AUTUMN STATEMENT 2015

SUMMARY OF THE MAIN TAX CHANGES

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1. Introduction

The Chancellor confirmed in his Spending Review and Autumn Statement that "the first duty of government is to protect economic and national security, thereby allowing the government to extend opportunity for working people at every stage of their lives". According to the government, the SR and AS sets out a long term economic plan to fix the public finances, return the country to surplus and run a healthy economy that starts to pay down its debt. Debt is projected to fall in every year of this Parliament as a share of GDP and the surplus is forecast to reach £10 bn by 2019-20.

Across the SR period day to day departmental spending will fall on average at less than half the rate of the preceding 5 years. Compared to the Summer 2015 Budget, the OBR now forecasts higher tax receipts and lower debt interest, with a £27 bn improvement in the public finances. This means that, while the SR and AS includes 'difficult decisions' to ensure Britain lives within its means, it appears that it has been possible to borrow less, invest more and smooth the path of consolidation. By ensuring Britain's long term economic security, the government is able to spend £4 trillion on its priorities and will take action to:

- protect the UK's national security by investing in defence, policing, intelligence, counter terrorism, cyber security and international aid, protecting British citizens at home and projecting British influence abroad

- provide opportunity for families through higher wages, lower taxes and lower welfare, saving £12 billion on welfare bills by 2019-20

- prioritise the integration of the NHS and social care, spending £120 bn a year by 2020-21 to create a 7 day NHS and introducing a new social care precept

- invest in Britain's future by providing education from childcare to college, with real terms protection for schools funding and paying for apprentices through an apprenticeship levy

- deliver a devolution revolution by returning power to the UK's nations, cities and councils and rebalancing our economy, giving people greater control over the decisions that affect their lives

- double investment in housing to support home ownership, while also investing in the transport, science, energy and culture that are vital for the country's long term economic future

• reform and modernise public services, from prisons and court rooms to the UK tax system, making citizens' lives easier and offering a better deal for taxpayers.

The Chancellor announced that the OBR now forecasts GDP growth of 2.4% in 2015, 2.4% in 2016 and 2.5% in 2017. It forecasts employment to be 31.1 million in 2015, rising each year to 32.2 million in 2020. CPI inflation is forecast to be below the 2.0% inflation target in 2015, returning gradually to 2.0% in 2019.

Whilst George Osborne failed to produce a big surprise "rabbit" out of his collection of tax measures and spending announcements, a few hares were set running amongst property investors. They will face increased SDLT charges from 1 April 2016, and accelerated payments of CGT from 2019.

There was some relief however that the changes to travel and subsistence rules for contractors working through personal service companies will not be implemented as widely as suggested in the earlier consultation.

Lower paid workers will be grateful that the rates and thresholds for Working and Child Tax Credits are to be frozen at the 2015/16 levels for 2016/17, rather than being cut drastically as announced in the Summer Budget. Tax credit claimants are gradually being moved on to the new Universal Credit so their relief may be short-lived.

The Government will collect extra tax revenues from increasing certain duties, introduce the Appenticeship Levy and advance the dates on which tax is payable.

2. Measures Having Immediate Effect On/After 25 November 2015

A relieving measure for charities connected to close companies - where the trustees of a charity hold shares in the close company and the charity receives a loan from that close company, a tax charge of 25% of the loan is currently payable. That tax charge will not apply where the loan from the company is made for a charitable purpose.

The blocking of tax avoidance schemes involving intangible assets held through partnerships and LLPs which contain a company as a member (mixed partnerships). The law is to be changed to ensure the intangible asset is treated for tax purposes under the intangible asset rules that apply for companies, when the asset is held by a mixed partnership.

Where there is manipulation of disposal values of plant and machinery to achieve excess balancing allowances or reduced or no balancing charges under the capital allowances rules, the disposal value will be adjusted for tax purposes to reflect the payment (in whatever form) actually received for the asset. This applies for corporate tax and income tax.

