Tax Alert
Spring Budget 2017

Weil

March 8, 2017

The Chancellor delivered the 2017 Spring Budget this afternoon. This was a significantly scaled-down affair as compared to prior Spring Budgets – perhaps due to the fact that the Government is, effective this year, moving to a single main fiscal event in the Autumn of each year.

Set out below is a summary of the key new tax measures announced (draft legislation on a number of these measures is expected on 20 March).

The key political focus of the Budget speech was reducing the tax differential between the employed and the self-employed (including partners and those working through a company who take dividends as their primary form of income).

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 new measures

1. NICs increases for partners and self-employed

The Government has confirmed, as previously announced, that Class 2 NICs for self-employed persons will be abolished from April 2018. However, the Government plans to legislate to increase the main rate of Class 4 NICs (payable by those who are self-employed) to 10% (from the current rate of 9%) from 6 April 2018, and then to 11% from 6 April 2019. This narrows, although does not eliminate, the gap in NICs liabilities between the self-employed and employed persons (although no analogue for the 13.8% employer NICs liability exists in relation to the self-employed).

2. Reduction in dividend tax allowance

The tax-free dividend allowance will be reduced from £5,000 to £2,000 from April 2018.

The taxation of dividends paid to UK resident individuals was reformed in April 2016. Among other measures, the dividend tax credit was replaced with an annual £5,000 dividend allowance with the broad effect that no tax liability should arise on the first £5,000 of dividend income received (although such dividend income is still taken into account when determining how much of the basic rate or higher rate bands have been used). This measure was presented as part of the push to reduce the tax differential between the employed and the self-employed.

3. Multilateral trading facility withholding tax exemption

To remove a barrier to the development of UK debt markets the Government has announced plans to introduce an exemption from UK withholding tax on the payment of interest on debt which is traded on a Multilateral Trading Facility (broadly, a financial trading venue which is not a "regulated market"). The Government will consult on the exemption in Spring 2017.

4. Double taxation treaty passport scheme

The Government has announced plans to extend the administrative simplifications of the double taxation treaty passport ("DTTP") scheme. In particular, from 6 April 2017, the DTTP scheme will no longer be restricted to corporate lenders and corporate UK borrowers – instead, the scheme will be capable of applying to all types of overseas lenders and UK borrowers. Guidance, together with the revised terms and conditions applying to the extended DTTP scheme, will be published on 6 April 2017. It remains to be seen how widely the scheme will be extended and whether partnerships will be welcomed or not.

5. Tax for late-life oil and gas assets

In order to support the transfer of late-life oil and gas assets (aimed at ensuring as much oil and gas is extracted as is possible from late-life fields), the Government will produce a formal discussion paper on the case for allowing the transfer of tax history between buyers and sellers. The review is expected to report back to the Government in time for the 2017 Autumn Budget (expected November 2017).

6. Conversion of capital losses into trading losses

The Government is to introduce legislation which removes the businesses ability to convert capital losses into more flexible trading losses. This is intended to address provisions in the current rules that the Government considers may be exploited to avoid tax.

7. Pensions

Effective 6 April 2017, changes will be made to the regime allowing for the transfer of pensions balances built up in the UK into non-UK pension schemes.

The changes include a 25% tax charge on pensions transferred into non-UK schemes unless there is a genuine need to transfer the pension (cases of genuine need include (i) transfers to a pension scheme in the EEA where the individual is also in the EEA, and (ii) transfers to non-EEA pension schemes where the individual is in the same non-EEA country as the pension scheme). Further, even if a transfer is permitted without the 25% tax charge, UK tax rules will continue to apply to any payments from the scheme made in the first 5 years post-transfer. Any change to a transferring individual's circumstances in the first 5 years following the transfer will result in any relief from the 25% charge being reconsidered and, potentially, withdrawn.

8. Personal tax thresholds

Effective 6 April 2017 the personal tax free threshold will be increased to £11,500 and the higher rate tax threshold increased to £33,500 (that is, once the personal tax allowance is taken into account, an individual will need £45,000 in income before moving into the 40% tax rate band).

The annual ISA allowance (which is £15,240 for 2016/2017) will increase to £20,000 from 6 April 2017.

Updates

9. Penalties for tax avoidance enablers

As announced in Autumn Statement 2016, the Government is going ahead with legislation to penalise any person who "enables" another person or business to use a tax avoidance arrangement that is later defeated by HMRC. A separate, more detailed, update will be circulated by the tax team on the measures in question in the coming weeks.

10. Substantial Shareholdings Exemption

The changes proposed to the SSE announced in Autumn Statement 2016, covered in our Autumn Statement update, are to go ahead effective 1 April 2017. These changes are generally positive from a taxpayer perspective and increase the flexibility and categories of transaction that should be able to benefit from the SSE (*inter alia*, they remove the investing company requirement and, for certain institutional investors, provide an exemption for the sale of both trading and non-trading businesses).

