Technical
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BUDGET ISSUE - CONTENTS

INTRODUCTION

INCOME TAX

NATIONAL INSURANCE CONTRIBUTIONS

CAPITAL GAINS TAX

INHERITANCE TAX

TRUST TAXATION

VCT, EIS, SEIS, SITR AND BR INVESTMENTS

ISAs

LIFE POLICY TAXATION

CORPORATION AND BUSINESS TAX

EMPLOYEE BENEFITS AND TAXABLE BENEFITS IN KIND

PENSIONS

PROPERTY TAX

TAX AVOIDANCE

INCOME WITHDRAWAL RATE FOR DECEMBER 2017

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Published by Technical Connection Ltd,
7 Staple Inn, London, WC1V 7QH.
Tel: 020 7405 1600 Fax: 020 7405 1601
E-mail: enquiries@technicalconnection.co.uk
www.techlink.co.uk

INTRODUCTION

In this bulletin we focus on changes and consultations announced in the November 2017 Budget speech and supporting papers of relevance to financial advisers.

INCOME TAX

- **Rates of tax 2018/19**

(i) The limit for the starting rate for savings income remains at £5,000 and the rate of tax on income in this band is held at zero.

(ii) The basic rate limit increases to £34,500 so that the higher rate tax threshold [ie. the basic rate limit (£34,500) plus the basic personal allowance (£11,850)] becomes £46,350.

(iii) The basic rate of tax remains at 20% and will apply to taxable income in the band £1 to £34,500. Dividends in excess of the £2,000 (reduced from £5,000) dividend allowance will be taxed at 7.5% if they fall within the basic rate tax band. Taxable income in excess of £34,500 will be taxed at 40%, or 32.5% for dividends, up to the threshold of £150,000 when the additional rate of tax applies – see (iv) below.

(iv) The additional rate of tax (which applies to taxable income in excess of £150,000) is 45% or 38.1% for dividends.

(v) Trustees of discretionary trusts are subject to income tax at 45% (38.1% on dividend income) on income above their standard rate band which is normally £1,000 (this amount is diluted where the settlor created more than one trust subject to a minimum of £200 per trust).

(vi) For Scotland, the 2018/19 higher rate tax threshold, which covers only non-dividend and non-savings income, is not yet known. Other income is subject to the UK-wide rates shown above.

- **Personal allowances 2018/19**

(i) The personal allowance increases from £11,500 to £11,850. Where an individual's adjusted net income exceeds £100,000, the level of the basic personal allowance will be reduced by £1 for each £2 over £100,000 until it reaches zero. This means that the basic personal allowance will reduce to zero where adjusted net income is £123,700 or more.

(ii) The married couple's allowance (MCA), which is only available provided at least one spouse was born before 6 April 1935, is increased to £8,695. There is a reduction in the MCA of £1 for every £2 additional income in excess of the total income threshold which is increased to £28,900. The MCA will not reduce below £3,360 (the "minimum amount") increased from £3,260.

(iii) Relief in respect of the MCA and maintenance payments continues to be given as a tax reduction at the rate of 10%.

(iv) Spouses and registered civil partners will be entitled to transfer £1,185 of their personal allowance (called the "marriage allowance") to their spouse or registered civil partner provided that after the transfer neither spouse pays income tax above the basic rate of tax. For more on the marriage allowance see below.

- **The personal savings allowance**

The personal savings allowance (PSA) is unchanged for 2018/19. Broadly speaking, this means that if an individual is a:

– *basic rate taxpayer*, the first £1,000 of savings income will be untaxed;

– *higher rate taxpayer*, the first £500 of savings income will be untaxed;

– *additional rate taxpayer*, they will not receive any personal savings allowance.

- **Rent-a-room relief**

The government will publish a call for evidence to establish how rent-a-room relief (up to £7,500 p.a gross rent) is used and ensure it is better targeted at longer-term lettings.

- **The marriage allowance**

The marriage allowance allows a taxpayer to transfer 10% of their basic personal allowance (£1,185 for 2018/19) to a spouse/civil partner.

Currently, no transfer of the personal allowance is permitted on behalf of a deceased spouse/civil partner, or from a surviving spouse/civil partner to a deceased spouse/civil partner.

From 29 November 2017 a spouse/civil partner of a deceased spouse/civil partner can claim up to 10% of the deceased's personal allowance, with claims being backdated by up to 4 years.

