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Sleepy Spring Statement

On Wednesday 13 March, the Chancellor of the Exchequer, Philip Hammond, announced the Spring Statement to the House of Commons. This statement usually attracts some attention, although, as it was squeezed in between Brexit votes and debates, it was very much a low-key affair.

Hammond began by warning of the 'dark cloud' of uncertainty hanging over the economy, he went on to warn of the economic disruption caused by a no deal Brexit including a hint that the risk of inflation could limit the scope for any fiscal stimulus.

There was some good news in that the economic forecasts had improved slightly from last year's forecast. Public finances are looking strong enough to allow for some significant increases in public spending (specifically referencing local government) in the multi-year spending review that will be launched in the summer. However, these measures are all subject to Brexit and avoiding a no deal.

There were several tax-related documents published following the Statement with some also to arrive in the coming months.

The extension of Making Tax Digital (MTD) to other taxes was expected to take effect from 2020, but has now been deferred. This is welcome for businesses, having one less thing to worry about with Brexit on the horizon. The government also confirmed that they would be lenient on penalties for the new VAT MTD rules, which come into effect from April this year.

There is no backing down from taking on 'digital giants' (eg Amazon, Google, Facebook) with an investigation into competition in digital advertising and confirmation that the UK will press ahead with a digital services tax, despite it being dropped as an EU-wide proposal (although it is still on the table for some countries such as France, Spain and Italy).

We were not expecting the Spring Statement to contain much about tax and true to form that is precisely what happened. Mr Hammond had other things on his mind, until the Brexit issue is resolved, the Chancellor cannot really take a strategic look at the country's long-term financial position and we did get a hint that there would be another statement before the summer break.

Personal tax year-end planning

As the 2018/19 tax year draws to an end it is worthwhile setting time aside to check you have maximised your tax allowances and tax reliefs for the year and plan for the year ahead.

Retain Personal Allowance and extend tax bands

In 2019/20 the Personal Allowance, available to all individuals resident in the UK (and currently residents of EU countries), is set at £12,000. The basic rate tax band (20%) is set at £37,000 and combined with the Personal Allowance it effectively means individuals can earn almost £50,000 before paying tax at the higher rate of 40%. Those whose income exceeds £100,000 in 2019/20 will see their Personal Allowance abated by £1 for every £2 in excess of this limit. The £100,000 limit is increased where a taxpayer donates to charity under the Gift Aid scheme and/or contributes into their personal pension plan.

Pension contributions

Contributions to a pension scheme continue to be tax efficient. Individuals can make gross contributions up to £40,000 each year and obtain tax relief providing they have sufficient earnings. Gross pension contributions include both the individual's contributions and those made by their employer. The £40,000 pension allowance is reduced for taxpayers with income exceeding £150,000. Taxpayers should consider reviewing their pension position before 5 April 2019.

Individual Savings Allowance

UK resident taxpayers should consider utilising their Individual Savings Allowance (ISA). The main ISA accounts at present are:

- cash ISA;
- stocks and shares ISA;
- junior ISA – used for children aged under 18;
- Help to Buy ISA; and
- Lifetime ISA.

Investment income and gains derived from these investment accounts are tax free. An individual can invest up to £20,000 in cash, or stocks and shares ISA account in 2019/20 (same as in 2018/19). The junior ISA allowance, for children under age 18, is £4,368 in 2019/20 (£4260 for 2018/19).

A taxpayer can only have one ISA allowance and not one allowance per ISA account with the exception of the Lifetime ISA. The Help to Buy ISA and Lifetime ISA are specific forms of ISA to help taxpayers with purchasing their first home.

Personal savings and dividend allowance

The Personal Savings Allowance (PSA) is a tax free allowance available to all taxpayers resident in the UK in the tax year. The allowance is £1,000 for basic rate taxpayers and £500 for higher rate taxpayers. Interest from savings/ investments falling within these bands will be tax free.

The tax free dividend allowance is currently £2,000 and will remain at £2,000 in the next tax year 2019/20. Shareholders in owner-managed businesses should consider utilising the tax free allowance before 5 April 2019.

Capital gains annual allowance

The capital gains annual exemption is currently £11,700 for 2018/19 and available to UK resident taxpayers. Capital gains arising in the tax years up to this amount are not liable to Capital Gains Tax (CGT). Individuals should review their assets and consider if they wish to utilise this tax free exemption before the tax year end. The annual exemption in 2019/20 is set at £12,000.

