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cutting through complexity

Autumn Statement 2014

What it means for you

KPMG commentary

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Our view

This Autumn Statement is the last major economic event of the Government before the General Election next year – so what does its content tell us from a tax perspective?

Major policy announcements – including on the NHS and roads – had been made in the days running up to the Autumn Statement.

The Autumn Statement has a clear focus on science and innovation with increases in R&D tax relief for both SMEs and large companies. There will be a consultation in early 2015 on the difficulties that smaller companies face when claiming R&D tax credits.

Companies will have the employers' NIC abolished up to the upper earnings limit for apprentices aged under 25 from April 2016. Together with the increase in personal allowances and the higher rate threshold this will help individuals in work.

Improving and helping savings is another key area of the Autumn Statement. The changes to the taxation of pensions, and in particular the abolition of tax on pension pots inherited on the death of an individual under 75 means that pensions plans become a good vehicle to pass wealth down the generations. In addition, ISAs will be able to be passed to a spouse or civil partner on death, with the spouse/civil partner retaining the tax exempt status of the ISA investments. The result of these changes is that ISAs may become a genuine and real alternative to saving through a pension scheme. In particular after people turn 75, ISAs become significantly more attractive which might lead to people deliberately channelling their savings away from pensions and into ISAs.

Other tax relieving measures include reforms to the oil and gas regime to help investment and production. Details are to be announced today (4 December). There is also an abolition of Air Passenger Duty from next May for children under 12, and for under 16s in 2016.

Because the Autumn Statement was announced as tightening the overall Government finances, this means that any tax giveaways are more than offset by additional tax raising measures. The Government will consult on further measures aimed at reducing avoidance schemes, including new penalties on arrangements caught by the general anti-abuse rule and imposing additional financial costs, compliance and reporting requirements on repeat users of known avoidance schemes.

Particularly hit this year is the City, with restrictions on the use of banking losses incurred in the financial crisis. This is likely to increase significantly the level of corporation tax paid by banks in the future. This is the measure which is likely to raise the most tax for the Government out of all the changes announced in the Autumn Statement. Also hit are private equity investment managers with a measure to ensure that annual management fees are charged to income tax.

Another group of people which are targeted are foreign individuals and their investments. The charge for non-domiciled individuals to use the remittance basis of taxation is increased for long term residents. In addition, their investments in residential property will be taxed more heavily, with increases in the annual charge on residential property worth more than £2 million held by corporates and the introduction of a new capital gains tax on non-residents holding residential property. In addition the substantial changes to residential Stamp Duty Land Tax (SDLT), removing the slab basis of taxation, will cause higher tax to be paid on acquisitions of property worth broadly more than £1 million. However the SDLT changes will reduce the tax on 98% of homes purchased.

Another area of new anti-avoidance measures is focussed on multinationals with a new 25% tax charge on profits artificially diverted offshore. There is currently little information on how this will be implemented but as the rate is higher than the current 21% corporation tax rate it will significantly impede tax planning of this type. However there are likely to be concerns around where the red lines are drawn and whether commercial structures could be caught. Country by country reporting of tax matters is due to be brought in with effect from 1

January 2016 and new rules on hybrid structures from 1 January 2017.

What we did not see announced in the speech was a review of Real Time Information (RTI). The introduction of real time reporting of PAYE, as well as supporting the operation of the universal credit, was intended to improve the operation of PAYE and to reduce the administration for employers, employees, agents and HM Revenue & Customs (HMRC). The implementation cost for business is far in excess of HMRC's estimates and HMRC has not amended its processes to maximise the benefits of this new system. A review has now been announced in an exchange of letters between the Office of Tax Simplification and the Financial Secretary, David Gauke MP. In view of the ongoing difficulties with processing and meeting the 'on or before' requirement, this would seem an ideal opportunity to resolve these issues. We await further details but are hopeful this can improve the process for employers, employees, agents and HMRC.

Also, whilst we know that the Government has 'accepted and will further consider' 51 (out of 58) of the recommendations in the Office of Tax Simplification's report on the competitiveness of the UK tax administration, it is disappointing not to have more detail. More information will be made available 'in due course': we may know next week whether this includes any measures for Finance Bill 2015.

In summary there were (small) tax give-aways for most individual taxpayers, families flying to overseas holidays and most home movers. SMEs have also been a beneficiary with changes to business rates, increased R&D tax credits and additional help with exports. Tax rises have been focused on the city, foreigners and multinational companies. An Autumn Statement focusing on fairness and rebalancing the economy? Or perhaps one with a view to the forthcoming general election.

An overview of the key tax and pensions announcements can be found in the remainder of this commentary, with more detail on specific areas available on our dedicated web page and in this week's edition of *Weekly Tax Matters*.