NATIONAL INSURANCE CONTRIBUTIONS

The Upper Earnings and Upper Profits Limits (beyond which employee NICs are charged at 2%) for 2018/19 increase from £45,000 to £46,350, in line with the higher rate tax threshold.

The main rates for 2018/19 are as follows:-

- The Employee's Primary Class 1 National Insurance rate is 12% on earnings between the Primary Threshold (£162 per week - £8,424 pa) and Upper Earnings Limit (£892 per week - £46,350 pa).

- Employees, in addition, pay 2% Primary Class 1 National Insurance on all earnings above the Upper Earnings Limit (£46,350 pa).

- The Employer's Secondary Class 1 contribution rate on earnings above the Secondary Threshold (£162 per week - £8,424 pa) is 13.8%. This rate applies also to Class 1A and Class 1B contributions.

- The self-employed Class 4 rate on profits between the Lower Profits Limit (£8,424 pa) and Upper Profits Limit (£46,350 pa) is 9% and 2% above £46,350 pa.

- The self-employed Class 2 flat rate contribution is £2.95 per week when profits are above £6,205 pa.

CAPITAL GAINS TAX

The annual exemption

The capital gains tax annual exemption will increase from £11,300 in 2017/18 to £11,700 in 2018/19.

The annual exemption available to trustees will increase from £5,650 in 2017/18 to £5,850 in 2018/19 – although this "per trust" limit is diluted where the settlor has created more than one trust, subject to a minimum of £1,170 per trust for 2018/19.

The rates of capital gains remain unchanged.

The tax payment window

It was previously announced (Autumn Statement 2015) that from April 2019 the capital gains tax payable on the sale of residential property will be payable 30 days after the sale of the property. The government announced that this "payment window" provision will now be deferred until April 2020.

Carried interest

The government has tightened up the rules which will prevent investment fund managers from using tax loopholes to avoid paying the correct amount of capital gains tax on the profits of the fund payable to them (known as carried interest).

Consultation on taxing gains made by non-residents on UK immovable property

In accordance with certain provisions of the Taxation of Chargeable Gains Act 1992, capital gains tax currently applies to gains accruing on disposals of UK residential property by non-resident individuals, trustees, personal representatives and by certain closely-held companies.

In this Budget the government announced that from April 2019 tax will be charged on gains made by non-residents on disposals on all types of UK immovable property, extending the existing rules that apply only to residential property.

In support of this proposed change a consultation on taxing non-residents' gains on immovable property was published alongside the Budget documents. This measure will broaden the UK's tax base to include disposals of UK commercial property by non-residents, both directly and indirectly (extending existing rules that apply only to residential property); and will bring all companies into charge on disposals of residential property, and all persons into charge on indirect disposals of residential property.

The consultation will run from 22 November 2017 until 16 February 2018. Legislation will be introduced in Finance Bill 2018-19 and will have effect from 1 April 2019 for companies, and from 6 April 2019 for those in charge to capital gains tax. An anti-forestalling measure to support this reform will have effect from 22 November 2017.

INHERITANCE TAX

There were no new announcements in relation to the rate(s) of inheritance tax payable. The inheritance tax nil rate band will remain at £325,000 and the residence nil rate band will increase to £125,000 from April 2018.

Research into the influence of inheritance tax reliefs and exemptions

The government has commissioned and received research to understand the motivations, behaviours, attitudes and underlying decisions made by individuals on inheritance tax matters and the use of reliefs and exemptions in that process.

Specifically, the objectives were:

1. To understand the decisions made by testators with agricultural or business assets when planning what to do with their estate

2. The influence of IHT reliefs on these decisions

3. What beneficiaries do, or intend to do, with inherited assets.

A total of 80 interviews were conducted among testators and beneficiaries who owned business assets and agents (for example, solicitors, accountants and tax advisers) who advise on business property relief and agricultural property relief.

The qualitative nature of the research means that findings in this report are not statistically representative of the wider population. Nevertheless, it was interesting to see that many individuals said they only knew a little about inheritance tax so were aware of the basic principles but very few were aware of business property relief or agricultural property relief.

With regard to those who owned business assets or agricultural assets, only a few actively sought professional advice. Some said they sought advice from a financial adviser. This advice differed slightly from that sought and provided by other professionals, usually there was a specific focus on reducing inheritance tax payable on an inherited estate, as opposed to a focus on succession planning in general.

