Technical Connection

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AUTUMN STATEMENT

The Autumn Statement and Spending Review took place on 25 November 2015 and the associated draft 2016 Finance Bill legislation is scheduled to be published on 9 December 2015.

Recently this has been the chance for the government to announce forthcoming changes to personal taxation but this year the fact that there had so far already been two Budgets meant that announcements relevant to the personal financial services industry were fewer than can usually be expected.

The changes most relevant to the financial services industry are considered below. Where relevant, changes from 2016/17 already announced are mentioned.

INCOME TAX

Personal allowance and tax bands

No change was announced to the levels of personal allowances and tax bands, previously announced in the Summer Budget, that will apply from 2016/17.

Personal savings allowance

From 6 April 2016 a new allowance, the personal savings allowance, will be introduced.

This will be £1,000 for basic rate taxpayers and £500 for higher rate taxpayers. No allowance will be available for additional rate taxpayers. Savings income that falls within the personal savings allowance will be tax free. Savings income includes bank/building society interest, distributions from corporate bond collectives and chargeable event gains from offshore bonds.

For 2016/17 the zero starting rate band will remain at £5,000 meaning that up to £6,000 of savings income for a basic rate taxpayer will be tax free if other income doesn't exceed £11,000.

There is still some uncertainty as how the personal savings allowance will operate in conjunction with the personal allowance. More detail will be available in the Finance Bill.

A dividend allowance of £5,000 will also be introduced in 2016/17. Dividends of up to £5,000 will be tax free. More information on this is given in the Savings and Investment section.

Tax credits

Some changes were announced on tax credits. From 6 April 2016:

- the rate at which a claimant's award is reduced as each £1 of their income exceeds the income threshold, (known as the taper rate), will remain at 41% of gross income

- the level of income at which a claimant's tax credit award begins to be tapered away, (known as the income threshold), will remain at £6,420 per year

Claimants earning below £6,420 will retain their maximum award. Consequently the income threshold for child tax credit-only claimants will remain at £16,105 in 2016-17.

As announced at Summer Budget 2015, the income rise disregard in tax credits will reduce from £5,000 to £2,500. This is the amount by which a claimant's income can increase in-year compared to their previous year's income before their award is adjusted.

CAPITAL GAINS TAX (CGT)

CGT annual exemption

The annual CGT exemption for 2016/2017 is yet to be announced but likely to remain at £11,100 if increased in line with the Consumer Prices Index.

CGT payment window

From April 2019, a payment on account of any CGT due on the disposal of residential property will be required to be made within 30 days of the completion of the disposal (currently capital gains tax is usually paid within 10 to 22 months of a disposal being made). The government will publish draft legislation for consultation in 2016.

CGT entrepreneurs' relief

Finance Act 2015 made some amendments as to what constitutes a 'material disposal of a business asset' and 'associated disposals' thereby restricting relief in some cases. However, in the Autumn

Statement it was announced that the government will consider bringing forward legislation to amend the changes made by Finance Act 2015 to entrepreneurs' relief in order to support businesses by ensuring that the relief is available on certain genuine commercial transactions.

NATIONAL INSURANCE CONTRIBUTIONS (NICs)

As previously announced, the National Insurance upper earnings and upper profits limits will increase in line with the higher rate threshold of £43,000 from April 2016.

Employer NICs **-** from April 2016 employers of apprentices under the age of 25 will no longer be required to pay secondary Class 1 (employer) NICs on earnings up to the upper earnings limit for those employees.

Employment Allowance **-** from April 2016 the annual Employment Allowance for employer NICs will be increased from £2,000 to £3,000.

INHERITANCE TAX (IHT)

The following changes were announced in relation to IHT:

Deeds of variation **-** the March 2015 Budget announced a review of the use of deeds of variation which took place in the Autumn. The welcome news in the Autumn Statement is that the government will not introduce any new restrictions on how deeds of variation can be used for tax purposes although it has said it will continue to monitor their use.

