Technical Connection

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INTRODUCTION

In this bulletin we focus on changes and consultations announced in the November 2018 Budget speech and supporting papers of relevance to financial advisers.

1. INCOME TAX

• Rates of tax 2019/20

(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 £37,500 so that the higher rate tax threshold [i.e. the basic rate limit (£37,500) plus the basic personal allowance (£12,500)] becomes £50,000.

(iii) The basic rate of tax remains at 20% and will apply to taxable income in the band £1 to £37,500. Dividends in excess of the £2,000 dividend allowance will be taxed at 7.5% if they fall within the basic rate tax band. Taxable income in excess of £37,500 will be taxed at 40% (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) remains at 45% (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 (normally £1,000).

(vi) For Scotland the 2019/20 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.

(vii) Wales will set its own rates, but adhere to the UK bands for 2019/20. However, the Welsh government has indicated that it will not introduce different rates in 2019/20.

• Personal allowances 2019/20

(i) The personal allowance increases from £11,850 to £12,500. 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 in 2019/20 the basic personal allowance will reduce to zero where adjusted net income is £125,000 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 £8,915. 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 £29,600. The MCA will not reduce below £3,450 (the "minimum amount").

(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 £1,250 of their personal allowance (called the "marriage allowance") to their spouse or registered civil partner provided that after the transfer neither spouse pays tax at above the basic rate.

• The Personal Savings Allowance (PSA)

The PSA is unchanged for 2019/20. 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

Following consultation on draft legislation, the Government will not now go ahead with a 'shared occupancy test'. Instead, the Government will retain the existing qualifying test of letting in a main or only residence, and will work with stakeholders to ensure that the rules around the relief are clearly understood.

• The Dividend Allowance (DA)

The DA will remain at £2,000 for 2019/20.

2. NATIONAL INSURANCE CONTRIBUTIONS

The Upper Earnings and Upper Profits Limits (beyond which employee NICs are charged at 2%) for 2019/20 increase from £46,350 to £50,000, in line with the higher rate tax threshold.

The main rates for 2019/20 are as follows: -

- The Employee's Primary Class 1 National Insurance rate is 12% on earnings between the Primary Threshold (£166 per week - £8,632 pa) and Upper Earnings Limit (£962 per week - £50,000 pa).

- Employees, in addition, pay 2% Primary Class 1 National Insurance on all earnings above the Upper Earnings Limit (£50,000 pa).

- The Employer's Secondary Class 1 contribution rate on earnings above the Secondary Threshold (£166 per week - £8,632 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 (£8,632 pa) and Upper Profits Limit (£50,000 pa) is 9% and 2% above £50,000 pa.

- The self-employed Class 2 flat rate contribution is £3.00 per week when profits are above £6,365 pa.

The National Insurance Contributions Bill

As previously announced, the Government will not abolish Class 2 National Insurance contributions (NICs) during this Parliament, given the potential impacts on some of the lowest earners in society. There are two outstanding measures in the draft NICs Bill published on 5 December 2016: reforms to the NICs treatment of termination payments and income from sporting testimonials. The Government still intends to legislate for these reforms, which will take effect from April 2020.

Employment Allowance reform

To target the Employment Allowance to support smaller businesses, from April 2020 the government will restrict access to Employment Allowance to employers with an employer National Insurance contributions bill below £100,000 in their previous tax year. The Employment Allowance provides businesses and charities with up to £3,000 off their employer NICs bill.

3. CAPITAL GAINS TAX

- ### Capital gains tax annual exemption

The capital gains tax annual exemption will increase from £11,700 in 2018/19 to £12,000 in 2019/20.

The annual exemption available to trustees will increase from £5,850 in 2018/19 to £6,000 in 2019/20 – although this "per trust" limit is diluted by the number of trusts created by the same settlor subject to a minimum of £1,200 per trust.

The rates of capital gains tax remain unchanged.

- ## Principal Private Residence (PPR) relief

From April 2020, lettings relief, which is currently available on the disposal of a property that qualifies for an element of PPR relief, will be restricted to cases where the landlord and tenant have shared occupation.

