Autumn Statement 2015

What it means for you

KPMG commentary

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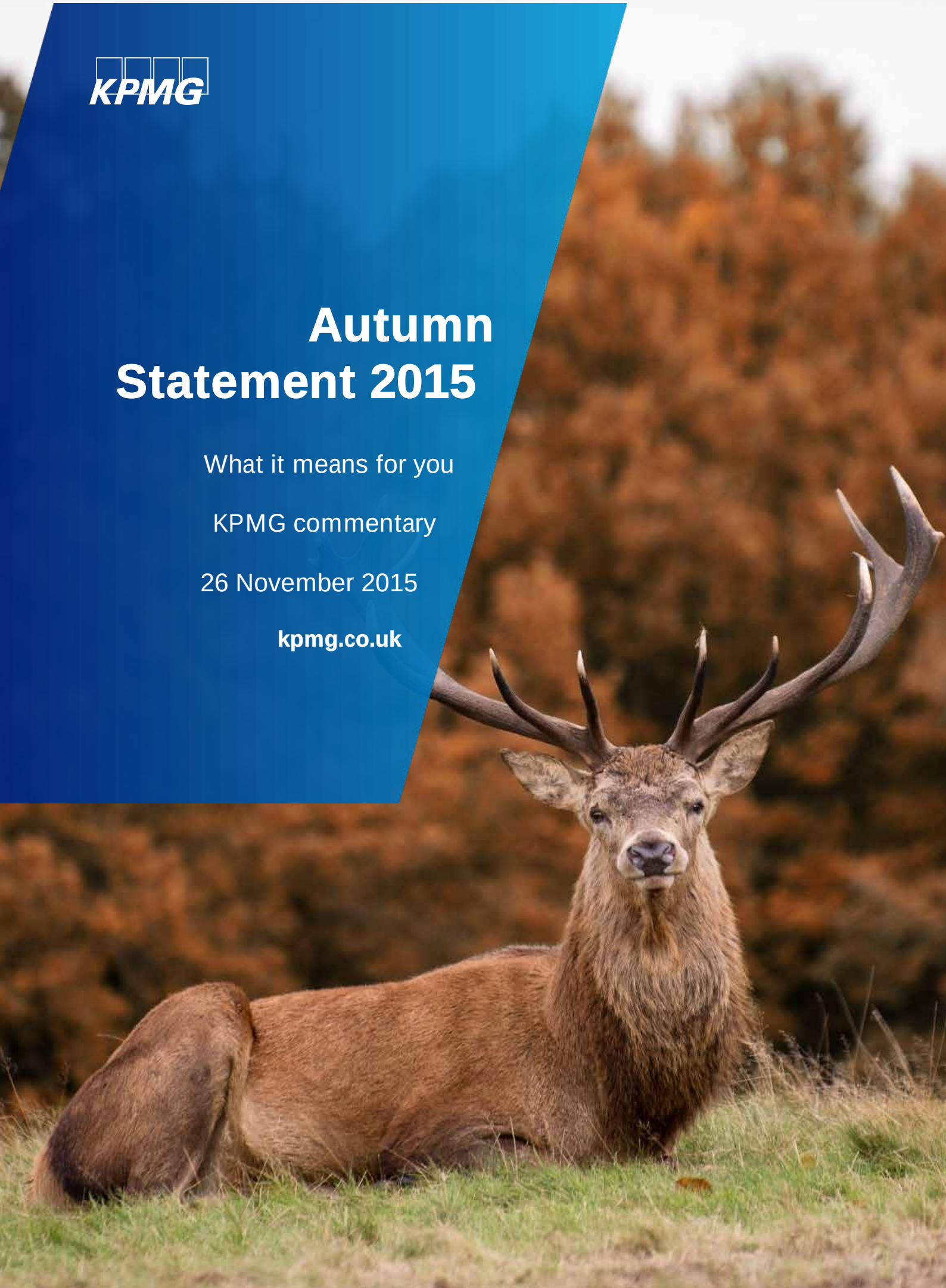

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Overview

In his 2015 Autumn Statement, George Osborne stated that the main focus was on security, both economic and national, rebuilding Britain. As higher levels of tax revenue are expected over the next few years, coupled with lower interest payments, this has enabled a higher level of spending and a reduction in the cuts to tax credits whilst retaining a budget surplus at the end of the forecast period. But from a tax perspective, there were few major changes announced.

Business will be awaiting the Government's Business Tax Roadmap (due to be published at the 2016 Budget) for an understanding of the Government's medium term approach to business taxation; this is likely to include how the UK will react to the recently published base erosion and profit shifting (BEPS) conclusions. The Government has announced that it will introduce new measures to counteract hybrid mismatch arrangements with effect from 1 January 2017. There will also be legislation to introduce a new requirement for large businesses to publish their tax strategies as they relate to or affect UK taxation.

Anti-avoidance measures were introduced with effect from 25 November 2015 which focused on capital allowances and leasing, and on the intangible asset related party rules for partnerships. But these are unlikely to impact on many companies.

However, in the interim the largest proposed revenue raising measure was the Apprenticeship Levy. From 2017 this will raise approximately £3 billion of additional revenue from employers who have a payroll bill of more than £3 million. Together with the introduction of the Government's National Living Wage, this will particularly impact on large employers with a large proportion of low paid employees. Employers affected by the Levy will await with interest more detail on how they can, as promised, "get out more than they put in".

The Government is keeping a close eye on tax avoidance schemes involving disguised remuneration, saying that it will consider legislating to close down any future new schemes, where necessary, with effect from 25 November 2015. The threat of retrospective legislation is a drastic move, but the Government clearly intends to signal that it is losing patience with the continued use of such arrangements. Similarly the Government also remains concerned about the use of salary sacrifice and is considering what further action, if any, may be necessary.

Charities will be able to benefit from a new exemption from taxation of loans to participators when a close company makes a loan to a charity for charitable purposes. This will facilitate easier cash management between a charity and its trading subsidiaries.

Other measures have been mentioned, such as the simplification of the rules to employee share schemes for internationally mobile employees and more changes for performance awards for asset managers, but we will have to wait until 9 December when the draft clauses for the 2016 Finance Bill are due to be published for further detail.

Housing continues to be a major feature of the Government's proposals. Following on from the restriction of financing costs for individual landlords, additional 3% Stamp Duty Land Tax will now arise on purchases of second homes. Purchasers of caravans, mobile homes and houseboats will be pleased that this additional charge will not apply to them.

