With the continuing low 20% rate of UK corporation tax that is scheduled to fall to 18% by 2020, companies are seen as the engines powering UK growth. But for stakeholders there are imminent dividend rate rises, increasing the tax cost of taking funds out of companies. These rate changes alter the economics of owning a family company and, when deciding on the way ahead, are acting as a trigger for shareholders to reconsider their overall wealth and succession position.

On the Government’s theme of encouraging investment and growing the economy, we feature how KPMG’s Tech City team has been helping early stage and high growth technology businesses succeed by providing expertise, advice and contacts from inception throughout all stages of the business cycle.

Turning to transparency, we flag up for anyone holding assets outside the UK that information is being disclosed to HMRC from overseas jurisdictions and that HMRC will use this to cross check future tax return filings. This highlights the need to ensure that an individual’s tax affairs are correct and could withstand scrutiny if HMRC were to investigate.

Measures to be introduced to raise public funds include further changes to the taxation of residential property, which will have the most impact on landlords and non-UK domiciled individuals (non-doms), with all UK residential property regardless of how it is owned, coming within the scope of UK inheritance tax (IHT). In addition there are new rules fundamentally changing the way in which some non-doms are subject to income tax, capital gains tax and IHT.

We look at the introduction of the Scottish rate of income tax and also, like all aspects of life, how the different ways that separation and divorce are managed can result in very different tax consequences.

We hope you enjoy this latest edition of Personal Perspectives. As always, if you have any comments, feedback or suggestions of what you would like us to cover in future issues, please do get in touch.

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What are the changes?
From 6 April 2016, the first £5,000 of dividend income each year will be tax free, thereafter the rates will be as follows:

- 7.5% for basic-rate taxpayers;
- 32.5% for higher rate taxpayers; and
- 38.1% for additional rate taxpayers.

Cash extraction
Currently the highest earners pay an effective rate of 30.56% on dividends. But for family businesses it is necessary to also take into account the company’s position when considering the tax costs of cash extraction. The combined effective tax rate is currently 44.44%, increasing to 50.48% from 6 April 2016. This compares with 53.43% (including National Insurance) for a bonus.

These rate changes close the gap between dividends and bonuses, but the effective tax rate is still lower for dividends. The gap will slightly increase again from 6 April 2017 when Corporation Tax (CT) reduces to 19%, and again from 6 April 2020 when CT is scheduled to fall to 18%, with the combined effective tax rate on dividends reducing to 49.86% and 49.24% respectively.

So what?
With these changes in mind, family businesses and their shareholders are considering their cash extraction policies, from a commercial, family, and taxation perspective.

Some are considering bringing forward dividend payments to before 6 April 2016. In the Summer Budget 2015: Policy Costings Document, the Government’s calculations cater “for some individuals forestalling the measure by bringing forward income to benefit from lower marginal tax rates”. Therefore, it seems that the Government expect companies to accelerate dividend payments before 6 April 2016.

However, the decision to accelerate dividend payments is not as straightforward as might be expected. For example, family businesses and their shareholders need to bear in mind:

- that not all taxpayers will be worse off as a result of the changes, for example, smaller shareholders who receive a larger dividend may move up into the next tax bracket;
- the company needs sufficient distributable reserves to pay the dividend;
• the impact on the company’s cash flow position and working capital requirements;

• removing the cash from the business may have the advantage of providing shareholders with an ability to ‘de-risk’ by enabling diversification through investing in other assets (particularly if the family are holding ‘all their eggs in one basket’).

In fact, bringing forward dividends may not be appropriate for many family businesses, often due to the differing circumstances of the shareholders. For example, in some cases the minority shareholders live off their dividend income, and majority shareholders (often the elder generation) need little or no dividend income due to their other wealth. We have seen these changes act as a trigger for a family businesses to reconsider their overall wealth and succession planning strategies. Examples being considered include:

• transferring shares down to the next generation, who often have lower income levels, with shares held either directly or using family trusts;

• introducing different classes of shares to allow dividends to be paid only to those shareholders who need dividend income;

• restructuring shareholdings using family holding companies to facilitate re-investment in other business and investment ventures, to enable the introduction of family members into management and ownership of the family business, or to maintain the benefits of a single shareholding in the business (amongst other things);

• other cash extraction mechanisms (e.g. pension contributions).

