This has been countered by a number of measures announced last December around the application of anti-avoidance to transactions in securities and distributions from close companies. In addition, the tax rate on loans to participators by close companies has increased to 32.5%.

Anti-avoidance measures include further tax raised on historic employee benefit trust arrangements and other disguised remuneration structures, ensuring overseas property developers pay tax on UK development profit and raising VAT on overseas traders.

One area that was particularly quiet this year, compared to the last few years, was pensions. The Government have decided not to introduce significant changes to the pension régime, but instead have increased the savings limit for ISAs to £20,000 from 2017 and introduced a new 'Lifetime ISA' for under 40s, for which HMRC will provide a 25% top up. This could be used to fund a first house or can be crystallised on retirement. This effectively provides a dual system for retirement for younger workers, whilst enabling the current pension régime to continue.

In summary, the Chancellor has tried to keep those individuals who matter politically on board with tax reductions — whilst continuing his tough approach to international companies.

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Tax measures

Tax rates and allowances

Dividend tax rate increases, personal savings and dividend allowances, and unified rate of corporation tax to reduce to 17% in 2020.

Reform of dividend taxation

The Chancellor has confirmed the taxation of dividends will undergo a major reformation from 6 April 2016. The 10% tax credit, which previously satisfied any basic rate income tax liability, will be abolished. Individual taxpayers will instead receive a tax free dividend allowance of £5,000.

Dividends exceeding the allowance will be subject to new tax rates as set out below. The allowance will not reduce total income but will be treated as part of an individual's basic or higher rate bands. Dividend income will be treated as the top band of income. Trusts and individuals who receive substantial dividends may therefore have a higher tax bill.

Dividend tax rates	Dividend allowance	Basic rate taxpayer	Higher rate taxpayer	Additional rate taxpayer
Pre-5 April 2016 (effective)	n/a	tax-free	25.0%	30.6%
Post-6 April 2016	First £5,000 tax-free	7.5%	32.5%	38.1%

Personal taxes

Non-dividend income for individuals will broadly be taxed at the following rates:

	2016/17	2017/18
Personal Allowance	£11,000	£11,500
Basic rate (20%)	£11,001–£43,000	£11,501–£45,000
Higher rate (40%)	£43,001–£150,000	£45,001–£150,000
Additional rate (45%)	Over £150,000	Over £150,000

The personal allowance continues to be restricted at a rate of £1 for every £2 of income over £100,000. A more detailed summary of rates for 2016/17 including NICs and Stamp duty can be found in our Tax Rate Card.

From April 2016 a Personal Savings Allowance of £1,000 for basic rate taxpayers (£500 for higher rate taxpayers) will apply to savings income. This corresponds with the removal of the requirement for banks to withhold tax at source on savings income. This Personal Savings Allowance is in addition to the 0% rate tax-free £5,000 savings band which has been in effect from April 2015. As non-savings income is always taxed before savings income, the tax-free savings only applies if you are earning less than £16,000, or if some of your savings income falls into the £5,000 that sits on top of your personal allowance.

Capital gains tax is reduced from 28% to 20% for higher rate taxpayers, and from 18% to 10% for basic rate payers from April 2016. However capital gains arising from carried interest and residential property will be subject to a surcharge of 8%, meaning that they are taxed at 28% and 18% for higher rate and basic rate taxpayers respectively. The annual exempt amount for capital gains tax remains at £11,100.

Corporate taxes

The new unified rate of corporation tax will remain at 20% for Financial Years 2015 and 2016 and will be reduced to 19% from April 2017. However the Budget announced a larger than expected reduction to 17% from April 2020. In addition, the previously announced proposal to bring forward corporation tax payment dates for companies with profits in excess of £20 million has been deferred by two years, and will now apply to accounting periods starting on or after 1 April 2019.

The rate of tax charged on close company loans to participators and other arrangements, currently 25%, will increase to 32.5% from 6 April 2016, and will in future be linked to the dividend upper rate.

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Business tax road map

The road map is intended to set out planned business tax reforms to 2020, but in substance offers little more than a summary of the Budget.

The sequel to the 'corporate tax road map' published in 2010, the new 'business tax road map' provides an overview of key business tax changes in the last six years. Of more interest to many businesses is the fact that it is also intended to set out the Government's plans for further business tax reform through to 2020, although those looking for anything beyond the information already contained in the main Budget document are likely to be disappointed.

The change of name is deliberate: the new road map is intended to encompass business taxation more broadly, with particular prominence given to the planned overhaul of business rates highlighted in the Chancellor's Budget speech. The key changes here (a doubling of Small Business Rate Relief and threshold increases from 1 April 2017) are firmly targeted at smaller businesses, although a planned switch from the retail price index (RPI) to consumer price index (CPI) for the annual indexation from 2020 will be of broader effect.

Small businesses also look to be the main beneficiaries from measures intended to encourage investment: an extension in the scope of Entrepreneurs' Relief to longer term investors in unlisted companies and an 8% cut in CGT rates from April 2017 — a cut not being extended to investments in buy-to-let property. For the self-employed a simpler tax regime is promised, with a new £1,000 allowance for trading and property income coupled with the previously announced scrapping of Class 2 NICs. Individuals who have taken the decision to incorporate may feel less sanguine, however, with the warning that the Government will be considering options to address the potential tax differentials this creates.

Oil and gas are also big winners with a package of measures designed to reduce the tax burden and increase certainty in the sector.

Levelling the playing field between different businesses is a key theme, with the perceived advantages available to multinational groups unsurprisingly a major target. The Government has reiterated its commitment to the OECD's proposed actions on base erosion and profit shifting (BEPS), confirming expectations that it will implement the recommendations on hybrid mismatches from 1 January 2017 and interest deductions from 1 April 2017.

The UK's relatively generous system for relief on interest payments was explicitly excluded from major change in 2010's corporate tax road map, but was always unlikely to survive unscathed from the BEPS Project. The road map confirms the Government's intention to replace the UK's existing 'debt cap' legislation with a restriction on interest deductions to 30% of earnings before interest, tax, depreciation and amortisation (EBITDA), subject to a £2 million de minimis rule and a group ratio rule that will allow additional relief where the worldwide group as a whole is more highly geared.

Financial services groups, typically exempt from the existing debt cap rules, are again likely to require a distinct regime, but the road map gives no indication as to the potential form of this, which is still subject to discussions at the OECD.

With so much media attention on the taxation of multinationals, the emphasis given to this area by the road map is unsurprising. As well as implementing the BEPS proposals, the Government hopes to tackle weaknesses in the current regime for cross-border royalty payments by an extension in the UK's domestic law withholding tax charge together with a new domestic law treaty abuse rule. Overseas property developers are also targeted, with the announcement of protocols to the existing tax treaties with Jersey, Guernsey and the Isle of Man intended to ensure that non-resident developers remain subject to UK tax on the profits of UK property development.

Tax simplification and modernisation are stated objectives of the roadmap, although reception of the loss relief changes — perhaps the most high-profile measure put forward to achieve this — will certainly be mixed. Whilst the promise of increased flexibility in the use of losses generated from 1 April 2017 is welcome, restricting the amount of losses (whenever generated) which can be offset from that date to 50% of relevant profits appears to have rather more to do with revenue raising than tax simplification.