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Measures anticipated ahead of the general election

Diverted profits tax

The Government's Autumn Statement policy costings document announces the introduction of, 'a new tax to counter the use of tax planning techniques used by multinational enterprises to artificially divert profits from the UK to low tax jurisdictions. It will apply to business activities between connected entities that are set up in order to achieve an unfair tax advantage. The diverted profits tax will be applied using a rate of 25% from 1 April 2015.'

No details have been published yet but we may see legislation next week when the draft clauses for Finance Bill 2015 are published.

Specific reference is made to the situation where, 'a company conducts a lot of activity in the UK – sales, for example – but can avoid paying corporation tax by moving profits generated in the UK to other countries through the manipulation of the international tax rules...'

This measure is clearly intended to enable HMRC to challenge arrangements which are compliant with current transfer pricing rules but result in low UK taxable profits. It appears that any amount perceived to have been diverted artificially will be deemed to be a profit which is taxable in the UK at the new 25% rate. Taxing a deemed profit rather than adjusting the profits of an existing UK taxpayer may enable HMRC to defend the tax charge from the argument that the profits are only taxable elsewhere under a double tax treaty.

Groups may already be considering amending their international operations to take account of the proposed changes as part of the OECD's Base Erosion and Profit Shifting ('BEPS') project, and the effect of this new tax may simply be to accelerate such actions.

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SDLT reform – new marginal rate system for residential property transactions

The current 'slab system' of Stamp Duty Land Tax (SDLT), where tax is paid at a single rate on the whole value of the property, is being abolished and replaced with a marginal rate system where each rate will apply on the portion of the purchase price falling within each band. The new system will not apply to commercial property.

The new SDLT rates are:

£0 - £125,000	0%
£125,001 - £250,000	2%
£250,001 - £925,000	5%
£925,001 - £1,500,000	10%
Over £1,500,000	12%

The new system will apply to sales completed from 4 December 2014 onwards. Those who have exchanged contracts before 4 December 2014 but who complete on or after that date can choose whether to pay SDLT under the new or old rules.

The reformed system will apply in Scotland until 1 April 2015, when it will be replaced by the devolved Land and Buildings Transaction Tax.

According to Government calculations, 98% of buyers will be better off under the new system and those buying dwellings under £937,500 will pay the same amount of tax or be better off. But those savings will be paid for by property purchases over this amount – exponentially so for those significantly over this amount.

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Bank loss relief restriction

The restriction will apply to carried-forward:

- Trading losses;
- Non-trading loan relationship deficits;
- Management expenses.

It will take effect from 1 April 2015 and will only apply to reliefs accruing prior to this date.

The total losses available to the banks should not change as a result of this measure; the effect is simply to accelerate the point at which affected banks need to make cash tax payments. The increase in the period over which historic losses

will be used may also impact the ability of banks to fully recognise a deferred tax asset in respect of these in their financial statements.

An exemption for any losses sustained during the first five years of carrying on a banking business is intended to protect the 'challenger' banks from the impact of this change.

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Increase in personal allowance and higher rate threshold

The Personal Allowance (PA) will increase to £10,600 (from £10,000) from April 2015. It had previously been announced that the PA would increase to £10,500.

Higher rate (40%) taxpayers will be able to benefit from the increase in the PA, in contrast to recent past Finance Acts, with the threshold at which higher rate tax is paid increasing to £42,385.

This increase will save a typical basic rate taxpayer £120 and a typical higher rate taxpayer £172 (based on a comparison with 2014/15 thresholds).

In his speech the Chancellor confirmed his commitment to raise the higher rate threshold to £50,000 by the end of this decade.

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Capital Gains Tax for Non-residents disposing of UK residential property – overview

Whilst it was not specifically mentioned in the Autumn Statement, HM Treasury last week published their response to a consultation on the proposed extension of the Capital Gains Tax (CGT) charge to taxpayers who are not tax resident in the UK (non residents) and who are disposing of UK residential property. The response has confirmed that the new regime will come into force as planned from April 2015 onwards.

Generally, therefore, non-resident owners of UK residential property (including certain companies and, very rarely, funds, on which see more below) will be subject to tax post 5 April 2015 on capital gains accruing after that date (i.e. a form of rebasing will apply). Non-residents holding commercial property are unaffected. The response document also confirms some changes to private residence relief (PRR), which are discussed in more detail below.

The headline rate of tax to be imposed on post April 2015 capital gains will be:

- Non-UK resident companies 20% (unless already within the scope of ATED CGT, when that charge (at 28%) will continue to apply);
- Non-UK resident trustees 28%;
- Non-UK resident individuals 18% or 28% depending on the level of UK source income/gains.

