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# Summer Budget: Tax priorities

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### Overview

**This document sets out KPMG in the UK's views on some key tax and pensions issues which we would like to see the new Government focus on over the course of this Parliament.**

As we are at the start of a new Parliament, our comments here concentrate on “big picture” issues rather than specific areas of the tax and pensions legislation in detail. We feel that action in these areas now would help to create a stronger foundation for the smooth running of the tax system, on which more specific changes could build over the course of this Parliament and beyond.

Our comments are organised under the following broad headings:

- General issues around how tax policy is made and implemented;
- The taxation of businesses, including companies; and
- The taxation of individuals, including issues for employers and pensions tax relief.

If you would like further information on any of the points or examples mentioned, please get in touch with us.

## 1.1 General issues – the Office of Tax Simplification

- **We support the permanent establishment of the OTS.**
- **Its remit should be expanded to include a review of all substantial new legislation whilst in draft.**

The Office of Tax Simplification (OTS) was founded in 2010, initially for the duration of the last Parliament.

We value the perspective it has brought, and the breadth of its view, which provides a useful counterpoint to the focus on, say, avoiding a particular mischief or encouraging a particular behaviour, which can be a feature of HMT and HMRC-driven policy. Also valuable is its readiness to raise a range of possibilities, including those which because of their complexity or as a result of political considerations may not be high in the minds of Government (for instance, consideration of a merger of tax and NICs).

We welcome the Government's commitment to permanently establish the OTS and expand its remit.

In terms of remit, the framework document published at the time the OTS was founded states that it was established to:

*"...advise the Chancellor on delivering a simpler tax system, providing independent advice on options for addressing existing complexity in the tax system."*

The OTS's current remit does not give it full scope to advise effectively on delivering a simpler system. Whilst it is reviewing areas of existing law, new law is being made without reference to simplification. We suggest that the remit of the OTS be expanded to include a review of all substantial pieces of draft legislation. This should not replace the public opportunity for scrutiny of draft legislation offered by the publication of draft Finance Bill clauses, but should run in parallel to provide an alternative perspective. Just as HMRC and Government may introduce narrowly-aimed changes to the tax system, responses from taxpayers and advisers may also focus narrowly. The OTS could provide useful wider context (in addition to that currently put forward by the professional institutes) and could help to ensure that any proposed changes are evaluated against the long-term goal of simplification of the UK tax system.

We also believe that any expansion of the OTS's remit should be accompanied by commitment on the part of Government to properly consider its recommendations and to provide adequate Parliamentary and HMRC time and resource to carry through those recommendations that are accepted without undue delay.

## 1.2 General issues – Parliamentary consideration of tax policy

- **A cross-party committee should be set up to consider tax policy issues.**

It is unarguable that tax policy is a key issue for all Governments. However, Parliamentary time dedicated to considering such policy is limited. We believe that it would be beneficial for a cross-party committee to be established with the specific remit of reviewing new policy proposals.

We recognise that the remit of any such committee would have to be clearly defined to avoid overlap with existing committees such as the Treasury Select Committee and Public Accounts Committee; however, we believe that dedicating more time and resource to the consideration of tax policy would have many benefits, including:

- Providing a suitable vehicle for detailed consideration of the proposals put forward by the Office of Tax Simplification (see 1.1 above), providing valuable support for any expansion of the OTS's own remit;
- Creating a useful forum to encourage cross-party thinking and political consensus on tax policy issues where possible. It is inevitable that political differences will exist on certain aspects of tax policy; there are others, however, where joined up thinking would be both possible and beneficial. Whilst any committee could not determine Government (or opposition) policy, it could generate more considered debate of policy issues both amongst its member and more widely. Such discussion and agreement could be particularly valuable when considering changes that would require long-term planning or implementation, or where political considerations are a particular issue (again we refer to the example of a potential merger of income tax and NICs).

- **Changes should be made to ensure that Finance Bills introduced ahead of General Elections receive adequate Parliamentary scrutiny.**

The publication of draft Finance Bill clauses three months ahead of the Budget has given a welcome opportunity for detailed comment from advisers and taxpayers on the detail of the legislation. However, we feel that it is equally important that Parliament is given sufficient time to scrutinise the Bill during its passage through the House of Commons.

