Autumn Statement Presented by George Osborne

5th December 2012

2012 AUTUMN STATEMENT

On Wednesday 5 December the Office for Budget Responsibility (OBR) published its updated forecast for the UK economy. Chancellor George Osborne responded to that forecast in a statement to the House of Commons later on that day.

In the period since the Budget in March a number of consultation papers and discussion documents have been published by HMRC and some of these proposals are summarised here. Draft legislation relating to many of these areas will be published on 11 December. We will provide an update for you on if significant changes are announced.

Our summary also provides a reminder of other key developments which are to take place from April 2013.

The Chancellor's statement

His speech and the subsequent documentation was a 'mini-Budget' announcing tax measures in addition to the normal economic measures.

Our summary concentrates on the tax measures which include:

- changes to personal allowances and tax bands
- changes to pensions reliefs
- a tenfold increase in the Annual Investment Allowance to £250,000
- a further reduction in the main rate of corporation tax
- announcements regarding the General Anti Abuse Rule and other 'abusive arrangements'.

PERSONAL TAX

The personal allowance for 2013/14

For those aged under 65 the personal allowance will be increased from £8,105 to £9,440. This increase in the personal allowance is greater than the amount previously announced and is part of the plan of the Coalition Government to ultimately raise the allowance to £10,000.

The reduction in the personal allowance for those with 'adjusted net income' over £100,000 will continue. The reduction is £1 for every £2 of income above £100,000. So, for this year, there is no allowance when net adjusted income exceeds £116,210. Next year the allowance ceases when net adjusted income exceeds £118,880.

From 2013/14 the higher age related personal allowances will not be increased and their availability will be restricted to people who were born before 6 April 1948.

Comment

Planning should be considered before 6 April 2013 where adjusted net income is expected to exceed £100,000. Broadly, adjusted net income is taxable income from all sources reduced by specific reliefs such as gift aid donations and pension contributions. Consider whether these could be made to protect some or all of the personal allowance.

Alternatively, if you have your own company, consider the timing of dividend receipts from the company.

Tax band and rates 2013/14

The basic rate of tax is currently 20%. The band of income taxable at this rate is being reduced from £34,370 to £32,010 so that the threshold at which the 40% band applies will fall from £42,475 to £41,450.

The 50% band currently applies where taxable income exceeds £150,000 but the rate will fall to 45% next year.

Dividend income is taxed at 10% where it falls within the basic rate band and 32.5% where liable at the higher rate of tax. Where income exceeds £150,000, dividends are taxed at 42.5% this year and 37.5% next year.

Comment

Planning should be considered before 6 April 2013 where income is expected to exceed £150,000. Deferring income until next year or reducing by specific reliefs such as gift aid donations and pension contributions should be considered.

Tax bands for 2014/15 and 2015/16

For 2014/15 and 2015/16 the increase in the higher rate threshold will be capped at 1%.

Pensions Saving

For tax year 2014/15 onwards:

- the annual allowance for pensions tax relieved savings will be reduced from £50,000 to £40,000
- the standard lifetime allowance for pensions tax relieved savings will be reduced from £1.5 million to £1.25 million
- a transitional 'fixed protection' regime will be introduced for those who believe they may be affected by the reduction in the lifetime allowance

Legislation will be introduced in Finance Bill 2013 to make these changes.

The Government has also announced that it will discuss with interested parties whether to offer a personalised protection regime in addition to a fixed protection regime.

Comment

The Government considers that these measures are expected to affect only the wealthiest pension savers as 98% of individuals currently approaching retirement have a pension pot worth less than £1.25 million which is the revised level of the lifetime limit. Annual contributions made by 99% of pension savers are below £40,000, the average annual contribution being around £6,000 per annum.

Drawdown limits

The Government has listened to concerns about drawdown limits. The Chancellor has announced that the Government will raise the capped drawdown limit from 100% to 120% giving pensioners with these arrangements the option of increasing their incomes.