The third main area for tax rises is the additional council tax levy of 2% to be raised to spend on social care.

Entrepreneurs will be glad that entrepreneurs' relief has not been reduced, as was forecast in the past couple of weeks. Indeed, there may well be a relaxation of some of the anti-avoidance rules introduced last year so that bona fide commercial arrangements are not caught.

Similarly, business investment relief, which enables individuals not domiciled in the UK to make investments in UK businesses without a tax charge on remittances, is to be reviewed to encourage greater levels of investment in to the UK.

In summary a fairly quiet Autumn Statement for new tax measures, but we await the publication of the draft Finance Bill 2016 clauses on 9 December for further detail on some of the minor changes. A populist spending review with an emphasis on devolution, enterprise and for those aspiring to get their foot on the work or the housing ladder. One query – does the increased complexity outweigh any of the advantages?

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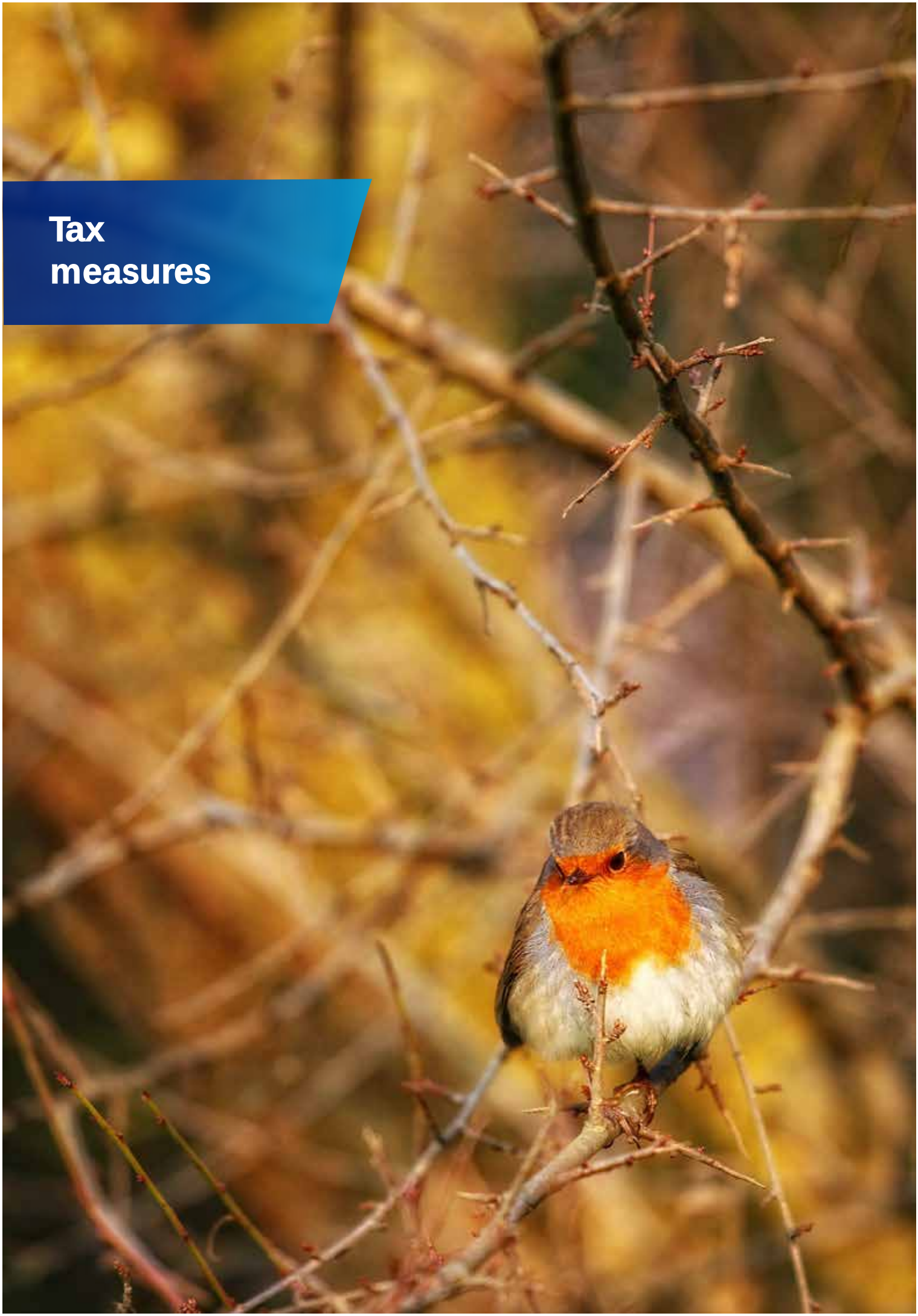
Tax measures



Businesses | Employers

Compliance and Large Business

Tax measures are to be introduced to encourage voluntary compliance, with special measures to tackle the highest risk businesses.

Effective date: Unknown at present. Legislation will be introduced in Finance Bill 2016.

At Budget 2015, the Government announced new measures to improve large business tax compliance, with a consultation over the summer to refine the detail of three measures that were proposed: a legislative requirement for all large businesses to publish their tax strategy; a 'voluntary code of practice' with behaviours HMRC expect from large businesses; and 'special measures' for those that persistently engage in aggressive avoidance.

KPMG in the UK submitted comments acknowledging that greater transparency with regard to tax should help restore public trust in the tax system. A 'one size fits all' approach is likely to increase the administrative burden on businesses and could drive a 'tick the box' mentality rather than the behaviours that HMRC are seeking to achieve. For this reason we recommended that there should be a framework approach and flexibility in how companies disclose information.

We also commented that any Code of Practice should be reciprocal and should also bind HMRC to certain behaviours. A Code of Practice is an opportunity to enhance and build on the co-operative compliance approach, setting commitments and expectations for both HMRC and businesses alike.

Following the consultation, the Government will now legislate to introduce:

- A new requirement that large businesses publish their tax strategies as they relate to or affect UK taxation;
- A framework for cooperative compliance; and
- A special measures regime to tackle businesses that persistently engage in aggressive tax planning.

Although the Autumn Statement update provides no further information, it is interesting to note the subtle changes in the descriptions of the first two proposals. On tax strategy, HMRC appear to have acknowledged the particular issues affecting inbound groups that may not have had a UK-focused tax strategy. On the Code of Practice, it appears HMRC will adopt a bilateral cooperative compliance framework approach.

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Individuals

SDLT surcharge on second homes

A new 3% surcharge will be levied on top of the current rates of SDLT on purchases of second homes and buy-to-lets.

