Asset & Wealth Management Tax
Autumn Budget 2017

Summary

In the first Autumn Budget since the result of the UK's General Election, the UK Chancellor, Philip Hammond, delivered a budget that focused on the UK's future post-Brexit, adopting a balanced approach by investing in housing, public services and infrastructure, whilst also setting out measures that will seek to generate £4.8bn of additional tax revenues from anti-avoidance measures.

The Chancellor, amongst other things, maintained the UK's commitment to the reduction in the rate of Corporation Tax to 17% by 2020, announced measures to tax gains made on all UK property by non-residents from April 2019, opened a consultation into the taxation of royalties paid to low-tax jurisdictions (from April 2019) and removed the transitional arrangements in respect of carried interest arising in connection with disposals of assets before 8 July 2015, effective immediately.

More detail is set out below where available, although in a number of areas we will need to see draft legislation or detailed consultation documents before the full impact of proposals on the asset management industry becomes clear.

Detailed analysis

Corporation Tax and International Tax

Tax rate - Commitment to reduction in rate to 17% on 1 April 2020.

UK property gains by non-residents - From April 2019, any gains made on disposal of direct or indirect interests in UK land and buildings (residential or commercial) will be subject to UK tax, regardless of the residence of the person making the disposal. Where the non-resident is a corporate, the disposal will be in scope of UK corporation tax. This includes disposals of an interest in a "property-rich" company (broadly one where 75% of its value derives from UK land), to the extent that the vendor's interest in that company has exceeds 25% within the 5 years before the disposal. If the entity does not already file returns in the UK, it will need to do so under the UK Self-Assessment rules. These measures will also apply to non-resident individuals (see below Personal Income Tax section).

Withholding tax on royalties - With effect from April 2019, withholding tax obligations will be extended to royalty payments, and payments for certain other rights, made to low or no tax jurisdictions in connection with sales to UK customers. The rules will apply regardless of where the payer is located.

Hybrid mismatch rules - Some aspects of the corporation tax rules which apply to arrangements involving hybrid structures and instruments will be amended to clarify how and when the rules apply, and to ensure that the rules operate as intended. The impact note released may be a partial fix to the issues experienced by some US inbound managers operating through disregarded UK subsidiaries but we await detailed legislation.

Interest deductibility - Technical amendments are being made to the Corporate Interest Restriction (CIR) rules to ensure the regime works as intended.

Indexation Allowance - The corporate indexation allowance on chargeable gains will be frozen from 1 January 2018, removing the current relief from inflation from that date.

Research and Development Expenditure Credit - Increase in the rate of the RDEC from 11% to 12% from 1 January 2018.

Corporate capital gains - The Government will amend the Substantial Shareholding Exemption legislation and the Share Reconstruction rules to avoid unintended chargeable gains being triggered where a UK company has previously incorporated foreign branch assets in exchange for shares in an overseas company. This may be a welcome relief to asset managers restructuring to deal with Brexit.

Double Tax Relief - DTR available to a UK Company will be restricted where losses previously made by a Foreign Permanent Establishment (PE) of the UK Company, have been relieved against income other than that of the Foreign PE.

Depreciatory transactions - The current 6 year time look back limit in relation to transactions that have reduced the value of shares will be repealed. For disposals on or after 22 November 2017, companies must look back and adjust the capital losses claimed on sales of subsidiary company shares to account for all earlier depreciatory transactions that materially reduced the value of those shares.

Changes to targeted anti-avoidance rule - The requirement of HMRC to issue a counteraction notice will be replaced with a requirement of the taxpayer to consider whether the DTR TAAR applies as part of the taxpayer's self-assessment (filings on or after 1 April 2018). Reference to "total tax payable" is extended to include the tax payable by any connected persons to which the TAAR can apply.

Double taxation arrangement: multilateral instrument - the powers giving effect to DTAs will be amended to allow the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting*, signed on 7 June 2017, to be implemented.

Intangible fixed assets: related party step-up schemes - With immediate effect the intangible Fixed Asset rules will be updated, so that a licence between a company and a related party in respect of intellectual property is subject to the market value rule, and to ensure that the tax value of any disposal of a company's intangible assets is correct, even if the consideration is in something other than cash.