Conclusion

This is just a flavour of some of the issues being considered, the imminent dividend rate changes simply being the prompt for family businesses to review their position, and consider the way ahead – with the help of tailored tax advice.

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Challenges for the start-up challengers

The technology sector is thriving both in the UK and globally. We believe that by 2018, there will be a new group of world class technology companies, many of which will have started and grown in the UK. There will be a mix of successful global brands and strong, renowned niche players. The UK will have cemented its place as one of the key hubs of technology development, attracting high levels of funding, and a diverse workforce.

Over the last 3 years, KPMG’s Tech City team based in Shoreditch, has been helping early stage and high growth technology businesses succeed by providing expertise, advice and contacts from inception throughout all stages of their growth. Since its foundation, KPMG’s Tech City team has facilitated the formation and growth of a network of extraordinary people and businesses. These are the businesses taking risks, building the future and increasingly influencing how we live our lives.

But what are some of the challenges faced by high growth technology businesses; the Googles, Facebooks and WhatsApps of tomorrow?

Raising finance

Raising finance is crucial to get start-ups off the ground and enable them to grow. At the same time, most traditional sources of funding are not readily available to these companies, given their lack
of trading history. The benefits of a strong support network when raising finance are clear. For example, introductions to specialist Venture Capitalists and angel networks which facilitate the search for ‘smart’ money i.e. investors that also bring connections and knowledge to the table. Whilst not a replacement for smart money, with interest rates at historic lows and the Government’s increased support, crowdfunding platforms like InvestDen or Seedrs provide an attractive alternative. Equity crowdfunding is growing at a remarkable pace and peer-to-peer lending continues to present an attractive and simple way of raising finance.

Expanding a business internationally
Aside from a whole new market for products or services, international expansion can allow the business to explore access to a new pool of capital and talent. However, it is also important to understand and navigate the complexities of expanding internationally from group structuring to tax compliance, logistics and legal issues. It is worth plotting out an expansion plan with a team of consultants before making the move.

Tax
Understanding and making use of the invaluable tax incentives is key at an investor, entrepreneur and company level. These Government incentives include Research & Development tax credits, the Seed and Enterprise Investment Schemes, Enterprise Management Incentives and Patent Box. For example, the Government recently confirmed that, in its current form, the UK Patent Box regime (that taxes profits from patented interests at 10%, considerably less than the standard tax rate) will close to new entrants by 30 June 2016.

Although a new regime will follow, now is the time for businesses, even those with pending patent rights, to assess whether they could qualify for the current regime.

Preparing for an exit
Most start-ups will have a short term focus on raising capital and a medium to long term aspiration of preparing for an exit. Tailored Corporate Finance solutions, focused on business planning and financial forecasting, help start-ups achieve these goals and provide owners with peace of mind so that they can continue to focus on growing their businesses. Done properly, a bespoke process can have a huge impact on both the success of a deal and the ultimate exit price. In our experience a lack of thorough preparation and taking a business to market prematurely often results in a failed process or an unsatisfactory outcome for stakeholders.

Conclusion
The examples above are not exhaustive but to successfully navigate these and other challenges, having the right support and exploiting the network effect is key; not many make it alone.

Visit our website to find out more
www.kpmg.com/uk/techgrowth

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Many people turn off when they hear messages from the Government about tax evasion and tax cheats, as they think that it is not relevant to them. Tax and penalties are expected for evasion, but as HM Revenue and Customs (HMRC) and we have seen for many years, tax liabilities and penalties can also arise from inadvertent non-compliance, often as a result of complex technical matters not being declared properly.

These new developments could impact all UK residents with overseas assets.

The three key developments are:

- unprecedented levels of information will be provided to HMRC in respect of assets held overseas from the authorities of overseas jurisdictions;
- HMRC’s most popular disclosure facility to rectify non-compliance in respect of overseas assets will close next month; and
- HMRC are consulting on a new criminal charge for failure to declare overseas income and gains regardless of any lack of deliberate intent.

