Tax Alert
Autumn Statement 2016

Weil

November 23, 2016

The Chancellor delivered his first Autumn Statement this afternoon. Set out below is a summary of the key tax measures. In most cases, details are currently sparse and we are yet to see the draft legislation. If you wish to discuss any of the following, please contact us or your usual Weil contact and we would be happy to assist.

Key points

1. **Employee Shareholder Regime Abolished:** The Government has abolished the employee shareholder regime. The regime allowed employees to sell shares free of capital gains tax, provided that the shares were acquired in consideration solely for the relinquishment of statutory employment rights. Following today's announcement, the abolition will, for practical purposes, have immediate effect unless the employee received the independent legal advice required by the regime prior to 1.30pm today. Shares already issued to employees under the employee shareholder regime will not be affected by the abolition, and their tax treatment will remain unaffected.
2. **Substantial Shareholding Exemption:** The SSE will be simplified with effect from April 2017. This will include removing eligibility requirements that focussed on the seller's status, which often made claiming the exemption difficult in practice, and providing a more comprehensive exemption for companies owned by certain institutional investors (broadly, sovereigns and pension funds). In addition to the Autumn Statement announcements, a Treasury official separately noted that they expect that the changes to the SSE should enable institutional investors to take advantage of the new wider scope SSE in cases where they hold the relevant interests via an investment in a fund. This is a welcome change which should increase the attractiveness and competitiveness of the UK. The legislation implementing the changes has not yet been published.
3. **Taxation of non-UK tax resident companies:** The Government will consult on whether non-UK tax resident companies receiving UK taxable income should be brought within the UK corporation tax regime. At present, such companies fall outside the scope of UK corporation tax and are generally only subject to UK income tax, normally collected through the UK withholding tax regime. If implemented, this would represent a significant change to the taxation of non-UK tax resident companies with no UK branch or permanent establishment, and may operate to bring into the UK tax net gains realized by non-UK companies on the sale of commercial property in the UK.

Other points to note

Business tax

4. **Corporation tax rate:** The Government still intends to reduce the corporation tax rate to 17% by 2020. As previously announced, the rates for upcoming financial years will be 19% from 1 April 2017, reducing to 17% on 1 April 2020.

5. **Restrictions on interest deductibility:** As announced at Budget 2016, the Government will introduce rules that limit the tax deductibility of corporate interest expenses from April 2017. The limitation will apply where a company or group has net interest expenses (determined by reference to UK "tax EBITDA") of more than £2 million. If this is the case then either (i) only 30% of net interest expense, or (ii) if more favourable to the company, net interest expense determined by reference to the net interest-to-EBITDA ratio for the worldwide group, will be deductible. These interest barrier rules will be relaxed in relation to the provision of private finance for public benefit infrastructure projects but the Government confirmed that banking and insurance groups will be subject to the interest barrier. Until draft legislation is actually published it will be difficult to assess the real impact of these new rules on the private equity and banking sectors. (It is particularly worth noting that the Government had, as at the publication of its last consultation on these rules, not yet been able to come up with a workable proposition on how to apply them to the banking sector given that companies in this sector normally have net interest income rather than a net expense.)

6. **Anti-hybrid rules:** At Budget 2016 the Government announced its intention to introduce new 'anti-hybrid' rules, effective for payments made on or after 1 January 2017. The rules aim to counter resulting tax mismatches (for example, arrangements where a tax deduction is claimed by one party with no corresponding income inclusion for another, or where more than one tax deduction is claimed for the same expense).

7. **Corporate loss relief restriction:** The Government will legislate for reforms (announced at Budget 2016) that will restrict the amount of tax loss relief that can be used by UK companies. From April 2017, companies will only be able to offset losses carried forward against up to 50% of profits above £5m in the relevant accounting period. There will, however, be more flexibility to enable newly incurred tax losses to be carried forward and offset against a wider range of profits. For banks, the current 50% limit on the use of carry forward tax losses will be further restricted to 25%.

