Technical CONNECTION

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THE FORTHCOMING BUDGET

Early on 7 January the Treasury confirmed news that emerged overnight that the Budget will be held on Wednesday 11 March.

The March date is something of a surprise as the Conservatives 'First 100 Days' press release, issued on 4 December, stated:

'Before 100 days are up, a Conservative majority Government would have also taken the following actions:

Delivering a post Brexit Budget in February which will cut taxes for hardworking families…'

Cynics might consider that given the previous administration's difficulty in meeting deadlines (ditch-based or otherwise), it is no surprise that February has now become March and that an Autumn Budget (originally due 6 November) will arrive in what meteorologists class as Spring. In practice, the deferral probably makes sense:

- The official ten weeks' notice that the Treasury is meant to give the Office for Budget Responsibility (OBR) to prepare an Economic and Financial Outlook would have taken us to 21 February, assuming notice was given on 13 December, the day after the Election. Throw in the Christmas holiday season and you end up in March.

- The delay gives the Chancellor and OBR the chance to see and take account of the all-important January borrowing figures, which capture 31 January self assessment payments.

- The Chancellor can hope for some better economic data as businesses react to the election of a government with a meaningful majority, if not yet an end to uncertainty surrounding post-Brexit trade relationships. The IHS MARKIT/CIPS PMI Services data, released on 6 January, suggested some stabilisation during December, even though the Composite PMI index fell marginally. As the IHS MARKIT/CIPS news release notes, 'There were signs that service providers have become hopeful that a more stable political backdrop will help to support business conditions over the course of 2020'.

One consequence of the deferral of the Budget to 11 March is that, in the tradition of former Spring Budgets, the Finance Bill 2020 will probably not become a Finance Act until Summer. Draft clauses were published on 11 July 2019. These covered some important changes due to take effect at the start of 2020/21, including the extension of off-payroll working rules to the private sector and the tightening up of legislation on the private residence CGT exemption. Once more we will be in a situation where it becomes necessary to comply with laws before they formally exist.

COMMENT

The first Budget of a new Parliament is traditionally when a Chancellor delivers the bad news, taking advantage of the fact that it is furthest from the next Election. Given the limited wriggle room Mr Javid has in terms of current spending and his no income tax/VAT/NICs rates increase pledge, there could be some creative surprises. Pension tax relief reform is one possibility.

LOAN CHARGE REVIEW REPORTS

The review of the Loan Charge has been published by the Treasury. It will cut the tax bills of many of those who used the scheme.

A Friday before Christmas week begins is probably up there on the list of times to bury bad news. It is perhaps therefore no coincidence that it was the day chosen by the Treasury to publish the Review by Sir Amyas Morse into the Loan Charge and the Government's response.

The Review is damning of the approach adopted by the Treasury and HMRC to disguised remuneration schemes. Morse accepts that "…some form of policy like the Loan Charge [is] necessary and in the public interest". However, he also says "… the evidence provided to the Review prompts serious questions about how proportionate the Loan Charge was in terms of its design and effect on individuals". The Review made 20 recommendations, all but one of which were accepted by the Treasury.

The main points to note are:

- The Loan Charge will now only apply to loans taken out on or after 9 December 2010, the date when legislation was announced removing "any doubt that tax was due". Amounts already voluntarily paid for years when the Charge no longer applies will be refunded.

- Furthermore, the Loan Charge will not apply to users of loan schemes between 9 December 2010 and 5 April 2016 who fully disclosed their schemes on their tax return and where HMRC failed to take action.

- Loan scheme users will be allowed to defer filing their returns and paying their Loan Charge liability until September 2020.

- Taxpayers will be able to split the tax on loan balances over three years.

- The Government will "invest in a new HMRC team to collect tax from those who used the avoidance schemes pre-2010".

The Treasury says these changes are estimated to reduce bills for over 30,000 people subject to the Loan Charge, more than 60% of the total number of users. An estimated 11,000 will be taken out of the Charge completely.