Effective date: The measure will take effect from 1 April 2016.

The Chancellor announced a new 3% Stamp Duty Land Tax (SDLT) surcharge where a person buys an additional residential property, such as a second home or a buy-to-let. The surcharge is to take effect for purchases made from 1 April 2016, but funds and corporates making 'significant investments' are to escape the new rules.

£60 million of the expected £1 billion received from the surcharge is to be spent on addressing the shortage of affordable housing.

The 3% charge will apply to each rate on the relevant slice of the price paid for the property, although it appears that properties purchased for £40,000 or less will still attract nil SDLT. HMRC have given an example which indicates that the rates will work as follows:

Price	Rate
For total price of £40,000 or less:	Nil
For total price over £40,000:	
■ the first £125,000 of the price	3%
■ the next £125,000 of the price (the portion from £125,001 to £250,000)	5%
■ the next £675,000 of the price (the portion from £250,001 to £925,000)	8%
■ the next £575,000 of the price (the portion from £925,001 to £1.5 million)	13%
■ the remaining amount (the portion above £1.5 million)	15%

HMRC are proposing to consult on the detailed rules shortly, including on whether the purchase of 15 properties is a 'significant investment' and exceptions for the replacement of main residences.

The proposal follows on the heels of the 15% rate for enveloped dwellings and demonstrates that raising revenue from perceived bad behaviour involving residential property is still firmly within the Chancellor's sights. It is unusual to pre-announce a rate increase but presumably the complexity of the measure, taking into account how it will interact with the already complex rates for residential property, required a consultation period.

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Employers

Apprenticeship Levy

The Government provided further detail in the Autumn Statement on the previously announced Apprenticeship Levy.

Effective date: 6 April 2017.

The main announcement on the Levy was the confirmation that the applicable rate will be 0.5% of an employer's 'paybill', to be collected via the Pay-As-You-Earn (PAYE) system.

In principle all UK employers, regardless of sector or number of employees, are subject to the Levy; there is no threshold in terms of the size of the business. However, there will be a flat-rate allowance against the Levy of £15,000 for all employers. So employers with an annual wage bill of £3 million or less (based on Government estimates this would be over 98% of employers) will pay nothing at all. Those employers with an annual wage bill of more than £3 million will effectively only be subject to the Levy to the extent that their annual wage bill exceeds £3 million.

All UK employers will pay the Levy in the same way. However, as skills training is a devolved power, there will be differences in how the funding is identified and distributed between home nations. Employment costs are already

due to increase as a result of the introduction of the National Living Wage from April 2016, together with forthcoming increases to the National Minimum Wage. The Apprenticeship Levy in effect adds another payroll tax, and those employers subject to the Levy will await with interest more information on how they can, as promised, "get out more than they put in".

Turning to the practicalities, the Levy will be payable alongside income tax and National Insurance, and so we anticipate that this will be due by the usual monthly PAYE deadlines for affected employers. In the Government's response to the recent consultation on the Levy, published alongside the Autumn Statement, it was confirmed that 'paybill' means an employee's total earnings, but does not include other payments such as benefits in kind. We await further information upon publication of the draft Finance Bill 2016 (due on 9 December 2015) to see the exact definition of what pay elements will be subject to the Levy – will, for example, benefits reclassified as earnings under the new voluntary payrolling rules lead to a higher liability under the Levy?

Employers operating multiple payrolls will only have one allowance and there will be a 'connected persons' rule, similar to the Employment Allowance for NICs, to prevent employers setting up multiple entities to claim multiple allowances.

The Spending Review and Autumn Statement 2015 (the Blue Book) published by HM Treasury indicates that the Government are expecting to raise £2.7 billion in the first year of the Levy, which will help fund their target of 3 million apprenticeships by 2020.

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Support for Childcare

The Autumn Statement provided an update on Tax Free Childcare, and an announcement of an extension to the free childcare entitlement for three and four year olds.

Effective date: 2017 (see below for details).

The measures announced by the Chancellor include:

- Doubling the free childcare entitlement from 15 hours to 30 hours a week for families with three and four year olds from September 2017; and
- Confirmation that the previously announced (and delayed) Tax-Free Childcare scheme will be introduced from early 2017, and will provide up to £2,000 a year per child to help working parents with their childcare costs.

The Government has stated that this means that, by 2019-20, it will spend over £6 billion a year supporting parents with their childcare costs, equating to childcare support worth up to £40,000 for a family with two children.

Who qualifies for this childcare support?

Both free childcare and Tax Free Childcare will be limited and only available to individuals:

- Who have an income of less than £100,000 (per parent not per household); and
- Work at least 16 hours per week (worked at (at least) the National Living Wage).

This is a change to the previously announced limits for Tax Free Childcare (a minimum income per parent of £50 per week, and a maximum of £150,000 a year). The increased support for many, will, therefore, come at a cost to some.

Employer Supported Childcare Arrangements

The current Employer Supported Childcare voucher arrangement that is typically provided on a salary sacrifice basis (up to a maximum of £243 per month per qualifying employee) will remain open to new entrants until Tax Free Childcare is introduced in 2017.

Following this date, it is understood, that no new members will be able to join the Employer Supported Childcare voucher arrangement, although those currently within a voucher arrangement will be able to continue to use it for as long as it is offered by their employer.

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30 day payment window for CGT on Residential Property

Individuals

CGT on the disposal of residential property after April 2019 will be due for payment within 30 days of completion.

Effective date: From 6 April 2019.

Under present rules, Capital Gains Tax (CGT) is typically due by 31 January following the end of the tax year in which the gain was realised. This can mean, where a sale is made at the start of a tax year, the CGT is not paid until 22 months after the date of completion of the disposal.

The Chancellor has announced that for gains made in respect of residential property this window should be reduced such that the payment due date will be 30 days from the date of completion. This measure will come into effect from April 2019, from which date it is intended that HMRC's digital systems will be ready to support payment of the tax.

A 30 day window for payment of CGT has already been in effect for non-UK residents who have disposed of UK residential property since 6 April 2015 and are not otherwise in UK Self Assessment. This new measure will bring the treatment of UK and non-UK residents in line to some extent, although for non-residents it is only normally the gain that has arisen post-April 2015 on UK property that is subject to CGT. This new measure appears to apply to individuals making gains on non-UK properties, although the practicalities of this may be more complex.

The relief available to gains made on properties which qualify as an individual's principal private residence will not be affected, however it is not yet clear whether such gains will still need to be reported to HMRC. The Government will be publishing draft legislation for consultation in 2016.