More detail on how the changes will work in practice, including the mechanics of the 'rebasing', will be known when draft legislation is published next week, and we will look in more detail at this in our commentary on the draft clauses.

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CGT for Non-residents – companies, funds and communal dwellings

Non-resident companies may fall within the charge outlined above, but will only do so if they meet a 'narrowly controlled company' test broadly similar to the existing close company test (i.e. owned by five or fewer participators). Collective investment schemes will not be subject to the charge providing they meet a Genuine Diversity of Ownership test for at least five years or the duration of asset ownership. Institutional investors should, therefore, be largely unaffected by the changes but will

need to undertake close analysis of what is likely to be a complex test.

Investors falling within the charge will need to consider whether the property they hold is counted as residential property for these purposes. Most types of communal property will be excluded from the charge, and (following particular concerns raised during the consultation) the response document states that this will include 'purpose built student accommodation' that is either:

- A building built or converted for use by students with at least 15 bedrooms (in either a hall or 'cluster flat' format) occupied at least 50% of the year by students; or
- Certain accommodation managed by a higher or further education establishment.

The charge will apply on land on which residential accommodation is due to be built but only once construction has started, however, disposals 'off plan' will be counted as residential. In practice this means that certain gains may need to be apportioned for periods of residential and non-residential use.

A more detailed look at the implications for companies and funds will be included in this week's *Weekly Tax Matters*.

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CGT for Non-residents – Private Residence Relief

The CGT for non-residents response document also includes confirmation of changes to Private Residence Relief (PRR) that affect both UK and non-UK resident taxpayers.

The Government has confirmed that, provided the conditions are met, taxpayers with more than one residence will continue to be able to elect to choose which residence is their main residence for PRR. However, a new rule is being introduced, also from April 2015, for situations where the property is located in a different country to that in which the taxpayer is tax resident.

The new rule will restrict the availability of PRR for both non-UK residents with property in the UK and UK residents with property located in another country. A residence will only be eligible for PRR if the individual has resided in that property (or across all properties that the individual has in a country in which they are non-resident) for at least 90 midnights in that tax year.

It appears that non-residents will continue to be able to benefit from periods of deemed occupation provided they satisfy the necessary conditions and the 90 midnight rule. For those working abroad it may be that the 90 days will be viewed as a minimum period of re-occupation.

We may know more once the draft Finance Bill 2015 and further guidance is published.

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ATED – 50% increase in annual charges

The Annual Tax on Enveloped Dwellings (ATED) applying to companies and other corporate vehicles owning residential properties with a value in excess of £2 million is to be increased by just over 50%.

Rates

Property value	Annual charge 14/15	Annual charge 15/16
Over £2 million up to £5 million	£15,400	£23,350
Over £5 million up to £10 million	£35,900	£54,450
Over £10 million up to £20 million	£71,850	£109,050
Over £20 million	£143,750	£218,200

Changes are also to be made to the ATED filing obligations and the information required to claim ATED reliefs.

ATED was introduced to encourage de-enveloping (moving property out of a corporate wrapper into personal ownership by an individual), but instead raised five times the amount forecast. The increase announced today may well be driven by the failure to drive the expected amount of de-enveloping so far, coupled with other changes which may

otherwise actually encourage enveloping once more going forward; specifically the proposed extension of CGT to include certain de-enveloped property previously not taxable, and the exponential increases to SDLT for de-enveloped high value properties.

Legislation for the measures is expected in the draft clauses for Finance Bill 2015 to be published next week.

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Changes to R&D tax relief

The Government has announced a number of changes to the Research and Development (R&D) tax regime. From April 2015, the relief available to Small and Medium Sized Enterprises (SMEs) will increase from 225% to 230% of qualifying expenditure. At the same time the rate of the R&D Expenditure Credit (RDEC) for large companies will increase from 10% to 11%.

For SMEs, the increased rate coupled with the payable credit of 14.5% will mean that companies can receive over £33 of cash from HMRC for every £100 of qualifying spend. The increased rate of the RDEC will increase the benefit for large companies from 8% to 8.8%.

This extra support is great news for the UK's innovative businesses. The increase in the rate of the RDEC will provide further encouragement for global businesses to locate R&D activities in the UK.

A further change will restrict the scope of expenditure which qualifies for R&D relief. From 1 April 2015, the costs of any consumable items (such as materials) which are included in products that are sold will not qualify for relief. More details will be known once the draft legislation is published on 10 December 2014 and we would encourage companies to consider their impact and to respond to the Government consultation.

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Office of Tax Simplification: review of expenses

Over the summer there has been a wide range of consultations on issues that affect employers and their employees. The Government has decide to press ahead with a number of reforms as outlined below.