Tax efficient investments

Finally, it is worth considering tax efficient investments such as the Enterprise Investment Scheme (EIS), Seed Enterprise Investment Scheme (SEIS) and Venture Capital Trusts (VCT).

Investing in EIS and VCT's provides income tax relief at 30% of the amount of investment, whereas the SEIS provides income tax relief at 50% on investments up to £100,000.

EIS can be used to defer CGT arising on the disposal of any asset, effectively creating a cash flow advantage. Whereas, if a taxpayer sells assets and reinvests the sale proceeds in an SEIS investment the gain is exempt.

A few payroll related topics to remind you that life will go on after 29 March

The close of the tax year and the beginning of a new one is the point when most employers will think about change and adjustment. The tax year 2019/20 is no different, rates for PAYE, National Insurance Contributions (NIC), statutory payments, minimum wage, etc. increasing is part of the annual legislative update. It is worth a look at some of the detail around these.

Overnight increases

National Minimum Wage/Living Wage (NMW/LW) rates published by Government and the hike in Pension Auto Enrolment rates (AE) for employee and employer will ensure that March and April payslips are going to look very different. The new rates effective from 6 April 2019 are set out in the table below.

Age	Rate applied	Hourly £
16-17	NMW	4.35
18-20	NMW	6.15
21-24	NMW	7.70
25+	LW	8.21

Pensions Auto Enrolment

Employers should be familiar with the terms around how their AE deductions and contributions. From 6 April 2019, employers must increase their minimum contributions into their employees' automatic enrolment pensions to at least 3% of qualifying earnings. At the same time, employees will have to make a minimum contribution of 5%. The total minimum contribution is therefore 8%.

As employees are looking at another 2% increase in their pension contribution rate in 2019/20, this may lead many employees to consider whether to remain in AE once they see the impact on their pay.

Combining the AE entry point at age 22 with the age-specific rates of NMW and LW above can lead to increased rates of pay and employer contributions.

Salary sacrifice pension schemes must ensure the new employee 5% rate will be deductible from salary whilst maintaining the minimum hourly pay. Employers should check this before running their April payroll.

The commentary on future changes highlights that the qualifying earning band, earnings trigger or indeed the entry point which is currently age 22, could be changed or removed instead of increasing the contribution rate.

Postcode taxation

Welsh Rate of Income Tax (WRIT)

From April employed workers living in Wales will have a "C" prefix (Cymru) added to their tax code. Unlike Scotland, Wales does not have the power to vary the tax thresholds, only the tax rate.

Scottish Income Tax (SIT)

This has been around for a few years and software developers have absorbed the rates and bands into the legislative updates. Scottish parliamentarians do have the powers to vary the tax thresholds. Scottish workers should have the "S" prefix added to their tax code.

Prefixes are confirmed by HM Revenue and Customs (HMRC) by way of code update, employers should not simply add it on.

Regional tax rates have the clear potential for workers doing the same job, at the same rate of pay but in different locations around Northern Ireland and the UK to have very different outcomes.

Childcare vouchers

Despite significant lobbying and a six-month extension, October 2018 saw existing schemes closed to new members. Existing members continue to avail of the savings in PAYE and NIC but if they opt out of the scheme or change employer, they cease to be eligible. However, individuals can avail of Tax free Childcare (the government scheme).

Gender pay gap reporting

With their 13th report into the pay gap (August 2018), the Business Energy and Industrial Strategy Committee called for a reduction in the reporting threshold (next year) to include employers with fewer than 250 staff. This appears to have been rejected by the Treasury Committee who announced plans for a five year review. Employers with current reporting requirements should be gathering data in-year to comply with the end of year declaration/reporting.

Non-doms – cleansing mixed funds before 5 April 2019

Remittance basis

In general, individuals who are UK resident and not UK domiciled are subject to UK tax on their worldwide income each tax year, unless they elect for the remittance basis to apply. The remittance basis means overseas income or gains is only taxed in the UK if the income or proceeds is remitted to the UK.

Mixed funds

Special UK tax rules apply to non-doms using the UK remittance basis and remit money from a mixed fund. In broad terms, a mixed fund is typically an offshore bank account, which contains a mix of capital, income and gains. For example, an offshore bank account may consist of non-UK earnings, overseas bank interest, and proceeds from the sale of offshore assets. An offshore asset could constitute a mixed fund if it was purchased using a mix of foreign income and gains. Offshore funds that existed before the taxpayer became UK resident are referred to as 'clean capital'. Non-domiciled individuals can remit monies from clean capital to the UK tax-free. However, clean capital can easily become a mixed fund once the taxpayer becomes UK resident.