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Related party rules, partnerships and transfers of intangible fixed assets

Businesses

Changes have been announced to the intangible fixed asset rules for two types of transactions involving partnerships and corporate members.

Effective date: The legislation will apply with immediate effect – see below for more information.

The Government has announced changes to the intangible fixed asset (IFA) rules. These changes seek to clarify the tax treatment of two types of transactions involving transfers of intangible fixed assets between partnerships (including LLPs) and their corporate members.

The first change concerns 'old' intangible fixed assets (broadly, those created or acquired before 1 April 2002) which are transferred between a partnership and its corporate member. There has previously been uncertainty over whether a partnership and its members are within the definition of 'related parties'. HMRC have historically taken the view that transfers of intangible fixed assets between partnerships and their corporate members do fall within the definition of 'related parties' meaning the intangible fixed asset is excluded from being taxed under the IFA rules. However, a number of taxpayers have attempted to take advantage of the uncertainty in the way the legislation is drafted in s882 CTA 2009 to claim that such transfers do result in intangible fixed assets that are within the scope of the IFA regime. This measure, which removes the uncertainty, will apply for all credits and debits arising on or after 25 November 2015 regardless of when the asset was acquired.

The second change concerns the value at which transfers of intangible fixed assets are treated as occurring. Where transfers of intangible fixed assets occur between partnerships and corporate members (or other companies in the same group as the corporate member) the change treats the transfer as occurring at market value. This change is likely to have a broader impact on taxpayers than the first change as it applies to all transfers of intangible fixed assets between partnerships and their corporate members. This change will apply for unconditional acquisitions on or after 25 November 2015. Taxpayers should, therefore, be aware that, when transferring intangible fixed assets within a group where a partnership is involved, the transfer may not be tax neutral and may instead be treated as occurring at market value. This could give rise to taxable credits arising in the transferor entity.

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SDLT seeding relief for tax-transparent property investment funds

Businesses

Seeding relief from Stamp Duty Land Tax is to be introduced for PAIFs and CoACSs.

Effective date: From Royal Assent to Finance Bill 2016.

As previously announced, the Government will introduce seeding relief for Property Authorised Investment Funds (PAIFs) and Co-ownership Authorised Contractual Schemes (CoACSs), and remove Stamp Duty Land Tax (SDLT) charges on transactions in CoACSs units.

There will be a defined seeding period of 18 months within which PAIFs and CoACSs will be eligible for the relief, permitting their seeding in tranches. A portfolio test will apply, requiring a minimum value of £100 million and 10

non-residential properties or £100 million and 100 residential properties. Percentages will apply for funds with a mix of residential and non-residential property.

The relief will be withdrawn where, within three years of the seeding period:

- The fund ceases to qualify as a PAIF or CoACS;
- The portfolio test is not met;
- Some or all of the units received in consideration for the initial seeding are disposed of; or
- A seeded residential property is occupied by a person connected with the fund.

It is understood that the other SDLT changes affecting CoACSs will reflect the proposals outlined in the consultation document on SDLT rules for property investment funds published on 18 July 2014. This includes an exemption for the acquisition of units in a CoACS on which SDLT would otherwise be due, and making the scheme operator responsible for paying SDLT on the acquisition of properties.

Draft legislation will be published with the draft clauses for Finance Bill 2016 on 9 December 2015, and will be subject to consultation until 3 February 2016.

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Businesses

Stamp Duty and SDRT – deep in the money options

An anti-avoidance measure has been introduced with immediate effect in relation to shares purchased using DITMOs.

Effective date: The change will apply to DITMOs which are entered into on or after 25 November 2015 and exercised on or after Budget 2016.

A measure has been introduced with immediate effect to ensure that where deep in the money options (DITMOs) are used to transfer shares into a clearance service or depositary receipt system the Stamp Duty or Stamp Duty Reserve Tax (SDRT) at the higher rate of 1.5% will be charged on not less than the market value of the shares transferred.

When shares are purchased on the exercise of an option, any Stamp Duty or SDRT liability (depending on whether the shares are in paper form) is charged on the price paid for the shares as opposed to the price paid for the option. This means that buying shares under an option (a DITMO) where the strike price is significantly lower than the market value of the shares (for call options) or significantly higher than the market value of the shares (for put options) is generally effective in saving stamp taxes, especially where the shares are transferred to a depositary receipt scheme or clearance service when a higher rate of 1.5% applies rather than the standard rate of 0.5%.

DITMOs have been widely used across the equity arbitrage sector. For approximately two years HMRC have tried to determine the extent to which their use is legitimate or contrived. This announcement follows those enquiries.

The change will not apply to DITMOs (or other options) which are exercised for delivery other than to a clearance service or depositary receipt system.

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Loans to participators and trustees of charitable trusts

A new exemption from the loan to participators charge is being introduced if a close company makes a loan to a charity for charitable purposes.

Effective date: The legislation will apply to loans made on or after 25 November 2015.

A tax charge arises on loans from close companies to their participators. The charge is on the close company at a rate of 25% of any amounts outstanding nine months after the end of the accounting period. The purpose of the tax charge is to deter companies from making untaxed loans to their participators rather than paying remuneration or dividends which are chargeable as income. Legislation was introduced in Finance Act 2013 to close three loopholes used to attempt to avoid the tax charge. In particular, the Finance Act 2013 legislation extended the loans to participators charge to some situations where a loan from a close company was made to the trustees of a settlement. This had the inadvertent effect of catching some loans to trustees of charitable trusts. Loans to charitable companies are not affected.

As further background, it is customary for non-charitable subsidiaries of a charity to donate most or all of their profits to the parent charity. If the subsidiary has a significant amount of surplus cash it is common practice for it to lend the funds to the parent charity until the amount of the profits that are available for donation has been determined. Following the changes introduced by Finance Act 2013 these loans could be subject to the loans to participators charge.

Legislation will be introduced in Finance Bill 2016 to create an exception from the loans to participators charge. This will apply to some loans or advances made by close companies to trustees (corporate or individual) of charitable trusts as long as the funds are applied wholly for the purposes of the charitable trust.

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Individuals | Employers

Taxation of asset managers' performance awards

New rules will dictate whether performance awards received by asset managers should be taxed as income or as an investment return.

Effective date: Inclusion in Finance Bill 2016, but effective date not currently certain.