Individual Savings Accounts (ISAs)

From April 2013 the overall ISA savings limit will be uprated to £11,520.

The Government will consult on allowing investment in SME equity markets like AIM to be held directly in stocks and shares ISAs, to encourage investment in growing businesses.

General Anti-Abuse Rule (GAAR)

The Government has been consulting on the introduction of a GAAR into the UK tax system in an attempt to cut down on the use of 'abusive arrangements'. The aim is to target artificial and abusive tax avoidance schemes.

The key points are:

- the legislation will counteract tax advantages arising from tax arrangements that are abusive. Abusive tax advantages would be counteracted on a just and reasonable basis

- tax arrangements are abusive if they are arrangements which cannot 'reasonably be regarded as a reasonable course of action'
- a GAAR Advisory Panel will be established to give opinions on specific cases and to approve HMRC guidance on GAAR. HMRC will not be represented on the Advisory Panel
- if there is a dispute about whether HMRC's proposed counteraction is appropriate, on appeal a Tribunal or court should be able to reach its own conclusion.

Further anti avoidance measures

As announced earlier this month, the Government is investing a further £77 million in HMRC to increase revenues raised from tackling tax avoidance and evasion. This investment is expected to secure additional revenues of £22 billion a year by the end of this Parliament. This investment will allow HMRC to go further in tackling avoidance and evasion, by:

- accelerating resolution of avoidance schemes
- expanding HMRC's Affluent Unit to deal more effectively with taxpayers with a net worth of more than £1 million
- increasing specialist resources to tackle offshore evasion and avoidance of inheritance tax and
- improving HMRC's risk analysis technology, including increased use of third party data.

Swiss agreement

On 1 January 2013 the Government's agreement with Switzerland to recover previously unpaid UK tax on money hidden in Switzerland comes into force. It is expected to yield £5 billion over the next six years. In addition to a one-off levy in respect of past tax evasion, the agreement provides for a withholding tax on future investment income and gains arising in Switzerland.

Comment

The Chancellor is proud of this achievement stating 'it is the largest tax evasion settlement in British history'.

US agreement

The Government has also signed an agreement with the United States which will significantly increase the amount of information on potentially taxable income automatically exchanged between the two countries. This sets a new standard in tax transparency aimed at tackling evasion. The Government will look to conclude similar agreements with other jurisdictions.

PERSONAL TAX – PREVIOUSLY ANNOUNCED CHANGES

Child Benefit

A new tax charge is being introduced from 7 January 2013. It will apply to a taxpayer who has 'adjusted net income' in excess of £50,000, where either they or their partner is in receipt of Child Benefit. The effect of the charge is to claw back some or all of the Child Benefit paid. Where both partners have income in excess of £50,000 the charge will apply to the partner with the higher income.

Adjusted net income has the same meaning as for the withdrawal of the personal allowance for taxpayers with income above £100,000.

Where a taxpayer has adjusted net income of £60,000 or more then the charge has the effect of cancelling out the Child Benefit paid. A sliding scale charge operates where income is between £50,000 and £60,000.

The charge will apply to the Child Benefit paid from 7 January to the end of the tax year. However, the income taken into account will be the full income for 2012/13.

Example

A married couple have two children and receive £438 Child Benefit for the 13 weeks from 7 January to the end of the tax year. The wife has little income. The husband's income is over £60,000 for the whole of the 2012/13 tax year. So the tax charge on the husband is £438.

Comment

Child Benefit claimants will be able to elect not to receive Child Benefit if they or their partner do not wish to pay the new charge.

However, an individual should continue to complete claims for any new children even though they will not receive any Child Benefit payments for them. This will ensure that any future entitlement to State Pension is protected.

Statutory Residence Test (SRT)

There is currently no definition of 'residence' in UK tax law and yet the liability to income tax and capital gains tax (CGT) rests on knowing an individual's UK residence status for a tax year.

