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Autumn Statement 2013

On Thursday 5 December the Office for Budget Responsibility (OBR) published its updated forecast for the UK economy. Chancellor George Osborne responded to that forecast in a statement to the House of Commons later on that day.

In the period since the Budget in March a number of consultation papers and discussion documents have been published by HMRC and some of these proposals are summarised here. Draft legislation relating to many of these areas will be published on 10 December and some of the details in this summary may change as a result.

Our summary also provides a reminder of other key developments which are to take place from April 2014.

The Chancellor's statement

His speech and the subsequent documentation announced tax measures in addition to the normal economic measures.

Our summary concentrates on the tax measures which include:

- the introduction of a transferable tax allowance for some married couples and civil partners
- the introduction of an exemption from employer National Insurance Contributions for employees under 21
- allowing companies to claim tax relief on donations to Community Amateur Sports Clubs
- measures to tackle employment intermediaries disguising employment as self-employment
- anti-avoidance measures which will affect some partnerships in which the partners include individuals and companies
- changes to the CGT Private Residence Relief deemed occupation rules
- the introduction of new CGT rules for non-residents and UK residential property.

Personal Tax

The personal allowance for 2014/15

For those born after 5 April 1948 the personal allowance will be increased from £9,440 to £10,000. When the current Government came into power in 2010 the personal allowance was £6,475 so there has been a significant increase.

The reduction in the personal allowance for those with 'adjusted net income' over £100,000 will continue. The reduction is £1 for every £2 of income above £100,000. So for this year there is no allowance when adjusted net income exceeds £118,880. Next year the allowance ceases when adjusted net income exceeds £120,000.

Comment

The increase in the personal allowance gives more importance to planning before 6 April 2014 where adjusted net income is expected to exceed £100,000. Broadly, adjusted net income is taxable income from all sources reduced by specific reliefs such as Gift Aid donations and pension contributions.

Tax bands and rates for 2014/15

The basic rate of tax is currently 20%. The band of income taxable at this rate is being reduced from £32,010 to £31,865 so that the threshold at which the 40% band applies will rise from £41,450 to £41,865 for those who are entitled to the full basic personal allowance.

The additional rate of tax of 45% is payable on taxable income above £150,000.

Dividend income is taxed at 10% where it falls within the basic rate band and 32.5% where liable at the higher rate of tax. Where income exceeds £150,000, dividends are taxed at 37.5%.

Transferable Tax Allowance for some

In October the Government announced that from April 2015 married couples and civil partners may be eligible for a new Transferable Tax Allowance.

The Transferable Tax Allowance will enable spouses and civil partners to transfer a fixed amount of their personal allowance to their spouse.

The option to transfer will be available to couples where neither pays tax at the higher or additional rate. If eligible, one partner will be able to transfer £1,000 of their personal allowance to the other partner. The transferor's personal allowance will be reduced by £1,000. It will mean that the transferee will be able to earn £1,000 more before they start paying income tax.

The claim will be made online and entitlement will be from the 2015/16 tax year. Couples will be entitled to the full benefit in their first year of marriage.

Comment

For those couples where one person does not use all of their personal allowance the benefit will be up to £200.

Class 3A Voluntary National Insurance

From October 2015 a new class of voluntary National Insurance Contributions (Class 3A) will be introduced that gives those who reach State Pension age before 6 April 2016 an opportunity to boost their Additional State Pension.

Venture Capital Trusts (VCTs)

From April 2014 the Government is to withdraw income tax relief on share buy-backs in VCTs. Investments that are conditionally linked in any way to a VCT share buy-back, or that have been made within six months of a disposal of shares in the same VCT, will not qualify for new tax relief.

Individual Savings Accounts (ISAs)

From April 2014 the overall ISA savings limit will be increased to £11,880 of which £5,940 can be invested in cash, a 2.7% increase from the limit for the current year.

Regulations were issued in 2013 to allow shares listed on the Alternative Investment Market (AIM) to be permitted ISA investments in stocks and shares ISAs.

To further support these companies, the Government will abolish stamp tax on shares for companies listed on growth markets including AIM and the ISDX Growth Market, from April 2014.