New legislation will change the tax treatment of performance awards received by asset managers. They will now be taxed as income, unless the underlying investment fund with which the manager is involved undertakes long term investment activity. It is not yet known how long term investment activity will be measured, and whether there will be specific accommodation to ensure that private equity and venture capital – which the original consultation made clear were not the target of the rules – will enjoy any kind of safe harbour.

The effect of the changes, if they apply, will be that there is the potential for individuals to incur income tax charges on performance awards on which they may previously have expected to be taxed as an investment return.

These changes are the latest over the past 12 months or so to affect investment and asset managers. Previously enacted rules have affected the treatment of "disguised investment management fees" and carried interest returns.

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Individuals

Employers | Businesses

Tax evasion and compliance

HMRC press ahead with the crackdown on tax evasion.

Effective date: Royal Assent to Finance Bill 2016.

In Finance Bill 2016 the Government have announced they will:

- Introduce a new criminal offence of failing to declare offshore income and gains that removes the need to prove intent for the most serious cases;
- Increase civil penalties for offshore evaders; and
- Introduce new civil penalties for those who enable others to commit tax evasion.

No specific date has been announced as to when the proposed new criminal offence for corporates failing to prevent tax evasion will be introduced.

The Government will consult on a new statutory requirement for tax payers to correct past offshore non-compliance including new penalties. This new requirement will also underpin the tougher offshore disclosure facility previously announced, which will commence in April 2016 and will feature:

- A fixed penalty of 30% of the tax owed for all relevant years.
- No Immunity from criminal investigation. HMRC's normal criminal investigations policy will apply.

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Individuals | Businesses

Company distributions anti-avoidance

A new targeted anti-avoidance rule is to be introduced to treat certain capital returns on shares as income.

Effective date: Finance Bill 2016 with effect from April 2016, but there is also to be a consultation process on company distributions generally in late 2015.

There is existing anti-avoidance legislation ('transactions in securities' rules) that can apply to certain transactions where holders of shares or securities receive capital sums in respect of their holdings out of the distributable reserves of a company. The rules allow HMRC to re-characterise the capital receipt an income distribution, meaning tax is payable at the rate applicable for dividends.

The Autumn Statement contained an announcement that there would be a consultation document on the treatment of company distributions in late 2015. In addition, specific changes to the transactions in securities rules will be introduced in Finance Bill 2016 to apply a new targeted anti-avoidance rule from April 2016. These will be directed at voluntary liquidations of companies, followed by the 'reformation' of the company by the same controlling shareholders. It is assumed that this is to address a perceived gap in the current rules. Further details on the extent of these changes are awaited.

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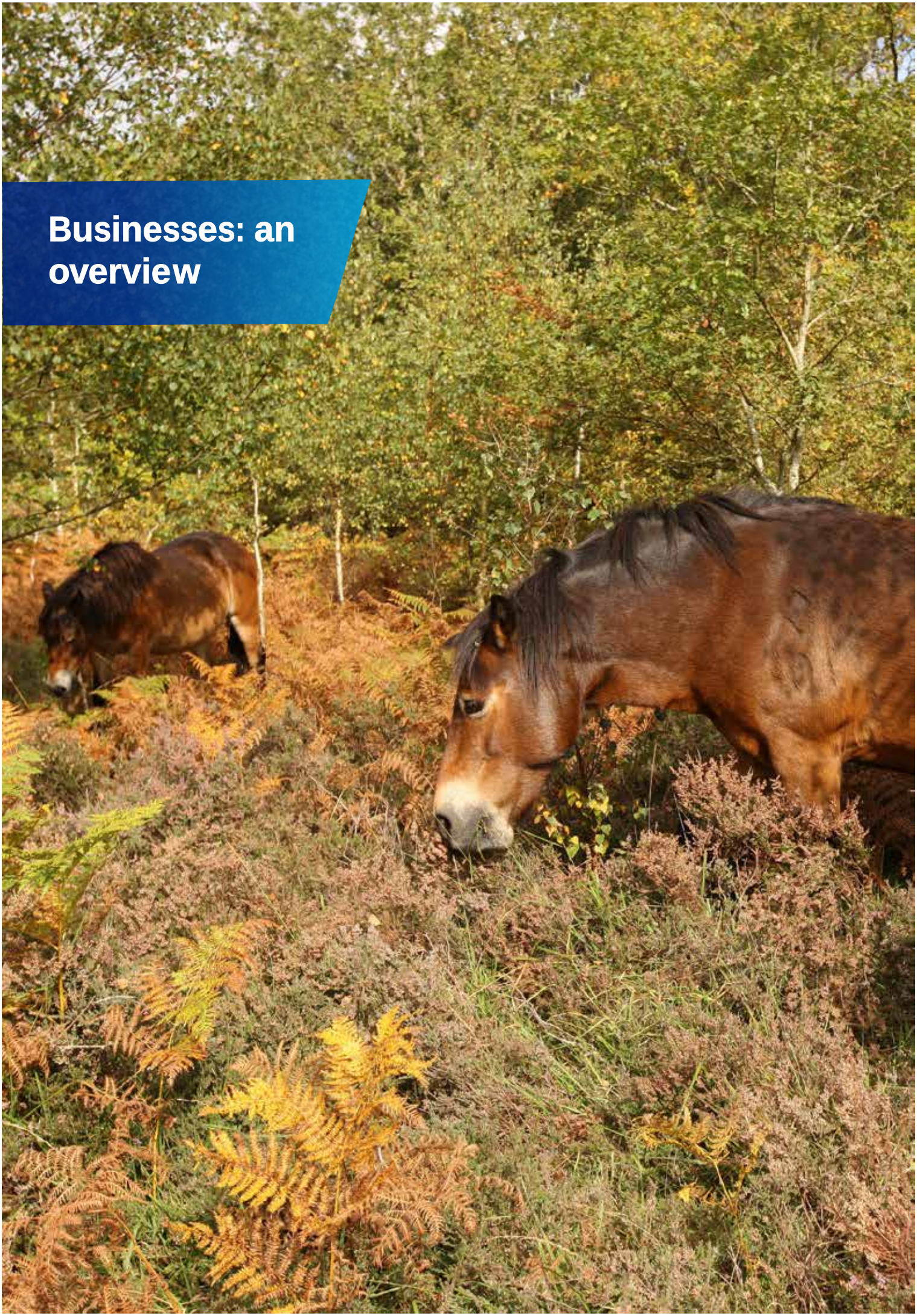
Businesses: an overview



Time to pause and reflect

The Summer Budget in July was full of measures for businesses to consider. Remember the announcement of the new 18% rate of corporation tax, the new quarterly instalments regime and the tax breaks for SMEs?

