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Weekly Tax Matters

17 July 2015

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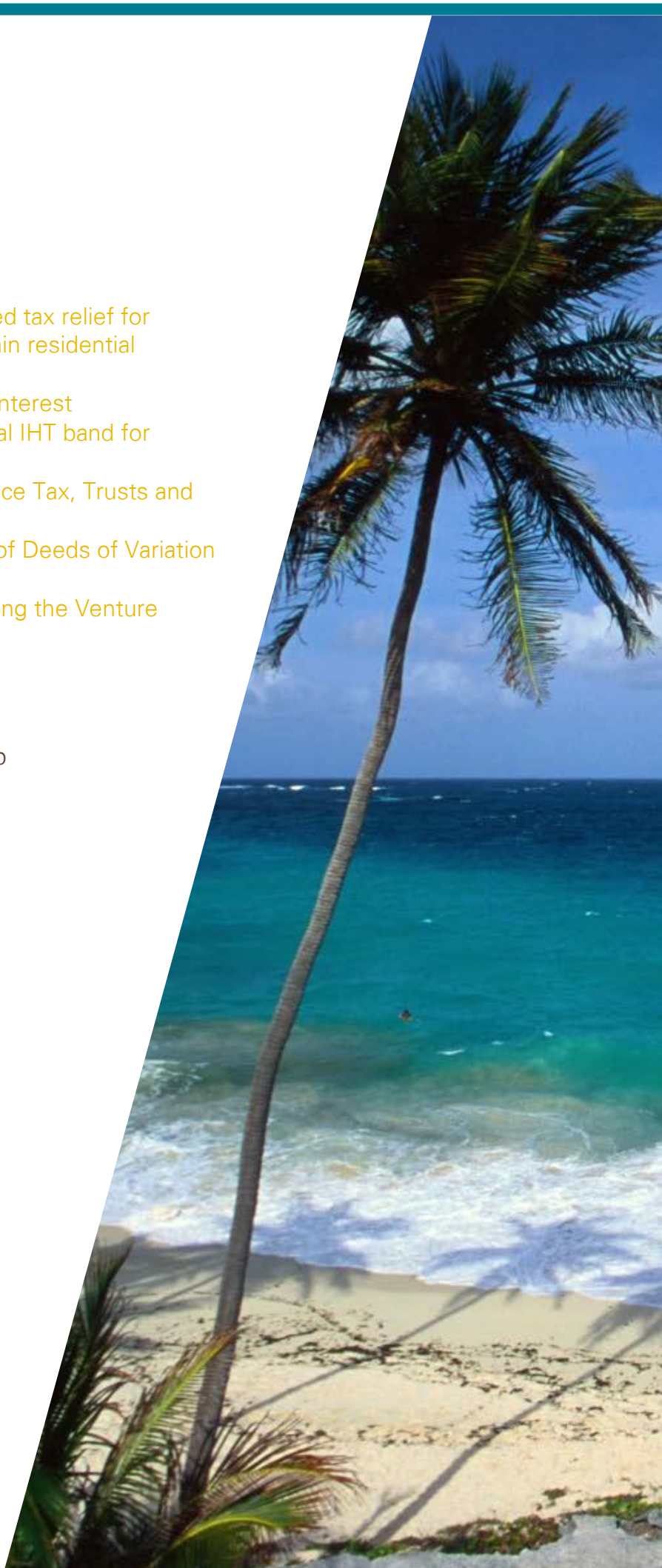

TAX POLICY

Summer Finance Bill

With debates on the Summer Budget completed, the Summer Finance Bill has started its progress through Parliament.

Following on from the Summer Budget, the Summer Finance Bill (more properly Finance Bill 2015-16) has now been published and has had its First Reading in Parliament. Second Reading is scheduled for 21 July, immediately before the summer recess, with a Committee of the Whole House likely to consider the Bill on 8 September, shortly after the Commons' return. Although there has been no firm indication of when we might expect Royal Assent to come, it seems likely that the Bill will pass through its various Parliamentary stages without any undue delay.