The SRT is designed to provide a clearer outcome for the majority of people whose circumstances are straightforward. The proposed tests have been designed so that it is harder to become non-resident when leaving the UK after a period of residence than it is to become resident when an individual comes to the UK. Once an individual has become resident and built up connections with the UK, they should be required to scale back their ties to the UK significantly or spend far less time here or a combination of the two before they can relinquish residence.

Draft legislation was published in July 2012. This confirmed the start date as 6 April 2013. However residence status for years up to 2012/13 is determined using the present rules (subject to some transitional rules). Further changes are expected to some of the details but it is expected that the principles will remain unchanged.

The SRT is based on three tests and an individual may need to consider all the tests in some cases. However many may need to consider only one or two tests.

The first test is the 'automatic overseas test'. This test will be satisfied (and therefore the individual will not be UK resident) if any one of the following conditions is satisfied:

- they were not resident in the UK in all of the previous three tax years and they are present in the UK for fewer than 46 days in the current tax year

- they work full-time overseas for the tax year and they are present in the UK for fewer than 91 days in the tax year and no more than 21 days are spent working (defined as more than 3 hours) in the UK in the tax year

- they were resident in the UK in one or more of the previous three tax years and they are present in the UK for fewer than 16 days in the current tax year.

A day will count as being in the UK if the individual is physically present in the UK at midnight unless they satisfy specific rules for those in transit through the UK.

If an individual cannot satisfy any of these conditions, the next test is the 'automatic residence test'. This test will be satisfied (and therefore the individual will be UK resident) if any one of the following conditions is satisfied:

- they are present in the UK for 183 days or more in a tax year, or

- they have only one home and that home is in the UK (or have two or more homes and all of these are in the UK) and that remains the case for a period of at least 91 days which falls wholly or partly in the relevant tax year, or

- they carry out full-time work in the UK that meets specified conditions.

The last test, the 'sufficient ties test' will only operate if the individual does not meet any of the conditions in the other two tests. The test will be satisfied if the individual has sufficient UK ties for that year. This will depend on two basic conditions:

- whether the individual was resident in the UK for any of the previous three tax years, and

- the number of days the individual spends in the UK in the relevant tax year.

The ‘sufficient ties test’ reflects the principle that the more days someone spends in the UK, the fewer connections they can have with the UK if they want to be non-resident. It also incorporates the principle that residence status should adhere more to those who are already resident than to those who are not currently resident.

Under the ‘sufficient ties test’ an individual will need to compare the number of days they spend in the UK against five clearly defined connection factors. Individuals who know how many days they spend in the UK and how many relevant connection factors they have will then be able to assess whether they are resident.

Comment

The proposed rules do seem to work to give a definitive answer to the question ‘Am I resident in the UK?’ The answer may not be the one that you want but it should then be possible to identify the factors which need to change in order to achieve the desired result.

Individuals currently planning a move into or out of the UK should be taking the new rules into account in their planning. They should also note that they are going to need to keep comprehensive records not just of their time in the UK but also, where relevant, their working days in the UK and the time they spend in each other country that they may visit.

Some individuals who are currently outside the UK, particularly those working abroad, will need to note that the new rules could change their residence status and they may wish to review plans for visits back to the UK and the impact of any potential connecting factors.

A cap on income tax relief

The Government announced in Budget 2012 the introduction of a limit on uncapped income tax reliefs from April 2013. Individuals will be able to claim reliefs worth up to £50,000 or 25% of their income, whichever is greater.

The Government has consulted on how an individual’s income will be defined and calculated for the purposes of the cap and when the cap will apply.

The cap will only apply to reliefs that are offset against general income and are not currently capped. Capital allowances and allowable expenses will not be affected by the cap but, to the extent that these computational reliefs create or augment a loss, that loss relief will be capped. So trading losses will be capped to the extent that they can be relieved against general income.