The final period exemption for PPR will be reduced from 18 months to 9 months from 2020. There will be no changes to the 36 months final period exemption available to disabled people or those in a care home.

The Government will consult on these changes.

- ## Entrepreneurs' relief

Shareholders and directors who, on or after 29 October 2018, realise gains on disposals of shares in their personal company will need to be entitled to at least 5% of the distributable profits and net assets of a company to claim the relief. The new tests must be met throughout the 12 month or 24 month minimum qualifying period (see below), as appropriate, in addition to the existing 'share capital' and 'voting rights' tests, in order for relief to be available.

In addition to this, the minimum period throughout which the qualifying conditions for relief must be met will be extended from 12 months to 24 months for disposals made on or after 6 April 2019.

As previously announced, from April 2019, the Government will remove disincentives for companies to take on external investment by ensuring that, even if an individual's shareholding is diluted to below 5% as a result, they will be able to claim the relief on gains made up to that point.

- ## Gains made by non-residents on UK immovable property

Following consultation on proposals originally announced at Autumn Budget 2017, the Government has confirmed that from April 2019 tax will be charged on gains made by non-residents on disposals of all types of UK immovable property, extending the existing rules that have applied to residential property since 6 April 2015. The new rules will also apply to certain disposals of interests in 'property rich entities' i.e. non-resident companies that derive directly or indirectly 75% or more of their gross asset value from UK property (although exemptions will exist for investors in such entities who hold a less than 25% interest and where the entity uses the land in its trade). Special rules will apply to collective investment vehicles investing in UK real estate who agree to certain conditions including reporting to HMRC.

Non-resident companies will pay corporation tax.

4. INHERITANCE TAX

There were no new announcements in relation to the rates of inheritance tax payable.

The inheritance tax nil rate band will remain at £325,000 and the residence nil rate band (RNRB) will, as previously announced, increase to £150,000 from April 2019.

The only other announcement relates to the introduction of minor technical amendments to the RNRB rules relating to the downsizing provisions and the definition of ‘inherited’ for RNRB purposes. These amendments, according to the Government, should clarify the working of the downsizing rules and provide certainty over when a person is treated as ‘inheriting’ property.

The amendments will have effect for deaths occurring on or after 29 October 2018 and should ensure that the rules operate as originally intended. All the other conditions for the RNRB to apply remain unchanged.

5. SAVINGS AND INVESTMENTS

• Individual Savings Accounts (ISAs)

The ISA annual subscription limit will remain at £20,000 for 2019/20.

• Junior ISAs and Child Trust Funds

The annual subscription limits for 2019/20 will be increased in line with the CPI to £4,368 and the Government will publish a consultation in 2019 on draft regulations for maturing Child Trust Fund accounts.

• National Savings & Investments

National Savings & Investments will allow people, other than parents and grandparents, to gift Premium Bonds to a child. This, alongside a lower minimum investment of just £25 and the launch of a new app, will make saving with National Savings & Investments easier than ever.

• Enterprise Investment Schemes

In response to a consultation which was launched last year, it was announced that a new “knowledge-intensive” EIS fund will be available from April 2020, with the main features expected to include:

- a requirement that at least 80% of the funds raised will need to be invested in “knowledge-intensive” companies within two years

- a requirement that at least 50% of the funds raised will need to be invested within 12 months of the fund closing

- a requirement that uninvested money must be held in cash

Tax relief will not be provided at the point of subscription, but allowed instead to be carried back to the tax year before the date the fund closes.

6. PENSIONS

• Lifetime allowance

The lifetime allowance has been confirmed to be £1,055,000 from 6th April 2019. This is an increase of just over 2.4%. The increase is based on the CPI for the year to September 2018 which is 2.4%.

• The ban on pensions cold calling

It is good to finally see the ban on pensions cold calling coming to fruition with the final regulations planned to be laid before Parliament in Autumn this year with it coming into force as soon as it is approved. The consultation response, which includes the Draft Statutory Instrument 2018 No. 0000 Electronic Communications and The Privacy and Electronic Communications (Amendment) (No.2) Regulations 2018, was published on Budget Day. The regulations prohibit direct marketing in relation to occupational or personal pensions schemes.