The legislation forming Finance Act 2015 passed through Parliament in only a week, but contained substantial new pieces of tax law including the Diverted Profits Tax and the new rules imposing Capital Gains Tax on non-residents. This timescale is not unusual when an election is called shortly after a Budget. However, we believe that the advent of fixed-term Parliaments offers a chance to change previous practice in this area.

To ensure that MPs are given adequate time to debate significant changes in legislation, we believe that any Finance Bill introduced shortly before a general election should be confined to those provisions necessary for the proper functioning of the tax system. This would include clauses reimposing annual taxes plus any necessary anti-avoidance or similar measures aimed at stopping particular abuse. Large scale changes should be held over until after the election, with the expectation that a new Bill, accompanied by a Budget if needed, will be introduced as early as possible in the new Parliamentary session (again, allowing maximum time for proper scrutiny).

- **An automatic post-implementation review of new legislation should be introduced to allow issues to be addressed early.**
- **HMRC should be allowed to alleviate unexpected taxation by way of temporary easements followed by legislation.**

Ensuring that legislation is well drafted and that issues arising post-implementation are picked up quickly are key in ensuring both that measures achieve stated policy aims and that taxpayers have confidence in the UK tax system and in HMRC's ability to administer that system in practice.

In our opinion, the publication of draft Finance Bill clauses for open consultation has been both a welcome and a successful step, allowing greater input from taxpayers and advisers before a measure becomes law, and we hope that the Government continues this practice. However, not all measures can be published in advance in this way, and even extensive advance consultation may not pick up practical issues (both for taxpayers and HMRC) which only become clear as new legislation takes effect. Furthermore, late additions can be made shortly before enactment that escape scrutiny, as happened with the Statutory Residence Test where the meaning of full-time work and split years were added and would now benefit from a review (see 3.3 below).

We would, therefore, suggest both changes to further improve the scrutiny of new measures before they are enacted and the introduction of a mandatory post-implementation review for substantial changes to the tax legislation.

#### ***OTS scrutiny of draft legislation***

As set out in 1.1 above, we believe that the remit of the Office of Tax Simplification (OTS) should be extended to include a review of all draft legislation.

An alternative to this would be for the OTS to review all new legislation for simplification once it has been implemented (and ideally within the two year period outlined below).

#### ***Post-implementation reviews***

We acknowledge that it is currently possible for specific pieces of legislation to be reviewed once they have been implemented. However, taxpayers cannot currently rely on there being a review of new legislation, or on any review taking place early enough to minimise practical issues arising. For example, we welcomed the announcement in December 2014 that a post-implementation review of RTI reporting for PAYE would take place. However, no specific date for this review to take place, or indication of its scope, have yet been published. Given the ongoing issues faced by employers, together with the critical nature of RTI data for any successful rollout of both Universal Credit and the Digital Tax Accounts announced in the March Budget, we believe that the fact that this review has still not taken place is a missed opportunity, and a clear example of the need for change.

To prevent similar situations arising in future, we propose the introduction of a formal review of new legislation to see if it is achieving its stated aims and intentions. This should be after a fixed period which allows adequate time for problems to become evident, whilst still addressing them promptly: a good option might be to set the review period at two years from the date that the first returns relying on the new legislation are due.

#### ***Temporary Easements***

HMRC should be allowed to alleviate unexpected taxation by way of temporary easements followed by legislation (within two complete tax years of the announcement of the easement). This would ensure unexpected consequences could be rectified quickly whilst providing a statutory basis for legislative improvements. This last point is significant: we believe that it is important for new laws to be made through clear, well thought through and actively reviewed legislation rather than (as is increasingly the case) through reliance on HMRC guidance.

### 1.5 General issues – HMRC’s interactions with taxpayers and agents

- **More needs to be done to improve the quality of HMRC’s interactions with both tax advisers and taxpayers.**
- **The use of Digital Tax Accounts as a communication channel offers great opportunity, but must be properly thought through.**
- **The gov.uk guidance should be improved, and the mechanism for reporting problems made less opaque.**

We support HMRC’s policy of working “to make it easy for customers to deal with their taxes and get things right, by making ... products and processes more simple and straightforward, and by improving ... customer service”. However, we believe that much more needs to be done in this area. Good, responsive communication helps to create a positive relationship between tax authorities and taxpayers, which in turn reinforces the message that the UK is “open for business”. Our experience is that this type of communication is not always present in practice.