The Government is exploring whether to increase the number of retail bonds eligible for stocks and shares ISAs, by reducing the requirement that such securities must have a remaining maturity above five years.

Comment

Shares held in an ISA are exempt from capital gains tax (CGT) and income tax. AIM shares can also have inheritance tax benefits. Many AIM shares benefit from Business Property Relief (BPR) which provides an IHT exemption once the shares have been held for two years.

Junior ISA and Child Trust Fund

The annual subscription limit for Junior ISA and Child Trust Fund accounts will increase from £3,720 to £3,840.

Pensions saving - annual allowance

The annual allowance is an annual limit for giving tax relief on pension contributions. Contributions can be paid in excess of the limit but may give rise to an income tax charge on the member of the pension scheme. For tax year 2014/15 onwards the annual allowance will be reduced from £50,000 to £40,000.

Pensions saving - lifetime allowance

There is also an overall limit, known as the lifetime allowance, on the total amount of tax relieved pension savings that an individual can have over their lifetime. Savings in excess of the allowance can be charged at 55% if taken as a lump sum or 25% if taken as income (in addition the pension is taxable as income in the normal way). For most individuals the charge will occur when they start to take their benefits from their pension scheme.

For tax year 2014/15 onwards:

- the standard lifetime allowance will be reduced from £1.5 million to £1.25 million
- a transitional 'fixed protection' regime has been introduced for those who believe they may be affected by the reduction in the lifetime allowance. Applications for this protection must be received by HMRC on or before 5 April 2014. However any new pension savings made by or on behalf of the individual on or after 6 April 2014 are likely to lead to the loss of fixed protection. This means that, normally, individuals have to opt out of active membership of all registered pension schemes of which they are members.

The Government will also be introducing an individual protection regime (IP14) in addition to fixed protection. IP14 will provide individuals with a personal lifetime allowance equal to the total pension savings they have on 5 April 2014 with a value of between £1.25 million and £1.5 million.

Individuals will have three years from 6 April 2014 to apply for IP14.

Comment

Individuals with IP14 will be able to carry on actively saving in a registered pension scheme, should they so wish. However when benefits are taken any pension savings above the individual's personal lifetime allowances will be subject to charge. An example of when IP14 would be beneficial may be for an individual whose employer normally contributes towards their pension scheme but, if the individual opted out of the pension scheme, they would not be able to receive the value of those employer contributions in another form such as higher pay.

Business Tax

Corporation tax rates

The main rate of corporation tax will be 21% from 1 April 2014. The current rate is 23%. From 1 April 2015 the main rate of corporation tax will be reduced to 20% and unified with the small profits rate.

The small profits rate will therefore remain at 20% until then.

Close company loans to participators

A close company (which generally includes an owner managed company) may be charged to tax in certain circumstances where it has made a loan or advance to individuals who have an interest or shares in the company (known as participators). Loans and advances are also caught where they are made to an associate of the individual such as a family member. The corporation tax charge is 25% where the loan is outstanding nine months after the end of the accounting period.

The Government was considering making changes to the structure and operation of the tax charge but has now announced that it will not make any immediate changes.

Members of Limited Liability Partnerships (LLPs)

Since their introduction in 2000, LLPs have become increasingly popular as a vehicle for carrying on a wide variety of businesses. The LLP is a unique entity as it combines limited liability for its members with the tax treatment of a traditional partnership. Individual members are deemed to be self-employed and are taxed as such on their respective profit shares.

The Government now considers that deemed self-employed status is not appropriate in some cases. For example, individuals who would normally be regarded as employees in high-salaried professional areas such as the legal and financial services sectors are benefitting from self-employed status for tax purposes which leads to a loss of employment taxes payable.

Full details of the changes have not yet been announced. The legislation may be amended by simply removing the provision which deems individual members to be self-employed. This would mean applying the normal (but sometimes difficult) tests that characterise employment and self-employment. A consultation document proposed additional tests which may be easier to apply in certain scenarios.

The new regime is expected to come into force on 6 April 2014.