Where a company or individual takes on the obligations under a lease, in return for some consideration (paid in any form), that consideration will be taxable, even if the consideration is received by a connected person.

Disguised remuneration schemes will be closed down with effect from 25 November 2015 by the use of retrospective legislation.

3 Measures From April 2016

There will be no changes to the rates or thresholds for Working or Child Tax Credits, except the income rise disregard will reduce from £5,000 to £2,500.

An Apprentices levy will be introduced and charged at 0.5% of employer's wage bill, but employer will get a £15,000 allowance to set against this so this will only affect employers with wages bills of over £3 million.

The benefit in kind charge for a diesel company car carries a 3% supplement. This was to be removed from 6 April 2016, but it will now stay in place until 2020/21.

Small Business Rate Relief is extended for a year from 1 April 2016.

SDLT on residential properties purchased to let or as second homes to carry a supplement of 3% on top of the normal rates for residential properties. This will not apply in Scotland.

The state retirement pension will be set at £119.30 p/w for existing pensioners, and £155.65 p/w for the new single tier pension for those who reach state pension age on and after 6 April 2016.

4. Measures From April 2017

Tax-free childcare savings scheme will only be available where parents earn below £100,000, previously the earnings cap was to be set at £150,000. Each parent will have to work for a minimum of 16 hours/week to qualify.

SDLT will have to be paid within 14 days of completion of property purchase and not 30 days as it currently the case.

5. Measures From April 2019

CGT due on the disposal of residences will be payable within 30 days of completion.

6. Personal Taxes

In the 2014 Autumn Statement the Chancellor restricted the scope of entrepreneurs' relief, particularly on incorporation. The rules were further tweaked in March 2015 to restrict the relief in situations where joint venture companies or corporate partners are involved in a structure.

It was widely appreciated that the second alteration to the entrepreneurs' relief rules cast the net too wide, and many genuine investors and partners were prevented from claiming the relief. The rules will now be rewritten again with the hope that the law makers will get it right this time.

No significant changes were announced for IHT although the use of deeds of variation to wills has been reviewed. The Government has concluded that no changes are needed to the tax effect of such deeds, even if the use of a deed results in less IHT being payable.

The maximum amounts that can be contributed to ISAs are frozen for 2016/17 at the levels for 2015/16, for all types of ISA.

The starting rate limit for savings income is retained at £5,000 for 2016/17. In addition, every basic rate taxpayer has a personal savings allowance of £1,000 for 2016/17 and every higher rate taxpayer has a personal savings allowance of £500. Savings income falling within the savings rate limit or the savings allowance does not suffer tax.

The new "tax-free childcare" savings scheme is due to come into effect in early 2017. For every £80 the parents (or anyone else) contribute to the savings account, the Government will contribute £20, up to a combined maximum of £10,000 per child per year, or £20,000 for a disabled child.

Only parents who are both working for a minimum of 16 hours per week will be eligible to open the savings account – this threshold has increased from eight hours. Each parent must not earn more than £100,000 per year – a threshold which has been reduced from £150,000 per year.

Where parents currently receive tax-free childcare vouchers from their employer, they can chose to continue to receive those vouchers or apply for the new savings scheme. It will not be possible to take advantage of both schemes simultaneously or swap back to employer-provided vouchers.

In the Summer 2015 Budget, the government launched a consultation on the system of pensions tax relief. The government is considering the responses received and will publish its response at Budget 2016.

7. Tax Credits

In the Summer Budget 2015, the Chancellor proposed cutting the rates and thresholds for working and child tax credits. This would have reduced the income of many low paid families significantly. The House of Lords blocked the legislation which was to have made this change.

The rates and thresholds for tax credits are to be frozen for 2016/17 at the 2015/16 levels. There is one exception - the disregard of rising income is to be brought in line with the disregard for falling income. Both will be set at £2,500 for 2016/17.

The Government is to review the rules concerning making single or joint claims for tax credits as this is an area where claimants are easily confused and many mistakes are made.

