WILTON

BUDGET 2021

In many ways, this was a quiet Budget – with much of the news either released prior or concentrated on spending rather than tax rises. There are, though, some less-publicised changes which are likely to affect your personal and business finances.

Please refer to our specialized summary of the Autumn Budget below and do not hesitate to get in touch for more detailed, one-to-one advice about the issues raised.

Personal Tax

Main Budget Proposals:

- *Increased National Insurance Contributions (NICs)*
- *Income Tax kept the same*
- *Increased Dividend Tax Rates*
- *Deadlines extended for Capital Gains Tax (CGT) on UK property*
- *Changes to 'Basis Periods' for calculating taxable profits*

Basis Periods

Changes to the 'basis periods' for calculating taxable profits of sole traders and partnerships will be introduced in the 2024/25 tax year, with 2023/24 being a year of transition.

Under the new rules, taxable profits will be calculated for the tax year rather than for the period of account ending in the tax year. Rules that deal with commencement, cessation or the change of accounting date provisions will, consequently, no longer be necessary. This will also eliminate overlap profit (double counting profits in the year of commencement) and the need for overlap relief.

For many sole traders and partnerships, these rule changes will be mean simplification. There are concerns, however, that cash flow difficulties might arise for larger partnerships in the new system. The transitional period will allow businesses some time to plan for the changes.

Additional detail will be made available on 4th November 2021 when the Government publishes its response to the consultation and the Finance Bill legislation. We will, then, be able to discern how exactly our clients are affected.

Making Tax Digital (MTD) for income tax will be introduced for 6th April 2024 for sole traders and landlords with an income over £10,000. Partnerships with individual partners that turnover in excess of £10,000 will also be required to join from 6th April 2025. It is yet to be announced when other partnerships will be required to join.

Income tax & NICs

As income tax rates and bands have broadly been kept the same for the tax year beginning April 2022, tax bills should also remain the same for the coming year. Bands have, however, been frozen until 2026 which means that more people will fall into the higher tax rate and face higher bills.

NICs

As was announced before the Budget, National Insurance contributions have been increased by 1.25%. From April 2023, this will decrease back to previous levels and replaced by a social levy of the same amount. The NICs will only affect those in employment and below pension age, whilst the social levy will apply to employees above pension age.

Dividend Tax Rate increase from April 2022

From 6th April 2022, the tax rates as they apply to dividends will be 8.75% (basic rate), 33.75% (higher rate) and 39.35% (additional rate). Dividends will continue to be taxed as the top slice of an individual's income. All individual taxpayers will continue to be entitled to the tax-free dividend allowance of £2,000 per year.

Comment

In light of this, it might be worth considering taking dividends early to avoid this increase. Shareholders able to choose between dividends and a bonus from their business will, in future years, see changes in the effective rates of tax suffered on each option. This will be compounded by rises to the rate of corporation tax in 2023.

Capital Gains Tax (CGT) on UK property - reporting and payment deadline extended to 60 days

A UK Land Return is required within 30 days of completion of a property transaction in the following circumstances:

- where UK residents dispose of UK residential property other than their main residence
- where non UK residents dispose of UK residential or commercial property and some companies that hold UK property

This deadline has now been extended to 60 days after the sale completes. DIsposals with a completion date on or after 27 October 2021, for both UK and non-UK residents, will be subject to these changes.

Clearly, this extension is positive news as it creates more time to process the information and make the tax payment.

The increase of corporation tax to 25% will apply from 1 April 2023, as previously announced.

Main Budget Proposals:

- *Extension of Annual Investment Allowance*
- *Changes to R&D Tax Reliefs*
- *Introduction of RPDT (Residential Property Developer Tax)*
- *Re-domiciling Companies*
- *Diverted Profits Tax property*
- *Cross Border Loss Relief*
- *Change to the definition of Hybrid Entity*

Extension of the Annual Investment Allowance to 31 March 2023

The Annual Investment Allowance's (AIA) temporary increase to £1 million was previously scheduled to expire on 31st December 2021. This has now been extended to 31st March 2023.

Businesses investing in qualifying plant and machinery in the period leading up to 1st April 2023 will benefit from this extension. In particular, it will help businesses that are not eligible for the super-deduction (this is only available to companies subject to corporation tax). Thanks to this extension, the cost of qualifying expenditure on plant and machinery, up to the limit of £1 million, can be offset against taxable profits in the year of expenditure.