This is supported by a survey of smaller tax agents by the ICAEW’s Tax Faculty<sup>1</sup> carried out earlier this year, which found that a majority of those surveyed had either seen no improvement in the quality of HMRC’s service over the past year, or felt that there had been a deterioration. In our view, priority should be given to ensuring that HMRC understand the potential issues faced by taxpayers trying to be compliant, and communicate effectively with both taxpayers and agents across the full range of taxes.

Effective communication needs to span a range of media and situations, from general online guidance to answering a specific taxpayer’s query. This is something that HMRC already recognise, and we welcome initiatives such as “Once and Done” and the insights provided by the various HMRC blogs, including the digital and working with agents blogs. However, as the ICAEW survey highlights, these good examples can not yet be taken as representative of HMRC communications in general. The time taken to answer helplines needs to be improved: HMRC are well below industry standards.

We believe that the planned roll out of Digital Tax Accounts will give HMRC a clear opportunity to improve one-to-one contact with taxpayers on their specific issues and remove some of the current frustrations. However, it is vital that communications are clear, properly tailored to the circumstances and backed up by adequate personal contact (eg by email or over the phone) where a taxpayer needs more information. Any use of Digital Tax Accounts also needs to take into account those taxpayers who are unable or unwilling to engage with HMRC over the internet: there should be no element of compulsion.

In order for Digital Tax Accounts to be successful, though, HMRC’s back end systems will need a thorough review. Without such a review we believe that they could lead to delay and confusion as incorrect data is displayed (as currently happens with the L&P viewer) and if not all information is taken into account. This is currently a problem with the issuing of PAYE code numbers, where the fact that not all information that HMRC hold is taken into account can lead to the issue of an incorrect code. (Significantly, what we mean by incorrect is a code that doesn’t collect the “right amount of tax”. In HMRC statistics the code will be correct because it has been issued following HMRC procedures. As well as the procedures and the back end processing, the way in which the statistics measure success would also benefit from a review and update.)

Taxpayers should also be able to access more general guidance to help them to understand and comply with their obligations and to reduce the need for them to contact HMRC with basic questions. Unfortunately, the information currently available through the gov.uk portal does not always achieve this aim. In particular:

- The move from the old HMRC website to gov.uk has been accompanied by a change in the style of guidance material. Whilst we support attempts to make information as clear as possible to the non-tax specialist, some areas of the tax legislation do not lend themselves easily to this simplified format, resulting in oversimplification and/or misleading information being published. In these areas it would be better to retain more detail, along with a note that suggests this may be an area where taxpayers should seek further advice from HMRC or from a tax adviser.
- Where incorrect information is published on gov.uk, the process for correcting it is opaque to taxpayers and agents and seems cumbersome for HMRC themselves. This should be improved so that HMRC can make changes more easily and so that anyone reporting a problem is confident that it is being dealt with.

### 1.6 General issues – identifying impact of changes on taxpayers

- **HMRC’s methodology for estimating the impact of major change, particularly on the smallest businesses, should be refined.**

It is important that when major changes are made to the UK tax system, adequate analysis is carried out to accurately quantify the number of taxpayers affected, and the costs they may incur, and identify how the changes can be clearly communicated and appropriate support put in place at an early stage. This is particularly important where a change affects small businesses and those individuals without ready access to specialist tax advice.

Two recent examples of significant changes where the impact on taxpayers has been much greater than anticipated illustrate flaws in HMRC’s current assessment methodology.

The first of these was the introduction of Real Time Information reporting for PAYE. Here, we believe that the costs many businesses faced in implementing a new system were substantially underestimated. In addition, the practicalities of reporting “on or before” were not fully thought through, leaving, micro-employers, for example, still reliant on a temporary easement nearly two years after the full roll-out of the system. Businesses, rather than benefiting from savings, are incurring ongoing extra costs with no timetable for future improvements.

Secondly, with regard to the recent changes to the VAT place of supply rules we understand that prior to 1 January 2015 UK representatives fought hard for an agreement on an EU wide threshold. In absence of such an agreement, this created an impact on many small businesses trading well below the current UK VAT threshold. Whilst a difficult task, the question is whether there was anything more that could have been done to help such small businesses prepare for the changes.