Cleansing mixed funds

UK resident, non-domiciled Individuals who claimed the remittance basis in an earlier tax year (between 6 April 2008 and 5 April 2017) may be able to benefit from cleansing mixed funds before 5 April 2019. The cleansing exercise enables money to be remitted which would otherwise be taxable using the remittance basis, to be remitted to the UK tax-free.

Individuals using the remittance basis should already have reviewed their accounts or do so now and take advantage of the opportunity to create clean capital from a mixed fund. The funds in the offshore accounts can now be segregated between income, gains and clean capital, and the relevant amounts nominated and transferred to new offshore accounts to retain clean capital.

This may be a worthwhile exercise in some cases as it will enable funds to be remitted to the UK tax free.

Structures and Buildings Allowance (SBA)

Commercial property owners need to be aware for future tax returns of Structures and Buildings Allowances (SBAs). SBAs will ensure that expenditure on structures and buildings, which has not historically qualified for capital allowances, will now generally be relievable over time. This should encourage investment into structures and buildings intended for commercial use across the UK.

This new type of capital allowance is intended to encourage capital investment as it gives tax relief on the costs of physically constructing new structures and buildings.

The relief will apply to all contracts entered into on or after 29 October 2018. Relief is limited to the costs of physically constructing the structure or building and includes the costs of demolition or land alterations.

Offices, retail and wholesale premises, factories and warehouses all qualify for the flat rate two percent allowance over a 50 year period. Expenditure on residential property and land will not qualify for the relief. However, where there is a mixed use between commercial and residential the relief will be apportioned. Where the structure or building is renovated or converted, the expenditure will qualify for a separate two percent relief over the next 50 years.

SBAs will not impact the claimant's entitlement to claim tax relief on plant and machinery or integral features and fixtures. These will continue to qualifying for writing down allowances including the Annual Investment Allowance (AIA). Any expenditure claimed as SBAs will not qualifying for AIA.

If the building is subsequently sold there will be no balancing allowance or charge created, instead the new owner will claim the remaining allowances until the end of the 50 year period.

The introduction of SBAs does not reduce the importance of contacting your tax adviser to prepare a detailed capital allowances review. It is still essential to identify costs qualifying as plant and machinery or integral features as they significantly accelerate the tax relief which provides a cash flow benefit to businesses. While SBAs are good they don't supersede the benefit of doing a cost segregation exercise as it is unlikely anyone who incurs the cost will be in the business to see the cash flow benefit in 50 years' time.

Changes to HMRC's benchmarking scale rates

From 6 April 2019, employers are no longer required to operate a system for checking employees expenditure for amounts paid or reimbursed using either the benchmark scale rates or the overseas scale rates.

The employer is now only required to ensure that employees are undertaking qualifying travel.

Benchmark scale rates: employees travelling within the UK

The current benchmark scale rates are the maximum amounts an employer can pay or reimburse an employee in respect of deductible subsistence expenses, free of tax and NIC. The rates are set out below:

Minimum journey time	Maximum amount of meal allowance
5 hours	£5
10 hours	£10
15 hours (and ongoing at 8pm)	£25

Employers wishing to use a bespoke rate can apply to HMRC for an approval notice.

Qualifying conditions

Benchmark scale rates must only be used where all the qualifying conditions are met. The qualifying conditions are:

- the travel is in the performance of the employee's duties or to a temporary place of work on a journey that is not substantially ordinary commuting (ie the normal journey between home and work);
- the employee is absent from his normal workplace or home for a continuous period in excess of five hours or ten hours, as appropriate; and
- the employee has incurred costs on a meal (food and drink) after starting the journey and retained evidence of their expenditure.

Overseas scale rates (OSR): employees travelling outside the UK

OSR are amounts published in HMRC guidance that employers can pay or reimburse their employees who travel abroad on business without deducting tax or NIC or reporting the payment to HMRC.

The amounts cover accommodation and subsistence costs. They are dependent on the country and city the employee visits along with the length of time of the visit. Many employers find the OSR a useful and simple way to reimburse employees for the costs that they incur when travelling abroad for work.

From April 2019, the overseas scale rates will be placed on a statutory basis, to provide greater certainty for businesses. HMRC have updated its table of scale rates for reimbursement of accommodation and subsistence expenses to employees travelling outside the UK.

Brexit – avoiding a hard border in Northern Ireland

Following the second defeat of Theresa May's Brexit deal in Parliament, the UK government has set out its approach to avoiding a hard border between Northern Ireland and Ireland, if the UK leaves the EU without a deal on 29 March.

