Scottish Budget - income tax and LBTT

The Scottish Government set out tax and financial plans for the future in their draft Budget on 16 December 2015. The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy, John Swinney, announced that the Scottish Rate of Income Tax (SRIT) would be set at 10p in the pound for 2016/17. The effect of this is to ensure that Scottish Taxpayers will pay tax at the same rates as their counterparts in the rest of the UK, at 20%, 40% and 45%. Income tax bands for the basic and higher rates are the same in Scotland as in the rest of the UK.
The Scotland Act 2012 granted the Scottish Parliament landmark new powers to set a separate annual rate of income tax for Scottish taxpayers. The Scottish rate of income tax (SRIT) comes into effect in April 2016 and represents a fundamental change to the UK tax system.

As well as paving the way for the changes to income tax outlined above, the Scotland Act 2012 also resulted in the introduction of Land and Buildings Transaction Tax (LBTT) in Scotland from 1 April 2015. This replaces Stamp Duty Land Tax which applies in the rest of the UK. The draft Budget proposes changes to LBTT with the introduction of a LBTT supplement on purchases of additional residential properties, such as buy-to-let properties and second homes. This supplement will be 3 percentage points of the total price of the property for all relevant transactions above £40,000 and will be levied in addition to the current LBTT rates.
The Scotland Bill 2015 proposes the further devolution of additional tax and spending powers to the Scottish Parliament. The Scotland Bill 2015 is still subject to consideration and amendment by the UK Parliament.

Shareholder Distributions – Potential New Tax Treatment in relation to solvent liquidation.

New rules coming in on 6 April 2016 could have significant impact on the tax treatment of the shareholders' distributions for business owners considering placing their company into solvent (members') voluntary liquidation.
The Government is concerned that the changes to the taxation of dividends will make voluntary liquidations more attractive as a tax avoidance tool and as a result they are seeking to bring in these measures that target cases where the motive of a solvent liquidation is to gain a tax advantage.
Following the release of draft legislation, from April 2016 dividends in a solvent liquidation which are currently treated as capital distributions may in certain circumstances be treated as income distributions. The rates of tax applied can be as low as 10% on a capital distribution whereas on an income distribution they can be as high as 38.1% (depending on the recipient's circumstances).
The draft legislation could catch a range of corporate restricting techniques that are regularly used, it aims to treat as income distributions those where:

1. The distribution is made in the solvent liquidation of a close company (broadly controlled by five or fewer shareholders)
2. The shareholder is involved in a similar trade or activity within two years post distribution, and
3. The main purpose for the liquidation, or one of them, is to gain a tax advantage

There will be a new anti-avoidance rule in order to combat arrangements that attempt to take transactions out of the income distribution regime in the following situations:
Pheonixing – This is when the shareholder(s) starts a new business with the same or similar trade after their company enters members' voluntary liquidation obtaining distribution at capital rates.
Special purpose companies- This involves a company that is set up for a specific project and the profits are extracted as capital distributions through liquidating the company on completion of that project. Then the shareholder continues to carry on similar activities through other companies.
Moneyboxing – retaining cash reserves in the company excess of commercial needs, which are distributed on a winding up of the company.
New connected party rules will mean that the tax charge could not be avoided, in addition for the first tome these transactions will be brought into the self-assessment regime, making them more visible to HMRC and in turn opening them up to interest and penalties if the HMRC disagree with their self-assessment.
It is advised that anyone considering a solvent liquidation may now be wise to accelerate the process prior to any proposed changes take place, despite the legislation being only a draft currently the government are looking to tighten up the rules on distributions and new legislation can be expected in the future.

HMRC introduce Advance Assurance for R&D

HMRC have introduced Advance Assurance for companies that claim Research and Development (R&D) tax relief.
If a company carries out R&D for itself or other companies, it could qualify for Advance Assurance. This means that for the first three accounting periods of claiming for R&D tax relief, HMRC will allow the claim without further enquiries.

National Living Wage - employers advised to get ready

The Department for Business, Innovation and Skills (BIS) is advising employers to begin preparing for the introduction of the National Living Wage (NLW) which comes into effect from 1 April 2016. The rate is £7.20 an hour and applies to employees aged 25 and over.
Businesses are being advised to prepare early for the changes on 1 April 2016, when the new wage will become law, and make sure they follow these 4 simple steps:

- know the correct rate of pay - £7.20 per hour for staff aged 25 and over
- find out which staff are eligible for the new rate
- update the company payroll in time for 1 April 2016
- communicate the changes to staff as soon as possible.

Business Minister Nick Boles said:
'The government's new National Living Wage will provide a direct boost to over two-and-a-half million workers in the UK – rewarding and providing security for working people.'
'I am urging businesses to get ready now to pay the new £7.20 rate from 1 April 2016. With just under 4 months left, there are some easy steps employers can take to make sure they are ready.'
'By taking these measures, companies will be able to properly reward their staff and avoid falling foul of the law when it takes effect.'
Please contact us if you would like help with payroll matters.