**Transparency**

Intergovernmental Agreements between the UK, its Crown Dependencies and Overseas Territories will result in information being passed to HMRC in 2016. This will be significantly extended by the Common Reporting Standard (CRS). 96 countries have committed to exchanging information from 2017 or 2018.

The impact of these agreements is to oblige jurisdictions to obtain client information from their financial institutions (such as banks) and copy it automatically to the tax authorities (e.g. HMRC) in other jurisdictions each year.
The type of assets impacted includes not only overseas bank accounts but also interests in entities such as trusts, companies and foundations. The type of information reported includes the name and address of the UK person, income, proceeds of investments sold and account balances.

Under the CRS there are no specific rules for non-UK domiciled persons, so information will be exchanged in exactly the same way as for a UK domiciled person.

Extensive HMRC investigation activity is anticipated using the information provided from overseas jurisdictions. HMRC are expected to both crackdown on undeclared tax evasion and check the position of offshore entities they have not been aware of before, identifying any associated UK tax implications.

**HMRC disclosure facilities**

The Liechtenstein Disclosure Facility (LDF) allows UK residents to disclose to HMRC non-compliance in relation to overseas assets (wherever in the world they are). But going forward it will only be available if a notification has been submitted to HMRC of the intention to make a disclosure by 31 December 2015.

HMRC has already stated that a new ‘last chance’ disclosure facility will be introduced in early 2016 and run until the autumn of 2017. This will be on less advantageous terms than the LDF from a financial perspective and it will not provide the protection of immunity from prosecution which the LDF can.

**Criminal charge**

HMRC are consulting on a new criminal charge for failure to correctly declare overseas income and gains above £5,000 in any year. This would not require HMRC to prove any deliberate intent.

There is currently some uncertainty, for example, what will happen where a non UK domiciled person has inadvertently made a remittance of income to the UK or has not identified UK source income and neither has been declared on a Tax Return. Will HMRC decide, because a review of all offshore bank accounts was not undertaken each year, that this is careless behaviour within the new criminal charge?

**What next?**

UK persons need a proactive approach to these changes and in particular to:

- ensure their tax affairs are correct and would withstand scrutiny if HMRC were to investigate;
- be aware of what information is being disclosed to HMRC from overseas jurisdictions and that this will be cross checked to future tax return filings; and
- if a disclosure is required, take professional advice and make use of the LDF whilst it still exists.

For further information on the LDF see [www.kpmg.com/uk/personaltaxldf](http://www.kpmg.com/uk/personaltaxldf)

For further information on making a disclosure or if your affairs are under enquiry by the tax authorities see [www.kpmg.com/uk/personaltaxinvestigations](http://www.kpmg.com/uk/personaltaxinvestigations)
In the Summer Budget 2015 the Chancellor announced two further changes to the taxation of residential property. These will have the most impact on landlords and non-UK domiciled individuals (non-doms) and they potentially result in one affected group considering how to take property into corporate ownership and the other how to get it out!

Residential property – in or out?

IHT and UK residential property

It is proposed that from 6 April 2017 all UK residential property, regardless of how it is owned, will be within the scope of UK inheritance tax (IHT). A consultation which should provide details on how the proposed new rules will operate, is expected to start at the beginning of 2016.

Historically, a number of non-doms have decided to own UK residential property via a non-UK company, the shares of which are currently outside the scope of IHT for non doms. The proposed changes are intended to mean that these offshore structures will effectively become transparent for IHT purposes. This could result in a significant tax exposure of up to 40% of the property value or, in the case of certain trusts, 6% tax charges every 10 years.

HM Revenue and Customs (HMRC) have indicated that the new rules may include a relief to enable UK residential properties to be removed from existing corporate structures without the usual onerous ‘dry tax charges’ (i.e. without realising funds from which to meet the tax cost) associated with transferring UK property out of companies. The extent of such a relief and how debt will be treated remains to be seen, but this may present a good opportunity to simplify existing structures and move property back into personal ownership.

There are also new rules for non-doms – see ‘Tick tock – time is running out on the domicile clock’ on page 12.

If you could be impacted by these changes, you should start considering your options now, as in practice it will take time to understand your position, and then to identify and implement any changes to your affairs.