Aside from losses, areas marked out for 'simplification and modernisation' include energy taxation (with the planned abolition of the Carbon Reduction Commitment (CRC) energy efficiency scheme to be paid for by a rise in the climate change levy from April 2019) and SDLT on non-residential property to be converted from a 'slab' to a 'slice' system — mirroring recent changes for residential property.

The road map also notes plans to review the operation of the substantial shareholding exemption (SSE) and the double taxation treaty passport scheme. Few details are given and the significance of these regimes means that many groups will be watching closely to see precisely what this entails.

Large corporate groups are for the most part likely to find plenty to think about but less to cheer about in the road map. There is, however, a final piece of good news for them: the previously announced acceleration of the dates on which corporation tax instalment payments by the largest groups would fall due has been deferred. This is now due to apply from April 2019 rather than April 2017 as originally proposed, recognising the practical difficulties implementing this change is likely to cause.

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Loss relief

Major reforms of the loss relief rules increase flexibility but remove the ability to fully shelter profits with historic losses.

The promise of increased flexibility in the use of corporate losses represents a marked change in direction. The first of last year's Budgets announced a crackdown on 'avoidance' by which groups sought to use their historic losses against profits relating to different types of income or different entities than had originally generated them. This year's Budget has announced reforms designed to give groups precisely this flexibility.

Although detailed proposals are not yet available — the Government plans to consult later in the year — this aspect of the proposed reforms appears to be a welcome simplification of a legacy system of relief which can often seem arbitrary.

Inevitably though there is a sting in the tail.

The new rules will apply to losses generated after 1 April 2017 and from the same date it is proposed to restrict the losses (whenever generated) which can be offset in each period to 50% of group profits in excess of £5 million. According to HMRC estimates, 99% of companies will be unaffected by this measure, although the threshold has been set at a level which means that even relatively small groups will be unable to disregard the proposals entirely. Companies which are in scope will now find they will be cash taxpaying in years when they make profits, rather than being able to fully shelter these with historic losses. As a result the Government expects the reforms to raise revenue by £1.36 billion over the next five years.

Banking groups already have similar loss restriction rules in place for losses accruing before 1 April 2015. Although it appears that banks will become subject to the new loss restriction rules for their post-1 April 2015 losses, they will continue to be subject to the existing bank-specific rules for older losses — including those generated during the financial crisis. The use of these older losses is to be further restricted by tightening the limit on losses which can be offset to 25% of profits from 1 April 2016. The scale of historic losses in the banking sector can be seen from the fact that this change is expected to raise over £2 billion — significantly more than the new loss restriction rules generally.

Aside from the cash cost, groups with significant deferred tax assets in respect of historic losses will be anxiously assessing the potential accounting impact of the proposals. The changes could significantly extend the time taken to use losses and may defer utilisation until after planned corporation tax rate cuts have taken effect, factors which could give rise to some significant write downs. For banks and insurers in particular this may also have a knock on effect on regulatory capital which will need to be assessed.

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Royalty payments

Withholding of UK income tax will apply to a wider definition of royalty payments, and a domestic anti-treaty abuse provision will be introduced.

The following changes are being made to the UK's domestic rules regarding the deduction of income tax from royalty payments made to overseas persons.

Anti-treaty shopping provision

A new domestic anti-treaty shopping provision will be introduced to deny treaty benefits where royalty payments are routed through a connected company in a treaty jurisdiction to gain a tax advantage.

Payments in respect of intangible assets

The obligation to withhold UK income tax will be extended to payments made in respect of intangible assets such as trademarks and brand names. The deduction of income tax at source may still be reduced or eliminated under an applicable double tax treaty or the EU Interest & Royalties Directive, unless the new domestic anti-treaty abuse provision applies.

Payments connected with the activities of a UK permanent establishment of an overseas company

The withholding of UK income tax will apply to royalty payments that are connected with the activities of a UK permanent establishment (PE) of an overseas company, even if the payment does not have a UK source. Consequential changes will be made to the Diverted Profits Tax to ensure that no advantage accrues where royalties are connected with an avoided PE, as compared to an actual PE.

The above changes are intended to bring the UK more into line with international practice and ensure that intra-group royalty payments cannot be used to shift profits from the UK to low-tax jurisdictions, either directly or via a treaty jurisdiction.

The new domestic anti-treaty shopping provision will apply to payments made on or after 17 March 2016 under arrangements entered into at any time. The other changes will have effect for payments made on or after the date of Royal Assent of Finance Bill 2016.

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BEPS announcements

The measures announced are largely in line with expectations and cover interest deductibility, hybrid mismatches and transfer pricing.

The announcements in relation to the OECD's base erosion and profit shifting (BEPS) project are largely in line with our expectations.

As noted in the Chancellor's speech, there are various references to the UK's support for the BEPS project, including a summary table in the business tax roadmap setting out the UK's activity in response to each Action. New measures directly relating to the BEPS project are limited to three specific areas:

— The introduction of a restriction on the tax deductibility of corporate interest expense, consistent with the OECD recommendations, from 1 April 2017. This is covered in more detail in a separate section below;

— The introduction of rules to address hybrid mismatch arrangements from January 2017, in line with the OECD recommendations, with an announcement in the Budget that these rules will be extended to eliminate advantages arising from mismatches involving permanent establishments (PEs). The roadmap includes an example of the application of the anti-hybrid rules involving an interest payment made by a UK subsidiary of a foreign parent in country A to a branch of the foreign parent in country B. The interest income is not taxed in country B because there is considered to be insufficient presence to constitute a taxable PE, nor in country A because the income is considered to be attributable to a PE in country B. The disallowance of the UK interest deduction here is in line with the EC's recent proposals on dealing with hybrid mismatches within the EU, but this would not be a hybrid mismatch arrangement under the OECD recommendations; and

— The introduction of legislation to update the UK's transfer pricing rules to keep them in line with the OECD Guidelines.

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Tax deductibility of corporate interest

Significant change to UK interest deduction rules highlights the Government's commitment to the BEPS recommendations.

As widely predicted, the Chancellor's announcement in relation to the tax deductibility of corporate interest expense confirmed that, as of 1 April 2017, we will see the most significant change to tax legislation in this area in recent times.

The announcement provides further evidence of the Government's commitment to 'leading the way' in the adoption of the OECD best practice recommendations under BEPS Action 4, despite the significant concerns raised by UK business during the initial consultation period.

The headline elements of the new rules will be as follows:

— A Fixed Ratio Rule limiting corporation tax deductions for net interest expense to 30% of a group's UK earnings before interest, tax, depreciation and amortisation (EBITDA);

— A Group Ratio Rule based on the net interest to EBITDA ratio for the worldwide group as recommended in the OECD report;

— A de minimis group threshold of £2 million net of UK interest expense (this is expected to remove 95% of UK groups from the new rules); and

— The inclusion of rules to ensure that the restriction does not impede the provision of private finance for certain public infrastructure in the UK where there are no material risks of BEPS, and also to address volatility in earnings and interest.