It will be interesting to see what the government intends to do, if anything, with the findings of this research.

TRUST TAXATION

The Chancellor has announced that the government will publish a consultation in 2018 on how to make the taxation of trusts simpler, fairer and more transparent. No details of this proposed consultation are yet available.

The increase in the annual CGT exemption affects trustees – please see the section on capital gains tax on page 3.

VCT, EIS, SEIS, SITR AND BR INVESTMENTS

Measures were introduced, as follows, in the Budget to come into effect in April 2018 in line with state aid rules:

- The annual investment limit for EIS investors will be doubled from £1 million to £2 million, provided that any amount above £1 million is invested in knowledge-intensive companies.

- The annual investment limit for knowledge-intensive companies will be doubled from £5 million to £10 million through the EIS and by VCTs.

- Greater flexibility will be provided for knowledge-intensive companies over how the age limit is applied for when a company must receive its first investment through the schemes. Knowledge-intensive companies will be able to choose whether to use the current test of the date of first commercial sale or the point at which turnover reached £200,000 to determine when the 10-year period for EIS (7 years for VCT) has begun.

- Measures are to be introduced to impose a new condition to the EIS, SEIS and VCT rules to exclude tax-motivated investments, where the tax relief provides most of the return for an investor with limited risk to the original investment (that is, preserving an investor's capital). The condition depends on taking a 'reasonable' view as to whether an investment has been structured to provide a low-risk return for investors.

- A new knowledge-intensive EIS-approved fund structure will be consulted upon, with further incentives provided to attract investment.

ISAs

The annual ISA subscription limit will remain at £20,000 (£4,000 of which can be saved in a Lifetime ISA) for 2018/19.

The annual Junior ISA and Child Trust Fund subscription limit will increase from £4,128 to £4,260 in 2018/19.

LIFE POLICY TAXATION

Employer premiums to life policies

The government has announced that it will legislate in Finance Bill 2018-19 to modernise the tax relief for employer premiums paid into life assurance products or certain overseas pension schemes. This will extend the existing exemption to cover policies when an employee nominates any individual or registered charity to be their beneficiary.

The change will have effect from 6 April 2019.

Removal of the indexation allowance on corporate capital gains

There was also an announcement of a tax change which may indirectly affect life policies. This change was that, with effect from 1 January 2018, indexation allowance (currently based on the Retail Prices Index) available on capital gains of companies will be frozen. This means that there will no longer be relief for inflationary gains.

As a result of this more of the underlying capital gains of policyholder funds held by UK insurance companies will be subject to corporation tax. In turn, this will reduce the investment returns available to policyholders. It should be remembered that UK insurance companies pay corporation tax at 20% on capital gains arising on policyholder funds. Special rules apply to certain investments in collectives where the tax charge is effectively spread over 7 years.

CORPORATION AND BUSINESS TAX

Corporate indexation allowance

To bring the UK in line with other major economies and broaden the tax base through removing relief for inflation that is not available elsewhere in the tax system, the corporate indexation allowance (currently given based on the RPI) will be frozen from 1 January 2018. Accordingly, no relief will be available for inflation accruing after this date in calculating chargeable gains made by companies. It would seem that this includes life companies and, if implemented, will have an impact on the taxation of capital gains made on disposals of investments underlying UK investment bonds – see also the preceding section.

Changing how non-resident companies' UK property income and certain gains are taxed

From April 2020, income that non-resident companies receive from UK property will be chargeable to corporation tax rather than income tax. Also from that date, capital gains that arise to non-resident companies on the disposal of UK property will be charged to corporation tax rather than CGT.

Position paper: corporate tax and the digital economy

Alongside the Budget the government published a position paper setting out the challenges posed by the digital economy for the international corporate tax framework and its proposed approach for addressing those challenges.

Off-payroll working in the private sector

The government reformed the off-payroll working rules (known as IR35) for engagements in the public sector in April 2017. Early indications are that public sector compliance is increasing as a result. The government has indicated that a possible next step would be to extend the reforms to the private sector, to ensure individuals who effectively work as employees are taxed as employees even if they choose to structure their work through a company. The government states, though, that it is right to take account of the needs of businesses and individuals who would be affected before deciding on and implementing any change. Therefore, the government will carefully consult on how to tackle non-compliance in the private sector, drawing on the experience of the public sector reforms. This will include external research already commissioned by the government and due to be published in 2018.