National insurance and self-employed entertainers

Following consultation, the Government has decided to repeal the current NIC regulations in respect of entertainers. From 6 April 2014, those individuals engaged as an actor, singer, or musician, or in any similar performing capacity will pay Class 2 and Class 4 NIC as self-employed earners.

Community Amateur Sports Club (CASC)

The Community Amateur Sports Club (CASC) scheme provides a number of tax reliefs, similar to those available to charities, to support amateur sports clubs. For example an individual can make a donation to a CASC as Gift Aid.

The Finance Bill 2014 will include provisions to extend corporate Gift Aid to donations of money made by companies to CASCs. This will allow companies to claim tax relief on qualifying donations they make on or after 1 April 2014.

Comment

The corporate Gift Aid provisions will not only encourage companies to make donations to clubs which are registered as CASCs but will also encourage clubs with high levels of commercial trading to potentially benefit from CASC status. A club with significant trading receipts may well not qualify for CASC status because of the trading receipts. It could however set up a trading subsidiary and donate the profits to the club. The donation received by the club will not be treated as trading receipts and thus the club could apply for CASC status. The new Gift Aid relief will eliminate the corporation tax charge on the profits of the company.

Partnerships with mixed membership

Anti-avoidance measures will be introduced which will affect partnerships, including LLPs, where the partners or members include both individuals and non-individuals (mixed membership partnerships). Most commonly the non-individuals will be company members of the partnership. There will be two areas potentially affected:

- where partnership profits are allocated to a non-individual partner in circumstances where an individual member may benefit from those profits
- where partnership losses are allocated to an individual partner, instead of a non-individual partner, to enable the individual to access certain loss reliefs.

The main changes relate to profit allocation and these rules come into force on 5 December 2013.

Excess profits will be reallocated to an individual partner from a non-individual partner where the following conditions are met:

- a non-individual partner has a share of the firm's profit

- the non-individual's share is excessive
- an individual partner has the power to enjoy the non-individual's share or there are deferred profit arrangements in place
- it is reasonable to suppose that the whole or part of the non-individual's share is attributable to that power or arrangements.

The Government is proposing to introduce legislation which will result in certain income tax loss reliefs and capital gains relief for a loss allocated to an individual partner being denied.

The reliefs will not be available where the individual is party to arrangements, the main purpose of which, or one of the main purposes of which, is to secure that some or all of the loss is allocated, or otherwise arises, to the individual, instead of a non-individual, with a view to the individual obtaining relief.

These changes will take effect from 6 April 2014.

Comment

Some changes to the treatment of mixed member partnerships have been expected following the issue of a consultative document. The difficulty with the proposed legislation may be determining the boundary between profit allocations which are caught or not caught by the legislation.

Employment intermediaries and 'false self-employment'

The Government will amend existing legislation to prevent employment intermediaries being used to avoid employment taxes by disguising employment as self-employment. The Government will consult on strengthening existing legislation to ensure the correct amount of tax and NIC are paid where the worker is, in effect, employed. The legislation will be amended with effect from 6 April 2014.

Comment

The Government expects this measure to raise around £400 million each year.

Other tax avoidance measures

The Government has announced a number of measures to help tackle tax avoidance which have effect from 5 December 2013 including changes to:

- the debt cap provisions
- the controlled foreign companies legislation to counter some aspects of profit shifting
- the double tax relief system to prevent avoidance.

Legislation will be introduced in Finance Bill 2014 to prevent a charity from being entitled to claim charity tax reliefs if one of the main purposes of establishing the charity is tax avoidance. The definition of a charity for tax purposes will be amended to exclude such charities.

Social investment tax relief

The Government will introduce a new tax relief for equity and certain debt investments in social enterprises with effect from April 2014. Organisations which are charities, community interest companies or community benefit societies will be eligible. Following consultation, investment in social impact bonds issued by companies limited by shares will also be eligible. The Government will publish a 'roadmap' for social investment in January 2014.

Theatre Relief

A consultation will be launched in spring 2014 on the introduction of a limited corporation tax relief for commercial theatre productions and a targeted relief for theatres investing in new works or touring productions to regional theatres.