Restricting tax relief on finance costs for individual and trustee landlords

At the moment landlords pay tax on their rental profits, but are normally allowed to deduct interest. From 6 April 2017, there will be a restriction on the deduction of finance costs related to let residential property for higher and additional rate taxpayers. This restriction will apply to (amongst others) individuals, partnerships and trusts. Crucially, HMRC have confirmed that the new changes will not apply to corporate landlords.
The effect of the restriction will be that by 2020/21 interest will only be relieved at the 20% basic rate of income tax compared to the 40% or 45% rate of relief currently enjoyed by higher and additional rate taxpayers. The restriction will be phased in over a four year period with the first impact being felt in 2017/18.

This restriction is likely to have a significant impact on landlords with leveraged residential properties. Those affected should consider the impact on their personal tax liability and on cash flow.

These changes do not apply to corporate landlords who will continue to obtain full relief for deductible finance costs. This potentially makes operating a letting business via a company more attractive.

**What action should I take?**

When deciding how to own residential property the objectives and circumstances of the owner need careful consideration. For some individuals it will be better to own property in their own name and for others it may be more appropriate to use a company or trust. Existing property owners affected by these changes may wish to review their structures and consider if they still meet their longer term objectives.

For further information on domicile see www.kpmg.com/UK/nondoms

For further information on residential property see www.kpmg.com/uk/ukresidentialproperty
From April 2017 new rules will be introduced to determine domicile status for individuals for income tax, capital gains tax and inheritance tax (IHT). These new rules will fundamentally change the way in which some non UK domiciled individuals (non-doms) are taxed in the UK.

To be or not to be … that is the domicile question
Reforms to the taxation of non-doms were first announced in the Summer Budget 2015. Further details are set out in the consultation document published on 30 September 2015, although the knock on effect to other areas, for example offshore trusts, is still unclear. With such significant changes and the likelihood of a relatively short window before the new rules take effect, if you are a non-dom now is the time to ensure you understand your future tax position.

So what is proposed?
• Once an individual has been UK resident for all or part of 15 out of the preceding 20 tax years they will be deemed UK domiciled for all tax purposes from the beginning of the 16th tax year.
• An individual will be able to restart the deemed UK domiciled clock once they have been non-UK resident for six or more complete consecutive tax years.
• Once deemed UK domiciled, the remittance basis of taxation will no longer be available.

Example: Luis, who is of French domicile, arrived in the UK in the 2002/03 tax year and has been UK resident since. He claims the remittance basis and currently pays the remittance basis charge of £60,000 (from 6 April 2015 onwards) per annum. In the UK he is only taxed on his UK source income and gains, any offshore income and gains only being taxed if they are remitted to the UK. Only his UK assets are within his estate for UK IHT.

Under the proposed new rules he will become deemed UK domiciled for all taxes from 6 April 2017 with all of his worldwide assets being within the UK IHT net and worldwide income and gains taxed in the UK as they arise.

Additional changes will apply to those individuals who are born in the UK with a UK domicile of origin but who have acquired a domicile of choice elsewhere. From April 2017, if they return to the UK, such individuals will be treated as UK domiciled for all tax purposes while they are resident in the UK.

There are also new rules for non-doms holding UK residential property – see ‘Residential Property – in or out?’ on page 10.
Next steps?

If you are a non-dom, gaining a clear understanding of the proposed new rules and how you will be affected is essential. You will need to carefully consider the impact of how offshore funds and assets are held as you move from the remittance to the arising basis. There may be scope to segregate out pre-April 2017 funds for the purposes of the new rules which could involve some reordering of your affairs, for example:

- reorganising offshore bank accounts to segregate out funds to bring to the UK in future tax years;
- considering future funding requirements now and, if appropriate, realising offshore income and gains prior to 6 April 2017.

Conclusion

Particularly if you have offshore structures where in the past it has only been necessary to identify funds brought to the UK, in practice it will take time to work out the potential tax liabilities arising and then to identify and implement any changes to your affairs.

With the domicile clock ticking, having approximately 16 months before the new rules take effect provides scope for managing the transition to the arising basis, but taking advice early will be essential.