The Bill includes both provisions held over from before the election – notably on loan relationships and derivative contracts and the new Direct Recovery of Debt rules – and some new measures picking up on manifesto pledges and/or announced in the Summer Budget. These include the 'tax lock' provisions for VAT and income tax (although not NIC, which has its own Bill, also making its way through Parliament) and the extension of the inheritance tax nil rate band for main residences. Some of the more significant announcements in the Summer Budget, though, including the changes to dividend taxation, domicile and the introduction of a statutory framework for the Office of Tax Simplification, will be included in the 2016 Finance Bill.

This edition of *Weekly Tax Matters* looks at the following areas of the Bill in more detail:

- Direct Recovery of Debts
- Corporate rescue reliefs applying from Royal Assent
- Rules on deemed releases of loan relationships
- Loan relationships and derivative contracts TAARs
- Banking companies 8 percent surcharge
- Restricted tax relief for finance costs of certain residential landlords
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- Inheritance Tax, Trusts and some anomalies
- Review of Deeds of Variation for tax purposes
- Refocusing the Venture Capital Schemes

In addition, we consider the provisions relating to the pensions annual allowance restriction for higher earners in more detail here.

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Finance Bill: Direct Recovery of Debts

The DRD legislation, which will allow the recovery of unpaid debts directly from taxpayers' bank accounts, is a significant new power for HMRC.

Direct Recovery of Debts (DRD) was first announced in the 2014 Budget, and was the subject of consultation during 2014. The legislation included in the Summer Finance Bill reflects some of the issues raised during this consultation process, although HM Revenue & Customs (HMRC) have not addressed all the points raised.

The DRD legislation will allow HMRC to issue a 'Hold notice' to a bank or other deposit taker in respect of a

taxpayer with an outstanding debt. The bank will then have to, in effect, freeze the relevant amount in the taxpayer's account or accounts. The taxpayer has a period of 30 days to object, and after this period, the bank can then be required to transfer the relevant amount directly to HMRC.

As confirmed in the summary of responses to last year's consultation, published in December 2014, the intention is that: "DRD will help to level the playing field [between those who pay and those who do not]. It is a targeted measure that will affect a small number of individuals and businesses who are making an active decision to not pay, or delay paying, the money they owe – even though they have sufficient funds in their accounts". The Tax Information and Impact Note published alongside the Summer Budget estimates that DRD will be used in some 11,000 cases each year, although will be used in a more limited way in 2015/16 to allow HMRC to, in effect, test the system on a small scale.

The provisions, and some important safeguards, are considered in more detail here.

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Consultations on offshore tax evasion

Four consultations on offshore tax evasion have been issued by HMRC.

HMRC have published four consultations on offshore tax evasion as previously announced in their Tackling Evasion and Avoidance document.

The four consultations are:

- Tackling offshore tax evasion: Strengthening civil deterrents for offshore evaders;
- Tackling offshore tax evasion: Civil sanctions for enablers of offshore evasion;
- Tackling offshore tax evasion: A new corporate criminal offence of failure to prevent the facilitation of evasion; and
- Tackling offshore tax evasion: A new criminal offence for offshore evaders.

These consultations give further detail on how the proposed measures will work in practice and seek feedback on their reasoning, structure and effect.

HMRC have requested comments by 8 October 2015.

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CORPORATE TAX

Finance Bill: Corporate rescue reliefs applying from Royal Assent

The Finance Bill includes two corporate rescue reliefs to help with the restructuring of borrowings of companies in financial difficulty.

The Finance Bill includes two previously announced corporate rescue reliefs, applying with effect from Royal Assent, which are being introduced to help with the restructuring of borrowings, on a consensual basis, of companies which are in financial difficulty. The timing of when the reliefs become effective has been deferred and technical changes have been made to exclude certain profits.

These reliefs represent important changes which deal with problems that have already been faced by companies which have been applying new GAAP accounting standards and which are expected to be more common following the mandatory transition to such accounting standards for periods of account beginning on or after 1 January 2015. It had been intended that the reliefs would apply with effect from 1 January 2015 but the general election led to the commencement being deferred to Royal Assent of F(No.2)A 2015.