8. State Retirement Pension

The state retirement pension will be paid at two rates in 2016/17, depending on whether the pensioner reached state retirement age before 6 April 2016 or on or after that date, when the individual will qualify for the new single-tier state pension. The rates are:

(i) Full single tier pension – £155.65 per week,

(ii) Basic old-style pension – £119.30 per week,

although not everyone will qualify for these maximum amounts.

9. Charities

Where charities are connected to close companies the movement of money between the company and the charity can generate an unnecessary tax charge. Where the trustees of the charity hold shares in the close company and the charity receives a loan from that close company, a tax charge of 25% of the loan is currently payable. That tax charge will not apply where the loan from the company is made for a charitable purpose, with effect from 25 November 2015.

10. Tax Administration

The Government wants taxpayers to interact with HMRC online as much as possible, including submitting tax returns online and paying all taxes electronically. It believes that the removal of paper from all processes will reduce costs and improve efficiency for all concerned. As part of the move towards making tax digital, the following changes will be introduced.

Taxpayers who currently submit a self-assessment tax return, but have relatively simple tax affairs, may be saved the trouble of completing the tax form for 2016/17. HMRC will send the taxpayer a calculation of the tax due based on information it already holds. The taxpayer will agree the calculation and pay the amount due or appeal.

Self-employed individuals and landlords will be required to report their earnings and expenses to HMRC at least once per quarter during the tax year instead of once after the end of the tax year. It is not clear when this new reporting requirement will come into effect, as it may take some time for suitable software products to be developed.

11. Tax Avoidance

A number of tax avoidance schemes were blocked with immediate effect by the Chancellor and these include the following.

Where intangible assets are held through partnerships and LLPs which contain a company as a member (mixed partnership) there is a clash of tax rules for individuals and corporates, which can allow excess tax relief to be obtained. The law is to be changed to ensure the intangible asset is taxed under the intangible asset rules that apply for companies, when that asset is held by a mixed partnership. The Government will also review the intangible assets regime for all companies.

It is possible to manipulate the disposal values of plant and machinery to achieve excess balancing allowances or reduced or no balancing charges under the capital allowances rules. With immediate effect, the disposal value will be adjusted for tax purposes to reflect the payment (in whatever form) actually received for the asset. This applies for corporate tax and income tax.

Where a company or individual takes on obligations under a lease, it may receive consideration from the party which previously held the lease. Such consideration has in some circumstances escaped tax. From now on where consideration is received, in any form, for taking on a lease, that consideration will be taxable, even if the consideration is received by a connected person.

When an employee takes a non-repayable loan from his employer, or from a trust set up by the employer, in place of normal pay, the arrangements are referred to as disguised remuneration. The Government legislated against such schemes in 2011 and has recently won a high profile tax case against a Scottish football club. It has now given notice that any further attempts at disguised remuneration schemes will be closed down with effect from 25 November 2015 by the use of retrospective legislation.

The government will introduce tough new measures for those who persistently enter into tax avoidance schemes that are defeated by HMRC. These include a special reporting requirement and a surcharge on those whose latest return is inaccurate due to use of a defeated scheme, the names of such avoiders being published and, for those who persistently abuse reliefs, restrictions on them accessing certain tax reliefs for a period. The government is also widening the Promoters of Tax Avoidance Schemes regime, by bringing in promoters whose schemes are regularly defeated by HMRC.

The government will introduce a new penalty of 60% of tax due to be charged in all cases successfully tackled by the GAAR. The government will also make small changes to the way the GAAR works to improve its ability to tackle marketed avoidance schemes.

The government will publish a consultation on the rules concerning company distributions later in the year and will also amend the Transactions in Securities rules and introduce a Targeted Anti-Avoidance Rule in order to prevent opportunities for income to be converted to capital in order to gain a tax advantage.

Following consultation, the government will introduce legislation with effect from 1 January 2017 to implement the agreed OECD rules for addressing hybrid mismatch arrangements. The new rules will prevent multinational enterprises avoiding tax through the use of certain cross-border business structures or finance transactions.