For further information on domicile see www.kpmg.com/UK/nondoms

For further information on UK residential property see www.kpmg.com/uk/ukresidentialproperty

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What is the SRIT?
From next tax year the basic, higher, and additional rates of income tax paid by ‘Scottish taxpayers’ will be calculated by:

• reducing the rates that apply to UK taxpayers generally by 10 percentage points; and
• adding the SRIT set by the Scottish Parliament.

Dividend and savings income will continue to be subject to income tax rates that apply to UK taxpayers generally.

Who is a ‘Scottish taxpayer’?
For most individuals, whether or not they are a ‘Scottish taxpayer’ for a particular tax year will be determined by whether:

• their main place of residence in the UK is in Scotland for at least as long as it is in any other individual part of the UK; and
• they actually reside there during the relevant year.

HMRC is reviewing the information it holds on all UK taxpayers and, prior to 6 April 2016, will write to those it considers likely to be ‘Scottish taxpayers’ in order to confirm their status.
Companies, trusts and estates, and individuals who are not UK resident, will not be ‘Scottish taxpayers’.

**What is a ‘main place of residence’ for SRIT purposes?**

HMRC issued technical guidance on 27 October 2015 which sets out how they will interpret ‘main place of residence’ when determining the ‘Scottish taxpayer’ status of individuals with places of residence in both Scotland and elsewhere in the UK.

In summary, HMRC’s view is that whether a property is an individual’s ‘main place of residence’ for SRIT purposes will be decided by the same criteria that identify their ‘main residence’ for Capital Gains Tax (CGT) purposes. The main residences for SRIT and CGT purposes will therefore be the same unless an individual has elected to treat an alternative residence as their ‘main residence’ for CGT purposes or unless their main residence for CGT purposes is abroad.

**When will the SRIT be announced?**

Publication of the draft Scottish Budget for 2016-17, which would usually be expected in September, has been deferred until after the UK Government’s Autumn Statement on 25 November 2015. It is therefore possible that the inaugural SRIT will not be announced until early in the New Year.

Whilst setting the SRIT is a matter for the Scottish Parliament, there has been recent press speculation that due to the ‘lock step’ nature of the SRIT (any departure from the UK main rates would apply uniformly across each income tax rate), the Scottish rates are unlikely to differ from the main UK rates in the short term.

However, the likelihood of divergence between the Scottish rates and the rates that apply to UK taxpayers generally might increase when power to vary the income tax rates and bands without restriction is devolved to the Scottish Parliament under the Scotland Bill currently before the UK Parliament. The timing of these further changes has not yet been confirmed, but the Secretary of State for Scotland has suggested that these further powers might potentially be in place for 6 April 2017.

**What action should I take now?**

Whilst HMRC is currently engaged in identifying those it considers likely to be ‘Scottish taxpayers’, the final responsibility for assessing this status rests with the taxpayer.

UK resident individuals who live in Scotland for at least part of the tax year with residential property in Scotland might therefore wish to start assessing their potential status as ‘Scottish taxpayers’ to ensure they are able to confirm HMRC’s assessment, or notify HMRC of their ‘Scottish taxpayer’ status.

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For further information on SRIT see: www.gov.uk/scottish-rate-income-tax
Divorce or the dissolution of a civil partnership invariably involves a division of assets which inevitably has tax consequences. For income tax and inheritance tax (IHT), the treatment of the transfer of assets between the parties depends on whether it occurs before or after the date of the decree absolute (i.e. the court order officially ending the marriage or dissolving the civil partnership). However, for capital gains tax (CGT) it is the date of separation which is key.

As CGT is generally the largest tax liability arising on a divorce or dissolution, both parties would be well advised to talk to their tax advisors as soon as possible after separation, no matter how unpalatable such a conversation might appear.

**Capital gains tax**

There are three separate periods to consider.

- The tax year of separation – assets can be transferred between the parties with no tax charge.

- After the tax year of separation but before the decree absolute – transferred assets are deemed to be sold from one party to the other at their real values irrespective of what the other party actually pays for them (even if they are given for free). This can trigger a CGT liability.
After the decree absolute – if the transfer is pursuant to a Court Order then the transferred assets are treated as in the second bullet above. Otherwise the transfer is normally treated as an arm’s length disposal. In both scenarios, a CGT liability can arise.