Reliefs that have their own limits will not be affected by the cap. Venture capital reliefs such as the Enterprise Investment Scheme are excluded but losses on shares purchased under the Enterprise Investment Scheme are currently unlimited and so will be included in the relief cap.

Gift Aid, Payroll giving and relief for gifts of land and shares to charity are also excluded.

Comment

Examples of the income tax reliefs that will be capped to the extent that they can be relieved against general income are trading losses and losses made on share subscriptions in unquoted trading companies. Both of these reliefs allow an offset of the loss against total income from the previous tax year so enabling tax repayments to be made.

Trading losses not able to be relieved against general income will still be able to be carried forward but can only be relieved against future trading profits from the same trade. Losses made on share subscriptions will be able to be relieved as a capital loss.

BUSINESS TAX

Corporation tax rates

The main rate of corporation tax is 24% from 1 April 2012 and 23% from 1 April 2013. The Chancellor has announced that the rate from 1 April 2014, which was planned to be 22%, will be reduced by an additional 1% to 21%.

The small company rate will remain at 20%.

Annual Investment Allowance (AIA)

The AIA provides a 100% deduction for the cost of plant and machinery purchased by a business up to an annual limit which is currently £25,000 (with effect from April 2012). The Chancellor announced that this limit will rise to £250,000 for a period of two years from 1 January 2013.

Comment

This represents a significant increase and should mean that many businesses will get an immediate write off for their purchases of equipment. Care will be needed with regard to accounting periods which straddle 1 January 2013. No details have been provided as to how the AIA will be computed for such periods.

The actual amount of AIA available to a business for a current accounting period will depend on when that accounting period began and when it ends. A 12 month period from 1 March 2012 to 28 February 2013 covers a period in which there are three different AIA limits.

Capital allowances and cars

A 100% first year allowance (FYA) is available on new low emission cars purchased by a business. The current rule is that a 100% FYA is generally available where a car's emissions do not exceed 110gm/km. The availability of a 100% FYA is to continue for a further two years for purchases from 1 April 2013 but only where emissions do not exceed 95gm/km.

Cars with emissions between 111-160gm/km inclusive currently qualify for main rate WDA (18%). The threshold is to be revised down to 130gm/km for additions from 6 April 2013 for income tax (1 April 2013 for companies).

Comment

There are over 150 models that can be purchased this tax year which qualify for a 100% FYA. If the purchase is deferred to the next tax year, the number falls to less than 30.

Enhanced capital allowances

Enhanced first year allowances are available to companies located in designated sites in Enterprise Zones. The Chancellor has announced that two more sites in Wales are to qualify for these allowances. The sites are within the Enterprise Zones at Ebbw Vale and the Haven Waterway.

A simpler tax system for smaller businesses

The Chancellor is to proceed with proposals to make the tax system simpler for small unincorporated businesses. Where a business has a turnover up to £77,000 it will be able to calculate its profits on a simplified cash basis. In addition it will not have to distinguish between revenue expenditure and capital expenditure. A business will be able to continue to use this basis until its turnover reaches £154,000.

The cash basis will be implemented from April 2013.

All unincorporated businesses will be able to claim a range of expenses on a flat rate basis rather than having to identify actual amounts spent. It is expected that motor expenses, for example, will be calculated using a flat rate for all business mileage rather than having to record all the expenses in the year.

Comment

The new rules are not quite as simple as the Government would have us believe. Whilst the actual accounting treatment may be simpler it will still be necessary to have regard to tax rules for the deductibility of some expenses. There will also be transitional rules for existing businesses wishing to opt into the new system.

Creative Sector

The Government is to proceed with special corporation tax reliefs for companies involved in the production of animated films, high-end television programmes and video games. The new reliefs will apply from 1 April 2013 (subject to State aid approval) and will allow an additional deduction of 100% of certain specified expenditure. As an alternative the company will be able to claim a payable tax credit at a rate of 25% of qualifying losses surrendered.