### 2.1 Taxation of businesses – Updating the Corporate Tax Road Map

- **An updated Corporate Tax Road Map should be published early in the new Parliament.**

The Corporate Tax Road Map was first published in 2010 and was widely welcomed by UK business. It clearly set out the Coalition Government's plans for the current Parliament and gave a very clear message that competitiveness was a priority. The key changes planned for the corporate tax system were signposted, providing the certainty business wants, and there was also a commitment to consult widely and openly before new measures were introduced.

The specific proposals set out in the Road Map were introduced generally in line with original plans. Understandably the advent of the OECD base erosion and profit shifting (BEPS) project has introduced some uncertainty to the UK tax system given that it is based on a global dialogue, (for example it may result in a rewrite of our relatively recent anti-hybrid rules and a fundamental change to the deductibility of interest). However in some cases the Government has moved faster than the overall process, especially with rapid introduction of the highly complex Diverted Profits Tax from April 2015. In our experience this change in policy has made some overseas investors question if the UK is open for business and adversely affected the inward investment climate.

Therefore we recommend that the Corporate Tax Road Map is updated. This would help to re-establish the clear sense of direction that existed in 2010 and should hopefully provide the certainty that business needs to invest further in the UK. We understand that it may be the Government's view that the ongoing work on BEPS prevents an early update to the Road Map. We would encourage the Government to issue an updated Road Map as soon as is practicable and also to make a commitment not to introduce any more BEPS related measures until the OECD has finished its deliberations later this year.

- **Allowances should be introduced to support capital investment in structures and associated buildings.**

At the start of a new Parliament which is committed to investing in our long term infrastructure, we would ask Government to address the damaging anomaly in our tax system whereby business expenditure on capital investment in structures and associated buildings is not tax deductible. Proposals have been presented to HM Treasury and HMRC which are targeted towards investment in operational depreciating structures rather than, say, appreciating property investment. We believe these would improve the affordability of major upcoming investment in tidal lagoons, power stations, airports, roads, rail and other public infrastructure works where private funding plays a major role.

Proposals have been made by The Infrastructure Forum tax working group, which has a widely drawn membership, to grant writing down allowances on capital expenditure on structures and associated buildings. An assessment has been made of the likely categories of expenditure to qualify in all sectors, by a wide range of industry representatives. It is believed that with sufficient will it will be possible to draft tax legislation which is not State Aid and would bring the UK onto a level playing field with all other OECD countries in terms of tax competitiveness in investment.

We believe it is essential to consider this with some urgency because of the Government commitment to implement international best practice as set out in upcoming OECD guidance on tax deductibility of interest. Infrastructure is largely debt funded and any changes to tax relief are likely to have a serious impact on the affordability of infrastructure investment needed by the UK. Tax relief for structures and buildings will not help all projects but it will be of major significance to some.

- **The UK should continue to participate in global work to tackle double taxation and double non-taxation.**
- **The UK should also engage positively in any EU proposals for a CCCTB.**

We believe that it is important that the Government continues to participate in the OECD's work on BEPS and more generally in attempts to globally tackle both double non-taxation and double taxation.

However, it is important that the UK regime remains competitive and we believe that the Government should not jump the gun on implementing international rules. We believe that international issues are best tackled on a multilateral basis, and that unilateral action has the potential to increase complexity for business without necessarily ensuring that, looked at on a global basis, profits are genuinely taxed where economic activity and value lies.

We welcome the Government's manifesto commitment that the UK should retain the most competitive business tax regime in the G20.

On an EU level, we believe that the UK should consider participating in any Common Consolidated Corporate Tax Base (CCCTB) provided that it remains an option alongside the normal corporate tax regime, and that the Government should engage meaningfully in helping to develop any proposals. Ultimately, though, participation in any CCCTB (for all EU countries, not just the UK) must be on a voluntary basis.