In fact, we have had an unprecedented surge of activity on business taxation over the last few years: some of it aimed at creating a business-friendly economy; and the rest aimed at tackling avoidance.

But this time it's not like that. This time it's pretty quiet, with an Autumn Statement focused largely on spending priorities and non-tax measures.

For a few months, business has had a bit of a lull. But the future looks to contain ever increasing complexity – for example, the implementation in the UK of the OECD's BEPS recommendations and potentially dealing with two rates of corporation tax in the UK (12.5% in Northern Ireland and 18% in the rest of the UK). Hopefully the Government's Business Tax Roadmap (which is due to be issued by April next year) will give business a clear sense of direction.

But for now, sit back, relax, and read below some of the changes which were introduced this time around, because this year's Autumn Statement will probably be the least impactful you've experienced for a few years.

BEPS

Given the significance of the OECD's BEPS recommendations published in October it is perhaps surprising that there was no general update on the plans for implementation of the proposals in the UK although there is, of course, ongoing consultation on interest deductibility and the patent box rules. The Government did, however, announce its intention to introduce legislation with effect from 1 January 2017 to implement the agreed OECD rules for addressing hybrid mismatches, which is in line with expectations.

General Anti-Abuse Rule (GAAR)

It has now been confirmed that a new penalty at a rate of 60% of tax due will be applied in cases countered by the GAAR. HMRC consulted on the penalty to be charged and have arrived at a reasonable rate when considered in the context of the targeted behaviour of abusive avoidance. Penalties for failing to take reasonable care attract a maximum penalty of 30%, penalties for deliberate behaviour attract a maximum penalty of 70% (or 100% where the behaviour is concealed) with offshore tax evasion attracting even higher penalties. A penalty of 60% therefore falls within the range for deliberate behaviour and HMRC will view abusive avoidance as a form of deliberate behaviour.

Capital allowances and leasing

As has been the trend in recent years the Chancellor has announced extensions to existing anti-avoidance legislation in order to tackle businesses who seek to obtain tax advantages involving capital allowances and leasing of plant or machinery. This will take immediate effect.

These measures are targeted at specific arrangements and it is not envisaged that they will impact on the everyday commercial activities of UK businesses.

Enterprise Zones

The Government is creating 18 new Enterprise Zones, and expanding eight Zones in the current program.

In line with other policy announcements in regard to the Northern Powerhouse, the Government's efforts to alter the geographical imbalance that has continued to trouble the British economy, the Chancellor is doubling the size of the Enterprise Zones program in the North, creating seven new Zones and extending a further two Zones, meaning that over a third of all new Enterprise Zones announced will be in the North.

The Chancellor has also announced measures, effective from April 2016, to enable companies in 10 designated assisted areas within Enterprise Zones to claim 100 per cent Enhanced Capital Allowances (ECAs) on all qualifying plant and machinery against their taxable profits.

Stamp Taxes

There will be a consultation on changes to the Stamp Duty Land Tax (SDLT) payment and filing process to make it faster and easier. The Government propose to reduce the filing and payment window from 30 days to 14 days.

Next year's Finance Bill will also contain provisions to extend reliefs available from the Annual Tax on Enveloped Dwellings (ATED) and the 15% super rate of SDLT to certain businesses that currently do not qualify for the reliefs.

Loan relationships: taxation of corporate debt and derivative contracts

In relation to the ongoing reform of the loan relationships rules, the Government has confirmed it will "legislate to update the tax rules for company debt and derivative contracts to ensure they interact correctly with new accounting standards in three specific circumstances". We understand that this relates to interest-free loans and other loans on non-market terms and draft legislation will be included in the draft clauses for Finance Bill 2016 to be published on 9 December 2015.

Venture capital schemes: replacement capital

The Government is to continue to explore options to introduce increased flexibility for replacement capital within the Enterprise Investment Scheme (EIS) and Venture Capital Trust (VCT) schemes subject to obtaining State aid approval.

Environmental Taxes

The Chancellor has announced a Shale Wealth Fund, under which 10% of revenues from shale gas would be held in a wealth fund to be re-invested in the long term economic health of the North of England.

In terms of Landfill Tax, the reform of the Landfill Communities Fund will allow operators to make the full 100% of any contribution to an environmental body, rather than just the 90% for which a landfill tax credit is available. This change, and certain others to the same scheme, will take effect from 1 April 2016.

Consultations

Consultations have been promised in some fairly niche areas: the possible introduction of a new tax relief for museums and galleries and extending support given to grassroots sport through the corporation tax system.

HRMC: digitalisation

The Government will also be investing £1.3 billion to transform HMRC into a digitally advanced tax authority.

So let's end by thinking about the volume of work that HMRC already has to cope with, adding on the effects of the 18% reduction in their budget which was announced today and then reflect on the impact that this significant digitalisation project could have. How will HMRC's ability to respond to the needs of UK taxpayers be affected? When you take all of this into account, things may well get worse before they get better.

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Individuals: an overview

With a Government focused on stability and building the UK economy, and with a raft of personal tax changes announced in the Summer Budget – finance cost restrictions for buy-to-let landlords, reform of the taxation of non-doms, and increases to the dividend tax rate – it is perhaps not surprising that the Autumn Statement has been light on personal tax changes. The measures that have been announced are targeted and specific, again with property taxes (the additional 3% SDLT rate) being one of the larger revenue raisers.

The Government has previously announced that in combination with the abolition of the dividend tax credit and the introduction of the new Dividend Tax Allowance of £5,000, from April 2016 dividend income above the allowance will be taxed at increased rates of 7.5% for basic rate taxpayers, 32.5% for higher rate taxpayers and 38.1% for additional rate taxpayers. In the July Budget policy costing document, it would appear that the Government are anticipating that some taxpayers may accelerate dividend payments prior to this rate increase.

Investment, Savings and Pensions

ISA subscription limits in 2016/17 are to be maintained at their current level of £15,240 and £4,080 for Junior ISAs. There will be legislation to allow an ISA of a deceased person to continue to benefit from its tax advantages during the administration of the estate and further details of this measure will follow.

The Government is extending the list of ISA eligible investments to include crowdfunded debt securities issued by companies, with the aim of introducing an Innovative Finance ISA in Autumn 2016. The Government is continuing to explore the case for extending the ISA eligible investments list to include equity crowd funding.

A response is expected at Budget 2016 to the Pensions Green Paper, which contains a number of proposals intended to encourage individuals to save for their retirement.