8. **Partnerships:** The Government will legislate in Finance Bill 2017 to clarify certain aspects of the taxation of partnership vehicles and the calculation of partners' profit allocations (although no detail has been provided on what this means in the real world at this stage). We expect draft legislation to be published on 5 December 2016. This is an area that professional partnerships (such as law firms) and private funds in particular will need to pay close attention to.

9. **Bank Levy Reform:** The government is pressing ahead with changes (announced in the Summer Budget 2015) which will restrict the bank levy charge to UK balance sheet liabilities from 1 January 2021, with a couple of exemptions for certain UK liabilities relating to the funding of non-UK companies and branches. Legislation will be brought forward in Finance Bill 2017-18.

10. **Social Investment Tax Relief ("SITR"):** From 6 April 2017 social enterprises of up to 7 years old will have the maximum investment amount upon which they can offer tax relief under SITR increased to £1.5 million (from the current limit of approximately £250,000 over three years). Certain types of financing (including asset leasing and on-lending) will be excluded, and investment in nursing homes and residential care homes will be initially excluded. The restriction applying to the SITR regime, that the SITR must have fewer than 500 full-time equivalent employees is also to be reduced to 250.

Personal tax

11. **Starting rate for savings income:** For the 2017/18 tax year, savings income subject to the 0% starting rate will remain at the current tax year level of £5,000.

12. **Personal allowance and higher rate threshold for income tax:** For the 2017/18 tax year, the personal allowance will be increased to £11,500 (from £11,000) and the higher rate threshold will be increased to £45,000 (from £43,000). The personal allowance will increase to £12,500 and the higher rate threshold to £50,000 by 2020. Following this increase, the personal allowance threshold will rise in line with the consumer prices index rather than the national minimum wage.

13. **Salary sacrifice:** Tax and NICs advantages for many salary sacrifice schemes will be removed from April 2017 (arrangements relating to cycle to work schemes, ultra-low emission cars, pensions and childcare are protected). Arrangements entered into before April 2017 will remain effective until April 2018 and arrangements for cars, school fees and accommodation will remain effective until April 2021.

14. **Reforms to the taxation of non-domiciled individuals:** As previously announced, from April 2017 non-domiciled individuals will be "deemed" UK-domiciled for tax purposes if they have been UK resident for 15 of the past 20 years, or if they were born in the UK with a UK domicile of origin. This means that they will pay UK tax on their worldwide income and gains in the same way as a UK domiciled and resident individual. In addition, inheritance tax will be charged on UK residential property where it is held indirectly by a non-domiciled individual through an offshore structure, such as a company or a trust. The Government also intends to modify the Business Investment Relief scheme to make it easier for non-domiciled remittance basis users to remit offshore money to the UK to invest in UK businesses.

15. **Termination payments:** As announced in Budget 2016, termination payments above £30,000 which are subject to income tax will also be subject to employer's NICs from April 2018. The first £30,000 will remain exempt from income tax and NICs.

16. **Money Purchase Annual Allowance:** From April 2017, the Money Purchase Annual Allowance **("MPAA")** will be reduced from £10,000 to £4,000 per year to limit "double tax relief". Broadly, this restricts the amount that individuals aged 55 or over who have started to take money out of their money purchase pension pot under the new "pensions freedoms" can receive tax relief on. (Whether an individual is subject to the MPAA or not depends on how they have accessed their pension pot (and there are complicated rules around this).

… and finally, the government has frozen fuel duty from April 2017 for the seventh successive year.

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The above summary (the "**Summary**") is intended only as a general guide to some (and not all) of the proposals contained within the Government's November 2016 Autumn Statement (the "**Autumn Statement**"). The Summary does not purport to be a complete analysis of any such proposals or any other aspect of the Autumn Statement, any of which may be subject to alteration, possibly with retrospective effect. The Summary is not to be used or relied upon by, nor is any responsibility accepted towards, any party which receives it, whether such party receives the Summary directly from an officer, employee or partner of Weil, Gotshal & Manges ("**Weil**"), or through a third party. Weil does not accept any responsibility to any party to whom the Summary may be shown, or who may acquire a copy.

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