Going forward, for companies in financial distress, these new reliefs should facilitate the restructuring of borrowings where there is a real prospect that the borrower will be unable to repay its debts without the need to capitalise debt or use a formal insolvency procedure. However, claiming these reliefs will require an assessment to be made of the financial position of the borrower in the next 12 months.

NB The Finance Bill includes similar but more targeted corporate rescue reliefs for the rules on deemed releases of loan relationships which are covered in a separate article below.

Further details can be found here.

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Finance Bill: Rules on deemed releases of loan relationships

Various changes are being made including the introduction of two new corporate rescue reliefs and the repeal of two existing reliefs.

There are provisions which can result in a taxable profit where either the consideration paid to purchase a loan from a third party is less than face value and afterwards the new lender and borrower are connected, or where there is a loan between two companies which are not connected and they become connected.

These provisions have to be considered in the context of most acquisitions and refinancing and, typically, are relevant where the loan asset is impaired.

Various changes are being made to these provisions including the introduction of two new reliefs to facilitate corporate rescues and the repeal of two existing reliefs. The new reliefs are well targeted and will be useful in enabling companies in financial difficulty to be refinanced without a tax charge arising on irrecoverable debt. By way of contrast, the two reliefs which are being repealed were not widely used and so their repeal is unlikely to cause problems. Taken together, the changes are welcome.

The changes apply with effect from Royal Assent to F(No. 2)A 2015 (expected in early Autumn).

Further details can be found here.

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Finance Bill: Loan relationships and derivative contracts TAARs

Loan relationships and derivative contracts targeted anti-avoidance rules will apply from Royal Assent to the Finance Act.

As a result of the review and consultation on modernising the rules on loans and derivative contracts which started in June 2013, targeted anti-avoidance rules (TAARs) are being introduced into both the loan relationship and derivative contracts regimes. The TAARs are intended to counteract the effect of arrangements if their main purpose, or one of their main purposes, is to enable a company to obtain a tax advantage under either the loan relationship or derivative contracts rules. The TAARs will apply to arrangements entered into on or after Royal Assent to F(No. 2)A 2015.

In some ways, the approach taken is similar to the General Anti-Abuse Rule introduced in 2013 but the drafting is a great deal simpler and it is more straightforward to assess the potential application.

Going forward from Royal Assent to the Finance Act, whilst most arrangements involving loan relationships and derivatives will be unaffected, it will be necessary to test arrangements against the requirements of the TAARs.

Further details can be found here.

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FINANCIAL SERVICES

Finance Bill: Banking companies 8 percent surcharge

Following a big Budget for banks, the focus for many groups is on the impact of the new 8 percent surcharge on profits of banking companies.

The surcharge is to be levied on the profits of banking companies (defined as for the loss restriction rules) from 1 January 2016, to the extent these exceed a group allowance of £25 million.

The legislation in the Finance Bill effectively creates a corporation tax ring fence regime for banking companies. The surrender of group relief from non-banking companies is ignored for the purposes of the surcharge and a targeted anti-avoidance rule (TAAR) attacks arrangements designed to effectively move significant parts of the profits of banking companies outside the scope of the surcharge. This means that groups carrying on identical activities may be very differently affected by the regime, depending on how those activities are split between legal entities. The concern of those groups on the losing end of such comparisons is the extent to which the TAAR will limit attempts to re-level the playing field through restructuring.

Similar worries will arise over the interaction with the diverted profits tax (DPT) introduced by FA 2015. Profits 'diverted' from banking companies will now be subject to DPT at a rate of 33 percent rather than the usual 25 percent. Arguably more significant is the fact that the surcharge will be taken into account for the purposes of determining whether there is an 'effective tax mismatch' – potentially drawing intra-UK provisions between banking and non-banking companies within the scope of the DPT regime.