The regulations also define cold calling and the opt out regime where the caller is a trustee or manager of a pension scheme or a firm authorised by the Financial Conduct Authority and

- the recipient of the call has consented to receiving calls from the organisation making the call; or

- the recipient of the call is an existing customer of the organisation making the call, expects to receive pensions cold calls from that organisation and has been given the opportunity to refuse to provide contact details for the purpose of receiving such calls.

The regulations also state that any organisation that breaches the pensions cold calling rules may be liable to pay compensation and may be subject to enforcement action by the Information Commissioner's Office and a potential maximum fine of up to £500,000.

• The Pensions Dashboard

The Budget confirms that the DWP will consult later this year on the detailed design for Pensions Dashboards, and on how an industry-led approach could harness innovation while protecting consumers. The Budget states that the DWP will work closely with the pensions industry and financial technology firms. The Budget provides extra funding of £5m in 2019/20 to help make this a reality.

• Pensions for the self-employed

This winter, the DWP will publish a paper setting out the Government's approach to increasing pension participation and savings persistency among the self-employed. This follows the 2017 review of automatic enrolment and will focus on expanding evidence through a programme of targeted interventions and partnerships.

7. LIFE POLICY TAXATION

There were no new announcements relating to life policy taxation.

At the last Budget, the Government announced that it would modernise the tax provisions that apply where an employer makes premium payments into life assurance products or overseas pension schemes. In August 2018, the Government announced that a draft clause had been produced for inclusion in the Finance Bill 2019 to give effect to that change.

The background to this change is that when an employer provides for death in service benefits through a life assurance policy or provides retirement benefits through a qualifying relevant overseas pension scheme, the employee will usually name a beneficiary to receive any payment due upon their death and may be able to name a beneficiary to receive their retirement benefit. Premiums paid into these schemes by the employer are tax exempt if the named beneficiary of the employee’s death or retirement benefit is the employee, a member of the employee’s family or a member of their household (section 307 ITEPA 2003). The current tax definitions of family and household only cover spouse, civil partners, parents, children and dependants, domestic staff and the employee’s guests.

The new clause modernises this exemption, so it extends to **any named individual** as a beneficiary and so allows the employee to nominate their preferred recipient irrespective of their relationship to the employee in law. This will clarify the benefit in kind exemption on relevant life policies (which includes excepted group life policies).

8. TRUST TAXATION

The annual CGT exemption available to trustees will increase from £5,850 to £6,000 from 6 April 2019 – although this limit will be diluted according to the number of trusts created by the same settlor, but will not be less than £1,200 per trust.

The Chancellor repeated last year’s announcement that the Government would publish a consultation paper on the taxation of trusts, to make the taxation of trusts simpler, fairer and more transparent. Further to this, on 7 November HMRC published a consultation paper entitled ‘The Taxation of Trusts: A Review’. The consultation looks at the implementation of transparency, fairness and simplicity within various aspects of trusts, including transparency in relation to non-resident trusts, and the government’s interest in simplifying the approach to taxation for vulnerable beneficiary trusts, as well as other aspects of trust taxation that might warrant simplification.

The closing date for comments on the consultation is 30th January 2019.

9. EMPLOYEE BENEFITS AND TAXABLE BENEFITS IN KIND

- ### Parental bereavement leave and pay

The Government will introduce a new statutory entitlement to two weeks' of leave for employees who suffer the death of a child under age 18, or a stillbirth after 24 weeks of pregnancy. Employed parents will also be able to claim pay for this period, subject to meeting eligibility criteria. This entitlement will come into force in April 2020.

- ### Legislating on the existing tax treatment of expenses for unpaid office-holders

As announced at Budget 2018, the Government will legislate in Finance Bill 2019/20 so that expenses paid or reimbursed to unpaid office-holders are exempt from income tax when incurred because of their voluntary duties.

