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Autumn Budget 2017

The Chancellor, Philip Hammond, delivered his first Autumn Budget on Wednesday 22 November. As expected, it was a Budget with limited changes, reflecting the Office of Budget Responsibility's (OBRs) downgrading of economic forecasts and uncertainty surrounding the ongoing Brexit negotiations.

For Northern Ireland, there was a welcome announcement of an additional £650 million for the Northern Ireland Executive to invest in future infrastructure projects here. Additionally, reviews to the VAT rate applied on tourism activities (currently 20% in Northern Ireland, compared to a 9% rate which applies in the Republic of Ireland) and air passenger duty rates were announced, with further updates expected next autumn.

The most significant announcement in this Budget was the anticipated changes to the Stamp Duty Land Tax (SDLT) rules to assist first time buyers. The new SDLT exemption introduced immediately will apply to the first £300,000 of the purchase price of a home, on properties costing less than £500,000 and is expected to exempt majority of Northern Ireland's first-time buyers. In order to claim the new exemption, the purchaser of the property must be one or more individuals who have never owned a residential property or an interest in a home, in the UK or anywhere else in the world and the property is intended to be occupied as the buyers' main home.

First time buyers should be careful if parents are helping with the purchase cost of a property and are to be a named buyer, which will block the SDLT exemption if the parent has previously owned a home.

Other key changes to note are:
- increase in the Research and Development (R&D) expenditure credit (mainly available to large companies) from **11% to 12%** for 'qualifying expenditure' incurred on or after 1 January 2018;
- VAT registration threshold was frozen for the first time in nearly 30 years at **£85,000** until 2020;
- personal tax free allowance will increase from **£11,500 to £11,850** from April 2018 alongside the increase in the higher rate tax threshold to £46,350;
- From April 2018, the National Living Wage is to also increase from **£7.50 to £7.83** per hour;
- indexation allowance will no longer be available for companies disposing of capital assets after 1 January 2018 and aligns the capital gains calculation to that for individuals;
- individual's annual capital gains allowance will increase to **£11,700** from April 2018; and
- increase of 1% in respect of the calculation of the Benefit in Kind (BIK) on diesel cars.

Finally, since 2010 and the introduction of anti-avoidance legislation to tackle tax evasion and avoidance, the government has announced further anti-avoidance measures, which are expected to collect a further £4.8 billion over the course of the next four years. These include introducing a requirement to notify HMRC of the creation of certain offshore structures, which can be used to avoid tax and collection of withholding taxes on royalties which are paid to low/non-taxing jurisdictions.

Staff entertainment and gifts

As the Christmas season gets underway, employers should be considering the tax implications of the Christmas party and the provision of Christmas gifts to employees. There are a number of tax exemptions that permit employee expenditure to be made free from income tax and national insurance charges. Care should be taken where the conditions are not met, as the costs can soon spiral when employers are faced with having to settle tax charges on their employee's behalf.

HMRC allow expenditure of up to £150 per head, including non-employees, on annual functions to which all employees are invited. This typically covers the annual Christmas party but should also include the costs of all staff annual functions over the course of the year. This is not an allowance and once it's exceeded, the full cost per head becomes chargeable.

Trivial benefits that cost the employer no more than £50 can be made to employees without triggering tax charges. The benefit cannot take the form of cash or a cash voucher and should not be a reward for work or performance. There are limits for company directors who cannot receive trivial benefits worth more than £300 in a tax year.

Where these limits are exceeded then the employer will typically enter into a PAYE settlement agreement with HMRC. This avoids having to put the items through the payroll or include them on the BIK P11D reporting forms. However, it does mean that the employer agrees to settle the employees income tax charges on their behalf and this is achieved by calculating the "grossed up" tax charge.

For example, if an employee who is taxed at the 40% tax rate is provided with a cash gift of £100, the grossed up tax charge due by the employer would be £67 and the Class 1B national insurance charge of £23. These agreements should be made with HMRC prior to the start of the tax year, with the calculation and payment due by 22 October, following the end of the tax year in which the expenditure arose.