A statutory exemption for trivial benefits in kind costing less than £50 will be introduced from April 2015, following a recommendation from the Office of Tax Simplification.

From April 2016, the £8,500 threshold for certain benefits in kind will be abolished. Cars; vans; fuel benefit; beneficial loans etc. will now become taxable where the employee is earning at a rate of less than £8,500, unless the employee qualifies for a new exemption covering carers and for Ministers of Religion.

In addition, from April 2016 a general exemption will be introduced for qualifying expenses, removing the need for employers to report these expenses or apply for a dispensation. The exemption will not be available where expenses are provided under a salary sacrifice arrangement.

A statutory framework for the voluntary payrolling of benefits in kind will be introduced from April 2016. Such benefits will, as now, be reportable under RTI. We await further details of exactly what information will be required.

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Salary sacrifice and expenses, including umbrella companies and employment intermediaries

The Government is continuing to clamp down on tax avoidance and intends to introduce measures to stop tax relief on reimbursed expenses where the expenses are paid as part of a salary sacrifice scheme.

A review of umbrella companies and other employment intermediaries

will also be undertaken with the aim of preventing workers from obtaining tax relief for home to work travel where it is not generally available to other employees. A discussion paper on this will be issued shortly with the intention that action will be taken at Budget 2015.

In addition the Government is also correcting the penalty legislation in respect of the late filing or non-submission of quarterly returns from employment intermediaries. This legislation will apply from April 2015.

More information on the Autumn Statement measures which affect employers can be found on KPMG in the UK's Employers' Club site (registration required).

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Remittance basis charge

UK resident non-domiciled individuals can elect to pay tax on income and gains remitted to the UK, rather than being taxed on an arising basis.

The Government has announced plans to increase the annual remittance basis charge (RBC) for those who elect to use the remittance basis.

The annual charge currently paid by people who have been UK resident for seven out of the last nine years will remain at £30,000. However, for those who have been UK resident for twelve of the last fourteen years, the charge will increase from £50,000 to £60,000. In addition, a new charge of £90,000 will be introduced for people who have been UK resident for seventeen of the last twenty years. The measure will be included in Finance Bill 2015 and is expected to take effect from April 2015.

The Government also plans to consult on making the remittance basis election apply for a minimum of three years.

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Goodwill – denial of Entrepreneurs' Relief and Restriction of Corporate Tax Relief

Entrepreneurs' relief will no longer be available in respect of any reputation and customer relationships (goodwill) on transfers of businesses (for example, on incorporation) to a close company of which the individual is a related party. This applies to consideration received in the form of cash or debt for disposals on or after 3 December 2014.

A related party broadly means anyone with a share or interest in the capital or income of the close company or their spouse/civil partner, parent/child or remoter, brother/sister or partner.

In addition, the close company will not be able to claim relief under the intangible assets regime on the goodwill and other associated intellectual property acquired on the transfer.

This has been introduced to remove a perceived advantage allowing the proprietor of a business to extract funds on such sales at the 10% CGT rate whilst obtaining a corporation tax deduction rather than suffering normal rates of income tax and NIC on business profits.

It has no impact on other capital gains tax reliefs available on incorporation.

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Entrepreneurs' Relief – deferred gains

Gains which qualify for entrepreneurs' relief (ER) from capital gains tax, but which are deferred into investments which qualify for the Enterprise Investment Scheme (EIS) or Social Investment Tax Relief (SITR), will remain eligible for ER as and when the gain is ultimately realised. This will be of benefit for gains deferred into EIS or SITR on or after 3 December 2014 that would be eligible for ER but which previously might not have qualified for ER at the future point in time when the gain is ultimately realised, for example when the EIS/SITR shares are sold.

Draft legislation is expected in the draft Finance Bill 2015.

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Northern Ireland Corporation Tax rate

The Government has announced that it will bring forward legislation to devolve the necessary powers to enable the Northern Ireland Assembly to vary the rate of corporation tax in Northern Ireland 'provided that the Northern Ireland Executive is able to manage the financial implications'. Legislation will be introduced in this Parliament so long as there is satisfactory progress on the budget discussions currently taking place in Northern Ireland. In order to comply with EU state aid legislation, it will then be up to the Northern Ireland Assembly to decide by how much to vary the rate of corporation tax in respect of corporations which carry on activities in Northern Ireland.

Whilst specific details of the legislation have yet to be announced, it is anticipated that the new rate will be available to SMEs only if the majority of their activities are carried out within Northern Ireland and will be available to large corporate groups in respect of the profits generated from their activities located in Northern Ireland.