The new regime not only blocks the use of losses arising in non-banking companies, it also ignores losses accruing in banking companies prior to the 1 January 2016 commencement date. This restriction is more widely drawn than the usual bank loss restriction rules and so, for example, means that historic capital losses will be ignored in calculating the surcharge. As well as the obvious cash flow impact this may have some unpleasant deferred tax consequences for some groups, with deferred tax liabilities being written up to take account of the surcharge but with deferred tax assets on losses being written down to reflect the proposed drop in the main corporation tax rate.

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INDIRECT TAX

The Rank Group Plc - Supreme Court Judgment

This case concerns the historic treatment of certain gaming machines income and fiscal neutrality.

The Supreme Court has given Judgment in *The Rank Group Plc* (*Rank*) in this case concerning the historic treatment of certain gaming machines income and fiscal neutrality. To access the Judgment click here and for the press summary click here.

This piece of Rank litigation concerns the historic treatment of gaming machines income in the period from October 2002 to 5 December 2005, at which point the relevant legislation was changed. The key liability point in the period depends on the interpretation of whether the element of chance is provided by 'means of the machine'. Where the element of chance is provided from within the machines, the income from these was considered standard rated. However, certain machines had the random number generators (RNG) physically located externally, ranging from being "velcroed to the wall directly behind the machine," through to remote external RNGs, which served multiple machines. HM Revenue & Customs' (HMRC) policy had been to permit exemption for the takings of some of these machines. Rank's argument was that if these machines were exempt, fiscal neutrality would require that comparator machines with the RNG located internally should also be exempt as the location of the RNG had no bearing on the 'customer experience'.

The Supreme Court has upheld the Court of Appeal's view that, the element of chance was in fact provided by the machine in all cases, irrespective of the RNG location. Therefore, if the law at the time was properly interpreted, income from these remote RNG machines should be standard rated like the comparator machines income. This meant there was no breach of fiscal neutrality and no claim for overpaid VAT, even though HMRC had wrongly allowed exemption in some cases. As this is the Supreme Court Judgment this brings to an end this piece of litigation.

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Intelligent Managed Services Ltd - Upper Tribunal decision

The UT has concluded that the transferee could operate the same kind of business as the taxpayer and therefore there was a TOGC for VAT purposes.

Intelligent Managed Services Ltd (IMSL) transferred its banking IT technology infrastructure and know-how business to Virgin Money Management Services Limited (VMMSL). VMMSL is a member of the Virgin Money VAT group. VMMSL only used the assets transferred to make supplies to Virgin Money Bank Limited (VMBL), a fellow VAT group member. These supplies were disregarded under the grouping rules. The earlier First-tier Tribunal (FTT) agreed with HMRC and concluded that VMMSL did not use the assets in carrying on the same kind of business as IMSL, and so the transfer was not a transfer of going concern (TOGC). It was accepted that if VMMSL was a standalone company, rather than being grouped with VMBL, the transfer would have been a TOGC.

The Upper Tribunal (UT) has decided that the First-tier Tribunal (FTT) made an error in law in viewing VMMSL, and not the VAT group, as the transferee. This was confirmed by the Court of Justice of the European Union (CJEU) Judgment in *Skandia* (C-7/13*),* which was released after the FTT decision. This error meant the FTT decision had to be set aside and the UT had to remake the decision.

The 'banking engine' services provided by VMMSL were incorporated into the broader retail banking services supplied by the VAT group to third parties. The UT decided that the grouping fiction did not change the nature of the businesses carried on by the VAT Group members. Grouping simply says that the representative member

carries on those businesses. Grouping does not eliminate those businesses. They remain separate businesses as a matter of fact.

IMSL transferred its whole undertaking, and based on the above analysis of the limitations of the grouping fiction, the VAT group carried on IMSL's business. As a result, the TOGC conditions were met. The situation was examined from the perspective of the transferor (what is transferred) and the transferee (who must intend to operate the transferred business as a continuation of the independent economic activity previously carried on by the transferor and not liquidate the activity immediately). The UT also concluded that no CJEU reference was needed.

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EMPLOYMENT TAX

Where now for employment status?

Last week's Budget did not include a response to the OTS Employment Status Report – but perhaps there is a bigger picture.