Employment status discussion paper

The government will publish a discussion paper as part of the response to Matthew Taylor's review of employment practices in the modern economy, exploring the case and options for longer-term reform to make the employment status tests for both employment rights and tax clearer. The government recognises that this is an important and complex issue, and so will work with stakeholders to ensure that any potential changes are carefully considered.

EMPLOYEE BENEFITS AND TAXABLE BENEFITS IN KIND

Disguised remuneration

Following consultation on draft legislation published in September 2017, the government has confirmed that it will legislate in Finance Bill 2017-18 to:

- introduce the close companies' gateway to tackle disguised remuneration avoidance schemes used by close companies to remunerate their employees, and directors. This change will have effect from 6 April 2018; and

- require all employees, and self-employed individuals, who have received a disguised remuneration loan, to provide information to HMRC by 1 October 2019.

The government will also legislate in Finance Bill 2017-18 to put beyond doubt, with effect from 22 November 2017, that Part 7A of Income Tax (Earnings and Pensions) Act 2003 applies regardless of whether contributions to disguised remuneration avoidance schemes should previously have been taxed as employment income. Measures will also be introduced to ensure the liabilities arising from the loan charge are collected from the appropriate person where the employer is located offshore.

A technical note providing further detail on this and other changes to the disguised remuneration rules will be published on 1 December 2017.

Benefits in kind

- From April 2018, there will be no benefit in kind charge on electricity that employers provide to charge employees' electric vehicles.

- The diesel supplement, used to calculate company car tax and car fuel benefit charge where the employer provides the employee with a diesel car that is made available for private use, will be increased from 3% to 4% with effect from 6 April 2018.

- The fuel benefit charge and van benefit charge will increase by RPI from 6 April 2018.

Taxation of employee business expenses

Following the call for evidence published in March 2017, the government has announced that it will make several changes to the taxation of employee expenses. These include:

- Consulting, in 2018, on extending the scope of tax relief currently available to employees and the self-employed for work-related training costs; and

- Improving the guidance on employee expenses, particularly on travel and subsistence and the process for claiming tax relief on non-reimbursed employment expenses.

Save As You Earn scheme

With effect from 6 April 2018, employees on maternity and parental leave will be able to take up to a 12 month pause from saving into their Save As You Earn employee share scheme, increased from the current 6 months period.

Life assurance and overseas pension schemes

From April 2019, tax relief for employer premiums paid into life assurance products or certain overseas pension schemes will be modernised to cover policies when an employee nominates an individual or registered charity to be their beneficiary - see also the section on life policy taxation on page 6.

Employment status discussion paper

The government will publish a discussion paper as part of the response to Matthew Taylor's review of employment practices in the modern economy, exploring the case and options for longer-term reform to make the employment status tests for both employment rights and tax clearer.

PENSIONS

The Budget was devoid of any pension changes.

The rates for the full single tier state pension were confirmed for 2018/19 as £164.35pw (£4.80 increase) and the basic state pension will increase under the triple lock guarantee by 3% to £125.97.

The Budget was also used to confirm that the master trust tax registration legislation will be contained in the Finance Bill 2017-18 and remains unchanged from the draft legislation issued in September 2017. The draft Statutory Instrument for the supporting regulations was published on 30 November and the Finance Bill 2017-18 was published on 1 December.

PROPERTY TAX

Stamp Duty Land Tax (SDLT)

First-time buyers relief

In an unexpected move to help first-time buyers onto the property ladder, the Chancellor announced that first-time buyers paying £300,000 or less for a single residential property will pay no SDLT on transactions with an effective date (usually the date of completion) on or after 22 November 2017.

In addition, first-time buyers paying between £300,000 and £500,000 will pay SDLT at 5% only on such amount of the purchase price that exceeds £300,000 - representing a reduction of £5,000 compared to the amount of SDLT that would have previously been paid.

A first-time buyer is defined as an individual who has never owned an interest in a residential property in the United Kingdom or anywhere else in the world (so, if they have inherited property they will not be treated as a first-time buyer even if they have never bought) and who intends to occupy the property as their main residence. Where there are joint or multiple purchasers the relief, which must be claimed in the SDLT return, will only be available if both or all of the purchasers satisfy the criteria.

First-time buyers purchasing property for more than £500,000 will not be entitled to any relief and will pay SDLT at the normal rates.