It is anticipated that the Northern Ireland Assembly will set a rate similar to the 12.5% corporation tax rate currently applicable in the Republic of Ireland.

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Oil and gas regime

Following the consultation through the summer with the oil and gas industry the Government has announced the following immediate measures:

- A reduction in the rate of the Supplementary Charge by 2% (from 32% to 30%) with effect from 1 January 2015. This reduces the rate payable by most oil and gas companies from 62% to 60%;
- An extension to the number of periods in which the Ring Fence Expenditure Supplement can be claimed from six to ten years which increases the value of losses arising on offshore oil and gas activities;
- The introduction of a new cluster area allowance to support investment in the development of challenging ultra high pressure high temperature projects in the North Sea.

On 4 December 2014, further potential changes to the regime are to be revealed. This may include further information on how the Government will implement its intention to 'reduce the rate further, in an affordable way.'

Further information on both the measures announced in the Autumnn Statement and these further changes will be available on our Autumn Statement web page.

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Investment managers: disguised fee income

The Chancellor has announced that legislation will be introduced to ensure that management fees received by investment managers are charged to tax as income. This appears to be a tax measure aimed specifically at certain private equity (and similar) structures. The draft legislation is expected to be published as part of the draft Finance Bill clauses on 10 December 2014. It is not yet known how the legislation will impact, and how certain complex tax issues potentially arising from such a change will be dealt with. However, importantly, the measure is not intended to change the tax treatment of carried interest or co-invest arrangements.

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Death benefits in Defined Contribution pension schemes

Under defined contribution (DC) pension schemes, beneficiaries of individuals who die before age 75 with a joint life or guaranteed term

annuity will be able to receive future payments from the policy tax free. Joint life annuities will also be capable of being passed on to any beneficiary (not just financial dependants, as at present).

The new rules will apply where the first payment to the beneficiary under the policy is made after 5 April 2015.

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ISAs – transfer to spouses on death

Currently, Individual Savings Accounts (ISAs) lose their income tax-free and capital gains tax-free status upon the death of the holder and any ISA allowance for the surviving spouse is limited to their own ISA subscription limit for the year (currently £15,000 a year; set to increase to £15,240 on 6 April 2015). The result is that following the death of the first spouse, the above tax–free advantage of the full value of the deceased's ISAs is lost to the surviving spouse.

From April 2015, when an ISA saver dies, their spouse or civil partner will be entitled to an additional ISA allowance equal to the value of the ISA holdings of the deceased at the date of their death.

This measure will apply to deaths on or after 3 December 2014.

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Stamp Duty on company takeovers

The ability of a company to reduce its share capital in takeovers using schemes of arrangement (where a company's shares are cancelled and new shares are issued to the new shareholders) is to be removed. This is to align the stamp duty position on takeovers using those arrangements (where there is no stamp duty) with the position on takeovers using an ordinary share purchase (where stamp duty is chargeable at 0.5%).

Schemes of arrangement involve getting a court sanction but in the case of a private company a similar transaction can be effected by special resolution, supported by a solvency statement. It is likely that reductions in share capital in both cases will be affected.

The changes to the Companies Act will be effected by regulation by early 2015 and should not have retrospective effect.

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SDLT changes – multiple dwellings relief extended to shared-ownership properties

Partial SDLT relief is currently available for purchases of multiple dwellings. The relief sets the tax rate by reference to the average price per dwelling. A lease and leaseback transaction involving shared-ownership dwellings does not benefit from the relief because the property sold is subject to long leases.

To reflect the Government's commitment to promoting shared ownership as a route to home ownership, measures will be introduced which mean that where a qualifying body such as a housing association enters into a lease and leaseback transaction over a portfolio of let dwellings to raise finance the purchaser (commonly an institutional investor, like a pension fund) will benefit from the relief.

The change will take effect from Royal Assent to Finance Bill 2015.

Further information regarding the details of the extended relief will be published next week.

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SDLT reform – extension of alternative property finance reliefs

The definition of 'financial institution' for the purposes of the SDLT alternative property finance reliefs will be amended to include persons authorised to provide Home Purchase Plans.

The change will be included in the Finance Bill 2015 to be published next week and will take effect from Royal Assent.

The reliefs were introduced to avoid a double charge to SDLT for transactions structured to make use of alternative mortgage arrangements, typically Sharia'a-compliant finance products, but are only available to financial institutions such as banks and building societies. This extension will allow others authorised to provide Home Purchase Plans (such as property companies) to compete in this market.

Home Purchase Plans may appeal to those looking for an alternative method of financing home ownership that is debt free and reduces the risks associated with traditional high LTV mortgages.

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Preventing abuse of the late paid interest rules

Following a review of the legislation on corporate debt, the Government has announced the repeal of certain rules relating to late paid interest.