The expectation is that this will raise in excess of £900 million per annum for the Exchequer from 2017-18, which demonstrates the significant impact of the new rules.

Clearly the devil will be in the detail and a further period of formal consultation is due to commence by May at the latest. However, what is clear is that there is still a significant amount of uncertainty in relation to how the new rules will apply to existing financial arrangements and the potential for any grandfathering provisions. We will monitor developments in this area closely and contribute to future consultations to ensure this point is considered in drafting the legislation.

HMRC have also indicated they will continue to work with the OECD to develop specific rules for the banking and insurance sectors.

One further impact of the announcement is that HMRC have accepted there will no longer be a need for separate worldwide debt cap legislation and they are committed to repealing this much maligned section of the current legislation. Let's hope that the lessons learnt from the 'troubled' development of these rules are applied to ensure the new interest deduction rules are fit for purpose.

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Changes to SDLT on non-residential property

The top rate of SDLT on non-residential property increased to 5% and switched from a 'slab' to a 'slice' system.

From 17 March 2016, the method of charging Stamp Duty Land Tax (SDLT) on the acquisition of non-residential (or mixed-use) properties changes from a 'slab' system to a 'slice' system, with all consideration (generally VAT-inclusive) over £250,000 subject to SDLT at 5%.

The new rate and bands are as follows:

Consideration	Percentage
So much as does not exceed £150,000	0%
So much as exceeds £150,000, but does not exceed £250,000	2%
The remainder (if any)	5%

So a commercial property transaction for £5 million previously would have attracted SDLT of £200,000 (flat rate of 4%), but now attracts tax of £239,500 which is calculated as follows:

- 0% on the first £150,000 — nil.
- 2% on the next £100,000 — £2,000.
- 5% on the remainder (£4,750,000) — £237,500.

This is approximately a 20% increase.

In addition, where the net present value (NPV) of rent payable over the life of a new lease exceeds £5 million, the rate of SDLT will increase from 1% to 2% on that part of the NPV that exceeds £5m. This will affect occupiers under rental leases.

The new rules will not generally apply to transactions in pursuance of contracts exchanged before 17 March 2016, if the purchaser makes an election on the land transaction return for the rates in place as at 16 March 2016 to apply.

These increases in SDLT are exacerbated by the Chancellor's announcement that there will be no relief for businesses from the 3% SDLT surcharge that applies to the purchase of residential properties from 1 April 2016. Investors, traders and developers buying residential properties in England, Wales and Northern Ireland will face a significant (and unexpected) jump in their SDLT costs next month.

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SDLT surcharge on second homes and buy-to-lets

A 3% SDLT surcharge on the purchase of additional residential properties takes effect on 1 April 2016.

The Stamp Duty Land Tax (SDLT) surcharge is an extra 3% charge payable on the purchase price of additional residential property in England, Wales and Northern Ireland. It applies **on top of** the existing tax charge for residential property transactions. It will take effect from 1 April 2016.

Scotland's equivalent Land and Buildings Transaction Tax supplement also comes into effect on this date.

The purpose of these measures is to free up housing supply by making it easier for individuals buying a main residence to compete with persons buying housing for investment or other purposes.

The surcharge is potentially payable by individuals buying second and subsequent residential properties and by companies, unit trusts and other entities on the first and subsequent purchases. Note that an interest in an overseas dwelling counts for the purposes of establishing whether a purchase is a purchase of a second dwelling.

The key exception for individuals is where they are replacing their main residence. In that case, a claim for repayment of the surcharge can be made where the previous main residence is retained but sold within three years of the purchase of the new main residence. Other residential property owned by co-habiting spouses and civil partners is taken into account when applying the main residence rules, effectively to treat the couple as a single unit.

There are special rules for trustees acquiring dwellings based on the position of beneficiaries with life interests, and for determining whether inherited interests count for the purposes of establishing the number of dwellings an individual owns.

Contrary to expectations no reliefs exist for individuals or companies buying in the course of a property investment, development or trading business (in the draft proposals an exemption for large-scale investors holding or purchasing 15 or more properties had been suggested). However, a purchase of six or more dwellings in a single transaction or a purchase of mixed property still falls under the generally lower 'commercial' rates. Multiple dwellings relief (MDR) remains available for multiple purchases of 'surchargeable' properties, but the minimum MDR rate increases from 1% to 3% so its value is significantly reduced in practice.

The consequences for certain types of investor are significant: investors in student accommodation will in most cases see the rate of SDLT increase from 1% to 3% and smaller scale investors who typically purchase fewer than six properties in any one transaction will endure significant tax increases.

HMRC have accepted very few of the recommendations made in response to the consultation on the surcharge, so there are a number of problems with the new regime. An obvious one that runs counter to the stated policy behind the surcharge is the lack of any relief for developers who contribute to housing supply by purchasing residential properties for refurbishment or development for on-sale.

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Reduction in CGT rates from 6 April 2016

The Budget included a surprise of a reduction in CGT rates to 10% and 20% on most assets, for disposals on or after 6 April 2016.

The Chancellor made a surprise announcement of a reduction in the rates of capital gains tax (CGT) for disposals on or after 6 April 2016. The current rates of 18% for a basic rate taxpayer and 28% for higher and additional rate taxpayers will be replaced by rates of 10% and 20% respectively.

However, the current rates of 18% and 28% will be retained for capital gains arising on residential property, and carried interest arrangements. There are no changes to the CGT exemption for an individual's main residential property.

Entrepreneurs' Relief will remain available in respect of qualifying disposals. This relief applies a 10% CGT rate on gains of up to £10 million over a lifetime, but will now only be of relevance where gains would otherwise be charged at more than the 10% rate.

UK trustees and personal representatives are currently charged a flat CGT rate of 28%. It is understood that this rate will also be reduced to 20% (other than for residential property and carried interests) from 6 April 2016, but this will need to be confirmed when the legislation is available.

These reductions in CGT rates have markedly increased the differential with income tax rates generally, and contrast with the increase in dividend income tax rates that will also apply from 6 April 2016. The combination of these changes will therefore give a further incentive to receive investment returns, where possible, in the form of capital rather than as income.

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Lifetime ISA

A new savings product will be available to younger savers, benefitting from a Government top-up.

As trailed in recent press reports, the Chancellor has backed away from announcing the far-reaching changes discussed in last year's pensions tax relief green paper.

Instead, 'Lifetime ISA' accounts will be launched in April 2017 to encourage long-term saving amongst younger people — in such a way that they will not have to choose between saving for retirement and saving for their first home. Those aged between 18 and 40 will be able to open a Lifetime ISA and save up to £4,000 each year. Savings made before the individual's 50th birthday will also receive a Government bonus of 25% — i.e. a total maximum saving of £5,000 a year. The total ISA limit will be increased from £15,240 to £20,000 from April 2017, and Lifetime ISA savings will count towards that limit.