## 2.4 Taxation of businesses – Regional devolution

- **Regional devolution is a positive step, but consideration must be given to the impact on businesses.**

We agree with the Government's objective of encouraging economic growth throughout the UK, and as part of this we support the principle that some powers should be devolved to particular regions or cities: giving people decisions on what affects them locally is a positive step. However, it is important that the potential cost to businesses of complying with what could ultimately amount to multiple different systems, is taken into account when planning any such devolution. There is no sense in the very powers that should help encourage regional growth themselves acting as a barrier to that growth.

- **A Personal Tax Road Map should be developed to give direction to non-business taxes**

Uncertainty and complexity are also considerations for those subject to non-corporate taxes. Some commitments (such as the creation of Digital Tax Accounts) were set out in the Budget earlier this year, and others (such as a commitment to raise the income tax personal allowance to £12,500 by the end of the Parliament) were set out in the Conservative Party's manifesto. We believe, however, that it would be beneficial for a Personal Tax Road Map to be established to draw all these together and to give overall direction to personal taxes.

It is recognised that it is politically harder to set out a personal tax road map than a corporate one. However the Government has already undertaken not to raise the rate of income tax, national insurance or VAT. It would therefore be useful to have the best indication possible of areas of individual taxation where change, including simplification, may be contemplated.

Any such Road Map should consider the full range of individuals subject to UK tax, and should include an outline of those changes to rates and thresholds already announced, including the planned changes to the income tax personal allowance, together with those rates which the Government intends to fix for the remainder of the Parliament.

We also believe that a Road Map should include consideration of how the administrative burden for taxpayers could be reduced. The Government has committed to cutting £10bn in red tape for small businesses over the coming Parliament: in our view an important strand in achieving this would be simplification of the various ways in which individuals and small businesses have to report for tax purposes. At the present time individuals may have to deal with several different online systems (for example, Self Assessment, RTI reporting of PAYE liabilities for any employees, inheritance tax and the Annual Tax on Enveloped Dwellings). The proposed Digital Tax Accounts may lead to simplification in some areas: a Personal Tax Road Map should outline these in more detail, and consider what could be done to simplify the administrative requirements for those taxes such as inheritance tax that are likely to remain outside the scope of Digital Tax Accounts.

- **The Government should review the current tax rules around domicile to ensure that they are fit for purpose.**

In its manifesto, the Government stated that “We will increase the annual tax charges paid by those with non-domiciled status, ensuring that they make a fair contribution to reducing the deficit, and continue to tackle abuses of this status.”

Before making any further changes to the rules, including those on the remittance basis and related charges, we believe that the Government should carry out a full review of the tax rules around domicile, to ensure that they are still fit for purpose and that any changes achieve the policy aims set out above, without unintended exchequer consequences. Any such review should:

- Focus on purely the tax aspects of domicile. Domicile is an important concept in other areas of law and it is important that any review clearly excludes these.
- Consider how HMRC administer the current rules in practice, and what evidence is used to determine where an individual is domiciled. In our view, the debate around domicile in recent months has not always accurately reflected the complexities of proving a particular domicile, or HMRC’s efforts in challenging those who they believe may be incorrectly claiming to be non-domiciles.
- Assess the potential exchequer impact of various possible changes as far as is possible. When considering whether non-doms are paying “their fair share”, it is important to bear in mind the difficulties of putting together reliable figures (as in most cases there is no need for those claiming the remittance basis to make any declaration of their level of non-UK income and gains).
- Estimate the potential indirect impact of any proposed changes. It might be only be possible to roughly estimate how much non-doms spend in the UK to the benefit of the economy and the exchequer. But they pay SDLT on house purchases, VAT on their spending, PAYE and NIC on staff wages, spend money in shops, restaurants and on various professional services who then have their own tax liabilities to pay.
- Assess the impact of the current rules and any proposed changes on all types of non-dom, including those born in the UK, those here for relatively short periods (eg as students or on secondments) and those who have made the UK their long-term home.
- Consider alternatives to the current legislation, including assessing whether inheriting domicile from a parent is, for tax purposes, still appropriate, and whether a move to deemed domicile for taxes other than inheritance tax would better achieve the Government’s stated policy aims than further increases in or changes to the Remittance Basis Charge.
- Review how domicile is inherited. It is widely assumed that a child’s domicile follows the patriarchal line. But that is only so if parents are married. Otherwise the mother’s domicile applies. Current laws on sex discrimination and civil partnerships and the impact on determining domicile would therefore need to be considered.
- Bear in mind the alternatives available to a non-dom. Internationally mobile individuals exercise choice and many countries have visa, citizenship or fixed taxation regimes to attract such people. Several of these are very similar to the non-dom remittance basis – albeit with a different name. These include. Portugal’s Golden Visa program, Switzerland’s ‘forfait’ regime (fixed lump sum), Malta’s citizenship program, Ireland’s remittance basis, Canada’s tax free uplift on entry.