Kilby Fox 4 Pavilion Court 600 Pavilion Drive Northampton Business Park Northampton NN4 7SL. Tel: 01604 662 670 Fax: 01604 662 681
Email: advice@kilbyfox.co.uk Web: www.kilbyfox.co.uk

Fox Facts

KilbyFox
Security in Knowledge

SPRING 2016

Advertise in Fox Facts

Fox facts gets sent to over 400 of our clients and contacts, not to mention is free for anyone to download from our website or pick up their copy from our office. So if you are looking to advertise your business please email kylie@kilbyfox.co.uk for prices on different sizes we have available within our future issues of fox facts.

Welcome to the Spring Issue of Fox Facts!

Welcome to the first Fox Facts of 2016! In this issue we discuss the new dividend allowance, provide details on the new national living wage and we also take a look at HMRC's introduction of advance assurance for companies that claim Research and Development tax relief. Our double page spread provides details of the draft legislation following the Autumn Statement.
We hope you enjoy this issue if you have any questions relating to any of the topics discussed or if you have any feedback on Fox Facts please give our office a call on 01604 662670 alternatively you can email advice@klbyfox.co.uk.

Dividend Allowance and Rates of tax

Further details have been provided of the new rates of income tax on dividends and the new Dividend Allowance which will apply to dividends received on or after 6 April 2016.

The rates of income tax on dividends will be:
7.5% for dividend income within the basic rate band (ordinary rate)
32.5% for dividend income within the higher rate band (upper rate)
38.1% for dividend income within the additional rate band (additional rate)

There will also be a new Dividend Allowance of £5,000 where the tax rate will be 0% - the dividend nil rate. The Dividend Allowance applies to the first £5,000 of an individual's taxable dividend income and is in addition to the personal allowance.
Where an individual receives dividend income, from UK or non-UK resident companies, that would otherwise be chargeable at the dividend ordinary, upper or additional rate, and the income is less than or equal to £5,000, the dividend nil rate will apply to all of the dividend income. Where the dividend income is above £5,000, the lowest part of the dividend income will be chargeable at 0%, and anything received above £5,000 is taxed at the rate that would apply to that amount if the dividend nil rate did not exist.
In calculating the tax band into which any dividend income over the £5,000 allowance falls, savings and dividend income are treated as the highest part of an individual's income. Where an individual has both savings and dividend income, the dividend income is treated as the top slice.

The following example illustrates how the new Dividend Allowance and rates will work:
Patricia has a salary of £40,500 and dividend income of £7,000 in 2016/17. Her total income is therefore £47,500. The total of her personal allowance and basic rate band comes to £43,000. Therefore part of her dividend income would be taxed at the upper rate were it not for the operation of the new dividend nil rate.
So £5,000 will be taxed at 0% and £2,000 will be taxed at the upper rate of 32.5%

If you would like advice on how the new dividend rules will affect you please do get in touch.

Fox Facts

Inside this Issue........

Post Autumn Statement - Reflecting on the Legislation

Following the Autumn Statement the government have now issued a draft legislation which contains more details on the changes announced by the chancellor.
In this article we provide details of the draft legislation on the following topics:

- Dividend Allowance
- Personal savings allowance
- Employment taxes – trivial benefits
- Employment taxes – Intermediairies and travel and subsistence
- Replacement of wear and tear allowance
- Non UK domiciles
- Simple Asssessment

Dividend allowance

New rates of income tax on dividends and the new dividend allowance will apply to dividends received after 6th April 2016.
The rates on income tax on dividends will be:

- 7.5% for dividend income within the basic rate band (ordinary rate)
- 32.5% for dividend income within the higher rate band (upper rate)
- 38.1% for dividend income within the additional rate band (additional rate)

The Dividend allowance is in addition to the tax free personal allowance and applies to the first £5,000 of an individual's taxable income.
Where an individual receives dividend income, from UK or non-UK resident companies, that would otherwise be chargeable at the dividend ordinary, upper or additional rate, and the income is less than or equal to £5,000, the dividend nil rate will apply to all of the dividend income. Where the dividend income is above £5,000,the lowest part of the dividend income will be chargeable at 0%,and anything received above £5,000 is taxed at the rate that would apply to that amount if the dividend nil rate did not exist.
In calculating the tax band into which any dividend income over the £5,000 allowance falls, savings and dividend income are treated as the highest part of an individual's income. Where an Individual has both savings and dividend income, the dividend income is treated as the top slice.
As a result of these changes the dividend tax credit will be abolished for dividends paid on or after 6 April 2016

Personal Savings Allowance (PSA)

We now have details of how the PSA will work and its interaction, if any, with the 0% starting rate.The PSA will first take effect for the 2016/17 tax year and will apply to savings income (such as interest) paid to individuals. There are no changes to the definition of savings income which is defined in s18 ITA 2007.
The draft legislation introduces a new 0% rate (the 'savings nilrate'). This new nil rate will apply to savings income within an individual's PSA. An individual's PSA in a tax year will be £1,000,except where:
• they have higher rate income but no additional rate income in the year (in which case their allowance will be £500)
• they have any additional rate income in the year (in which case their allowance will be nil).
For this purpose, higher rate income is income on which tax is charged at the higher or dividend upper rate, or would be but for the operation of this new savings nil rate or the dividend nilrate (which will also be available from 6 April 2016). Additional rate income is income on which tax is charged at the additional or dividend additional rate, or would be but for the dividend nil rate. Income that is within an individual's PSA will still count towards their basic or higher rate limits - and may therefore affect the level of PSA they are entitled to, and the rate of tax that is due on any savings income they receive in excess of this allowance. Alongside the introduction of the PSA, banks, building societies and NS&I will cease to deduct tax from account interest they pay to customers.