Employment Taxes

Employer provided cars

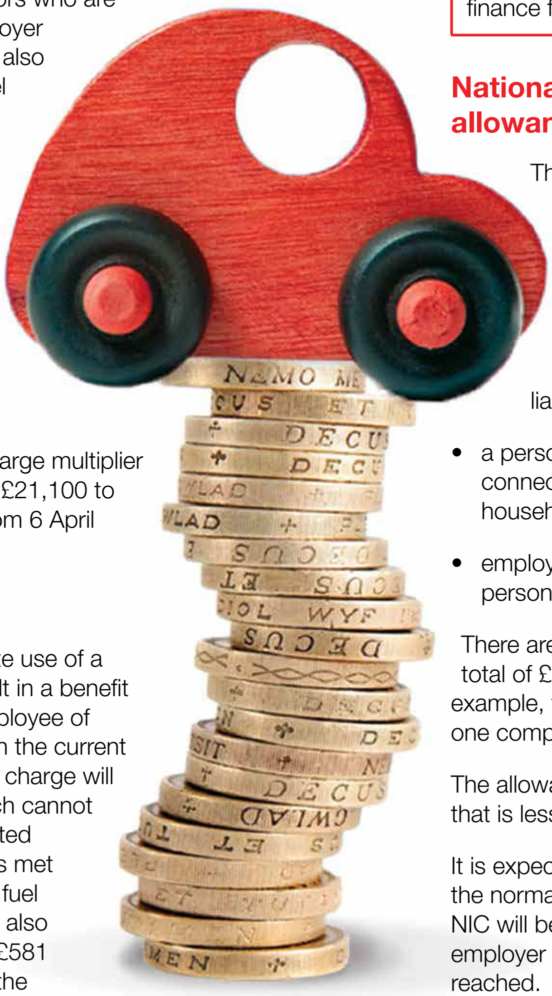
The scale of charges for working out the taxable benefit for an employee who has use of an employer provided car are now announced well in advance. From 6 April 2014, the bands used to work out the taxable benefit remain the same but the percentage applied by each band goes up by 1%. There is an overriding maximum charge of 35% of the list price of the car. From 6 April 2015, the percentage applied by each band goes up by 2% and the maximum charge is increased to 37%.

Comment

These increases have the perverse effect of discouraging retention of the same car. New cars will often have lower CO_2 emissions than the equivalent model purchased by the employer, say three years ago. Particular attention should be paid to the benefit increase from 6 April 2015.

Car fuel benefit charge

Employees and directors who are provided with an employer provided car and who also receive free private fuel from their employers are subject to the fuel benefit charge. The benefit charge is determined by multiplying a set figure by the appropriate percentage for the car, based on its CO_2 emissions.



The car fuel benefit charge multiplier will be increased from £21,100 to £21,700 with effect from 6 April 2014.

Vans

For 2014/15 the private use of a company van will result in a benefit assessable on the employee of £3,090, an increase on the current benefit of £3,000. The charge will not apply to vans which cannot emit CO_2 or if a restricted private use condition is met throughout the year. If fuel for private purposes is also provided, a benefit of £581 will be assessable on the employee.

Exemption threshold for employment-related loans

Where an employer provides an employee with a cheap or interest free loan they have to report notional interest on the loan at 4% per annum on the form P11D. Where the balance of the loan is no more than £5,000 throughout the tax year no benefit is reportable.

The exemption applies if the total balance, at any point in the tax year, does not exceed the limit of £5,000 and includes the total of low cost or interest free loans, or notional loans arising from the provision of employment-related securities.

From 6 April 2014 where the total outstanding balances on all such loans do not exceed £10,000 at any time in the tax year, there will not be a tax charge and employers will no longer be required to report the benefit to HMRC.

Comment

This change reflects the increase in the cost of commuting for an employee and allows the employer to provide finance for the purchase of season tickets for rail fares.

National Insurance - £2,000 employment allowance

The Government will introduce an allowance of up to £2,000 per year for many employers to be offset against their employer Class 1 National Insurance Contributions (NIC) liability from April 2014. The legislation is contained in the National Insurance Contributions Bill 2013.