Savings can be used towards a deposit on a first home worth up to £450,000. However, most other withdrawals prior to age 60 will result in loss of the Government bonus (and any interest or growth on this), as well as a 5% charge. There will be an exception for cases of terminal ill-health and possibly other specific life events, subject to further consultation. After age 60, all savings can be taken tax-free.

Those with a Help to Buy ISA can transfer those savings into the Lifetime ISA in 2017, or continue saving into both, but will only be able to use the bonus from one to buy a house.

Whilst the new product offers a welcome boost to flexible savings for those aged under 40, it does not simplify the current pensions system and introduces further complexity for savers attempting to decide between pension saving schemes and other products. There is a risk that it will undermine auto-enrolment and lead to more young people opting out in favour of a more flexible savings product. In the longer term, it may be that the Lifetime ISA represents the first step in an incremental process of steadily supplanting the existing pensions tax system.

For the investment management and insurance industry and other providers of ISAs, there will be a short period of engagement with HM Treasury/HMRC on the practicalities of implementation before legislation is brought forward in the autumn. Operational and systems changes will require rapid attention, once final details are available, if providers are to be ready to offer this new product by April 2017.

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Off-payroll working in the public sector: reforming the intermediaries legislation

Public sector organisations engaging workers via a personal service company will become responsible for operating IR35 from 6 April 2017.

The Government believes public sector organisations should have a responsibility to taxpayers to ensure that those individuals they have engaged are paying the right amount of tax, given that the current cost of IR35 non-compliance is estimated to be £440 million per year.

Therefore, from April 2017, public sector bodies will be responsible for assessing whether IR35 applies to engagements with individuals via a personal service company (PSC) and then deducting the necessary income tax and Class 1 NIC via normal payroll procedures.

It is intended that the measures will extend to those bodies which are Public Authorities for the purpose of the Freedom of Information (FOI) Act 2000 and FOI Act (Scotland) 2002. This will include schools, the NHS, Government departments and other public bodies such as the BBC, Channel 4 and Transport for London.

To help public sector organisations assess whether IR35 applies, and consequently whether income tax/NIC needs to be withheld, HMRC will roll out a range of online tools which will be used to assess each engagement.

The Government expects to raise revenues totalling £555 million from this measure over the coming five years.

Interaction where Agencies involved

Where a public sector body engages a PSC via an agency, or other third party, the party closest to the worker's PSC in the supply chain will be required to comply with the rules (there will be special rules where there are more complex contractual chains). Therefore, it appears that businesses which are not within the public sector, but which nevertheless provide workers to such bodies, may also need to adhere to the legislation from April 2017.

Public sector bodies will also be required to check that the agency (if applicable) operates the rules correctly. The extent of this checking requirement, or how HMRC intend to enforce it, has yet to be determined.

Next Steps

As the current IR35 rules are already complex, HMRC will consult further on a number of elements, including the precise definition of a public sector body and the digital tools which will help provide clear answers on whether the IR35 rules should apply. It is yet to be seen if these tools and tests are to be based on the current Employment Status Indicator tool.

The Government will also consult on a simpler set of tests to reduce uncertainty on when to withhold from workers and decisively identify the engagements which are clearly caught by the rules.

Separately, a joint working group comprising representatives from HMRC, HM Treasury, the Department for Work and Pensions, the Department for Business, Innovation & Skills and the Office of Tax Simplification will be taking forward a review of employment status and the self-employed later this year, and we await their findings and recommendations with interest.

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Tax and National Insurance Contributions (NICs) changes to termination payments

Finance Bill 2017 will see a tightening of the income tax exemption, along with an introduction of an employer NIC charge.

The Chancellor has confirmed that the Government will be legislating in Finance Bill 2017 to tighten the scope of the income tax exemption for termination payments. The Government expects to raise revenues totalling £1.42 billion as a result of this measure over the first five years following implementation.

With effect from April 2018, termination payments over £30,000 where income tax is currently due will be subject to employer NIC, aligning employer NIC with the income tax treatment. Employees will continue to benefit from a Class 1 Primary NIC exemption on the full amount of any termination payment that they receive.

All payments in lieu of notice (PILONs) (regardless of whether they are contractual or not) will be subject to income tax and NIC in the same way as other payments of earnings.

To prevent manipulation by employers, the rules will be tightened to ensure that certain contractual payments cannot be paid as damages. Instead such payments will be treated as earnings and subject to income tax and NIC.

In addition, we understand Foreign Service Relief (FSR) will be withdrawn.

The introduction of a NIC charge on termination payments in excess of the £30,000 exempt amount comes as little surprise in light of HMRC's need to raise revenues and the proposals outlined in their termination payment consultation paper last year.

Aligning the tax and NIC treatment of these payments is understandable, when viewed through the prism of recent recommendations by the Office of Tax Simplification, and represents low-hanging fruit for the Chancellor.

Nevertheless, this move will be regarded by many employers as another employment-related cost, continuing the trend set by measures in recent years such as the Apprenticeship Levy, auto-enrolment and the National Living Wage, which risks making it harder for businesses to deliver on the Government's objectives to boost jobs, investment and growth.

The abolition of FSR would add to the tax complexity of the termination of assignees or former assignees, with more consideration being given to the use of double tax treaties. Any abolition of FSR might naturally also extend to lump-sum payments for foreign pension plans, which can sometimes arise when someone moves to the UK for work.

Further details will be outlined in the forthcoming technical consultation over the summer.

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Extension of Entrepreneurs' Relief to Long Term Investors

ER is being extended to individuals who dispose of newly issued shares in an unlisted trading company, where certain restrictions are met.

The Chancellor made a surprise announcement to extend the availability of Entrepreneurs' Relief (ER) for investors who subscribe for newly issued shares in unlisted trading companies on or after 17 March 2016.

Currently the conditions for ER on a disposal of shares require the individual to be an officer or employee, and hold at least 5% of the ordinary share capital of the company with those shares giving the individual at least 5% of the voting rights.

The new rules, which apply to investors who are neither officers nor employees, enable investors in unlisted trading companies to access the 10% rate as long as those shares are subscribed for on or after 17 March 2016, held continuously for three years, and disposed of on or after 6 April 2019. There is no requirement to hold 5% of the shares or voting rights. As with ER, there will be a £10 million lifetime limit for the relief and this is in addition to the £10 million ER allowance for employees.

The rules will also apply to qualifying beneficiaries of trusts, and conditions will be included in the rules to ensure that the relief only applies to new shares issued for genuine commercial purposes.

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Entrepreneurs' Relief changes for associated disposals and joint venture companies

HMRC have relaxed prior changes to ER for certain joint venture companies and extended the availability for certain associated disposals.

Announced in the Budget was the expected relaxation to the availability of Entrepreneurs' Relief (ER) for companies which hold interests in joint ventures companies or partnerships. Restrictions were announced in Budget 2015 to restrict the availability of ER for joint venture companies, and this resulted in some genuine commercial arrangements being impacted and shareholders no longer benefiting from ER. The measures announced today, which will be backdated to March 2015, will mean that in order to ascertain whether ER is available, the individual needs to look through their interest in the joint venture company to ascertain whether their overall interest in the trading entity is at least 5%.