The government will introduce legislation to determine when performance awards 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. (Finance Bill 2016)

In the Summer 2015 Budget, the government announced new measures to improve large business tax compliance, with a consultation over the summer to refine the detail of the measures. Following consultation, the government will legislate to introduce:

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

The government will consider bringing forward legislation to amend the changes made by FA 2015 to entrepreneurs' relief, in order to support businesses by ensuring that the relief is available on certain genuine commercial transactions.

12. <u>Property Investors And SDLT</u>

The Summer 2015 Budget announced a restriction on the deduction of interest from rental income for individual landlords of residential property. This restriction will be phased in from 2017/18 to 2020/21, and it may make letting uneconomic for landlords whose businesses are relatively highly geared.

However, individual landlords who can buy properties to let without a mortgage are not affected by the interest restriction. To discourage such cash-rich individuals from purchasing multiple properties to let, or to hold as second homes, a supplemental SLDT charge of 3% will be payable by individual purchasers of residential properties worth over £40,000.

This supplemental SDLT charge will not be payable by corporate purchasers or by funds such as Real Estate Investment Trust (REITS) which make significant investments in let residential property.

SDLT is currently payable within 30 days of the completion of the purchase and the SDLT return must be filed within the same period. The Government is proposing to reduce the payment and filing period to just 14 days from the completion date of the sale, sometime in 2017/18.

SDLT does not apply in Scotland, as properties in that country are subject to Land and Buildings Transaction Tax (LBTT) which is set by the Scottish Parliament. The Scottish Budget will be delivered on 16 December 2015, when any new rates for LBTT for 2016/17 will be set.

13. Capital Gains Tax

CGT is normally payable by individuals by 31 January after the end of the tax year in which the gain arose. This gives the taxpayer between 10 and 22 months to receive the proceeds, calculate the tax due and pay it over to HMRC.

From 6 April 2015 non-resident taxpayers have had a shorter time frame in which to report the sale of UK residential property and pay the tax due – only 30 days from the completion of the disposal. However, there are exceptions for non-residents who are registered with HMRC before they make the disposal.

HMRC is so pleased with how this 30-day reporting and payment time-frame is working out for non-resident taxpayers that it plans to extend it to all UK taxpayers who make taxable gains when selling residential properties. This change is expected to apply from 6 April 2019.

However, this advance payment of CGT will not be simple to implement. Currently CGT can only be accurately calculated once all the taxpayer’s capital gains and losses for the tax year are realised. Losses must be set against gains, and the net amount is taxed at either 18% or 28%, depending on the taxpayer’s total income for the year. The government will allow CGT to be paid on a provisional basis to allow for these difficulties in calculation.

14. Annual Tax on Enveloped Dwellings

The 2016/17 rates for the ATED were not announced in the Autumn Statement. However, we already know that a lower band for properties valued at £500,001 to £1 million will be imposed from 1 April 2016, and the charge for that band is likely to be £3,500.

ATED is only payable where a residential property is held by a corporate structure, unit trust or partnership containing a company. There are numerous exceptions from the ATED charge for properties which are commercially let or used for specific purposes. Those exemptions are to be expanded to include properties included in equity release schemes from 1 April 2016.

15. Business Tax

In the Summer 2015 Budget, it was proposed that tax relief for travel and subsistence costs incurred by temporary workers would be restricted where those workers were employed through an umbrella company, or employment intermediary, including a personal service company. This change in the tax rules would have caught many small companies who supply the services of the owner/director to work at their customers' sites.

The Government has decided to go ahead with the restriction in tax relief for travel and subsistence expenses for employees in umbrella companies and other employment intermediaries from 6 April 2016, however, employees of personal service companies will only be caught if the circumstances of the contract they are performing fall under the IR35 rules.

This will be a big relief to many IT contractors and those in other industry sectors, as the IR35 rules only apply where the con tractor would be treated as an employee of his customer if the company didn't exist. However, the IR35 rules are under review and may be tightened up from April 2016 or a later date.