Digital Accounts

The Government has announced the next steps in the move towards Digital Accounts (which when fully operational will remove the need to file annual tax returns), with access to digital accounts for all individuals and small businesses to be provided by 2016/17.

The Government will consult next year on proposals that by 2020 most self-employed individuals, landlords and businesses (but not individuals who are employees or pensioners unless they have secondary incomes exceeding £10,000 per year from self-employment or property) will need to use digital accounts, including to update HMRC at least quarterly.

There are also proposals to simplify the payment of taxes, with the Government considering both the process and timing of payment dates with a proposal to align them to bring payment closer to the point when income and gains arise and the possibility of a single regular payment that covers all taxes.

The Government's aim is to make the tax system "more effective, efficient and easier for taxpayers". Whether affected taxpayers will agree that a requirement to update HMRC more frequently and potentially make earlier payments of tax fulfils this objective remains to be seen.

UK Property

The Autumn Statement includes plans to introduce a requirement from April 2019 for Capital Gains Tax (CGT) to be paid within 30 days of completion of any disposal of residential property. This will not affect gains that are not liable to CGT due to Principal Private Residence relief although it is not currently clear whether such gains would still need to be reported to HMRC. See 30 day payment window for CGT on UK Residential Property for more details. In addition the Government is to consult next year on changes to the filing and payment process for SDLT including a reduction to the filing and payment window from 30 to 14 days. This is, we are told, to make the process faster and easier. The changes will take effect in 2017-18.

Higher rates of SDLT will apply from 1 April 2016 on purchases above £40,000 of additional residential properties such as buy-to-let and second homes. Increased rates will be 3% above current SDLT rates. These increased rates will not apply to corporates or funds making significant investments in residential property. See SDLT Surcharge on second homes for further detail.

Following informal consultation, the 2016 Finance Bill will contain provisions to extend reliefs available from ATED and the 15% super rate of SDLT to certain businesses including those offering equity release schemes and residential property-rental businesses that permit members of staff employed in connection with the business (e.g., a caretaker) to occupy a dwelling for no rent.

The Government continues to use UK residential property as an area from which to raise tax revenues with numerous changes over the last few years including CGT for non-residents from April 2015, and restrictions on finance costs such as interest for non-corporate landlords coming into effect from April 2017. In addition a consultation is expected in the New Year on the July 2015 proposals to bring all UK property held through offshore structures by non-UK domiciles into the scope of UK Inheritance Tax. These Inheritance Tax changes will impact funding structures and ownership for both existing and new owners.

Non – UK Domiciled (Non-dom) Individuals

To encourage investment in the UK the Government is to consult on how to improve the existing and underused Business Investment Relief, which enables non-dom individuals to make investments in UK businesses without incurring a tax charge on remittances.

The Government has consulted on proposals to abolish permanent non-dom status since the Summer Budget and we expect further details shortly, although further details relating to trusts settled by non-doms are not expected until 2016.

Inheritance Tax

Following consultation the Government has confirmed that it will not introduce new restrictions on how deeds of variation can be used for tax purposes but will continue to monitor their use.

Fund Managers

The Government is to introduce legislation to determine when performance rewards received by asset managers will be taxed as income or capital gains. An award will be subject to income tax unless the underlying fund undertakes long term investment activity. For further details see Taxation of asset managers' performance awards.

Anti-avoidance

Finance Act 2015 introduced changes to Entrepreneurs' Relief restricting its availability on shareholdings in certain companies with investments in joint ventures or partnerships. The Government will consider bringing forward legislation designed to ensure the relief is still available on certain genuine commercial transactions that might otherwise be affected by these restrictions.

A new targeted anti-avoidance rule is to be introduced from April 2016 to treat certain capital returns on shares and securities as income. See Company distributions anti-avoidance for further details.

Tax Evasion and Compliance

HMRC are pressing ahead with the crackdown on tax evasion using offshore assets by targeting both the evaders and those that assist them. More detail is available in Tax evasion and compliance.

In summary, there are a number of specific targeted measures where further detail is to follow in the coming weeks with the publication of the draft Finance Bill 2016 and further consultation documents expected in the New Year.

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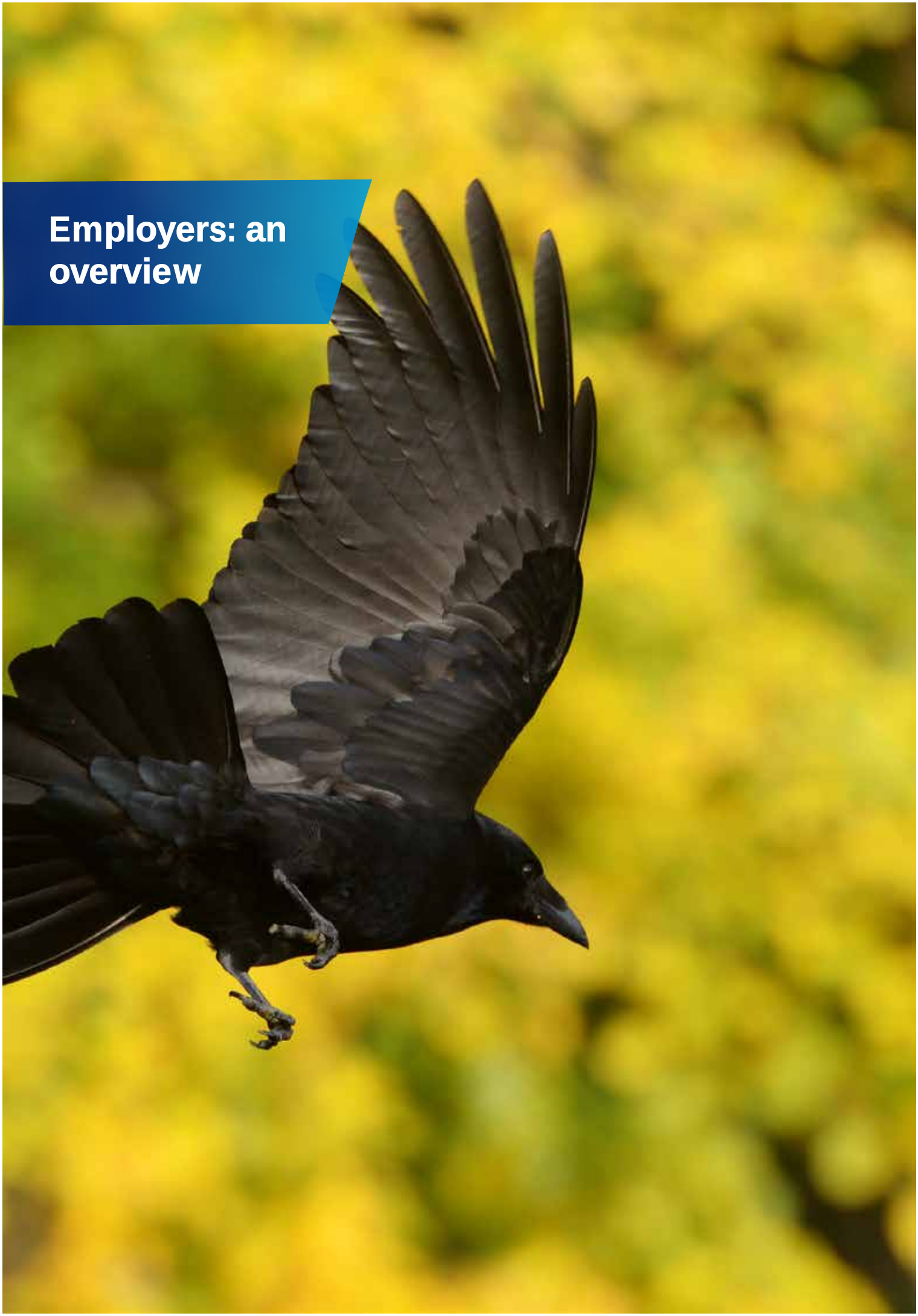
Employers: an overview