An example given in the Budget announcement is shown below:

For example, a person who holds 20% of a company which does nothing but hold 40% of a trading company's shares will be treated as holding 8% (20% x 40%) of the trading company and 40% of that company's activities will be taken into account in deciding whether the person's shares are shares in a trading company for ER purposes.

The changes will be effected by amending the definition of a trading company, and will apply equally to interests in corporate partners of an underlying partnership.

There are currently restrictions placed on the availability of ER for the disposal of assets used within a business where the individual does not at the same time make a material disposal (at least 5%) of the business itself. The changes announced in the Budget will extend the availability of ER to associated disposals when the individual is making a disposal of the business that is not material (i.e. less than 5%) providing they have previously held a larger stake. This provision is likely to benefit partners and business owners who have gradually been reducing their interest in a business ahead of retirement or exiting the business. The measures will also allow for ER to be claimed on associated disposals when there is a material disposal to a family member, where previously there were restrictions placed on the relief available.

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New definition of domicile for tax purposes

A rebasing of assets to market value on 6 April 2017 will be introduced for those individuals becoming deemed domiciled on that date.

From April 2017, those who have been resident in the UK for more than 15 out of the past 20 tax years will be deemed UK domiciled for all UK tax purposes. As a result they will no longer be able to claim the remittance basis in respect of non-UK income and gains. The new test will replace the current inheritance tax (IHT) deemed domicile test.

Budget 2016 confirms that foreign domiciled individuals (non-doms) who become deemed domiciled for all UK tax purposes on 6 April 2017 because they have been UK resident for 15 of the past 20 tax years can treat the cost base of their non-UK assets as being the market value on 6 April 2017. Therefore only the increase in value accruing post-6 April 2017 will be taxed on the arising basis when assets are sold at a profit after this date.

It is not clear whether:

— this will be a one-off rebasing to market value at 6 April 2017, or whether the rebasing date will be linked to when an individual becomes deemed domiciled if the individual will not be deemed domiciled on 6 April 2017;

— this change could apply to assets held by trusts created by non-doms and whether this rebasing could interact with how trust capital gains are taxed when matched to capital distributions to beneficiaries.

The Budget 2016 documents also reiterate the Summer Budget 2015 statement that, where a non-dom has established a non-UK resident trust before becoming deemed domiciled, the non-dom will not be taxed post-6 April 2017 on income and gains retained in the trust. It is unclear whether this only refers to non-UK income and gains as has been stated in previous HM Treasury communications.

There was no further information published about how the Government will legislate to charge IHT on all UK residential property indirectly held through an offshore structure from 6 April 2017.

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Capital Gains Tax: lifetime limit on Employee Shareholder Status exemption

A lifetime limit of £100,000 on the gains that can be made free of CGT will apply to all ESS shares acquired on or after 17 March 2016.

Employee Shareholder Status (ESS) is a Government initiative which took effect from 1 September 2013. Employees surrender certain statutory employment rights in return for ESS shares which must be worth at least £2,000 on the date of award. The arrangement is intended to offer additional flexibility to the employer around engagement of the workforce.

There are very few restrictions on the types of shares that may be issued and ESS has proved popular amongst private companies and smaller listed companies (often used in conjunction with 'growth' shares). The first £2,000 of shares awarded to employees are not subject to income tax or NIC, but shares awarded in excess of this are subject to income tax and potentially NIC at the time of award. The most significant tax benefit is that, to the extent the value of the ESS does not exceed £50,000 at the date of award, any gains arising on disposal of these shares will be exempt from CGT.

It has been announced at Budget 2016 that there is to be a new lifetime limit of £100,000 on the CGT exempt gains on ESS shares. However, any gains on shares acquired prior to midnight at the end of 16 March 2016 are excluded from the new limit.

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Profits from trading in UK land

Changes will be made to ensure non-UK based property developers pay the same level of UK tax as UK property developers.

Anti-avoidance provisions and amendments to tax treaties with Guernsey, Jersey and the Isle of Man are to be enacted to ensure that non-UK based property developers pay the same level of UK tax as UK property developers.

A targeted anti-avoidance rule will apply from 16 March 2016 in order to prevent the rebasing of property values prior to enactment, or the use of any other arrangements with a main purpose of securing that profits are not subject to the new charge.

The anti-avoidance provisions will include measures:

- to prevent fragmentation and ensure that all profits arising to connected persons that directly or indirectly relate to the property trade are subject to tax; and
- to prevent disguised trading in UK property through the sale of property companies intended to act as property investors rather than traders.

The estimated increase in revenue to the Government is nearly £2.3 billion over the next five years.

The new rules should not impact on non-residents who are genuinely investing in UK property as opposed to trading.

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VAT — Tackling overseas trader evasion

HMRC are taking action to protect the UK market from online competition from overseas traders who are not UK VAT compliant.

HMRC are taking action to protect the UK market from online competition from overseas traders who make supplies of goods in the UK to consumers and then fail to comply with the requirement to register for UK VAT.

Powers will be strengthened and new powers introduced, from the date of Royal Assent to Finance Bill 2016, to assist HMRC to collect this currently unpaid VAT, estimated to be more than £1 billion in 2015/16. HMRC will have stronger powers to require the appointment of a UK VAT representative who will be jointly and severally liable for the UK VAT on these supplies, and HMRC will have more flexibility to demand security.

New legislation will also allow HMRC to hold online marketplaces, through which the UK sales take place, jointly and severally liable for the VAT, no matter where the marketplace operates from. None of these powers will be automatic and will be used on a targeted basis. The overseas business will be pursued first before any action is taken against the marketplace. If, however, a liability notice is issued to the marketplace, it will have some time (30 days is mentioned) to take remedial action and avoid a VAT assessment. This remedial action could ultimately involve removing the business from the marketplace. This would save the marketplace from a VAT bill owed by an unconnected party, but would of course affect its income levels.

It is difficult to apply compliance powers against a business with no UK presence. These changes attempt to resolve this difficulty. UK traders that are undercut by non-compliant overseas suppliers selling in the UK without charging VAT will no doubt welcome this and the intentions behind the change are understandable. However, the power to collect VAT from the marketplace, even if it is used rarely and as a last resort, is quite radical.

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Oil and gas taxation

The Chancellor announced significant reductions in the rates of tax applicable to upstream oil and gas companies.

Tax rate reductions

The supplementary charge to corporation tax is to be halved to 10% effective from 1 January 2016. The overall rate of corporation tax for profits in the ring fence remains at 30%, bringing the overall rate for companies in the ring fence down to 40%.

Petroleum Revenue Tax (PRT) has been effectively abolished through a reduction in the rate of PRT to 0%. This change takes effect for accounting periods ending after 31 December 2015. The rate reduction preserves the ability to carry back losses arising on decommissioning against historic PRT payments which had been guaranteed under the Decommissioning Relief Deeds.

The estimated cost to the Government is £1 billion over the next five years. These changes particularly support late-life assets that provide critical infrastructure in the North Sea. Such assets were suffering a tax rate of 81% two years ago compared to 40% now.