Taxation of controlling persons

The Government has decided not to proceed with a proposal to tax at source those who meet the definition of a controlling person. It will, however, strengthen the existing intermediaries' legislation (IR35) to put beyond doubt that it applies to office holders.

Large business tax risks

Recent publicity has put the spotlight on the UK tax arrangements of some very large international companies. In response to that the Chancellor has announced that HMRC will enhance its ability to identify areas of risk and will be increasing its resources in the area of transfer pricing.

BUSINESS TAX – PREVIOUSLY ANNOUNCED CHANGES

Gift Aid Small Donations Scheme

The Gift Aid Small Donations Scheme (GASDS) is intended to provide a subsidy for charities on cash donations of up to £5,000 a year which cannot be gift aided because the identity of the donor is not known or it would be additionally complex to capture that information at the time of donation. The charity will be able to claim a top-up payment on the GASDS receipts.

A small donation is defined as one which is £20 or less. All the donations received must be collected in the UK and paid into a bank account in the UK. A claim must be made within one year of the end of the tax year concerned.

To prevent fraud the maximum claim is linked to the amount of Gift Aid claims made by the charity and the charity must have at least a three year history of making such claims. Additional claims can be made where the charity runs activities in a community building. The claims limit has to be shared by connected charities.

Comment

Many small charities that rely heavily on cash donations will be very disappointed by this scheme and may find that they are unable to actually use it. Any charity must consider making full use of the Gift Aid scheme if they are going to get the maximum benefit from the GASDS. The complexities introduced to counter possible fraud make the scheme very complex for those genuine charities that want to use it.

Flat conversion allowances

The 100% FYA for the conversion of 'flats over shops' is withdrawn in respect of expenditure incurred on or after 6 April 2013 for income tax (1 April 2013 for companies).

The entitlement to claim WDAs on any outstanding residue of qualifying expenditure will also be withdrawn from these dates but the ability to claw back allowances within seven years continues after these dates.

Mineral royalties

The special relief that treats 50% of the total royalties as a capital gain and 50% as income is withdrawn in respect of mineral royalties a person is entitled to receive on or after 6 April 2013 for income tax (1 April 2013 for companies). This means that any mineral royalties on or after those dates will be fully subject to either income tax or corporation tax.

Currently there is a special loss relief where land subject to a mineral lease or agreement reduces in value. Where leases or agreements are entered into before the date of withdrawal of mineral royalties' relief, the ability to crystallize losses and the entitlement to carry back losses for up to 15 years is preserved.

EMPLOYMENT TAX

Employer-provided cars

From 6 April 2013 the CO_2 emissions bands used to work out the taxable benefit for an employee who has use of an employer-provided car will be shifted downwards by 5gm/km. This will have the effect of increasing the charge for each vehicle by 1% of the list price of the car unless the percentage is already 35% of list price.

Real Time Information

Most employers and pension providers will move to reporting PAYE information in real time from April 2013. Employers should by now have received a letter from HMRC which told them what they need to do to get ready to make the first real time submission in April 2013.

This is probably the most significant change in the PAYE system since its introduction in 1944. Employers will need to send HMRC information about pay, tax, NICs, student loans and other deductions each time they pay their employees. This will enable HMRC to keep more accurate records and, over time, more people will pay the correct tax.

Supported by information about income made available in real time from HMRC's systems, Universal Credit will be introduced by the Department for Work and Pensions from October 2013.

Employee-owner contracts

The Government announced in October 2012 that it intended to introduce a new type of employment contract called an employee-owner contract. Under this contract an employee would be given shares in a company in exchange for giving up their rights in respect of unfair dismissal, redundancy, and the right to request flexible working and time off for training, and would be required to provide 16 weeks' notice of a firm date of return from maternity leave, instead of the usual eight.

Each employee who agrees to this status will receive a minimum of £2,000 and a maximum of £50,000 of shares in the company. The Chancellor has announced that gains on up to £50,000 of shares acquired by employee-shareholders will be exempt from capital gains tax (CGT) from 6 April 2013.