We believe that any such review should be carried out as a priority, should incorporate wide-ranging consultation, and, whether or not it leads to change, should be followed by a commitment to leave the rules unchanged for a period (other than any action needed to tackle egregious abuse). As set out in 3.1 above, we believe that it is important that the UK provides a stable and certain tax environment for individuals as well as businesses. For this reason, should any review result in substantial changes to the current system, we believe that the Government should give consideration to introducing grandfathering provisions for those who are currently UK resident but not domiciled.

- **The rules dealing with the taxation of internationally mobile workers should be reviewed, with the aim of increasing certainty for those coming to the UK to work and for their employers.**

We do not intend to comment on immigration policy generally, or on the particular measures expected to be included in the Immigration Bill announced in the Queen's Speech. The Government has made it clear that its intention is that the UK remains "open to the world's best talent". We, trust, therefore, that any changes are proportionate and do not, for example, criminalise any short term visitors who have no intention of remaining in the UK but may accidentally miss deadlines whilst visiting UK headquartered companies from overseas subsidiaries.

We believe that, in order to support this ambition, the rules determining how those coming to work in the UK are taxed should be reviewed and simplified, with the overall aim of ensuring that the UK remains an attractive destination for expatriate employees, and that those employees are encouraged to use their money in the UK for the benefit of the UK economy. The current rules are complex for both employers and expatriate employees, and are drafted in such a way that there can be substantial delays in establishing the appropriate tax treatment for a particular year.

In particular:

The rules on Overseas Workday Relief (OWR) should be considered in detail as part of any review of domicile for tax purposes as suggested in 3.2 above. OWR is used by many expatriate employers and employees and is a valuable relief in the context of an increasingly mobile global workforce. However, the current rules are complex and produce impractical results. The Government has already tightened the conditions for qualifying for this relief, so that it is only available for the year of arrival and the next two years, so we believe that it would be beneficial to simplify the way in which relief is given. The current complex rules could be replaced with a much simpler standard relief for qualifying earnings which does not rely on the actual remittance or non-remittance of money to the UK (encouraging more money to be brought into and used in the UK).

The specific aspects of the Statutory Residence Test (SRT) relating to split years (which, broadly, allow an individual to be treated as non-resident for part of the year in which they come to or leave the UK) should also be reviewed as a matter of urgency. Substantial amendments were made to these elements of the SRT as it passed through Parliament and the resulting lack of scrutiny (compared to the extensive consultation on other elements of the SRT) has led to unintuitive results arising in practice. Taxpayers may commence or cease residence before they arrive or after they have left the UK, and some of the cases mean that a taxpayer cannot be certain of his residence position for a particular tax year until after the filing deadline for that return has passed. Such a review should also cover the 3rd overseas and 3rd UK tests as these were also amended in the Finance Bill and are over complex.

### 3.4 Pensions

- **A fundamental review of pension taxation should be carried out before further changes are made to the regime.**

Repeated changes to pensions tax allowances mean that employers are continually having to fund communication exercises and provide assistance to their employees. In many cases, they are also having to review their overall reward offerings as further pension provision becomes inappropriate for those who have reached one or other of the main allowances (Annual and Lifetime). Each reduction in the Lifetime Allowance significantly increases the number of people caught by it. (In particular, we expect defined benefit provision in the public sector will be disproportionately affected.)

This constant tampering with the allowances creates uncertainty which will tend to deter people from saving for retirement. It also makes benefit choices at retirement much more complex – greatly increasing the risk that people will take inappropriate decisions. (The new PensionsWise service can offer only limited scope to mitigate this risk.) We strongly support the pensions industry's call for a fundamental review of pension taxation to address the anomalies and complexities of the current regime and suggest that there should be a moratorium on further change ahead of this.



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