The Budget announced that the Office of Tax Simplification would be commissioned to "review the closer alignment of income tax and National Insurance contributions", considering "what the impacts, costs and benefits of closer alignment would be and…what the necessary steps would be to achieve closer alignment". There may well also be some overlap with the proposed consultation on Personal Service Companies (IR35). There was no response, though, to the OTS's Employment Status Report, published earlier this year (which included both the suggestion of closer alignment of tax and NICs and wider-reaching suggestions around changes to the NICs regime to remove some or all of the differential between the employed and the self-employed).

It may be that this kind of structural change within NICs is included either in the OTS's review of tax/NIC alignment or in the separate consultation promised in the autumn on the reform of Class 4 (self-employed) NICs – we will know more when the relevant documents are published. Another possibility, though, is that a formal response to the Employment Status Report will only come once both these projects and a separate review of self-employment, launched by the Government shortly before the Budget, have reported back.

This last review, to be carried out by entrepreneur Julie Deane, will report in early 2016 and will look at areas including:

- Why individuals choose self-employment;
- The different types of work carried out under the broad heading of self-employment (including freelancing and those who are both employed and self-employed); and
- Challenges facing the self-employed, particularly those arising at key points such as start up or when a business is developed.

Some of these (albeit approached from a different angle) are familiar territory from the Employment Status Report, and it would seem sensible for the Government to consider both reports together when determining which actions to take forward. Those interested in the employment status question should perhaps not expect any visible progress until at least the Budget next March, rather than any sooner. Historically, the employment status question has been dealt with separately by different departments and for different purposes – for example tax, NIC, pensions, and employment law. The Government should look at the complete picture to ensure that there can be a consistent definition for all these different purposes and from these different perspectives.

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Employment-related securities annual returns – update

The online filing system for 2014/15 annual returns remains unavailable.

We reported last week that the online filing system for employment related securities (ERS) annual returns had been unavailable since before the 6 July filing deadline. At the time of writing, the service remains unavailable, with a further update from HMRC expected on Monday 20 July.

As a reminder, HMRC have already confirmed that the filing deadline for 2014/15 returns will be extended to five days from the point at which the online service becomes available, and have also stated that no penalties will apply to filings made within this extended deadline.

We will continue to keep you updated as more information becomes available.

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PERSONAL TAX

Finance Bill: Restricted tax relief for finance costs of certain residential landlords

The deductibility of finance costs relating to let residential property is to be restricted for individual and certain other landlords.

From 6 April 2017, there will be a restriction on the deduction of finance costs (including loan interest) related to let residential property from the profits of property businesses chargeable to income tax.

The rules, contained in Finance Bill 2015, do not apply to property business carried on by companies, except where they are acting in a fiduciary or representative capacity. They will apply to individuals and trusts. It appears that non-UK companies should fall outside of the new rules (except those carrying on a property business through a partnership).

Loans referable to commercial property businesses are not subject to these restrictions. For mixed businesses a just and reasonable apportionment will need to be applied. Qualifying furnished holiday lettings are excluded from the restrictions.

The restriction operates by removing the ability to deduct finance costs whilst providing (in most circumstances) for a tax reduction for such costs by reference to the basic rate of income tax. The changes will be phased in from 6 April 2017 as follows:

Tax Year	*% of costs allowed as tax deduction*	*% of costs relieved at basic rate of income tax*
2017/18	75%	25%
2018/19	50%	50%
2019/20	25%	75%
2020/21 onwards	0%	100%

The position for trusts would appear to depend upon the type of trust in question and on whether the finance costs may be regarded as "trustee expenses" in law.

The interaction of these new rules with existing rules on partnerships means that property partnerships which raise finance in the partnership will be subject to the new restrictions when calculating their profits for income tax purposes. Each partner who is an individual will then be able to benefit from the tax reduction at the basic rate, whilst other types of partner (including non-resident companies) will not get the reduction.