HMRC interest rate rise

The Bank of England Monetary Policy Committee (MPC) voted on 2 November 2017 to increase the Bank of England base rate to 0.5%. As a consequence of the change in base rate, HMRC interest rates for late payment of tax have increased from 2.75% to 3% with effect from 21 November 2017. Repayment interest rates remain unchanged.

HMRC's Litigation and Settlement Strategy (LSS)

HMRC's LSS first published in 2007 and was further updated on 30 October 2017. It sets out the framework in which HMRC will resolve tax disputes through civil law processes and procedures in accordance with the law. It applies irrespective of whether the dispute is resolved by agreement with the taxpayer or through litigation. The LSS is designed to facilitate resolution of disputes in relation to all taxes and to ensure consistency in how tax disputes are resolved.

Disputes may arise in the context of an enquiry into a return, an audit or a challenge by HMRC's legal interpretation brought by a taxpayer. A key part of HMRC's overall customer strategy is to help reduce the likelihood of situations arising which may give rise to a dispute. Disputes are costly for HMRC and the taxpayer and so HMRC is committed to supporting taxpayers to get their tax right without the need for dispute. The LSS is to apply to all tax disputes resolved through civil procedures and to all decisions taken by HMRC in relation to such disputes.

Statistics from HMRC have found that the difference between what HMRC consider to be the tax due and what it actually collected, known as the 'tax gap', fell to a record low of 6% in the 2015/16 tax year. HMRC LSS has contributed to closing the tax gap together with wide ranging anti-avoidance measures.

Making Tax Digital (MTD) is going live for VAT in 2019

The government has decided that Making Tax Digital (MTD) is going ahead, where the starting point will be VAT registered taxpayers.

From periods beginning on or after 1 April 2019, VAT registered businesses with a turnover above the VAT registration threshold will be required to submit the current nine box VAT return, either straight from the accounting software or via Application Program Interface (API) software, linking spreadsheets to the HMRC system.

What will change?

- the existing nine box VAT return will need to be submitted either directly from accounting software or by API links from spreadsheets;
- additional information will be required to be kept in the VAT account and HMRC can request to see this information;

- the VAT account may be submitted to HMRC but this will not be mandatory initially;
- the filing date for returns may revert to the end of the month following the end of the VAT return period, although this is only likely to happen when all the taxes are subject to MTD. For many businesses this will mean the eventual loss of an additional seven days to file the return;
- new penalties for late filing and late payment of VAT. These are likely to be on a "points" basis where infringements will earn points. Once a certain number of points is accumulated, a penalty will be issued; and
- certain taxpayers will be exempt from MTD. Initially this group looks to be the digitally impaired, those with a religious issue with technology, the infirm, elderly and those with no internet access. In addition, taxpayers that are VAT registered but below the threshold will not have to file returns under MTD, but can opt to do so if they wish.

HMRC should only be using the data supplied for determining risk to the tax base.

Charities, local authorities, government departments and overseas businesses will not be exempt from MTD for VAT (unless their taxable activities are below the current general VAT threshold).

MTD is here to stay and will affect a significant number of taxpayers that are VAT registered. The software requirements have not yet been issued to developers, so the 2019 deadline is looking like a significantly difficult achievement and for taxpayers with accounting systems, there is likely to be some disruption whilst the software developer upgrades the transmission method to API.

Ultra Low Emission Vehicles (ULEV)

In May 2017 the government set out its framework for the operation of clean air zones in England on the back of the belief that poor air quality is the largest environmental risk to public health in the UK, costing in one year, an estimated £2.7 billion in lost productivity. The government's commitment to implementing this framework can be measured by its vow to ban the sale of all new petrol and diesel cars from 2040. In the last four years new registrations of electric cars has increased from 3,500 to almost 121,000 by the end of October 2017. As a supporting measure and to accelerate the transition to a low emission economy, HMRC offers favourable taxation treatment and allowances for employers that provide company car's that qualify as ULEV, ie cars with CO_2 emission levels of less than 50g/km.

Currently there are lower relevant percentages for calculating benefit on kind where employees are provided with ULEVs as a company car. During 2017/18, the cash equivalent for ULEV's, is calculated as 9% of the list price, rising to 13% and 16% over the next two years. However, this will drop to 2% from 2020/21 reducing income tax for employees and national insurance liabilities for employers significantly. The potential savings become greater still where private fuel is provided to an employee, HMRC do not consider electricity a fuel which means there are no fuel benefit charge for electric cars.