The Treasury does not indicate the lost revenue cost of these changes, but the original expectation at the time of the 2016 Budget was £2.35bn. Earlier this year HMRC announced that it had already collected £1bn and anticipated total receipts of £3.2bn. That suggests Mr Javid has lost a little more of his very limited wriggle room ahead of the Budget.

COMMENT

There are lessons for all sides from this sorry saga. Attempts at quasi-retrospective legislation are now likely to be fewer, but early legislation against any unacceptable schemes is now more likely.

NEW LIFE EXPECTANCY FIGURES RELEASED

In early December the Office for National Statistics (ONS) released updated life expectancy projections based on the assumptions for future mortality from the 2018-based national population projections (NPP), which were published on 21 October 2019. The ONS has also updated its life expectancy calculator.

While life expectancy is still expected to rise in the future, the absolute numbers are now smaller. The ONS says that "The lower projections of life expectancy over time reflect the higher mortality rates observed in recent years than were previously projected and the projected lower rates of mortality improvement at older ages". That explains why, for example, the 2014 projection said that a male reaching 65 in 2018 would have a life expectancy of 21.8 years, while the 2018 projection is 19.9 years. The drop for women is the same – from 23.9 years to 22.0 years.

Below are the latest expectations and related probabilities. Note that a corollary of the heavier mortality assumption is that the odds of living to 100 reduce markedly. For example, for a 65 year old male they are now just 2.8% whereas the 2014 figure was 8.1%.

	Age 60		Age 65		Age 70	
	Male	Female	Male	Female	Male	Female
Life expectancy	84	87	85	87	86	88
1 in 4 chance	92	94	92	94	92	93
1 in 10 chance	96	98	96	98	96	97
Odds on reaching 100	3.2%	5.3%	2.8%	4.8%	2.5%	4.3%

COMMENT

Falls in projected life expectancy have been commonplace in the UK over recent years. This latest set of data calls into question whether the planned increase in State Pension Age (SPA) from 67 to 68 between 2037 and 2039 will survive the next SPA review. The timing for the move to 68 was originally proposed in the Cridland Report, which was based on 2012 and 2014 ONS data.

THE QUEEN'S SPEECH TAKE 2

The Queen's Speech in December was somewhat of a déjà vu affair, given that the last one was little more than two months ago. What was different this time was that whereas the Autumn speech was little more than a royally-read manifesto, the December version comes backed with a Government majority of 80. Subject to Harold Macmillan's warning about events, what the Queen said this time will become law.

There were 29 Bills, either announced or re-announced, with seven directly related to Brexit and its aftermath. There was also a raft of promises on consultation and review. As far as the financial services industry is concerned, the main areas of interest are:

- *Financial Services legislation* This is mainly Brexit-driven with three main elements:

    1. Ensuring "long-term market access between the UK and Gibraltar for financial services firms";

    2. "Simplifying the process which allows overseas investment funds to be sold in the UK". The legislation aims to "maintain [the UK's] position as a centre of asset management and provide more choice to UK consumers"; and

    3. "Enabling enactment of new Basel rules (Basel IV), strengthening the regulation of global banks."

- *Social care reform* There is no explicit legislation under this heading, which largely repeats the Conservative manifesto pledge to "seek cross-party consensus on proposals for long term reform of social care" while guaranteeing "that no one who needs care has to sell their home to pay for it". An extra £1bn a year for "adults and children's social care" is pledged, again a manifesto promise.

What was, perhaps understandably, left out of the manifesto is a Government consultation "on a 2 per cent precept that will enable councils to access a further £500 million for adult social care for 2020/21", i.e. a continuation of the Council Tax surcharge which was due to end in March 2020. There was no mention of the oft-deferred Green (or is it White?) Paper on social care.

- *Renters' Reform Bill* This will abolish section 21 no fault evictions, reforming grounds for possession and marking another turn of the screw for buy-to-let investors. On the other hand, the Bill will also give landlords "more rights to gain possession of their property through the courts where there is a legitimate need for them to do so by reforming current legislation". A new 'lifetime deposit' will be introduced "so that tenants don't need to save for a new deposit every time they move house". The Bill only applies to England and will be accompanied by a range of measures to support home ownership, "including by making homes available at a discount for local first-time buyers".