The late paid interest rules were originally introduced to counter avoidance regarding the timing of relief for interest and discount. However, this led to some companies using the rules to control the timing of deductions to avoid trapped losses arising.

The rules are being repealed where the loans are held by companies and there is a control relationship or for certain joint venture arrangements. However, the rules will continue to be relevant in other circumstances, e.g. where the loan is made to a close company by a participator.

The repeal of the rules will take effect for new loans entered into on or after 3 December 2014. Existing loans will be impacted for amounts accruing from 1 January 2016, unless material changes are made to the terms of the loan or there is a change in the person holding the debt before then, in which case the amendment will apply from the date of the changes.

The changes are likely to be relevant for groups which have structured intra-group loans to fall within the avoidance provisions to defer the timing of relief.

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Creative sector tax reliefs – Children's TV

The relief on animated television productions will be extended to cover expenditure on children's television production from April 2015. Eligible companies will be able to claim relief against their corporation tax liability, or claim a 25% payable tax credit. The implementation of this relief is subject to EU state aid clearance.

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Social Investment Tax Relief

Social Investment Tax Relief (SITR) was introduced in April 2014 to attract private investment in social enterprises.

The Government is to request EU approval to increase the amounts that can be invested in an individual organisation with an annual limit of £5 million being introduced and the overall amount that can be invested in an individual organisation increased to £15 million.

The changes will come into effect on or after 6 April 2015, subject to state aid clearance.

The Government will consult further on a new relief for indirect investment in social enterprises.

Qualifying trades will include certain small agricultural and horticultural

projects that will not be eligible for direct payment under the Common Agricultural Policy reforms.

The Government will make special purpose vehicles for subcontracted and spot-purchase social impact bonds (SIB) eligible for SITR through secondary legislation in autumn 2015.

In early 2015, the Government will consult on introducing a Social Venture Capital Trust.

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Venture Capital Schemes

Restrictions on use

All companies that substantially benefit from renewable energy subsidies will be excluded from participating in the Enterprise Investment Scheme (EIS), Seed Enterprise Investment Scheme (SEIS) and Venture Capital Trusts (VCTs) from 6 April 2015.

Community energy generation will be eligible for Social Investment Tax Relief (SITR) once the scheme has been expanded from 6 April 2015, subject to EU state aid approval. From this date it will also cease to be included in the EIS, SEIS and VCT schemes.

The crackdown on energy companies benefitting from EIS is a continuation of earlier announcements.

Online processes

To make the schemes easier to use, the Government will introduce online processes in 2016 for investors and companies qualifying for relief under the EIS, SEIS and VCT schemes. The VCT return format will also be modified.

The new online process should simplify the EIS process for both companies and investors and is a welcome development.

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Close company loans to participators

Following consultation the Government announced in December 2013 that there would be no broad reform of the rules charging tax on loans from close companies (those with five or fewer participators) to individuals, trusts or partnerships that have a share or interest in them. Since then, the Government has continued to engage with affected parties with a view to making more targeted changes to the regime.

The Government has now announced that no further changes will be made to the operation of the loans to participator rules.

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Inheritance Tax – periodic and exit charges for relevant property trusts

Following consultation the Government has confirmed that it will introduce changes to simplify the way in which Inheritance Tax (IHT) periodic and exit charges are calculated for relevant property trusts. The changes are expected to take effect from 6 April 2015.

In the past it has been possible to set up multiple trusts over time and in effect refresh the amount of nil-rate band available to the trusts, for example using 'pilot' trusts. The Government previously announced that it would address this by legislating that from 6 June 2014 only one nil-rate band will be available for property held in trusts created by the same settlor (a 'settlement nil-rate band' (SNRB)). The Government is not now going to proceed with this proposed counter-measure.

Instead the Government has advised that it will introduce new rules to target avoidance through the use of multiple trusts. Further details are expected in Finance Bill 2015.

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Inheritance Tax: exemption for military, emergency and aid personnel

An Inheritance Tax exemption is to be introduced for members of the armed forces whose death is caused or hastened by injury while on active service and to members of the emergency services and humanitarian aid workers responding to emergency circumstances. The Government has consulted on this new exemption which will apply for deaths on or after 19 March 2014. Further details will be included in Finance Bill 2015.

Air Passenger Duty: exempting children

Following a widespread campaign, the Chancellor has announced that Air Passenger Duty (APD) will be 'scrapped' for certain children on reduced rate flights. Currently all passengers have to pay APD with the only exemption children under 2 years of age not allocated a seat prior to boarding. This exemption will be extended to older children on flights subject to the reduced rate of APD (i.e. on the lowest class of seat, typically economy class). The extensions are:

- From date of travel of 1 May 2015 – to all children under 12
- From date of travel of 1 March 2016 – to all children under 16

This will mean that from May 2015 families will save £13 per child under 12 for Band A (0-2000 miles) flights and £71 for Band B (over 2000 miles).