Exemption for compensation and ex-gratia payments **-** the government will legislate Extra-Statutory Concession F20, which gives an inheritance tax exemption in respect of certain compensation and ex-gratia payments for World War II claims. The legislation will be included in Finance Bill 2016 and will apply to deaths occurring on or after 1 January 2015.

Inheritance tax and undrawn pension funds in drawdown pensions **-** see the section on Pensions below for details of this.

PENSIONS

There were no major surprises in the Autumn Statement for pensions. The Chancellor has, however, made a few changes that are more of a tidying up exercise in the aftermath of the rushed implementation of pension flexibility.

The new announcements are:

- *Basic state pension* – this will be increased under the triple lock guarantee to £119.30 a week from April 2016. The maximum single tier state pension that will apply for those with a state pension age on or after 6th April 2016 will be £155.65 a week, slightly more than the previously announced £151 a week.

- *Automatic enrolment* - pension contribution increases were originally scheduled for 1st October 2017 (when the contributions were set to increase to a minimum of 2% for employers and 3% for employees) and 1st October 2018 (when the contributions were set to increase to 3% for employers and 5% for employees). The effective dates of the increases have now been delayed by six months so that they are aligned with the tax year. The October 2017 increases will now take effect from April 2018 and the October 2018 increases will now take effect from April 2019.

- *Local Government Pension Scheme* – the government will publish guidance for pooling scheme assets into up to 6 British Wealth Funds containing at least £25 billion in each fund. The intention is to reduce costs, maintain overall investment performance and match the infrastructure investment levels of the top global pension funds.

- *Pension tax relief* – the government has confirmed that it has received several hundred responses to the tax relief consultation and will publish its findings at the Budget, set to be on 16 March 2016.

- *Salary sacrifice* – although there have not been any changes made to salary sacrifice arrangements, these are clearly on the government's radar. It is gathering evidence on salary sacrifice arrangements to consider whether any action is required. This could be included within any changes made to the tax relief system.

- *Inheritance tax* – the government will introduce backdated legislation in the Finance Bill 2016 to ensure that an inheritance tax charge (under the "omission to exercise a right" provisions) will not apply where a pension scheme member dies with undrawn funds that had been designated to drawdown. The change is backdated to apply to all deaths occurring on or after 6 April 2011.

- *Secondary annuity market* - further detail on creating a secondary annuity market and consumer protection will be published in December 2015.

- *Bridging pensions* – legislation will be introduced so that with the introduction of the single tier state pension from April 2016, pension tax rules are aligned with DWP legislation on the operation of bridging pensions. Bridging pensions may be paid by occupational pension schemes when an individual starts receiving a pension before state pension age. The pension is higher at the outset and, when the individual reaches state pension age, it is reduced to take account of the state pension.

- *Dependant scheme pensions* – provision will be made in the Finance Bill 2016 to amend the complicated test that arises for defined benefit schemes when setting up a dependant's scheme pension where the member dies on or after age 75 and the ongoing reviews that are required.

SAVINGS AND INVESTMENTS

Dividends

No changes were announced on the new system of dividend taxation. With effect from 2016/17 the existing system for taxing UK dividends (ie the 10% tax credit and grossing-up) will cease to apply. Instead people will pay tax on the actual dividend they receive.

All individuals will receive a tax free annual dividend allowance of £5,000. Above that dividends will be taxed according to the marginal rate(s) of income tax that an individual pays - 7.5% (basic rate taxpayer), 32.5% (higher rate taxpayer) and 38.1% (additional rate taxpayer). All dividend income (including that falling within the £5,000 allowance) will count for the purposes of other tax thresholds - e.g. higher rate tax, high income child benefit tax, personal allowance and annual allowance pension taper.

We do not yet know how the new dividend tax system will apply to dividends received by trustees and companies. More details should be available once Finance Bill 2016 is published.