New rules also restrict the relief for loan interest on a loan to invest in a partnership where the partnership carries on a property business involving the letting of residential property. Where only part of the property partnership relates to residential letting income, the interest on the partnership loan should be split on a just and reasonable apportionment.

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Finance Bill: Carried Interest

The Finance Bill effects significant changes to the taxation of carried interest as announced in the Summer Budget.

The Finance Bill includes measures announced in the Summer Budget to put an end to what is commonly known within the private equity industry as 'base cost shift' (see below) in respect to carried interest. The effect is that more UK capital gains tax is likely to be paid on carried interest. The definition of carried interest is wide-ranging and the changes may also affect participants in investment structures that have adopted a partnership model similar to the private equity industry.

Broadly, 'base cost shift' is the common term used to describe the effect of carried interest holders historically sharing the base cost of fund investments. As they did not suffer the original cost they often benefitted from having a taxable gain lower than their economic gain. The new rules put an end to what has been a long standing and accepted tax treatment of carried interest.

In addition, the rules provide that carried interest should only be treated as a foreign chargeable gain to the extent that the carry recipient performs his/her services outside of the UK. This is likely to be a significant change for some carry recipients who are currently taxable on the remittance basis.

The rules operate so that, going forward, where carried interest arises due to the disposal of an underlying fund asset, carry recipients will be taxed on a gain equal to their proceeds received. Where carry arises in any other circumstance, the proceeds will be taxed as a capital gain and the carry recipients will also be taxed on their underlying allocation of profits, with measures to allow for relief for double taxation. The carry recipients also get relief for amounts paid for their carry or assessed as an employment benefit when the carry was awarded to them.

The rules affect amounts arising on or after 8 July 2015.

Applying the new rules is likely to be complicated and we will be seeking clarification on a number of questions over the coming weeks. Please speak to your usual contact for advice on how this affects your structure.

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Finance Bill: Additional IHT band for residential property

The extra IHT nil rate band for qualifying residential property left to direct descendants is more complicated than one might have expected.

The Finance Bill clauses give the detailed provisions for a new inheritance tax (IHT) relief, announced in the Summer Budget, for persons who die on or after 6 April 2017. The relief, the "residence nil rate amount", applies to qualifying residential property left to direct descendants. Not all the aspects of the new relief announced have been covered in the Finance Bill; legislation dealing with circumstances where the deceased has downsized or disposed of their residence during their lifetimes will be in next year's Bill.

Relief is restricted to a property which has been the person's residence, and part of their estate on death, and is subsequently inherited by lineal descendants. If the estate consists of more than one qualifying property, the personal representatives must nominate which property is to qualify.

Each individual will be entitled to a basic amount (£100,000 rising to £175,000 for deaths on or after 6 April 2020) plus any unused amount from a predeceased spouse. This combined amount will be reduced by £1 for each £2 that the total value of the person's estate exceeds £2m (these thresholds will be indexed from 6 April 2021).

Relief on death is restricted to the value of the residence, after other reliefs and exemptions, but the excess of the available nil rate amount can be carried forward to the death of any surviving spouse on a claim being made by their personal representatives. Where the spouse died before 6 April 2017 the unused amount is set at £100,000 although this is subject to tapering if the first spouse's estate exceeded £2m.

Lineal descendants for this purpose include step-children, adopted and foster children and the wards of guardians. The interest in the residence can be held in trust provided it is taxable as part of the deceased's estate and similarly the interest can be left on certain types of IHT favoured trusts where lineal descendants are beneficiaries.

The rules are not straightforward and individuals and couples may need to review their Wills and estate planning to obtain the maximum relief they are entitled to.

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Finance Bill: Inheritance Tax, Trusts and some anomalies

Measures correcting IHT anomalies and changing the calculation of IHT charges on certain trusts will now be enacted with minor amendments.