From a tax perspective, it is generally preferable for the transfer to occur in the tax year of separation. Otherwise, the CGT charges which can arise on the transfer of assets need to be factored into any separation agreement.

The Family Home
This is often a significant part of the couple’s wealth. One party may move out and their interest in the family home is subsequently transferred to the individual who continues to reside in the house. The transfer is treated as outlined above but the key difference to other assets is the availability of Principal Private Residence relief (PPR) which can exempt any gain from CGT.

However, if the transfer occurs more than 18 months after the individual moves out, a specific election is necessary to preserve the PPR.

Inheritance Tax
IHT usually proves to be less of an issue as assets can be transferred between the parties without triggering IHT up until the date the decree absolute, but care should be taken where one party is not domiciled in the UK for IHT purposes.

Where a transfer is made after the decree absolute but under the terms of a Court Order, the transfer should be exempt from IHT on the grounds that there is no gratuitous intent. Otherwise, generally speaking transfers follow the normal IHT rules.

Pensions
The treatment of pensions on divorce can be a highly complex area. Broadly speaking, one of the following normally occurs.

- Pension Sharing - a percentage of the individual’s pension is transferred into a pension in the ex-spouses’ name.
- Pension Offsetting - the individual’s pension will be untouched and instead the value of the pension will be offset against their other assets in working out the split of assets.
- Deferred Lump Sum – upon retirement a lump sum payment will be made to the ex-spouse.
- Pensions Attachment Order - when the individual receives pension income or a lump sum, a percentage will be transferred to the ex-spouse.

The tax treatment depends on which option is adopted.

Conclusion
Given the complexity, we recommend that tax advice is taken at the earliest opportunity to ensure that the division of assets happens in the most efficient manner.

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Highlighted below is a snapshot of developments on some of the more significant areas of change that are relevant for Private Clients. Further information and comments are available via the links to information on www.kpmg.com/UK.

- The new obligation for UK companies to maintain a register of beneficial owners from January 2016 has now been postponed until April 2016. The corresponding obligation to file this information at Companies House has been postponed until 30 June 2016.

- We understand that HMRC have decided to withdraw the Settlement Opportunity for certain perceived tax avoidance schemes such as leveraged film partnerships and have advised that taxpayers should register their interest before February 2016 if they wish to use the current facility.

- The concessionary treatment, whereby HMRC did not treat as a taxable remittance loans brought to the UK, where the loan collateral included the individual’s unremitted foreign income and gains, was withdrawn in August 2014. Existing loans were required to be repaid or re-secured prior to April 2016 in order to prevent a taxable remittance. On 15 October 2015, HMRC announced that loans used in the UK before 4 August 2014 will now be ‘grandfathered’ and that there is no longer a requirement to report these loans by 31 December 2015 or to repay/re-secure loans by 5 April 2016 in order to protect their status. However there remains some uncertainty as to the treatment of such loans that have ‘rolled over’ on identical terms since 4 August 2014 and further clarification is being sought from HMRC.

- There is still uncertainty over some aspects of the Salaried and Mixed Member rules for partnerships - further guidance from HMRC is expected by the end of the year. One area of the Salaried Members rules where HMRC do appear to be taking a strict position is where an existing member’s profit share increases and they need to increase their capital contribution, if they are to continue being taxed as self-employed rather than as an employee – HMRC are not permitting any period of grace in which to put the capital in place.

- The EU have adopted a new regulation, which allows individuals with assets in an EU country other than their own to elect which country’s succession law should apply.

- For periods commencing on or after 1 January 2016 small companies will no longer be permitted to prepare their accounts in accordance with the FRSSE. Instead they are likely to need to change to the recognition and measurement principles of FRS 102, which could be a fundamental change. The interaction between income tax and corporation tax may change for certain assets and there may, for example, be an impact on both intra group loans and shareholder to company loans which are interest free with a fixed term.

www.kpmg.com/UK/nondoms
For more information, speak to one of the KPMG Private Client Advisers listed below, or your usual KPMG contact.

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**NORTH**

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<tr>
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</thead>
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**MIDLANDS**

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<th>Name</th>
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<tbody>
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**SCOTLAND**

<table>
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<tr>
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