Individual Savings Accounts (ISAs)

(a) Annual subscription

The 2016/17 annual subscription limit for the ISA will remain at £15,240. The Junior ISA and Child Trust Fund limits will be retained at £4,080.

(b) Qualifying investments

The list of qualifying investments for the new innovative finance ISA will be extended in Autumn 2016 to include debt securities offered via crowdfunding platforms. The government will also continue to consider extending this type of ISA to include equity crowdfunding.

(c) Taxation of ISAs during the administration of an estate

In an extension to last year’s creation of ‘inheritable’ ISAs, there will be a consultation on legislation to extend ISA tax benefits to the period of estate administration – at present normal tax rules apply between the date of death and transfer to the surviving spouse/civil partner.

VCTs and EISs

Changes to EU State Aid rules in 2014 have worked their way through to new measures in the Finance (No 2) Act 2015. The Treasury took advantage of the need to make amendments to tighten the qualifying company eligibility criteria for Venture Capital Trusts (VCTs) and Enterprise Investment Schemes (EISs), with some late further changes added just before the Act received Royal Assent.

VCT and EIS promotors are absorbing the impact of these new rules and it seems probable that there will be a limited supply of fresh offerings at the end of this tax year. Several VCTs have already withdrawn their dividend reinvestment schemes.

BUSINESS TAXES

- The main rate of corporation tax is currently 20% and will fall to 19% from April 2017.

- For those running their own business the low corporate tax rates (compared with the higher and additional rates of income tax) can make trading through a company an appealing option. However, the decision has been complicated for 2016/17 by the new tax rules for dividends, on which more information is still awaited. The best choice for any particular business depends on the facts and it is important to take more than just tax into account when deciding on the appropriate trading vehicle.

- The Chancellor once again extended the small business rate relief for a year. For the longer term, the Chancellor announced that councils will receive the full benefit of business rates at the price of losing their main local government grant and gaining more expenditure responsibilities.

- The apprenticeship levy was announced in the Summer Budget, but it was not until the Autumn Statement that the rate was revealed. From April 2017 it will be 0.5% of an employer's payroll, with an offsetting allowance of £15,000. As a result, only employers with a payroll exceeding £3m will pay any levy – 98% of employers will pay nothing. Even so, the levy will raise £2.8bn in 2017/18, rising to nearly £3.1bn by 2020/21. The new levy is already being criticised in some quarters as tantamount to an increase in National Insurance contributions for large employers.

- There were three policy papers published on 25th November relating to corporation tax which cover the following:-

  (1) Loans to participators, and trustees of charitable trusts

  (2) Capital allowances and leasing - anti-avoidance measures

  Policy paper (2) seeks to target businesses who seek to obtain tax advantages by either:

  - manipulating disposal values leading to excess capital allowances

  - receiving a consideration in a non-taxable form in return for agreeing to take over tax deductible lease payments

  This measure applies to appropriate transactions taking place on or after 25 November 2015.

  (3) Related party rules, partnerships and transfers of intangible assets. The government will amend the intangible fixed asset rules to clarify the tax treatment of transfers of assets to partnerships. This change is effective from 25 November 2015.

PROPERTY TAX

Stamp Duty Land Tax (SDLT)

Higher rates of SDLT are to be charged on purchases of additional residential properties (above £40,000), such as buy-to-let properties and second homes, from 1 April 2016.

The higher rates will be 3% greater than the current SDLT rates. The higher rates will not apply to purchases of caravans, mobile homes or houseboats. The government will consult on the policy detail, including on whether an exemption for corporates and funds owning more than 15 residential properties is appropriate.

The additional money raised will help fund a series of government incentives aimed at helping those struggling to buy their first home. The government has set out a five point plan for housing that includes 400,000 affordable homes started by 2020/21 (including 200,000 starter homes and

135,000 Help to Buy shared ownership homes), Right to Buy schemes with five Housing Associations and extending the Help to Buy equity loan schemes.