- *Pension Schemes Bill* This is a reinstatement of the Pensions Schemes Bill 2019/20 covering collective defined contribution (CDC) schemes, greater powers against errant employers and the establishment of the pensions dashboard.

- *Cost of living* Under this catch-all heading there is a pledge to increase the National Living Wage (NLW) to two thirds of median earnings within five years (projected to be £10.50 an hour in 2024). This is subject to a caveat which did not make the manifesto: "provided economic conditions allow". Over the same five-year period the NLW would be extended to cover those aged 21 and upwards (the current minimum age is 25). The National Insurance contribution (NIC) threshold will rise to £9,500 in 2020/21 and "The Government has committed to not raise rates of VAT, income tax and national insurance". There is no mention of any NIC reform, despite the oft deferred demise of Class 2.

- *Divorce Bill* This will introduce no-fault divorce, taking away the current requirement to make an allegation about the other spouse's or civil partner's conduct or demonstrate a period of separation. There will be a new minimum period of 20 weeks between the start of proceedings and applying for the conditional order. The six-week period between conditional and final order – currently called decree nisi and decree absolute – will remain. The legislation will apply to England and Wales only.

- *National Security and Investment Bill* This Bill will "strengthen the Government's powers to scrutinise and intervene in business transactions (takeovers and mergers) to protect national security".

- *Business rates* Another "fundamental review' of business rates is promised, along with a commitment to increase the retail discount from one third to one half and extend its coverage. Legislation will bring the next revaluation forward to 2021 and move the process on to a three-year cycle.

THE NATIONAL LIVING WAGE AND NATIONAL MINIMUM WAGE

As 2019 ended, the Government announced substantially increased new levels of National Living Wage (NLW) and National Minimum Wage (NMW) to take effect from 1 April 2020:

Rate	£ per hour from 1/4/2020	Increase on 2019/20 (%)
NLW Age 25 and above	8.72	6.2
NMW Age 21-24	8.20	6.5
NMW Age 18-20	6.45	4.9
NMW Age 16-17	4.55	4.6
Apprentice Rate	4.15	6.4
Accommodation Offset	8.20	8.6

A few points to note:

- The NLW figure is driven by the goal set in the March 2016 Budget, when the NLW was first announced (at £7.20 an hour for 2016/17). Back then, the intention was that the NLW should reach 60% of median earnings by 2020. The Low Pay Commission's role in setting minimum rates was thus somewhat usurped.

- The Low Pay Commission concluded that "the economic and employment picture, while less positive than for other recent rises in the NLW, was strong enough to justify moving to 60 per cent of median earnings in 2020". It also notes that "the bar of sustained economic growth was more narrowly reached than in previous years".

- The latest figures from National Statistics show that estimated annual growth in average weekly employee earnings was 3.2% for total pay (including bonuses) and 3.5% for regular pay (excluding bonuses). The November price inflation figures were 1.5% (CPI) and 2.2% (RPI). The increases in NLW and NMW are thus substantially above both general earnings and price inflation.

- The Conservative manifesto promised to raise the NLW to 2/3rds of median earnings by 2024 and extend eligibility to everyone over 21. That implies further growth in the NLW at a rate of about 2.7% above average earnings for the next four years, taking the figure to about £9.70 an hour in 2020 terms (£10.50 in 2024 according to the Conservative manifesto).

- The Resolution Foundation's Living Wage figures for 2019/20, which have no statutory force but are used by a range of employers, are £9.30 per hour outside London and £10.75 in London. In a note issued after Christmas, the Resolution Foundation also says 2020 will begin with average real (inflation-adjusted) pay finally set to surpass its April 2008 peak.

- One interesting aspect of the sharp rise in the NLW since 2016 is that the New State Pension (NSP), which also started in April 2016, is becoming a shrinking proportion of the NLW. In 2016 the NSP was 61.8% of NLW, based on a 35 hour week, whereas by April 2020 it will be around 57.4%. A subtle move on inter-generational fairness..?