Businesses operating out of small premises will welcome the announcement of another year's extension of the small business rate relief from 1 April 2016. The whole structure of business rates is under review, with powers to lower or raise rates devolved to local councils, depending on whether there is a locally elected mayor.

When a company is dissolved via a formal liquidation, any value held is distributed to the shareholders and taxed as a capital gain. This gain may be subject to CGT at 10% where entrepreneurs' relief applies, which represents a large tax saving compared to income tax on dividend distributions or the 28% rate of CGT.

The Government is planning to introduce anti-avoidance legislation to prevent income which has accumulated within a company being taxed as a capital gain, rather than as income. The details of this new anti-avoidance rule will be contained in draft legislation to be issued next month.

16. Employers

Certain employers with nine or fewer employees can take advantage of a relaxation in the RTI reporting rules. They are permitted to submit a full payment submission (FPS) on the last payday in the month rather than on or before every payday within that month. This relaxation will come to an end on 6 April 2016 and will not be renewed.

Employers who already have their employees enrolled in a company pension scheme are obliged to contribute a minimum of 1% of the employees' relevant pay to the pension scheme. That minimum employer's contribution was set to increase to 2% on 1 October 2017, and to 3% on 1 October 2018.

Those dates will now be put back by six months to align with the start of the tax years 2018/19 and 2019/20. This will give employers some breathing space to budget for the increased costs of auto-enrolment.

Diesel company cars currently carry a 3% supplement on the percentage of list price used to calculate the taxable benefit. This diesel supplement was to be removed from 6 April 2016, but it will now stay in place until 2020/21. As a result, diesel cars will continue to attract a higher benefit charge than cars powered by other fuels.

The fuel charge multiplier is increased by £100 to £22,200 for 2016/17, and the benefit charge for fuel used in a company van increases from £594 to £598.

The chargeable benefit for petrol or diesel company vans is set at £3,170 for 2016/17. The taxable benefit of having a zero-emissions van provided for private use in 2016/17 will be £1,268, a significant increase from £630 which was the chargeable amount for 2015/16.

The draft Finance Bill 2016 is expected to be published on 9 December 2015. It should include details of changes to be made to the taxation of termination payments and trivial benefits in kind.

The Government is still concerned about the widespread use of salary sacrifice schemes, where certain benefits or pensions are received in the place of normal pay, so expect some changes in this area in due course.

An apprenticeship levy will be introduced from 6 April 2017. In theory, all employers will be required to pay the levy set at 0.5% of their annual payroll cost. However, each employer will also have an annual credit equivalent to £15,000 to set against the levy, which means only the largest employers with payrolls of £3million or more will actually pay the levy.

Employers who take on apprentices will receive vouchers funded by the apprenticeship levy to set against the cost of those apprentices. However, large employers who take on employees through graduate training schemes rather than as apprentices may lose out, as they will pay the apprenticeship levy but not qualify for vouchers, even though they spend a lot on employee training.

17. Further Tax Measures

Shares transferred to a clearance service or depositary receipt issuer as a result of the exercise of an option will now be charged the 1.5% higher rate of stamp duty based on either their market value or the option strike price, whichever is higher. This will prevent avoidance using DITMOs, which are options with a strike price significantly below (for call options) or above (for put options) market value. Share transfers made other than to a clearance service or depositary receipt system as a result of exercising an option will be unaffected. The change will apply to options which are entered into on or after 25 November 2015 and exercised on or after Budget 2016.

The government is to 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.

The government has provided that a special 45% rate of corporation tax on income is to be applied to restitution interest. This measure was legislated for in Finance (No. 2) Act 2015.

The government is to consult on changing the scope of the bank levy to UK operations from 1 January 2021, a change which was announced in the Summer 2015 Budget alongside a commitment to legislate in this Parliament.

Further announcements are expected on 9 December 2015 with the publication of draft Finance Bill 2016 clauses and again in March 2016.

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