The rates of SDLT that apply to these second properties will be as follows:

- Property purchase price up to £125,000: 3%
- Next £125,000 (the portion from £125,001 to £250,000): 5%
- Next £675,000 (the portion from £250,001 to £925,000): 8%
- Next £575,000 (the portion from £925,001 to £1,500,000): 13%
- The remaining amount (the portion above £1.5 million): 15%.

Changes to filing and payment processes

The government will consult in 2016 on changes to the SDLT filing and payment process, including a reduction in the filing and payment window from 30 days to 14 days. These changes will come into effect in 2017 to 2018.

TAX AVOIDANCE AND EVASION

Tax avoidance and evasion are favourite areas for Budget/Autumn Statement change. This year was no exception. Closing the 'tax gap' (the difference between what HMRC should receive in tax if the legislation were applied as it was intended and what it actually receives) remains a key objective.

So here is a list of what has been referenced in this year's Autumn Statement. Many of these areas for action have been known (at least) since the Summer Budget. An asterisk indicates that the measure will be included in legislation in Finance Bill 2016.

– **A new criminal offence for tax evasion* – the government will introduce a new criminal offence that removes the need to prove intent for the most serious cases of failing to declare offshore income and gains.

– **New civil penalties for offshore tax evaders.*

– **New civil penalties for those who enable offshore evasion.*

– *A new criminal offence for corporates failing to prevent tax evasion* – a new criminal offence will be introduced for corporates which fail to prevent their agents from criminally facilitating tax evasion by an individual or entity.

– *An additional requirement to correct past offshore tax non-compliance.*

– *Cash and the hidden economy* – HMRC has published a call for evidence to seek a better understanding of what implications the trend away from cash has for tax compliance, and in particular evasion and the hidden economy.

– * *Serial avoiders* – The government will introduce tough new measures for those who persistently enter into tax avoidance schemes that are defeated by HMRC. These include a special reporting requirement and a surcharge on those whose latest return is inaccurate due to use of a defeated scheme.

– ** General Anti-Abuse Rule (GAAR)* – The government will introduce a new penalty of 60% of tax due to be charged in all cases successfully tackled by the GAAR. The government will also make small changes to the way the GAAR works to improve its ability to tackle marketed avoidance schemes.

– ** Company distributions* – The government will publish a consultation on the rules concerning company distributions later in the year.

– *Capital allowances and leasing* – see Business Taxes earlier.

– *Disguised remuneration* – The government intends to take action against those who have used or continue to use disguised remuneration schemes and who have not yet paid their fair share of tax. The government will also consider legislating in a future Finance Bill to close down any further new schemes intended to avoid tax on earned income, where necessary, with effect from 25 November 2015.

– **Rules for addressing hybrid mismatch arrangements.*

– **Related party rules: partnerships and transfers of intangible assets* – See Business Taxes earlier.

– **Taxation of asset managers' performance-based rewards* – Legislation will be introduced to determine when performance awards received by asset managers will be taxed as income or capital gains. An award will be subject to income tax, unless the underlying fund undertakes long-term investment activity.

– *Capital gains tax entrepreneurs' relief* – see Capital Gains Tax earlier.

DOMICILE AND RESIDENCE

Nothing new was announced in the Autumn Statement. Changes to the tax treatment of individuals domiciled outside the UK but resident here, and changes to the tax treatment of offshore trusts, were considered in a consultation paper issued on 30 September 2015. Changes to the domicile rules are expected to come into effect from 6 April 2017. So far there is no indication when new legislation on offshore trusts is to be introduced.

INCOME WITHDRAWAL RATE FOR DECEMBER 2015

The appropriate gilt yield, used to determine the 'relevant annuity rate' from HMRC's tables for an adult member commencing income withdrawals (or reaching an income withdrawal review date), in December 2015 is 2.25%.