Impact of other corporation tax measures

The Government will consult on the application of the new interest restriction rules to the oil and gas sector to "ensure that existing commercial arrangements within the ring fence are not adversely affected".

Further, HM Treasury has confirmed that the amendments to the loss relief rules will not apply to ring-fence corporation tax losses.

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Soft drinks industry levy

A levy on sugary soft drinks is planned to help tackle childhood obesity, by incentivising companies to reduce sugar in their drinks.

The Government will introduce a new soft drinks industry levy to be paid by producers and importers of soft drinks which contain added sugar. The levy will be charged on volumes according to total sugar content with:

- a main rate charge for drinks with more than five grams of sugar per 100 millilitres;
- a higher rate for drinks with more than eight grams of sugar per 100 millilitres; and
- an exclusion for small operators.

The Government will consult on the details over the summer, with legislation expected in Finance Bill 2017 for implementation from April 2018 onwards. No further information is currently available.

Whilst this is being referred to as a sugar tax, it is not the same as the previously suggested tax at the final point of sale. Instead it is a levy on the producers and importers higher up the supply chain. As well as raising the levy itself, this may also increase VAT revenue to the extent that retailers choose to increase their retail prices in response.

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Increase in the standard rate of IPT

The Chancellor has announced as part of his Budget measures that the standard rate of IPT will increase to 10%.

The standard rate of Insurance Premium Tax (IPT) will increase from 9.5% to 10%, taking effect from 1 October 2016. Legislation will be introduced in Finance Bill 2016 to provide for the rate increase. The additional IPT collected will be used to help fund flood defences and resilience.

For insurers using the 'Cash Received method', the new rate will have effect for premiums received under taxable insurance contracts on or after 1 October 2016. For insurers using the 'Special Accounting Scheme' there will be a four-month concessionary period from 1 October 2016 to 31 January 2017. During this period, premiums accounted for under taxable insurance contracts entered into before 1 October 2016 will continue to be liable to IPT at 9.5%. From 1 February 2017, all premiums received by insurers will be taxed at the new rate of 10% regardless of when the policy was entered into.

Anti-forestalling provisions are already in place as an anti-avoidance measure. These provisions apply to both accounting schemes and in relation to defined advance payments and extended cover.

Insurers will need to review their systems to ensure that the new rates are applied correctly. It is estimated that the increase in the IPT rates will raise a modest £200 million per annum in additional revenue.

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Stamp duty and stamp duty reserve tax on options

Options to buy certain securities will, in certain cases, be charged to stamp duty (or SDRT) at 1.5% of not less than the value of the securities.

From 23 March 2016 the exercise of options to purchase UK securities for delivery to a depositary receipt issuer or clearance service system will be charged to stamp duty (or SDRT) at the higher rate of 1.5%, based on the greater of the option strike price and the market value of the securities.

This measure, which was announced at the Autumn Statement last year, is aimed at stopping specific arrangements involving the exercise of deep-in-the-money options (DITMOs) where the options are exercised with delivery of the securities into higher rate depositary receipt and clearance service systems. However, the change applies to all options exercised for delivery to these systems and not just DITMOs. DITMOs are options to acquire securities for a low strike price granted at a high option price. Stamp Duty Reserve Tax (SDRT) is not payable on the grant of such options; it is only payable on the low (usually very low) strike price. No SDRT is payable on subsequent trading of those securities held within higher rate depositary receipt and clearance service systems.

Options (including DITMOs) not exercised for delivery to such systems, or those exercised for delivery to clearance service systems which have entered into arrangements with HMRC to disapply the higher rate 1.5% stamp duty and SDRT charge, are unaffected.

The change was expected to take effect from Budget Day (16 March 2016) but will in fact take effect from 23 March 2016.

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Businesses: An overview

Fanning the flames of growth

The Chancellor's big challenge in this year's Budget was to make savings to compensate for the economy's sluggish performance without taking away the oxygen which is fuelling growth in the private sector. Having identified that the strongest and fastest growth is being driven by small and medium sized businesses (SMEs), the Chancellor's strategy seems to once again involve tax breaks to help drive up the performance of those high growth companies. ***Fuelling growth now, for payback later****.*

In a relatively tax neutral Budget, it would appear from the costing data that the Chancellor is attempting to use tax breaks today to increase tax revenues in the near future, by supporting and accelerating the growth of SMEs in the UK.

The clearest indicator of this intention is through the reduction in business rates for 600,000 small businesses and the introduction of flexible loss reliefs. Both of these measures will cost the Government money in the short-term, but as those businesses grow, the incentives either disappear or reduce in their marginal benefit, and the clear hope is that tax receipts will flow back in, in the form of corporation tax, VAT, income tax, National Insurance, and so on.

A large chunk of the additional corporation tax being raised now comes from plans to restrict the tax deductions available to large corporates on the interest charges which go through their accounts. In new rules, tax deductions will be limited to 30% of earnings, a measure forecast to raise £2 billion by 2018/19.

Headlines

The headlines focus largely on supporting business. Another surprise corporation tax rate reduction has been introduced; the next step in George Osborne's mission to offer the lowest rate in the G20. With the rate now expected to reduce to 17% in 2020, this will benefit all companies regardless of their size.

Similarly, the measures introduced to reduce business rates for 600,000 small businesses are expected to reduce their rates burden by £1.6 billion by 2017/18, freeing up cash for them to invest into growing the businesses themselves.

The interest restrictions applying to large corporates will be a tax burden for them. However, this measure is part of a much bigger picture and is part of a raft of changes following the recent publication of the OECD's report on base erosion and profit shifting (BEPS) so we can expect other tax authorities around the world to implement similar measures.

Loss reliefs are set to be simplified, allowing brought forward losses to be shared around a group of companies for the first time. This should help businesses to use losses from one company against the profits of another when previously they might have become 'trapped'.

In a less helpful measure, a cap will be applied once a company begins to make taxable profits of at least £5 million — at present there is no limit on the profits which can be covered by brought forward losses within a single company, so long as the losses are available. Given the cap only kicks in at relatively high profit levels, it again appears that the Chancellor is helping the smaller companies and those that are relatively early in their lifecycle.

A fair, competitive tax system

Whilst the primary message supports business growth, a secondary message of this Budget is about continuing to ensure that all businesses pay their fair share of tax in the UK. Public pressure in this area is still intense and further measures have been introduced today:

— Loans to participators — for many years close companies have been subject to a 25% tax rate on loans made to shareholders. More recently therefore, small company shareholders have been better off taking loans as opposed to receiving dividends. The increase in the loans to participators tax rate to 32.5% is intended to prevent higher rate taxpayers gaining an unfair advantage;

— Profits from trading in UK land — Anti-avoidance provisions and amendments to tax treaties with Guernsey, Jersey and Isle of Man are to be enacted to ensure that non-UK based property developers pay the same level of UK tax as UK property developers;
— Sale of online goods (VAT) — HMRC announced that it will introduce measures to tackle VAT avoidance on the sale of on-line goods, including the possibility of making the online market places (such as Amazon and eBay) joint and severally liable for sellers' unpaid VAT; and
— Withholding tax on royalties — The changes are intended to bring the UK more into line with international practice and ensure that intra-group royalty payments cannot be used to shift profits from the UK to low-tax jurisdictions, either directly or via a treaty jurisdiction.