Border controls and tariffs

In the event of a 'no deal' Brexit, the UK government would not introduce any new checks, controls or tariffs on goods at the land border between Ireland and Northern Ireland.

It would only apply a small number of measures necessary to comply with international legal obligations, and protect the biosecurity of the island of Ireland, or to avoid the highest risks to Northern Ireland businesses - but these measures would not require checks at the border.

The UK has announced a new temporary import tariff that would apply to imports into the UK after a 'no deal' Brexit, but this would not apply to goods crossing from Ireland into Northern Ireland.

This approach will only be temporary, as the government recognises it presents challenges and risks for maintaining control of the UK's borders (including using Northern Ireland as a conduit for EU goods to reach the rest of the UK, avoiding the normal UK tariffs). The UK would therefore enter into discussions urgently with the European Commission and Irish government to jointly agree long-term measures to avoid a hard border.

These are unilateral measures by the UK and do not impact the EU customs controls and tariffs that would apply when goods are imported into Ireland from Northern Ireland. It remains to be seen whether the EU would allow Ireland to introduce similar measures. If Ireland does not reciprocate, this could impact the competitiveness of Northern Ireland businesses, as there will be more barriers to exporting from Northern Ireland to Ireland, than vice versa.

VAT treatment

Goods arriving from Ireland would still be subject to the appropriate VAT and excise duty as today.

VAT registered businesses that acquire goods from Ireland would continue to account for VAT on their normal VAT returns, as a result of the postponed import VAT accounting that has already been announced by the UK government.

Small businesses trading across the border, not currently VAT registered, would be able to report VAT online periodically, without any new processes at the border. This will impose an additional burden on those businesses, and they will need to consider whether a UK VAT registration is worthwhile.

Irish businesses sending parcels to Northern Ireland would need to register with HMRC and account for UK VAT on these goods (although this would not apply to gifts).

As above, these measures do not impact the Irish VAT treatment. Imports of goods into Ireland would still be subject to Irish import VAT, which would potentially need to be paid when the goods cross the border (although the Irish government has announced it will also introduce postponed import VAT accounting for Irish VAT registered businesses in a 'no deal' scenario).

What should businesses do?

While this announcement removes some of the risks for Northern Ireland businesses under a no deal Brexit, substantial issues remain for businesses exporting to Ireland and importing or exporting to the rest of the EU.

We have been working with clients from a wide range of sectors, covering all aspects of Brexit planning, with a particular focus on the customs and VAT implications. Please speak to a member of our team if you would like our help in your preparations.

Brexit – tax implications for a UK company with an overseas subsidiary

Since the Brexit vote, there has been much commentary on the impact Brexit could have on VAT and Customs Duty. However, there has been less coverage given to the direct corporation tax implications that Brexit could affect which will typically result in a higher tax liability.

One such instance can arise in the scenario where a UK company has an overseas subsidiary in another EU Member State. Currently, there is an EU Parent-Subsidiary Directive, which eliminates any Withholding Tax (WHT) obligations on the payment of a dividend from a company that is tax resident in one Member State to a company tax resident in another Member State. While there is no requirement within UK tax law to deduct WHT on dividend payments, most other Member States do have such a requirement under their domestic legislation, with rates of up to 30% applying.

With the UK due to cease being an EU Member State, this EU Directive will no longer apply to dividends received by UK companies from EU subsidiaries, such that the overseas subsidiary may be required to withhold tax. The rate of WHT will be the dividend WHT rate of the jurisdiction in which the subsidiary is resident unless a reduced rate is available under any Double Tax Treaty between that jurisdiction and the UK.

As the UK tax system provides an exemption from Corporation Tax for the vast majority of dividends received, the UK Company will not be entitled to claim any double tax relief for any overseas WHT suffered. As such, this means that WHT could become a 'sunk cost' post-Brexit, with UK companies in receipt of dividend income from an overseas subsidiary receiving less cash than pre-Brexit.

It is perhaps worth a brief comment, given the land border with the Republic of Ireland, that while Ireland do generally operate a 20% WHT on dividends, the good news is that under their domestic legislation there should be no requirement to withhold tax on dividends paid to a UK Company.

So while there should be no change for an Irish tax resident subsidiary paying a dividend to a UK parent there could be a change to WHT implications for other overseas subsidiaries paying dividends post Brexit. Before declaring any dividends you should therefore confirm the correct WHT rate so you are aware of the cost of paying a dividend to a UK company.

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