***The Chancellor's speech was a long one, by his own standards, but those listening* specifically for tax announcements aimed at employers will have found thin pickings. Some significant areas under consultation – including reform of the IR35 rules and of the income tax and NIC treatment of termination payments – received no mention at all, whilst in other areas the Chancellor has given us nothing more than a tantalising peek at changes to come.**

So what did the Autumn Statement tell us?

We do now know the rate of the Apprenticeship levy (0.5%), which will apply from April 2017, and that there will be a £15,000 offset for all employers. Employers will, therefore, effectively only be subject to the Levy to the extent that their annual wage bill exceeds £3 million. Our separate article above considers the announcement in more detail.

The Chancellor also confirmed the extension of support for childcare, albeit with restrictions for those working less than 16 hours per week or earning more than £100,000. Again, please see our separate article above for more detail.

Disguised remuneration – a line in the sand

The Government is keeping a close eye on tax avoidance schemes involving disguised remuneration. It has stated not only that it "intends to take action against those who have used or continue to use disguised remuneration schemes and who have not yet paid their fair share of tax" but also that it will consider legislating to close down any future new schemes, where necessary, with effect from 25 November 2015.

It is rare that the Government issues a threat of retrospective legislation. However, it clearly intends to draw a line in the sand, and signal that it has lost patience with the continued use of such arrangements.

Draft Finance Bill

The Government has confirmed that Finance Bill 2016 will contain a number of technical changes to streamline and simplify aspects of the tax rules for employee share plans. At this stage we have no precise detail of the changes or the proposed timing and will need to await the release of draft Finance Bill clauses on 9 December 2015.

That said, the announcement indicates there will be some changes to both tax-advantaged and non-tax-advantaged share plans.

We expect at least one of the changes to focus on restricted share unit (RSU) type awards (i.e. a conditional right to receive a specified number of shares on a future vesting date if conditions are met). These are a popular form of employee share award in UK listed and international companies. Following the significant changes to the UK tax and NIC sourcing rules for internationally mobile employees who have been awarded employment-related securities (ERS) and ERS options that took effect from 6 April 2015, there has been a lot of uncertainty on the correct charging provision for RSUs. This is due to the fact that the new rules apply to RSUs that are taxed under the 'securities option' rules but not to RSUs that are taxed under 'general earnings' rules. Hopefully Finance Bill 2016 will clear matters up!

The Government has also confirmed that we can expect draft legislation to restrict relief for travel and subsistence expenses for those engaged via employment intermediaries.

Other announcements

Other announcements included:

- Salary sacrifice – the Government will continue to actively monitor the growth of salary sacrifice schemes that reduce employment taxes and their effect on tax receipts. There is an intention to gather further information from employers to inform any decisions made on next steps.

- Living accommodation – Following recommendations from the 2014 Office of Tax Simplification (OTS) report on simplifying the administration of employee benefits and expenses, the Government will publish a call for evidence on the current tax treatment of employer-provided living accommodation in due course.
- End of the Real Time Information (RTI) relaxation – the Government has confirmed that the two year temporary RTI relaxation, allowing existing micro-employers to report all payments they make in a tax month on or before the last payday in the tax month rather than on or before each and every payday, will end as planned on 5 April 2016.
- Sporting testimonials – following consultation earlier this year, the Government has announced that all income from sporting testimonials and benefit matches for employed sportspersons will be liable to income tax. However, an exemption of up to £50,000 will be available for employed sportspersons with income from sporting testimonials that are not contractual or customary. This legislation will apply where the sporting testimonial is granted or awarded on or after 25 November 2015, and only to events that take place after 5 April 2017.

Known unknowns

The Chancellor had announced, ahead of the Autumn Statement, that the Government's full response to the pensions consultation (proposing significant reform to the basis of pensions tax relief) would come at next year's Budget. Employers hoping that the Autumn Statement might have given a steer as to the potential direction of travel will be disappointed: all we have had is confirmation that we need to wait until Budget 2016 for a decision.

The Autumn Statement Blue Book does tell us that the Government has responded to the report from the Office of Tax Simplification (OTS) on Employment Status and "is taking forward the majority of the recommendations". Employment status is a key issue affecting (as the OTS itself noted in its report) areas well beyond just tax, and the OTS put forward various possibilities for change in a document spanning some 180 pages. When the Government response is published, employers will be keen to see which of these are being taken forward.

The lack of an announcement on reform of the IR35 rules will leave uncertainty for those workers operating through personal service companies and the businesses engaging them in equal measure. The status quo remains for the present, but with the recent discussion document identifying 90% non-compliance with the current rules, and estimating lost revenue in the order of £450 million per annum, this is unlikely to be permanent. There is, though, a clear overlap between IR35 and the wider employment status issues covered by the OTS report (and, indeed, their current review of the potential alignment of income tax and NICs). We would expect a response to the recent IR35 discussion document in the coming weeks. It is to be hoped that the delay in confirming what is to be done will allow all these issues to be considered together rather than in a piecemeal fashion.

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