Consultations and other points of note

Alongside these structural changes and incentive measures, the Chancellor announced some forthcoming consultations.

Support is to be given to museums and galleries and a new tax relief will be introduced from 1 April 2017 to encourage them to stage creative new exhibitions and to display their collections to a wider audience across the country. The Government will consult with the sector on how to implement the relief over the summer.

A consultative document will also be issued in spring 2016, proposing changes to the UK tax treatment of leased assets. This has been expected following the recent finalisation of the new lease accounting standard: IFRS 16. No more is known at this stage but this could lead to major changes and we await it with interest.

A further consultative document will be issued to address how partnerships calculate their tax liabilities. The consultation will include a number of areas where the taxation of partnerships could be seen as uncertain, including an issue highlighted by the Office of Tax Simplification's partnerships review.

Although the Chancellor made only minor changes to the existing capital allowances regime, they are worth a brief mention. It has been confirmed that 100% Business Premises Renovation Allowances will not be extended beyond their current expiry date of April 2017. This is not a big surprise given HMRC's concerns on abuse of this generous relief. At the same time, an extension in the number of Enterprise Zones has been announced and the Government will ensure that all First-Year Allowances on Enterprise Zones are available for eight years from the date of inception, whereas currently there is a blanket expiry date of 2020 across all relevant sites. A further extension relates to the 100% First-Year Allowance for low emission cars, moving the expiry date back from April 2018 to April 2021, with changes to the emissions thresholds for all cars applying from April 2018.

In terms of Indirect Taxes, there had been speculation in the lead up to the Budget of a further increase to the standard rate of Insurance Premium Tax. The rise was smaller than suggested, from 9.5% to 10%, and the Chancellor attempted to soften it by suggesting that the revenue will be used to help the Government fund flood defences and resilience.

Final thoughts

In a Budget that made Jamie Oliver jump for joy, there is plenty for businesses to like too. The deal that the Chancellor has struck with growing businesses seems to be "I will help you to grow, and when you become large and successful, I expect you to pay your way on tax". Seems fair enough.

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Individuals: An overview

A Budget to 'light the fires of enterprise'

George Osborne described his eighth Budget as one 'that gets investors investing' and 'savers saving'. For individuals, this translates into an unexpected cut in the rate of capital gains tax, a new Entrepreneurs' Relief for investors and generous ISA incentives for the under 40s. Alongside increases to tax free allowances and tax bands, as well as new allowances for micro-entrepreneurs, this was a Budget to 'light the fires of enterprise'.

Rates and allowances

From 6 April 2017, the personal allowance will be increased to £11,500, and the basic rate limit increased to £33,500, making the higher rate threshold £45,000. As previously announced, new dividend tax rates, a Dividend Allowance and a Personal Savings Allowance come into force from 6 April 2016. See Tax rates and allowances for more details.

A new £1,000 allowance will apply to both property and trading income from April 2017 aimed at helping the micro-entrepreneur. Those with income from property or trading income below this limit, will not have to declare this income or pay tax on it, easing the administrative burden. If income is in excess of this amount, individuals will have the option of calculating their taxable income in the normal way or simply deducting £1,000 from their total receipts.

The loans to participators tax rate will increase to 32.5% from April 2016. Historically, private companies could make a loan to a shareholder in preference to a dividend, which under the current tax rules could be advantageous, as the tax rate on such a loan is 25%, whilst a dividend would be taxed at up to 38.1%. This announcement brings the rate on these loans in line with the tax a higher rate taxpayer would pay on a dividend.

Investments and savings

The total amount that can be saved each year into an ISA will be increased from £15,240 to £20,000 from 6 April 2017.

Also from 6 April 2017, any adult under 40 will be able to open a Lifetime ISA, see Lifetime ISA for more details. Up to £4,000 can be saved each year until the age of 50 and a 25% bonus will be received from the Government. This Lifetime ISA can be used to buy a first home or saved until age 60 and then used as retirement income, otherwise a 5% charge will apply and the bonus will be withdrawn if the funds are taken out for any other reason. Income and gains within the ISA are tax free in the usual way, making this a flexible savings vehicle.

UK property

The rules announced in 2015 regarding the restriction to the tax relief for loan interest paid by individual landlords to the basic rate are to be revised slightly. These proposed revisions put beyond doubt that individual beneficiaries of deceased persons' estates are entitled to the basic rate tax reduction. It also clarifies the way the calculation of the restriction is made and the carry forward of excess relief in any subsequent year in which property income is received.

Families who hold assets of historic or national importance potentially face an increased inheritance tax bill. Since the introduction of inheritance tax in the 1980s, a relief has been available which protects assets of national importance from being sold off to meet inheritance tax liabilities. Generally, the inheritance tax liability is deferred provided that the asset is well maintained, available to the public to view and is not sold. When any of these conditions are no longer met, an inheritance tax liability arises, typically at 40%. From 16 March 2016, assets brought into charge can be taxed at the higher of the current rate of inheritance tax and the charge prevailing at the time of the first charge, which could be as much as 83% being the Estate Duty rate payable in the late 1970s.

As announced in 2015, a 3% stamp duty land tax (SDLT) surcharge is being introduced from 1 April 2016 on the purchase of additional residential properties, see SDLT surcharge on second homes and buy-to-lets for more details. Contrary to the draft proposals issued last year, there will be no exemption for significant investors holding 15 or more properties. Draft legislation has also been published that provides clarification on when and how the surcharge will apply to properties acquired through trusts.

SDLT is also being reformed in respect of commercial property, see Changes to SDLT on non-residential property for more details. The current 'slab' system will be replaced by a 'slice' system from 17 March 2016.

Capital Gains Tax (CGT)

For capital gains accruing on or after 6 April 2016, CGT rates will be reduced from 18% to 10% for basic rate taxpayers, and from 28% to 20% for higher rate taxpayers. These reduced rates will not apply to gains on the disposal of residential property (other than those qualifying for private residence relief) and the receipt of carried interest, see Reduction in capital gains tax (CGT) rates from 6 April 2016 for further details.

For those acquiring Employee Shareholder Shares after 16 March 2016, a lifetime limit of £100,000 of CGT exempt gains that a person can make on the disposal of those shares will apply. See Capital Gains Tax lifetime limit on Employee Shareholder Status exemption for further details.

Entrepreneurs' Relief for investors applies to external investors in unlisted trading companies (or holding companies of trading groups), for newly issued ordinary shares acquired for new consideration on or after 17 March 2016 — see Extension of Entrepreneurs' Relief to 'Long Term Investors' for further details. The investment must be held for at least three years from 6 April 2016 and a £10 million lifetime cap for this investors' relief will apply in addition to the lifetime Entrepreneurs' Relief allowance.

Restrictions on the availability of Entrepreneurs' Relief where companies hold shares in a joint venture company or partnership, introduced as an anti-avoidance measure in the March 2015 Budget, will be relaxed so as not to adversely affect genuine commercial arrangements. See Entrepreneurs Relief changes for associated disposals and joint venture companies for more details.