10. CORPORATION AND BUSINESS TAX

- ### The corporation tax rate

The rate of corporation tax will remain at 19%. It would seem that it is still planned to reduce the corporation tax rate to 17% in Financial Year 2020.

- ### Digital services tax

From April 2020, the Government will introduce a new 2% tax on the revenues of certain digital businesses to ensure that the amount of tax paid in the UK is reflective of the value they derive from their UK users.

- ### Corporation tax (UK property income and gains of non-UK resident companies)

The Government has confirmed that legislation will be included in Finance Bill 2018/19 to ensure 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. The change will apply to income arising on or after 6 April 2020. Transitional provisions will apply so that a non-UK resident company can carry forward any existing income tax losses to be offset only against future UK property business profits chargeable to corporation tax.

Technical consultation on the draft legislation (published in July 2018) concluded on 31 August 2018. Following consultation, the legislation has been revised to provide further clarity on how the loan relationship and derivative contract rules will apply. In addition, a targeted anti-avoidance rule is introduced from 29 October 2018.

All non-UK resident companies, including close companies, will also be charged to corporation tax rather than capital gains tax on their gains and the provisions relating to ATED-related capital gains tax will be abolished.

- **Corporation tax: amendments to the reform of loss relief**

As announced on 6 July 2018, the Government will legislate to make amendments to loss relief in Finance Bill 2018/19. This is to ensure that the legislation works as intended and prevents relief for carried-forward losses being claimed in excess of that intended.

- **Corporate capital loss restriction**

As announced at Budget 2018, the Government will legislate in Finance Bill 2019/20 to restrict companies' use of carried-forward capital losses to 50% of capital gains from 1 April 2020. The measure will include an allowance that allows companies unrestricted use of up to £5m capital or income losses each year, meaning that 99% of companies will be financially unaffected. A consultation paper was published on 29 October and draft legislation will be published in Summer 2019. An anti-forestalling measure to support this change will have effect on and after 29 October 2018.

- **Annual Investment Allowance (AIA)**

The Annual Investment Allowance (AIA), which gives 100% initial relief for investment in plant and machinery, was reduced to £200,000 from 1 January 2016. In the Budget the Chancellor announced that the AIA would increase to £1,000,000 for two years from 1 January 2019.

The timing of any investment needs careful attention if a financial year end is not 31 December. For example, if a financial year ends on 31 March, then the AIA for the 2018/19 financial year is pro-rated to £400,000 (£200,000 x 0.75 + £1,000,000 x 0.25). To gain the full £1m allowance a plant and machinery investment would need to be made after 31 March 2019 rather than in January 2019.

11. PROPERTY TAX

- **Capital Gains Tax (CGT)**

Capital gains tax payment window

As announced at Autumn Budget 2017, the Government will legislate in Finance Bill 2018/19 to introduce a requirement for UK residents to make a payment on account of capital gains tax following the completion of a residential property disposal. The new legislation will also replace and extend the existing reporting and payment on account rules for non-UK residents.

Draft legislation was originally published on 6 July 2018. However, following consultation, the legislation has been changed to:

- allow reasonable estimates of valuations and apportionments needed to compute the gain, where this information is not available before the payment deadline.

- remove disposals by UK residents of non-UK properties from the rules.

- remove non-UK resident companies from the reporting requirement.

The changes will apply to disposals by non-UK residents on or after 6 April 2019. For UK residents the changes will have effect for disposals on or after 6 April 2020.

• UK property income and gains of non-UK resident companies

See section 10.

• Stamp Duty Land Tax (SDLT)

(a) Higher rates for purchases of additional properties

Where an individual sells their old home within 3 years of buying their new one, the time limit for reclaiming the SDLT 3% surcharge will be increased from the later of 3 months from selling the old home and a year from the filing date for the SDLT return for the new home; to the later of 12 months from selling the old home and a year from the filing date for the SDLT return for the new home. The extended deadline for claims will apply where the sale of the old home takes place on or after 29 October 2018.

From the same date, the term 'major interest' in land will be redefined to make it clear that a major interest in land includes an undivided share in land.