11. Loss relief

The Government is going ahead with changes previously announced to the corporate tax loss regime. Broadly, from 1 April 2017, groups will: (i) only be able to use carry forward losses to reduce their profits in a tax year by 50%; but (ii) be able to use post-1 April 2017 tax losses against a wider class (that is, additional types) of profits than is currently the case.

12. Interest deductibility

The Government is going ahead with changes previously announced to the deductibility of interest for corporate taxpayers with effect from 1 April 2017. A number of changes to the details of the proposed rules were announced but the broad picture remains the same – a *de-minimis* allowance of £2m p.a., net interest expense deductions restricted to 30% of tax based EBITDA or, if higher, the UK interest expense given by a worldwide group's net interest to EBITDA ratio and a modified debt cap so that UK interest tax deductions cannot exceed the net interest expense of the worldwide group.

13. Making non-UK tax resident companies subject to corporation tax rules rather than income tax rules

The Government is to consult (as previously announced) on bringing non-UK companies currently paying UK income tax on their UK taxable income into the scope of UK corporation tax. These rules would, if introduced, be aimed at ensuring rules which only apply to UK corporates (as opposed to individuals), such as the carry forward loss relief rules and the restrictions on interest deductibility (see above), apply equally to non-UK tax resident companies deriving income from the UK.

14. Offshore property developers

The Government introduced legislation in 2016 to ensure that all profits from dealing in or developing land in the UK are subject to UK tax. The legislation took effect for disposals made on or after 5 July 2016, with an exception where the contract for disposal was entered into before 5 July 2016. At the time, the Government's intention was for this exception to apply to arrangements where the parties were committed to the contract but the property transfer took place a short time later. The Government subsequently realised that some contracts are entered into at an early stage in the development, with transfers being made over an extended period of months or years with the result that, contrary to the intent of the legislation, some profits from such long term contracts do not come within the charge. Therefore, the Government will amend the legislation to ensure that all profits realised by offshore property developers developing land in the UK, including those on pre-existing contracts, are subject to tax, with effect from 8 March 2017.

15. Investment funds

Perhaps unsurprisingly, given the major reform to the UK taxation of carried interest and other changes affecting the investment funds industry over the last two years, the Budget is notably light on any new initiatives directly targeting the investment funds industry. Separately (and not announced in today's Budget), it is understood that the final HMRC guidance on the disguised investment management fee rules is expected soon, with the draft guidance on the income-based carried interest rules due later this year.

16. Partnership taxation

The Government is to publish a response document and draft legislation to "clarify and improve" aspects of partnership taxation. Draft legislation is to follow (expected in the Autumn of 2017).

17. Salary sacrifice

Income tax and NICs benefits arising from salary sacrifice arrangements are, as previously announced, to be removed from 6 April 2017 (other than for benefits in relation to pensions, childcare, cycle to work and ultra-low emissions cars).

18. Termination payments

As previously announced, this year's Finance Bill will legislate to make all termination payments in lieu of notice (contractual and non-contractual) taxable as earnings, While the first £30,000 of such payment will remain exempt from income tax and NICs, amounts over this will be subject to income tax and employer's NICs.

19. Stamp duty land tax

The Government is to defer by a year (until April 2018) the introduction of accelerated SDLT payment and filing obligations (the window is being reduced from 30 days to 14 days).

20. Social investment tax relief

As foreshadowed in our email on the 2016 Autumn Statement, changes are being made to SITR effective for investments made on or after 6 April 2017. Further details of the proposed changes have now been published (including increases to the amount of investment that can be received by a relevant organisation, limitations on the type projects for which SITR is available, and rules preventing money raised through SITR being used to pay off existing loans). These changes are likely to be of interest to pro-bono clients and individuals looking to obtain tax relief on qualifying social investments.

21. Image rights payments

The Government is to publish guidelines in Spring 2017 for employers who make payments for image rights in order to clarify the existing rules. This measure will be of particular interest to those advising, amongst others, professional football clubs.

22. Value Added Tax

From 1 April 2017 the VAT registration threshold will increase to £85,000 (from £83,000 currently) and the de-registration threshold will increase to £83,000 (from £81,000 currently).

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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 March 2017 Spring Budget (the “**2017 Spring Budget**”). The Summary does not purport to be a complete analysis of any such proposals or any other aspect of the 2017 Spring Budget, 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, or through a third party. Weil, Gotshal & Manges does not accept any responsibility to any party to whom the Summary may be shown, or who may acquire a copy.

If you have questions concerning the contents of this issue, or would like more information about Weil’s Tax practice group, please speak to your regular contact at Weil, or to:

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