The Finance Bill contains legislation to both correct a number of inheritance tax (IHT) anomalies and make changes to IHT charges on certain trusts. These changes have been a long time in the pipeline and were included in the draft Finance Bill 2015 published in December 2014, but their enactment was delayed by the general election. Broadly, the provisions provide for:

- The removal of a pitfall which previously meant that an appointment out of a discretionary will trust within 3 months of death could not be read back into the will and so, for example, qualify for the spouse exemption from IHT. This will take effect for deaths on or after 10 December 2014;
- Trustees of relevant property trusts containing heritage property to be able to claim for conditional exemption from IHT by making a claim for exemption within two years of a ten-year charge, with effect from the day the Finance Act is passed;
- Changes which mean that pre-March 2006 settlements in which the settlor and/or their spouse have life interests with a subsequent life interest to a surviving spouse will be brought into the relevant property regime when the initial life interest comes to an end; and
- Changes to the way in which IHT ten-yearly and exit charges on relevant property trusts are calculated, including the need to take into account additions of property to other settlements on the same day (a change to counter the use of multiple, 'pilot' trusts), with effect from the day the Finance Act is passed.

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Finance Bill: Review of Deeds of Variation for tax purposes

The Government is consulting on Deeds of Variation and will then determine whether their tax treatment should be changed.

Under current rules it is possible for beneficiaries of a will or intestacy to come together within two years of the death and agree a different destination for the assets of an estate. If certain conditions are met the resultant distribution of the estate can be treated for inheritance tax (IHT) and capital gains tax (CGT) purposes as if it was made by the will (or intestacy) rather than being a separate gift. This can result in substantial reductions in tax. Such an agreement is called a Deed of Variation (DoV).

The Government has, further to its March 2015 Budget announcement, published a Review looking at the use of DoVs for tax purposes. The aims of the review include determining what changes, if any, should be made to the current tax rules. The review takes the form of a questionnaire which, the Government says, has been designed with the aim of understanding what role the tax advantages play when a decision is made to vary a will by a DoV. The deadline for responses is 7 October 2015.

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Finance Bill: Refocusing the Venture Capital Schemes

A number of amendments are to be made to the EIS and VCT schemes.

In the March Budget the Government announced a series of amendments to the Enterprise Investment Scheme (EIS) and Venture Capital Trust (VCT) schemes to refocus them and ensure compliance with EU rules. These amendments, albeit modified, are included within the draft Finance Bill.

The following changes will take effect for investments made on or after Royal Assent to the Finance Bill.

- A sunset clause is introduced restricting EIS and VCT relief to shares issued before 6 April 2025 (albeit the Treasury can amend this by regulations);
- For EIS relief individuals that claim the relief must be independent from the company at the time they invest, unless they acquired 'founder' shares or other risk finance investments;
- The maximum a company can raise under EIS, the Seed Enterprise Investment Scheme (SEIS), VCT and Social Investment Tax relief (SITR) funding is restricted to £12 million, unless the company is 'knowledge-intensive' in which case the limit is £20 million;
- Money raised through EIS will not be able to be used to acquire an existing trade;
- Companies will generally only be able to receive EIS or VCT funding within 7 years from the first commercial sale (increased to 10 years for knowledge intensive companies); and
- The employee limit is increased for knowledge intensive companies, from 250 to 500.

The Government explained in the explanatory notes to the Finance Bill that "risk finance investments are intended to support smaller companies to access finance to grow and develop where, because of market failure, the company is unable to obtain funding through the market of independent investors." "The new provisions apply the EU rules to domestic legislation to ensure that tax-advantaged investments are directed to companies likely to experience market failure."

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INTERNATIONAL STORIES

International round up

This week: African country reports for 2015; Barbados 2015 Budget; Peru R&D rules published; Canadian accounting changes for preferred shares postponed; British Virgin Islands FATCA update; pending legislation in Hong Kong to extend the profits tax exemption; Chinese trade and customs update for May-June; UAE FATCA update; Dutch tax case on withholding tax; Luxembourg tax changes proposed; Czech Republic electronic sales reporting proposals; and Indian transfer pricing case on multiple-year data.

Every week, KPMG member firms around the world publish updates on developments in their country. In *Weekly Tax Matters* we'll highlight a selection that may be of interest to our readers.