The new prescribed circumstances under which non-UK residents disposing of UK residential property are not required to file a non-resident CGT return, have been confirmed as the disposal of a residential property on or after 6 April 2015 which takes place for no gain or loss, or on the grant of a lease for no premium to an unconnected person in a bargain at arm's length.

Non-UK domiciled (non-dom) individuals

The Government is undertaking major reforms to non-UK domicile taxation, which will take effect from 6 April 2017, see new definition of domicile for tax purposes for further details. In this Budget, it has been announced that non doms who become deemed UK domiciled under the new rules can rebase their non-UK assets for CGT purposes to their market value on 6 April 2017, such that they should only be subject to UK CGT on future growth.

Digital accounts

The Government is continuing to progress with and consult on the major transformation project towards digital tax accounts (which, when fully operational, will remove the need to file annual tax returns). The 2016 Budget includes further steps for businesses, landlords and the self-employed with continuing consideration of the options to simplify tax rules and reduce administrative burdens. For these taxpayers who are already keeping records digitally and updating HMRC regularly, from 2018 there will be the ability to adopt a 'pay as you go' method of tax payments. The Government's intention appears to be to allow flexibility for taxpayers so that they can mould tax payment patterns to fit better with their actual cash flow.

Tackling tax avoidance

The Government will introduce (in Finance Bill 2017) a new legal requirement to correct past offshore non-compliance within a defined period of time and with new sanctions for those who fail to do so. There is currently no further detail on the definitions or sanctions and HMRC will be consulting on this shortly. This new requirement will be underpinned by the information to be provided to HMRC under the Common Reporting Standard, with the first territories supplying information from September 2017.

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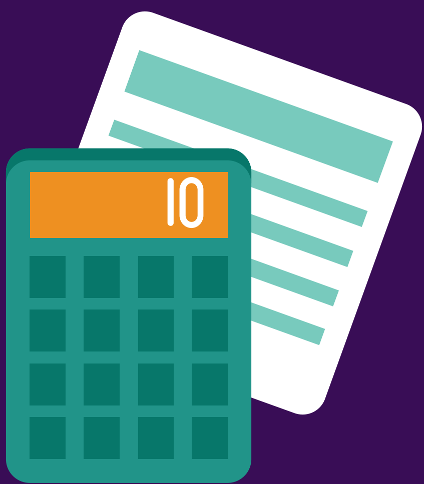
Employers: An overview



The Budget for employers: change, but no headlong rush

Employers would be forgiven for having expected this Budget to herald major change, potentially in a number of different arenas. The last six months have seen consultations or reviews on changes to the IR35 rules, the treatment of termination payments, reform of the travel and subsistence rules, employer-provided accommodation, salary sacrifice and (under the banner of the OTS) the alignment of income tax and NICs.

In the event, though, the changes announced by the Chancellor were more measured — although for those reading between the lines, there may be the suggestion of more to come.

Reform of IR35

Last year's consultation on the reform of the IR35 rules noted that there was "significant non-compliance" (at an estimated cost of some £440m per annum) with the current rules. It is perhaps surprising, then, that the Budget announcements affect only those working in the public sector. The proposal to pass the requirement to operate IR35 from the personal service company (PSC) to the public sector body engaging the worker will not come without complications (what happens, for instance, where an individual does not agree with a public sector body's conclusion that IR35 should apply?), and it may be that the Government is testing the waters here for wider change in the future. Private sector employers engaging workers through PSCs should watch this space. More detail on the change can be found in our separate article above.

Termination payments

The Government has announced both a tightening of the income tax exemption and an introduction of an employer NIC on amounts over £30,000 where income tax is due. The changes, covered in more detail above, go some way to simplifying the position, but will represent an increased cost for employers.

OTS review of the alignment of income tax and NICs

Although a full response to the recently published OTS review of the alignment of income tax and NICs will come "in due course", the Government has confirmed that it will at least consider two of the major proposals. The OTS will be asked to review "the impacts of moving employee NICs to an annual, cumulative and aggregated basis" (along the same lines as PAYE income tax) and "moving employer NICs to a payroll basis". This latter proposal would see employers calculate NICs due on their annual payroll cost (as is already proposed for the Apprenticeship Levy) — a substantial move from the current system, which, as the OTS notes in its review, would see "some employers…pay more, some less". We will have to wait for the Government's full response to the OTS's package of recommendations, and the terms of reference for the two areas that will be considered further, but it seems that change may be coming.

Travel and subsistence

One surprise came in the response to last year's consultation on the reform of the rules surrounding tax relief for travel and subsistence expenses, where the Government has announced that it will not take forward change "at this time". The proposals would have represented a major reform, and, with the current rules being "generally well understood", the Government has clearly concluded that change would bring too much complexity, in the short term at least.

Expenses and benefits

April 2016 sees significant change to the expenses and benefits regime, with, amongst other changes, the introduction of both a business expenses exemption and of voluntary payrolling of benefits. The Budget has announced further changes, with voluntary payrolling to be extended to cover non-cash vouchers and credit tokens from April 2017. There will also be a consultation on changes to the process for agreeing PAYE Settlement Agreements — an issue that has been repeatedly raised in the past by the OTS.

Apprenticeship Levy

The Government has previously announced that those paying the Apprenticeship Levy will "be able to get out more than they put in". The Budget included more information on how that might be achieved, in the form of an announcement that "employers will receive a 10% top-up to their monthly levy contributions in England and this will be available for them to spend on apprenticeship training through their digital account". But employers will need to wait for further detail on the operating model and further information around what will qualify as an 'apprenticeship'.

Anti-avoidance

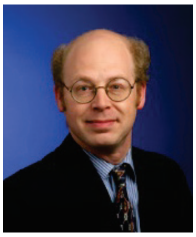
It would be an unusual Budget indeed these days without a further tightening of the rules to deal with perceived avoidance: this Budget is no different, with changes announced on disguised remuneration and a shot across the bows on salary sacrifice.

Disguised remuneration

The Budget makes changes to the disguised remuneration rules aimed at ending the use of Employee Benefit Trusts (EBT) and similar arrangements to avoid income tax and NIC charges. Current legislation prevents the disguised remuneration rules from applying to investment growth within EBTs where taxpayers have taken advantage of the EBT Settlement Opportunity, and therefore paid the PAYE and NIC on the basis that the disguised remuneration was earnings from their employment. This relief is to be withdrawn after 30 November 2016, giving a short period of grace for the disguised remuneration rules to operate as they do now. A new charge aimed at outstanding loans made before the disguised remuneration rules came into force will take effect from 5 April 2019, where all or part of the loan remains outstanding at that time. HMRC have also said that various other changes will be made to tighten the rules so that they operate as Parliament intended.

Salary sacrifice

The Government had previously stated concern over the growing use of salary sacrifice. Following a review, it has announced that it is considering "limiting the range of benefits that attract income tax and NICs advantages". However, any changes will not apply to key benefits, such as pension contributions and childcare.



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