Economists disagree on where the point is at which rising minimum wage levels lead to lower employment. The UK is now at the forefront of finding out who is correct.

APRIL 2020's IR35 CHANGES – GOVERNMENT REVIEW

The Government has launched a review of the forthcoming changes to the off-payroll working rules (IR 35).

This review follows a number of concerns raised by businesses and affected individuals about how the new rules will be implemented.

The review will, the Government says, determine if any further steps can be taken to ensure the smooth and successful implementation of the reforms, which are due to come into force in April 2020. As part of this, the review will also assess whether any additional support is needed to ensure that the self-employed, who are not in scope of the rules, are not impacted.

The Government will launch a separate review to explore how it can better support the self-employed. That will include improving access to finance and credit, making the tax system easier to navigate, and examining how better broadband can boost homeworking.

As part of the review, which will conclude by mid-February, the Government will hold a series of roundtables with stakeholders representative of those affected by the reform, including contractor groups and medium and large-sized businesses, to understand how the Government can ensure smooth implementation of the reforms. The Government will also carry out further internal analysis, including evaluation of the enhanced check employment status for tax (CEST) tool and public sector bodies' experience of implementing the reform to the off-payroll working rules in 2017.

In parallel to the review, HMRC will continue its programme of education and support activities, such as one-to-one engagement, webinars and workshops representatives to help them prepare for implementation on 6 April 2020.

PRESS RELEASE – 'GET QUACKING' – WITH LESS THAN A MONTH TO GO

HMRC recently issued a press release urging individuals to submit their self assessment tax return by 31 January.

According to HMRC, around 5.4 million taxpayers are yet to file and have less than a month to do so.

More than 11 million tax returns are due by the end of January. Around 54% of taxpayers have already filed their returns with more than 5.6 million of those completed online (89% of the total returns filed).

There is information contained within the press release in relation to who is required to file and, for those who are unsure, HMRC provides a useful tool which can be used to check if there is a requirement to file a return.

Anyone who filed a return last year will be required to file again this year even if they have no tax to pay, unless HMRC has written to them to advise otherwise.

There is support and guidance available from HMRC to help individuals through the process of completing and submitting their self assessment tax return.

COMMENT

Clients should be reminded that if they miss the deadline they will face a minimum £100 penalty, with further penalties added thereafter.

REVIEW OF OPEN-ENDED FUNDS – FCA AND BANK OF ENGLAND STATEMENT ON JOINT REVIEW

In its Financial Stability Report, published last month, the Financial Policy Committee (FPC) set out initial findings of a joint review by the Financial Conduct Authority (FCA) and the Bank of England on open-ended investment funds and the risks posed by their liquidity mismatch.

According to the FCA, the FPC has reviewed the progress of the work and identified that, if greater consistency between the liquidity of a fund's assets and its redemption terms is to be achieved:

- Liquidity of funds' assets should be assessed by reference to the price discount needed for a quick sale of a representative sample (or vertical slice) of those assets or the time period needed for a sale which avoids a material price discount. In the US, the Securities and Exchange Commission has recently adopted measures of liquidity based on this concept.

- Redeeming investors should receive a price for their units in the fund that reflects the discount needed to sell the required portion of a fund's assets in the specified redemption notice period, ensuring fair outcomes for redeeming and remaining investors.

- Redemption notice periods should reflect the time needed to sell the required portion of a fund's assets without discounts beyond those captured in the price received by redeeming investors.

The review will now consider how these principles could be implemented in a proportionate and effective manner.

The FCA says that it will use the conclusions of the review, which will be released this year, to inform the development of the FCA's rules for open-ended funds.

And it has added that recognising the global nature of asset management, the conclusions could also be used by UK regulators in international work at the Financial Stability Board (FSB), the International Organization of Securities Commissions (IOSCO) and with other competent authorities.

INCOME WITHDRAWAL RATE FOR JANUARY 2020

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 January 2020 is 1.0%.