Comment

It might be advantageous to bring forward investments in plant and machinery that qualify for this relief.

Significant changes to R&D tax reliefs from April 2023

There are three major changes to the R&D tax relief rules which will apply from 1st April 2023;

R&D qualifying expenditure will now include data and cloud computing costs
Proposed restrictions on claims for overseas R&D, either in whole or in part
New anti-avoidance measures to counter abuse.

Residential Property Developer Tax

Residential Property Developer Tax (RPDT) will be introduced from April 2022 – an additional 4% added to the corporation tax already due on group profits from residential property development trading activity. This will only apply where profits are above £25 million.

Special rules will be made for situations in which a group takes s part in a joint venture. Interest will not be deductible in computing chargeable profits.

There will be exemptions for residential property development activity that is undertaken for charitable purposes and for certain types of communal dwellings, such as care homes.

At present, this charge would not include the development of residential property as an investment asset. It could, though, be extended to catch them in the future.

RPDT will only apply to companies and, in terms of its application, it will be administered as if it were an amount of corporation tax. The filing and payment dates of the RPDT will be the same whilst profits will also be calculated as they are for corporation tax, with the exception that interest will not be deductible. Special rules, as they are for corporation tax, will also be made for losses but, specifically, ring-fencing RPDT losses.

Diverted Profits Tax

Diverted Profits Tax (DPT), by taxing at a rate of 25%, aims to deter and counteract the diversion of profits from the UK by large groups by manipulating supply chains to transfer profits outside the UK. DPT will also become subject to a Mutual Agreement Procedure (MAP) determination with a double tax treaty being applied in these instances.

Comment

There is an opportunity here to, effectively, opt in to corporation tax and pay at 19% with some technical changes having been made to the review period in which a company can decide to take its course.

Loss relief rules for companies adopting IFRS 16

There is a technical interaction between corporate tax loss rules which limits the setoff of carry-forward losses to 50% of future profits, subject to a £5m group allowance (which could be fully sheltered).

However, onerous lease provisions, sitting in the books of property occupiers, could create profits under accounting rules. This would result in large amounts being added to their taxable income which would not be eligible for loss relief. Previously, there was a relaxation that applied where the tenant found themselves in financial distress which allowed them either to trade out of insolvency or enter into a company voluntary arrangement.

This relaxation is being extended to situations in which companies have adopted IFR16 and the changes will be retrospective from 1 January 2019.

Re-domiciling companies' consultation

The place of a company's incorporation – its domicile – affects the laws and regulations by which they apply as well as having tax consequences. The Government is consulting on allowing UK incorporated companies to become non-UK domiciled companies and vice versa – allowing a non-UK incorporated company to shift to the UK.

From a tax perspective, the question is whether or not changing domicile of a company would be enough to then change its tax resident status. The management and control of a company may also need to be exercised in the UK. The details of this proposed regime are subject to a government consultation.

Notification of Uncertain Tax regime to start 1 April 2022

The Government is pressing on with introducing a new requirement for large businesses (annual turnover exceeding £200m or balance sheets assets over £2bn) to notify HMRC where they adopt an 'Uncertain Tax Treatment'. Via either self-assessment or PAYE, amounts of Corporation Tax, VAT or Income Tax will be considered 'uncertain' if the tax treatment adopted means that:

(i) provision has been made in the accounts for the uncertainty

(ii) the tax treatment does not align with HMRC's known position.

HMRC are still considering a third trigger for instances in which a tribunal or court would likely find the taxpayer's position, in material respects, to be incorrect.

These provisions should not apply where the company, through various other means, is already in discussion with HMRC or an existing client relationship manager, for example, for statutory clearances or other disclosure regimes. Large companies must maintain an open dialogue with HMRC, around tax uncertainties, as a basic expectation to their overall tax governance approach.

Hybrids: Transparent entities

A change to the definition of a Hybrid Entity will treat members in transparent entities (US Limited Liability Companies, for example) as if they were members of a partnership, provided the entity is established in a territory that charges tax on income.

The extension is expected to date back to 1st January 2017 but, if the legislation is not in place before filing deadlines, this could see difficulties with companies having to file on a basis they expect to apply but has not yet become law.