The Government has now announced that it is looking at options to reduce the potential income tax and National Insurance (NIC) liabilities which would arise when the shares are issued in the first place. This includes a possible exemption from income tax and NIC for the first £2,000 of shares received.

Review of taxation of benefits in kind

The Government is to ask the Office of Tax Simplification to carry out a review of ways to simplify the tax regime for employee benefits in kind, expenses and termination payments.

CAPITAL TAXES

CGT rates

The current rates of CGT are 18% to the extent that any income tax basic rate band is available and 28% thereafter. The rate for disposals qualifying for Entrepreneur's Relief (ER) is 10% with a lifetime limit of £10m for each individual.

No specific announcement has been made of the rates for next year.

Comment

The ER limit is very generous and owners of businesses should ensure that they meet all the conditions necessary to secure the relief throughout the twelve months up to the date of a disposal.

CGT annual exemption

No announcement has been made in respect of the CGT annual exemption for 2013/14. The Chancellor did announce that the exemption would be £11,000 for 2014/15 and £11,100 for 2015/16.

IHT nil rate band

The IHT nil rate band remains frozen at £325,000 until 5 April 2015. The Chancellor announced that it will rise to £329,000 for 2015/16.

OTHER TAXES – PREVIOUSLY ANNOUNCED CHANGES

VAT - Holiday caravans

Currently there is a single dividing line between a zero rate of VAT on residential park homes and 20% on static holiday caravans and there have been issues about which side of the dividing line a particular transaction falls.

From 6 April 2013 the Government has introduced a 5% rate of VAT on static holiday caravans and touring caravans longer than seven metres. Other tourer caravans will remain standard rated.

Residential and holiday static caravans will be distinguished on the basis of whether they meet British Standard BS 3632. The sale of static caravans that meet BS 3632 will remain zero rated.

SDLT disadvantaged areas relief

This relief, which creates an exemption from SDLT for transactions of residential property in disadvantaged areas for consideration up to £150,000, will generally be withdrawn in relation to transactions with an effective date on or after 6 April 2013.

NON-TAX MEASURES FOR SMES

A number of measures have been announced which may benefit SMEs.

Access to finance and exports

As announced in September, the Government will create a Business Bank to improve the way that Government delivers support to SMEs. It will deploy £1 billion of additional capital to address structural gaps in the supply of finance to SMEs.

A scheme will be established to provide up to £1.5 billion in loans to finance small firms' exports. The scheme will be operated by UK Export Finance and will act as a backstop to finance UK export transactions when there is no other suitable finance available.

Additional funding to UK Trade and Investment (UKTI) will be provided. This will enable UKTI to deliver more services to small and medium size exporters.

Empowering Local Enterprise Partnerships (LEPs)

Following on from a report presented by Lord Heseltine in October, 'No Stone Unturned', the Autumn Statement sets out the first stage of the Government's response.

The Government agrees with the report that local leaders and businesses are best placed to set the strategic direction for an area and LEPs (which bring together local leaders and businesses) will be asked to lead the development of new strategic plans for local growth.

Some LEPs do not have the capacity to fulfil this role and will therefore be eligible for additional funding.

Commercial property

The Government will extend the temporary doubling of the Small Business Rate Relief scheme for a further 12 months from 1 April 2013.

All newly built commercial property completed between 1 October 2013 and 30 September 2016 will be exempt from empty property rates for the first 18 months. This will be subject to State aid limits and consultation.

Urban Broadband Fund

In the March Budget, a commitment was made to support a second wave of cities in the Urban Broadband Fund. The winning cities are Brighton and Hove, Cambridge, Coventry, Derby, Oxford, Portsmouth, Salford, and York in England; Aberdeen and Perth in Scotland; Newport in Wales; and Derry/Londonderry in Northern Ireland.

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