Employment taxes

Disguised remuneration loan charge - The Government is to introduce a new requirement for employees to provide information to HMRC by 1 October 2019 about their disguised remuneration loans to ensure the loan charge is complied with. Similar changes are being made for the self-employed or where the employer is located offshore.

Reform of Foreign Service Relief (FSR) for termination payments - The Government will legislate in Finance Bill 2018 to ensure employees who are UK resident in the tax year their employment is terminated will generally not be eligible for FSR on their termination payment.

National Living Wage - The National Living Wage will be increased by 4.4% to £7.83 in April 2018

Personal income tax

Carried Interest - The government will legislate in 'Finance Bill 2017-18' to amend legislation regarding the carried interest rules. The changes will remove the special treatment afforded to carried interest that arises in connection with disposals of assets before 8 July 2015. The intention is to remove the transitional rules entirely. The changes will have effect on and after 22 November 2017, and will therefore not apply to the period from 8 July 2015 to 21 November 2017. As such, it is not retrospective. The rule changes could however affect people who still have money in escrow at 22 November 2017 from pre-July 2015 transactions. HMRC would be happy to take representations if this was the case.

UK property gains by non-residents - As noted above in the Corporation Tax section, any gains made on disposal of an interest in UK land and buildings will be subject to UK tax, regardless of the residence of the individual making the disposal. Again, this includes disposals of an interest in a "property-rich" company, to the extent that the interest in that company exceeds 25%. The gain will subject to Capital Gains Tax, using normal UK rules.

Annual allowance and lifetime allowance - The Government confirmed that the lifetime allowance will increase in line with CPI, rising from £1,000,000 to £1,030,000 for 2018/19.

Certificates of tax deposits - Effective from 23 November 2017 the Certificate of Tax Deposit scheme will be closed for new certificates. Any existing certificates will be honoured for up to 6 years.

Extending time limits for assessments - The time limits for assessing non-deliberate offshore tax non-compliance matter will be extended to 12 years without needing to establish deliberate non-compliance, following a consultation in spring 2018.

Late Submission Penalties - The government intends to reform the current system and introduce a points based approach.

Extension of Non-Resident CGT regime - The government will consult on extending the NRCGT regime for residential property to also include disposals of other immovable property such as commercial property and indirect interests in UK property.

Faster recovery of Self-Assessment debt – For individuals with Pay as You Earn tax codes, HMRC intend to use new technology to recover debts in real-time.

Enterprise investment scheme (EIS) & Venture Capital Trusts (VCTs) - The Autumn budget announced an increase in the investment limits, effective from April 2018, of EIS and VCT schemes from £1m to £2m, provided that any amount over £1m is invested in a "knowledge intensive" company. Additionally, the Budget introduced a number of changes to legislation which will ensure the tax-advantages of VCT schemes are focused on long term investment in high risk companies, as well introducing new risk to capital conditions to prevent investments which are structured to provide low risk returns.

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Indirect taxes

VAT registration threshold - The threshold will be maintained at the current level of £85,000 for two years from April 2018. A consultation will be released on the design of the threshold.

Online VAT fraud - A range of measures are to be introduced to prevent online VAT fraud.

Consultation and discussion papers

Intangible Fixed Asset regime - The Government will consult in 2018 on the tax treatment of intellectual property.

Corporate tax and the digital economy - A position paper has been published setting out the challenges posed by the digital economy for the international corporate tax framework and the UK Government's proposed approach for addressing those challenges.

Off-payroll working in the private sector - The Government has announced it will consult in 2018 on how to tackle non-compliance with the intermediaries' legislation (commonly known as IR35) in the private sector.

Employment status - The Government will publish a discussion paper as part of the response to Matthew Taylor's review of employment practices in the modern economy.

Taxation of employee business expenses - The Government will consult on allowing income tax relief for the cost of work-related training met by employees as well as the self-employed. It was announced that employers will no longer be required to check receipts when making payments to employees for subsistence costs that do not exceed their benchmark scale rates.

Late Payment Interest - A consultation will be published on whether to simplify and harmonise penalties and interest due on late payments and repayments.

Taxation of trusts – A consultation on how to make the taxation of trusts simpler, fairer and more transparent will be published in 2018.