Employees can continue to use the salary sacrifice scheme with the car repayments being deducted from gross salary. Although a BIK charge will still arise, there are often some tax savings to be made and these will be more significant from 2020/21.

For employers, enhanced capital allowances are available for businesses purchasing assets, such as cars with CO_2 emissions of less than 75g/km and ULEVs recharging or refuelling infrastructure with 100% first year allowances available up until April 2021.

A grant of up to a maximum £4,500 is available towards the cost of a qualifying ULEVs, through the plug-in car grant and plug-in van grant.

Enhanced Capital Allowances (ECA)

Most businesses are aware of the availability of capital allowances, however, the ECA scheme which is often overlooked was introduced to encourage business investment in new energy-saving equipment. The initiative forms a pivotal component of the climate change levy that seeks to provide incentives to increase national energy efficiency, whilst simultaneously reducing carbon emissions.

Qualifying ECA expenditure allows business to benefit from higher capital allowances and outside the cap of £200,000 of annual investment allowance, with 100% first year allowance relief in the year of purchase.

Broadly, qualifying ECA expenditure falls under either 'listed' or 'non-listed' assets. Listed assets must appear at the time of purchase on the 'energy technology product list' which is produced and updated regularly by The Carbon Trust. The Carbon Trust is a recognised, independent body.

Non-listed assets cover four main qualifying technologies: automatic, monitoring and targeting equipment, pipework insulation, combined heat and power installations, and lighting. In order to qualify, HMRC require confirmation that the energy saving qualities provided by the supplier or installer of the product meets certain criteria.

ECA create a triple-tiered benefit to

businesses by reducing corporation tax payable in the year of expenditure, minimising energy bills for the foreseeable future and making the organisation more socially responsible by reducing its carbon footprint.

Business Investment Relief (BIR)

Business Investment Relief has been available since 6 April 2012 in order to encourage UK resident, non-UK domiciled individuals to bring non-UK source income and gains into the UK without incurring a tax charge.
A number of improvements have been made to this relief with effect from 6 April 2017.

The amount that can be claimed under this relief is unlimited but there are various conditions which must be met. In general, for the investment to qualify it must be in the form of shares or loan in a private limited company. For the investment to qualify the investment must be made into a private limited company. Investments into partnerships, corporate partners and unincorporated businesses will not qualify.

The company must also carry on a commercial trade. Any activity that is treated as a trade for corporation tax purposes will be considered a commercial trade for BIR purposes, including the commercial occupation of land. The definition of trading is extended for these purposes to include the renting or leasing of land or property, including residential property as well as R&D activities.

The relief may be withdrawn when certain events occur, such as the sale of the investment and appropriate mitigation steps are not taken within a specified grace period.

An individual intending to make a business investment can request advanced assurance from HMRC, as to whether the proposed investment will be treated as a qualifying investment for BIR purposes. The BIR claim must be made on the investor's self-assessment tax return for the year in which the investment is made.

Example

A UK resident, non-UK domiciled individual property developer trading through a UK private limited company, requires additional cash funds of £1 million to be able to purchase a new site.

The individual has substantial funds in an offshore bank account, mainly consisting of foreign income. Generally, if the individual made a loan to the company from these funds he would trigger a potential tax charge of up to £450,000. However, provided that the loan meets all the various conditions for BIR, the loan to the UK company could be made without a tax charge.

Pension auto enrolment rate increase from April 2018

April 2018 will see the first increase in rates since the inception of the scheme. Employers should have this factored into 2018/19 budgets and have an eye on 2019.

With this increase, some commentators are predicting that up to one million workers could exit or opt-out of their workplace schemes by 2019. Employers should prepare for this spike and ensure they then re-enrol workers correctly in the rolling three year cycle.

Date effective	Employer minimum contribution	Staff contribution	Total minimum contribution
Currently until 5 April 2018	1%	1%	2%
6 April 2018 to 5 April 2018	2%	3%	5%
6 April 2019 onwards	3%	5%	8%

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