Interaction with existing 0% rate for savings income

Currently, some individuals qualify for a 0% starting rate of tax on savings income up to £5,000 (s12 ITA 2007). The government confirmed in the Autumn Statement that the £5,000 band will be kept at the same level for 2016/17. The rate is not available if taxable non-savings income (broadly earnings, pensions, trading profits and property income) exceeds the starting rate limit.The draft legislation confirms that the starting rate will not use up any part of an individual's PSA.

Trusts

There is no reference to any revised treatment of either interest or dividends for trusts. Therefore at this stage we infer that a trust will not be eligible for the PSA or the dividend allowance. However there will be no tax deduction at source on interest received by a trust from banks, building societies and NS&I.

Employment taxes - trivial benefits

HMRC had gone quiet on whether an exemption would be introduced to remove trivial benefits in kind from taxation and NIC. Draft legislation has now been published for a measure which will have effect from 6 April 2016. The exemption sets out a number of conditions that must be met for a benefit to be exempt, including an upper limit per individual benefit of £50. Qualifying trivial BiKs provided to directors and other office holders of close companies will be subject to an annual cap of £300. Where the director's or other office holder's family or household member is also an employee of the company, they will be subject to a £300 cap in their own right.This is a change from the original proposals and addresses a potential loophole.

Employment Taxes - intermediaries and travel subsistence

As announced in the Autumn Statement, the government will legislate to restrict tax relief for travel and subsistence expenses for workers engaged through an employment intermediary, such as a recruitment agency or a personal service company. No relief will be allowed for home to work travel and subsistence where a worker:

- personally provides services to another person
- is employed through an employment intermediary
- is under (the right of) the supervision, direction or control of any person, in the manner in which they undertake their work.

Employment intermediary will be defined as a person, other than the worker or the client, who carries on a business (whether or not with a view to profit and whether or not in conjunction with any other business) of supplying labour. Where a personal service company is also within the scope of the IR35 legislation this measure will only apply to those contracts where a deemed employment payment is made, or would be made if all the individual's remuneration was not being taken as employment income. In these circumstances the supervision, direction or control test will not be used. This change will take effect from 6 April 2016.

Replacement of wear and tear allowance

The wear and tear allowance for fully furnished properties will be replaced with a relief that enables all landlords of residential dwelling houses to deduct the costs they actually incur on replacing furnishings, appliances and kitchenware in the property. The relief will be available for expenditure incurred on or after 1 April 2016 for corporation tax and on or after 6 April 2016 for income tax. This measure will give relief for the cost of replacing furnishings to a wider range of property businesses as currently there is no tax relief for the replacement of furnishings in partly furnished or unfurnished properties.
Examples of eligible capital expenditure are:

- furniture
- furnishings
- appliances (including white goods)
- kitchenware

but would exclude items which are fixtures.
However the relief is limited to the cost of an equivalent item if there is an improvement on the old item. The deduction will not be available for furnished holiday lettings or where rent-a-room relief is claimed.

Non UK domiciles

In the Summer Budget, the government announced its intention to abolish non-UK domicile status for certain long term residents from April 2017. This will only apply where an individual has been resident for at least 15 out of the last 20 tax years. Such individuals will be treated as deemed UK domicile for all tax purposes.
In addition, those who had a domicile in the UK at the date of their birth will revert to having a UK domicile for tax purposes if they become resident again in the UK, even if under general law they have acquired a domicile in another country. Draft legislation has now been issued for IHT. There was a consultation which ended on 11 November 2015, but the government has not yet published its response to the consultation with regard to income tax and CGT. It will do so in early 2016 together with drafts of any necessary amendments to legislation.

Simple assessment

In March 2015 the government published 'Making Tax Easier: The end of the tax return' setting out a vision to modernise the tax system by replacing tax returns with digital tax accounts for millions of individuals and businesses. At the same time they set out plans to introduce legislation to remove the need for customers to complete a tax return with information that HMRC already holds.
Draft legislation has been issued for inclusion in the 2016 Finance Bill. The legislation will enable HMRC to send a 'Simple Assessment' notice to customers with straightforward tax affairs which will set out their tax liability without the need for the person to submit a self-assessment return. This will reduce the number of individuals with straightforward affairs having to send a tax return to HMRC.

If you would like to receive earlier editions of Fox Facts please contact Kylie on 01604 662 670

Follow Us..

@kilbyfox

Like Us

Facebook/kilbyfox

Connect with Us

Linkedin/kilbyfox