There will be some exceptions for employer Class 1 liabilities including liabilities arising from:

- a person who is employed (wholly or partly) for purposes connected with the employer's personal, family or household affairs
- employer contributions deemed to arise under IR35 for personal service companies.

There are also rules to limit the employment allowance to a total of £2,000 where there are 'connected' employers. For example, two companies are connected with each other if one company controls the other company.

The allowance is limited to the employer Class 1 NIC liability if that is less than £2,000.

It is expected that the allowance will be claimed as part of the normal payroll process. Employer's payment of PAYE and NIC will be reduced each month to the extent it includes an employer Class 1 NIC liability until the £2,000 limit has been reached.

Employer NIC for the under 21s

From April 2015 the Government will abolish employer NIC for those under the age of 21. This exemption will not apply to those earning more than the Upper Earnings Limit, which is £42,285 per annum for 2015/16. Employer NIC will be liable as normal beyond this limit.

Tax exemption for employer funded occupational health treatments

As announced at Budget 2013 the Government will introduce a tax exemption for amounts up to £500 paid by employers for medical treatment for employees. Following consultation the Government will extend the exemption to medical treatments recommended by employer arranged occupational health services in addition to those recommended by the new Health and Work Service.

Employee ownership

Following a consultation the Government will introduce three new tax reliefs to encourage and promote indirect employee ownership. The reliefs are as follows:

- From April 2014 disposals of shares that result in a controlling interest in a company being held by an employee ownership trust will be relieved from CGT.
- Transfers of shares and other assets to employee ownership trusts will also be exempt from inheritance tax providing certain conditions are met.
- From October 2014 bonus payments made to employees of indirectly employee owned companies which are controlled by an employee ownership trust will be exempt from income tax up to a cap of £3,600 per annum.

Share Incentive Plans (SIP)

From 2014/15 the individual limits on the 'free' shares companies can award to employees will be increased from £3,000 to £3,600 per year. The individual limit on the 'partnership' shares employees can purchase will be increased from £1,500 to £1,800 per year.

Save as You Earn (SAYE)

The amount that an employee can save and apply towards the purchase of shares for 2014/15 will be increased from £250 to £500 per month.

Real Time Information (RTI) late filing and late payment penalties

RTI requires employers operating PAYE to report information on employees' pay and deductions in 'real time' to HMRC.

Under RTI employers are obliged to tell HMRC about payments they make to their employees, on or before the date payments are made. Employers continue to pay over to HMRC the sums deducted from their employees under the PAYE system either monthly or quarterly.

HMRC have introduced a new penalty regime for RTI to encourage compliance with the information and payment obligations. The penalty regime will apply from 6 April 2014.

In essence late filing penalties will apply to each PAYE scheme, with the size of the penalty based on the number of employees in the scheme. Monthly penalties of between £100 and £400 will apply to micro, small, medium and large employers.

Each scheme will be subject to only one late filing penalty each month regardless of the number of returns due in the month. There will be one unpenalised default each year with all subsequent defaults attracting a penalty. Penalties will be charged quarterly and subject to the usual reasonable excuse and appeal provisions.

A new employer will not receive a late filing default provided the first RTI return is filed within 30 days of making the first payment to an employee.

HMRC have the option of charging further tax geared 'extended failure' penalties where a return is more than three months late. The penalty will be 5% of the amount due on the late return.

Changes will be made to the late payment penalty regime, which is based on the number of late payments relating to each tax year. Where an employer pays over a sum that is within £100 of the total shown as due to HMRC from the RTI returns filed for the tax period, no late payment penalty will arise.

HMRC will send a late payment penalty notice quarterly in July, October, January and April, if necessary.

Capital Taxes

CGT rates

The current rates of CGT are 18% to the extent that any income tax basic rate band is available and 28% thereafter. The rate for disposals qualifying for Entrepreneurs' Relief is 10% with a lifetime limit of £10 million for each individual.