The Autumn Statement notes this follows the Budget changes announced earlier this year and the effect of all these recent changes is that 99% of passengers will see a freeze or cut in APD in 2015-16. To ensure the consumers see this benefit, the Government will consult on an amendment to pricing regulations which would require airlines to separate out APD from their other fees and charges.

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VAT: support for search & rescue and hospices

According to the Autumn Statement this measure will refund to search and rescue charities, air ambulance charities and hospices the VAT incurred on the purchase of goods and services used for their non-business activities from 1 April 2015.

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Accelerated payments and group relief

The Government has announced it will introduce legislation to ensure that the accelerated payments legislation, which was introduced in Finance Act 2014, works effectively where avoidance arrangements give rise to losses which can be surrendered as group relief. This would mean that an accelerated payment notice could be issued to prevent a group company which was not taxpaying from surrendering losses created by avoidance arrangements to another group company to reduce that company's tax payments.

Accounting treatment of credit losses

The proposed introduction of IFRS 9 in 2018 requires use of a new impairment model, typically resulting in the earlier recognition of credit losses. Many financial institutions will be obliged to recognise significant 'catch up' losses on adopting the new standard. Under current rules tax relief for such losses would typically be spread over 10 years, but these spreading rules do not usually apply to debts falling due in the year the new standard is adopted for which full relief continues to be available. The announcement in the Autumn Statement appears to remove this exclusion for debts falling due in the transitional year, thereby also deferring tax relief for this element of the losses recognised on transition.

Restricting personal allowance for non-residents

The Chancellor announced that the Government has decided not to proceed immediately with the restriction of personal allowances

for non-residents. Instead they will continue to discuss the implementation of this change with stakeholders and will not proceed without further consultation. The Government has confirmed that no change will come into effect before April 2017.

It appears that the Government has listened to submissions from a number of representatives including KPMG which suggested that the original consultation underestimated the difficulties of implementing the changes and the extra administrative burden of the proposed changes impacting individuals coming to or leaving the UK and their employers, particularly concerning short term business visitors.

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Income tax: miscellaneous loss relief

In response to the Government seeing an increase recently in schemes that abuse the miscellaneous loss relief rules, a targeted anti-avoidance rule has been announced.

Losses arising from certain miscellaneous transactions can be offset against other miscellaneous income. These provisions include interest, income from intellectual property and offshore income gains on certain offshore funds.

Legislation will be included in Finance Bill 2015 to deny miscellaneous loss relief where either the loss or the miscellaneous income arises as a result of arrangements the main purpose, or one of the main purposes, of which is to obtain a reduction in tax liability. This will have effect in relation to losses and income arising on and after 3 December 2014.

In addition, from 6 April 2015, a miscellaneous loss will only be capable of being deducted against the same type of miscellaneous income rather than any category of miscellaneous income.

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Consortium relief

With effect from 10 December 2014, the Government will remove all requirements relating to the location of the "link company" for consortium claims to group relief.

Measures anticipated after the general election

Country-by-country reporting

Action 13 of the OECD Base Erosion and Profit Shifting (BEPS) Action Plan requires multi-national enterprises to provide relevant governments information on their global allocation of revenue, profits, income taxes, employee numbers and other measures of substance, according to a common template. This is commonly referred to as country-by country reporting. The OECD published a reporting template, with supporting guidance on 16 September 2014 and the Autumn Statement confirmed that the UK will be implementing the OECD's recommendations with effect from 1 January 2016.

No further details have been provided at this stage. Legislation is expected to be included in Finance Bill 2015 so it is likely that we will see the detail on 10 December 2014 when draft clauses for the Finance Bill are being published. The OECD will be announcing the sharing mechanism in early 2015, which will determine how other tax authorities will receive the information. The first in scope accounting period has not yet been determined. We expect that the UK (and other governments) will adopt the OECD template and guidance as it stands, with minimal additional guidance over and above this. Multinational groups that are not headquartered in the UK, but that do have subsidiaries here, will need to check whether they are in scope under the UK implementation.

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Hybrid mismatches

Action 2 of the OECD BEPS Action Plan proposes rules to neutralise the effect of hybrid mismatch arrangements. It addresses situations where either one party gets a tax deduction for a payment while the other party does not have a taxable receipt, or there is more than one tax deduction for the same expense. It also considers where double taxation treaties are used to create hybrid mismatches.