The relief will apply to purchases in England, Wales and Northern Ireland. In Wales, it will apply until Land Transactions Tax replaces SDLT for transactions in Wales from 1 April 2018.

HMRC has published draft legislation and guidance on the new relief, with the intention that legislation will be introduced in Finance Bill 2017-18.

Higher rates for additional properties

Legislation will be introduced in Finance Bill 2017-2018 to make changes to Schedule 4ZA FA 2003 which introduced a 3% surcharge on purchases of additional residential properties.

The new legislation, which will have effect for transactions completing on or after 22 November 2017, will extend relief from the higher rates to a number of situations including those where:

- a divorce-related court order prevents someone from disposing of their interest in a main residence;
- a spouse or civil partner buys property from their spouse or civil partner;
- a purchaser adds to a pre-existing interest in their current main residence subject to certain conditions: and
- property is purchased by a child's trustee pursuant to a power conferred on the trustee by a relevant court appointment, for example such an appointment made by the Court of Protection.

The measure also contains provisions designed to prevent abuse of relief for replacement of a purchaser's only or main residence by providing that relief will only be available where the whole of the main residence is disposed of to someone other than their spouse or civil partner.

Capital gains tax payment window

The government has announced that the introduction of the 30 day payment rule to pay capital gains tax on a capital gain arising on a residential property will not be introduced until April 2020.

Filing and payment

The government has confirmed that the reduction in the SDLT filing and payment window from 30 to 14 days will now not be introduced until 1 March 2019. Improvements will also be made to the SDLT return that aim to make compliance with the new time limit easier.

Annual Tax on Enveloped Dwellings (ATED)

ATED charges for the 2018 to 2019 chargeable period will be increased in line with the September 2017 CPI (3%). Legislation will be introduced by statutory instrument to set the new chargeable amounts.

Other Changes

These have been covered elsewhere in this bulletin but are included here for completeness.

The government has confirmed its intention to legislate so that non-UK resident companies that carry on a UK property business or have other UK property income will be charged to corporation tax, rather than being charged to income tax as at present. A non-UK resident company that has chargeable gains on the disposal of UK residential property will also be charged to corporation tax, instead of capital gains tax as at present. This follows consultation published in March 2017. The government plans to publish draft legislation for consultation in summer 2018. The change will have effect on and after 6 April 2020.

TAX AVOIDANCE

Tax avoidance has remained high profile. It comes as no surprise then (and the Chancellor made a big point of this in his speech) to report that the government remains committed to tackling tax evasion and avoidance, aggressive tax planning and non-compliance, including those seeking to evade or avoid tax using offshore structures. Since 2010 the government has secured almost £160 billion in additional tax revenue and alongside the Budget has published details of over 100 measures it has introduced. These actions have also helped the UK achieve one of the lowest tax gaps in the world at 6.0% in 2015/16. Further steps taken in the Budget are forecast to raise £4.8 billion between now and 2022/23.

A number of new proposals were made to reduce the loss of tax to evasion and avoidance. Those that impact on financial advisers and their clients are these:

Requirement to notify HMRC of offshore structures:

The government will publish a consultation response on the proposed requirement for designers of certain offshore structures that could be misused to evade taxes, to notify HMRC of these structures and the clients using them. This work will be taken forward in conjunction with the OECD and EU.

Extending offshore time limits:

Following a consultation in Spring 2018, assessment time limits for non-deliberate offshore tax non-compliance will be extended so that HMRC can always assess at least 12 years of back taxes without needing to establish deliberate non-compliance.

NICs Employment Allowance:

The government has found evidence of some employers abusing the Employment Allowance to avoid paying the correct amount of NICs, often by using offshore arrangements. To crack down on this, HMRC will require upfront security from employers with a history of avoiding paying NICs in this way. This will take effect from 2018 and raise up to £15 million a year.

Disguised remuneration:

The government will tackle disguised remuneration avoidance schemes used by close companies – companies with five or fewer participators – by introducing the close companies' gateway, revised following consultation, and measures to ensure liabilities from the new loan charge are collected from the appropriate person.

INCOME WITHDRAWAL RATE FOR DECEMBER 2017

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 2017 is 1.5%.

As usual, the contents of this bulletin are based solely on the proposals put forward by the Chancellor in his Autumn 2017 Budget and need to be approached with caution as details may change during the passage of the Finance Bill through Parliament.

We would like to take this opportunity to wish all our readers a happy Christmas and a prosperous New Year.