Africa

Africa – KPMG International has prepared a number of **African country reports, fiscal guides, and country profiles for 2015.**

More TaxNewsFlash – Africa can be found here.

Americas

Barbados - The **2015 Budget** was delivered on 15 June 2015, including tax measures that would affect multinational entities with operations in Barbados.

Peru – The rules governing eligibility for **research and development (R&D) tax incentives** have been published.

Canada - The Accounting Standards Board of Canada (AcSB) has postponed the proposed effective date for **changes to the accounting for preferred shares**.

British Virgin Islands - Now that the **Foreign Account Tax Compliance Act (FATCA) enrolment deadline** of 30 June 2015 has passed, the next deadline is the reporting deadline for 'reporting financial institutions' of 31 July 2015.

More TaxNewsFlash – Americas can be found here.

Asia Pacific

Hong Kong - Pending legislation would extend **the profits tax exemption for offshore funds to private equity funds**.

China - KPMG in China has prepared a report that summarises trade and customs developments for May-June 2015.

UAE – The **FATCA deadline** has been extended, and **FATCA guidance** has been issued.

More TaxNewsFlash – Asia Pacific can be found here.

Europe

Netherlands - The Supreme Court has held that a Luxembourg investment fund was not entitled to a refund of **Dutch withholding tax levied on portfolio dividends.**

Luxembourg - Tax measures that would affect most **multinational groups with subsidiaries in Luxembourg** have been proposed.

Czech Republic – A bill proposing **electronic reporting of sales** has been released.

More TaxNewsFlash – Europe can be found here.

Transfer Pricing

India – A recent transfer pricing case upheld a decision that allowed the taxpayer to use **multiple-year data in determining the arm's length price.**

More TaxNewsFlash – Transfer Pricing can be found here.

OTHER NEWS IN BRIEF

A round up of other news this week

This week: Draft DOTAS legislation and forms published; National Insurance Contributions (Rate Ceilings) Bill released; draft amendments to the Regulatory Capital Securities Regulations issued; statutory instruments updating the ECA regime; direct debit payments now required under Time to Pay agreements; latest TDSI Bulletin released; OTS publish summary of responses to their Employment Status Report; and the BRC-KPMG Retail Sales Monitor for June.

Disclosure of Tax Avoidance Schemes (DOTAS): Draft legislation which aims to strengthen some existing hallmarks and to introduce a new hallmark describing certain Financial Products has been published. Two draft DOTAS forms have also been published for comment.

The National Insurance Contributions (Rate Ceilings) Bill has been published. This contains the legislation implementing the NICs element of the "triple lock" on tax rates. Information, including the text of the Bill, can be found on the Parliament site.

HMRC have published draft amendments to the Regulatory Capital Securities Regulations. The amendments (i) expand the scope of the regime to apply to restricted Tier 1 capital instruments issued by insurers under Solvency II, and (ii) make certain changes required as a result of the amendments being made to the loan relationship rules in the Finance Bill. Comments have been requested by 9 September 2015.

Two new statutory Instruments (here and here) have been released which enforce the latest annual update to the enhanced capital allowances (ECA) regime. The list of qualifying energy-saving technologies has been updated to include an 'adoption of waste heat to electricity' sub-technology and to remove the packaged chillers sub-technology. The qualifying criteria for 11 current technologies have also been revised. The changes come into force on 4 August 2015.

HMRC have announced that, other than in exceptional circumstances, anyone entering into a Time to Pay agreement from 3 August this year will have to make payment by direct debit.

HMRC have published the latest Tax Deduction Scheme for Interest (TDSI) Bulletin. This includes a note that although the requirement for banks and other deposit takers to withhold basic rate tax on interest will cease when the new Personal Savings Allowance comes into effect next year, taxpayers may still apply to have interest paid without deduction of tax in the meantime, and that these applications should be dealt with as normal.

The OTS has published a summary of responses to their Employment Status Report. This includes the statement that it will "be discussing with the new Government how best to take the review forward".

A strong finish made June retail sales growth the highest in 18 months, according to the British Retail Consortium-KPMG in the UK Retail Sales Monitor for June.

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