(b) First-time buyer's relief

The Government will extend first-time buyers' relief in England and Northern Ireland so that all qualifying shared ownership property purchasers can benefit, whether or not the purchaser elects to pay SDLT on the market value of the property.

This change will apply to relevant transactions with an effective date on or after 29 October 2018, and will also be backdated to 22 November 2017 so that those eligible who have not previously claimed first-time buyers' relief will be able to amend their return to claim a refund.

(c) Consultation on SDLT charge for non-residents

The Government will publish a consultation in January 2019 on a SDLT surcharge of 1% for non-residents buying residential property in England and Northern Ireland.

• Annual Tax on Enveloped Dwellings (ATED)

The ATED charges will rise by 2.4% from 1 April 2019 in line with the September 2018 Consumer Prices Index.

12. TAX EVASION AND AVOIDANCE

Of all the areas of potential tax change that were discussed before the Budget the one area that you could be certain would yield changes was that of "tax evasion and avoidance". The Chancellor did not disappoint.

In the relevant Budget documentation the Government has made it clear that it remains committed to tackling tax avoidance and evasion, aggressive tax planning and non-compliance. Since 2010 the Government has secured and protected over £185 billion of tax that would otherwise have gone unpaid and introduced over 100 measures to crack down further on avoidance, evasion, aggressive tax planning and unfair outcomes. These actions have helped the UK achieve the lowest tax gap of the last five years at 5.7% in 2016/17. Further steps taken in the Budget target avoidance and evasion, as well as unfair outcomes. These measures reaffirm the Government's commitment to ensuring, as it says, that everyone, no matter who they are, should pay the right amount of tax at the right time.

The main new measures announced (that affect financial services) are as follows:

- **Capital gains tax**

In his speech the Chancellor recommitted to the fundamental importance of entrepreneurs' relief to a dynamic, enterprise-led economy. However, subject to this important commitment, some measures have been announced to tackle the perceived misuse of entrepreneurs' relief. In addition to the current requirements on share capital and voting rights, from 29 October 2018 shareholders must also be entitled to at least 5% of the distributable profits and net assets of a company to claim the relief. This is to address an identified abuse of the current rules so as to remove a loophole where companies issue shares with little or no economic rights so that employees can claim a lower CGT rate on disposal.

These proposed changes are in addition to the lengthening of the qualifying period also announced-broadly a minimum of 24 months as opposed to the current 12 month qualifying period from 6 April 2019.

See also section 3.

- **Stamp Duty**

Measures will be introduced reforming stamp taxes on shares consideration rules. The Government will consult on aligning the consideration rules of Stamp Duty and Stamp Duty Reserve Tax and on introducing a general market value rule for transfers between connected persons. Reforming consideration rules will simplify Stamp taxes on shares and prevent contrived arrangements being

used to avoid tax. From 29 October 2018, a targeted market value rule will be introduced for listed shares transferred to connected companies to prevent forestalling.

- **International tax enforcement**

The Government is enacting new legislation to allow the introduction of international disclosure rules about offshore structures that could avoid tax or could be misused to evade tax.

- **Offshore tax compliance strategy**

The Government will publish an updated offshore tax compliance strategy. This will build on the substantial progress the UK has made in tackling offshore tax evasion and non-compliance since the Government's previous strategy was published in 2014.

- **Off-payroll working**

The new provisions extending the public-sector approach to "off-payroll working" (IR35) to the private sector is not strictly an anti-avoidance measure. The new provisions are designed to increase compliance with the existing off-payroll working rules (known as IR35) in the private sector under which businesses will become responsible for assessing an individual's employment status. The reform does not apply to the self-employed or introduce a new tax. It brings the private sector into line with the public sector.

INCOME WITHDRAWAL RATE FOR NOVEMBER 2018

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 November 2018 is 1.75%.

The contents of this Budget article are based on the proposals put forward by the Chancellor in his Budget speech on 29 October 2018. These need to be approached with caution as the details may change during the passage of the Finance Bill through Parliament.