Recommendations were published in September as part of the BEPS 2014 deliverables and the Government has now published a consultation document which looks at the implementation of these recommendations in the UK. The UK's domestic legislation is likely to closely follow the OECD's proposals and will be introduced to apply to payments made on or after 1 January 2017. There are no proposals for transitional rules or grandfathering of existing structures.

The consultation seeks comments on specific areas of the proposals including those relating to hybrid regulatory capital, financial instruments used in sale and repurchase (repo) transactions and the treatment of certain arrangements involving intra-group hybrid and non-hybrid transactions (imported mismatches). Comments have been requested by 11 February 2015. The comments received during the consultation are intended to help inform the UK's contribution to the ongoing OECD work and, in particular, the commentary that is due to be completed by September 2015.

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Employer's National Insurance abolished for apprentices under 25

The Employer's National Insurance Contributions (NICs) liability on earnings up to the Upper Earnings Limit for apprentices aged under 25 will be abolished from 6 April 2016. We understand that apprentices will remain subject to Employee's NICs as before.

Whilst this measure is restricted only to apprentices, it builds on last year's announcement that Employer's NICs in respect of employees (including apprentices) under the age of 21 will no longer be due, with effect from 6 April 2015. Again the employee will remain subject to Employee's NICs.

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Peer-to-peer and crowdfunding platforms

The Government has announced several measures intended to

support peer-to-peer (P2P) and crowdfunding platforms by removing barriers to their growth. Of these, three have a tax focus. Firstly, a new relief is to be introduced (effective from April 2016) to allow individuals lending through P2P platforms to offset any losses from loans which go bad against other P2P income. Through Self-Assessment, individuals will be able to make a claim for relief on losses incurred from April 2015. Secondly, the Government is consulting on whether crowdfunded debt-based securities should be allowed into ISAs and how this could be implemented. Last but not least, the Government has announced a consultation on the introduction of a withholding regime for Income Tax to apply across all P2P lending platforms from April 2017.

Non-tax measures include a review of financial regulation which currently stands in the way of institutional lending through P2P platforms, and requirements for certain banks to open up access to their SME credit data and refer on any SMEs that they turn down for finance.

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HMRC enquiries: closure rules

The Government has announced it will consult on a proposal to introduce a new power, enabling HMRC to achieve early resolution and closure of one or more aspects of a tax enquiry whilst leaving other aspects open.

No further details are available at this stage however this has the potential to be a significant change to the enquiry process. It will address a frustration that can occur when HMRC is seeking resolution on a particular issue affecting an accounting period but is unable to issue a closure notice as there is another issue affecting the same period which may not be advanced enough for HMRC to include in the notice. Currently there can only be one closure notice per accounting period.

Taxpayers are likely to propose during the promised consultation that there should be equal treatment i.e. taxpayers should also be able to obtain finality on specific issues where HMRC is taking time progressing other issues affecting the same accounting period. We would assume that if HMRC gains the ability to issue a partial closure notice then taxpayers would have the right to appeal.

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Creative sector tax reliefs

Orchestras

The Government plans to launch a consultation early in 2015 to explore the possibility of expanding the existing theatre tax relief to cover orchestras. The relief would take effect from April 2016.

High-end television production

The Government will also explore the possibility of modifying the high-end television production relief, by lowering the level of UK expenditure required from 25 to 10% and modernising the cultural test. This is intended to bring the relief in line with film tax relief.

The introduction of two new tax reliefs and a potential enhancement for the existing high-end TV relief is great news for the UK's thriving creative industries and demonstrates George Osborne's continued support for a sector which has recently been fuelling UK growth.

The new tax reliefs will be a great boost to the UK's world class orchestras and children's TV industry which has a history of delivering cutting edge educational programmes like the 'Teletubbies'.

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Stamp Duty Land Tax for Certain Property Funds

Property Authorised Investment Funds (PAIFs) and Co-Ownership Authorised Contractual Schemes (Co-ACSs) investing in UK real estate are to be given two special SDLT concessions.

The first is that on initial set-up of the fund, there should be no SDLT where the fund acquires property

from a person purely for an issue of units. This is referred to as a 'seeding relief'. Note there is no such relief for subsequent acquisitions of property by the fund.

The second is that no SDLT will be payable when units in Co-ACSs are purchased.

The changes arise out of a consultation announced at Budget this year and were expected to be introduced next year. However, it appears that implementation will be delayed until 2016.

Whenever the new rules are introduced, anti-avoidance rules are expected to restrict the reliefs to genuine property-investment funds with diversity of assets and ownership.

GAAR: penalties

The Government is intending to consult on whether and how to introduce penalties for tax compliance cases where the General Anti-Abuse Rule applies.

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