Tax
UK Autumn Statement 2016

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This was Chancellor Phillip Hammond's first (and last) Autumn Statement. From Autumn 2017, there will be an Autumn Budget for the coming year, which will enable greater scrutiny of complex tax provisions, followed by a Spring Statement in response to the OBR's Spring Forecast. It contained few surprises from a tax perspective. The focus was on ensuring certainty of the tax system together with spending announcements intended to increase productivity and growth (particularly in the areas of infrastructure, housing and research and development) to help the economy tackle the potential challenges of Brexit.

The Chancellor's overriding message was that, despite the uncertainties created by Brexit, Britain remains "open for business". In order to provide much-needed certainty for business, the Chancellor repeated the government's commitment to the Business Tax Roadmap, with a reduction in corporation tax rates to 17% by 2020 - intended to be the lowest rate in the G20. However, as expected, the price to be paid for such a low corporate tax regime is a reduction in tax deductions for interest and restrictions on use of tax losses and the government's expectation that taxpayers will pay the "tax they owe".

Below is a high-level summary of some of the key takeaways that will be of interest to businesses and high net-worth individuals.

Key Measures

1. Changes to the Budget timetable

The Chancellor announced that the government will move to a "single major fiscal event" each year in order to improve certainty and simplicity within the UK tax system.

Following the Spring Budget 2017 and Finance Bill 2017, Budgets will now be delivered in the Autumn, with the first such Budget occurring in Autumn 2017. The Office for Budget Responsibility will now produce a Spring forecast from Spring 2018 and the government will make a Spring Statement responding to that Spring forecast. The government will retain the option to make changes to fiscal policy at the Spring Statement (however the Chancellor indicated that changes are likely to be minimal).

The move should help resolve some of the uncertainty caused by the frequency of changing legislation for UK taxpayers and should improve external and Parliamentary scrutiny of proposed tax measures.

2. Limitation of tax deductibility of corporate interest expense

The government reaffirmed that it will introduce rules that limit the tax deductions that large groups can claim for their UK interest expenses. It was hoped that more time would be given to assess the detail and unintended consequences and only implement such rules when the rest of the G20 introduced their own versions. These rules will limit deductions, broadly, where:

- a group has net interest expenses of more than £2 million in the UK;
- net interest expenses in the UK exceed 30% of UK taxable earnings; and
- the group's net interest to earnings ratio in the UK exceeds that of the worldwide group.

The government will widen the provisions proposed to protect investment in public benefit infrastructure. Banking and insurance groups will be subject to the rules in a similar manner as groups in other industry sectors. The new rules will apply with effect from 1 April 2017.

3. Reform of loss relief

The government reaffirmed that it will legislate for reforms announced at Budget 2016 that will restrict the amount of profit that can be offset by carried-forward losses to 50% from 1 April 2017, while allowing greater flexibility over the types of profit that can be relieved by losses incurred after that date. The amount of profit that banks can offset with losses incurred prior to April 2015 will continue to be restricted to 25% in recognition of the exceptional nature and scale of losses in that sector.

4. Substantial Shareholding Exemption (SSE) reform

The government affirmed that it will make changes to simplify the existing SSE rules. These changes are expected to include the removal of the trading requirements in relation to the investing company/investing group and the addition of a more comprehensive exemption for companies owned by qualifying institutional investors. These changes are expected to take effect from April 2017.

5. Bringing non-resident companies' UK income into the corporation tax regime

The government is to consult on whether or not to bring all non-resident companies receiving taxable income from the UK within the scope of the corporation tax regime. The government's aim appears to be ensuring that all non-UK resident companies receiving taxable income from the UK are subject to the rules which apply generally for the purposes of corporation tax, including the limitation of corporate interest expense deductibility and loss relief rules. This could well be a major change for offshore investors in UK infrastructure and real estate assets.

6. Changes for non-domiciled individuals

As had previously been announced, certain tax benefits currently afforded to individuals who are not domiciled in the UK will be removed with effect from 6 April 2017:

- The government will bring to an end permanent non-domiciled tax status. From 6 April 2017, non-domiciled individuals will be deemed UK-domiciled for tax purposes if they have been UK resident for 15 of the past 20 years, or if they were born in the UK with a UK domicile of origin.
- From 6 April 2017, inheritance tax will be charged on UK residential property when it is held indirectly by a non-domiciled individual through an offshore structure, such as a company or a trust. This closes a planning opportunity that has previously enabled non-domiciled individuals to keep their UK residential property outside the scope of UK inheritance tax.
- In a welcome change which should encourage investment in UK businesses, the government announced it will change the rules for the Business Investment Relief scheme from April 2017 to make it easier for non-domiciled individuals who are taxed on the remittance basis to bring money into the UK for the purpose of investing in UK businesses.

The Autumn Statement provided no further information on the final form of the new rules, but does confirm that they will apply from 6 April 2017. The final details are expected to be confirmed in the draft Finance Bill 2017 to be published on 5 December 2016.

7. Deterring enabling of tax avoidance

The government will introduce a new penalty regime aimed at persons who "enable" another person or business to use a tax avoidance arrangement that is later defeated by HMRC. Details will be published in draft legislation shortly. It was announced that the government will also remove the defence of having relied on non-independent advice as taking "reasonable care" when considering penalties for using such arrangements.

8. Abolition of employee shareholder status

The tax advantages linked to shares awarded under employee shareholder status will be abolished for arrangements entered into on, or after, 1 December 2016. This is perhaps an unsurprising response given (i) the perception that the status is primarily used for tax planning instead of its stated aim of supporting a more flexible workforce and (ii) the government had already withdrawn much of the favourable tax treatment of these arrangements.

9. Restrictions on salary sacrifice

In a change that is likely to have implications for millions of employees, following consultation, the income tax and employer National Insurance contribution advantages of salary sacrifice schemes will be removed from April 2017. As a result, employees sacrificing salary for benefits will pay the same amount of tax as those who buy them out of their post-tax income. However, the principal benefit of salary sacrifice is its use for pension contributions and this remains unaffected because pensions are excepted from the changes along with childcare, Cycle to Work and ultra-low emission cars. Arrangements in place before April 2017 will be protected until April 2018, and arrangements for cars, accommodation and school fees will be protected until April 2021.

10. Insurance Premium Tax (IPT)

In an unexpected move, the standard rate of IPT will increase from 10% to 12% from 1 June 2017. It will be up to insurers at to whether and how to pass this additional cost to customers.

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