CGT annual exemption

The CGT annual exemption is £10,900 for 2013/14 and will be increased to £11,000 for 2014/15. The exemption for most trustees will be £5,000 and £5,500 respectively.

CGT - Private Residence Relief

A gain arising on a property which has been an individual's private residence throughout their period of ownership is exempt from CGT. There are deemed period of occupation rules which may help to provide an exemption from CGT even if the individual was not living in the property at the time. This may mean the individual is accruing private residence relief on another property at the same time.

The final period exemption applies to a property that has been an individual's private residence at some time even though they may not be living in the property at the time of disposal. From 6 April 2014 the final period exemption will be reduced from 36 months to 18 months.

CGT - non-residents and UK residential property

From April 2015 a CGT charge will be introduced on future gains made by non-residents disposing of UK residential property. A consultation on how best to introduce this will be published in early 2014.

IHT nil rate band

The IHT nil rate band remains frozen at £325,000 until 5 April 2018.

Changes to the trust IHT regime

Certain trusts, known as 'relevant property trusts', provide a mechanism to allow assets to be held outside of an individual's estate for the purpose of calculating a 40% IHT liability on the death of an individual. The downside is that there are three potential points of IHT charge on relevant property trusts:

- a transfer of assets into the trust is a chargeable transfer in both lifetime and on death
- a charge has to be calculated on the value of the assets in the trust on each ten-year anniversary of the creation of the trust
- an exit charge arises when assets are effectively transferred out of the trust.

The calculation of the latter two charges is currently a complex process which can take a significant amount of time to compute for very little tax yield. HMRC therefore wants to simplify the process and will consult on proposals to take effect in 2015.

Two changes will however be introduced in Finance Bill 2014:

- simplification of filing and payment dates for IHT relevant property trust charges
- income arising in such trusts which remains undistributed for more than 5 years will be treated as part of the trust capital when calculating the ten-year anniversary charge.

Comment

Part of the price of the tax simplification proposals will be that some planning techniques where an individual creates more than one relevant property trust will no longer work. For example, a nil rate band that may be currently available for each trust may, in future, need to be split between the trusts resulting in higher IHT charges.

Vulnerable Beneficiary Trusts

The Government will extend from 5 December 2013 the CGT 'uplift' provisions that apply on the death of a vulnerable beneficiary. It will also extend from 2014/15 the range of trusts that qualify for special income tax, CGT and IHT treatment.

The Government will consult further on ways to reform the tax treatment of trusts established to safeguard property for the benefit of vulnerable people.

Non-Tax Measures for SMES

Business rates

A package to help all businesses in England with the cost of business rates, with particular support for the smallest businesses has been announced. The following measures are introduced from 1 April 2014:

- businesses with retail and food and drink premises with a rateable value of up to £50,000 will receive a discount of £1,000 on their business rates for a period of two years (subject to state aid limits)
- the RPI rate increase will be capped at 2% for one year
- a 'reoccupation relief' will be introduced which will provide a 50% business rates discount for 18 months where businesses move into retail premises that have been empty for more than 12 months. Businesses which move into empty premises between 1 April 2014 and 31 March 2016 will be eligible for the relief (subject to state aid limits)
- businesses will be allowed to pay their rates in 12 monthly instalments, rather than 10
- the doubling of the Small Business Rate Relief (SBRR) will be extended for a further 12 months to April 2015
- the SBRR criteria will be amended to allow businesses in receipt of SBRR to keep it for one year when they take on an additional property that would currently cause them to lose SBRR.

Comment

The doubling of the SBBR will mean that around 360,000 of the smallest businesses will continue to receive 100% relief from business rates until April 2015, with around a further 180,000 benefiting from tapering relief.

Retail Export Scheme

HMRC has consulted on options for making the Retail Export Scheme easier to use and will publish a formal Summary of Responses before the end of 2013.

Fuel duty

The planned increase in fuel duty set to take place in September 2014 has been cancelled. The Government will instead freeze fuel duty for the remainder of this parliament. This equates to a saving of £680 for a typical motorist, £1,300 for a small business with a van, and £21,000 for a haulier by 2015/16.