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Expectations for this Autumn Statement were mixed and although the new Chancellor made many announcements in a well-received speech, the overall outcome was low key with few of the theatrical flourishes of his predecessors.

It was clear that Philip Hammond had set his sights on reassuring the business community that, despite the impending Brexit negotiations, the UK economy would remain stable in the long term. Many of the infrastructure announcements were couched as long term programmes addressing productivity improvements and house building - although cynics may feel that he had to take the long view because, in the short term, the Government's finances could not support significant investment. However, committing the Government to investing at least 1% of GDP in the UK's infrastructure annually in the 2020s should be welcomed by all.

With large businesses already aware that they will be facing large increases in their tax liabilities as a result of restrictions to interest deductions and on the use of brought forward losses from 2017/18, most will be relieved that no further significant corporate tax increases were announced. That is not to say the new Chancellor missed any tricks when it comes to blocking tax avoidance. Among the range of measures announced to boost the exchequer, the move to bring the UK income of offshore companies within the UK tax net was perhaps the most eye-catching.

Widely predicted measures to help the 'just about managing' families included maintaining the Government's existing commitment on increasing personal allowances and the basic rate band and some small changes to the Universal Credit taper rate for earnings. Increases in the living and minimum wage from April 2017, clamping down on letting agent fees, a pilot of free childcare and another freeze on fuel duties were also announced. However, it is debatable whether action to limit fraudulent car accident whiplash claims will bring down insurance premiums enough to offset the increase in insurance premium tax to 12% next summer.

Finally, although there was relatively little news on tax simplification, we did learn that this was Philip Hammond's first and last Autumn Statement. 2017 will see a final spring Budget and the start of a new autumn Budget cycle giving more time for scrutiny of tax changes before they are implemented in April 2018 with a simple response to the OBR forecasts each spring. If the Chancellor achieves his goal of only announcing tax changes once a year in future, this will be welcome simplification.

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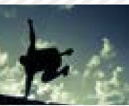
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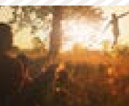
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02 | CORPORATE AND BUSINESS TAXES

CORPORATION TAX – FUTURE RATES

The Chancellor confirmed the Government's recommitment to the business tax road map, including cutting the corporation tax rate to 17% by 2020 (as already provided in Finance Act 2016). This will help to dispel earlier Brexit-related uncertainty, not least amongst businesses contemplating a move to the UK.

He also confirmed that the Government is continuing to work closely with the Northern Ireland Executive towards the introduction of a Northern Ireland rate of corporation tax, subject to it demonstrating that it has placed its finances on a sustainable footing.

PARTNERSHIP REFORM

The Government has announced that, following consultation, it will legislate to clarify and improve certain aspects of partnership taxation to ensure profit allocations to partners are fairly calculated for tax purposes.

The consultation proposed several changes to the tax treatment and administration of partnerships including:

- Clarifying who is the partner chargeable to tax
- Rules to prevent the use of nominee arrangements
- Reporting requirements for business structures that include partnerships as partners
- Tax administration of partnerships with investment income
- New rules on the allocation and calculation of partnership profit.

BDO was actively involved in discussions with HMRC and had presented the view that many of the changes proposed were counter to the commercial realities of partnerships and would create a significant administrative burden for those affected. In common with many partnership specialists we commented that, if not dropped altogether, the proposals should at least be deferred until they could be properly thought through, particularly in light of the changes HMRC's Making Tax Digital project is expected to bring.

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It is unclear from the announcement how many of the changes will be progressed immediately – further clarity is expected when Draft Finance Bill 2017 is published on 5 December.

The majority of partnerships with simple structures should be largely unaffected by the proposals, but those that are more complex, such as larger trading and investment partnership structures, could be adversely affected by the changes. BDO will continue to take an active role in consultations as the proposals move through the legislative process.

REFORM OF LOSS RELIEF

The Government has confirmed that the proposed changes to the carried-forward tax loss relief rules, announced in Budget 2016 and subsequently consulted on, will go ahead broadly as planned from April 2017.

There are two principal measures:

- Tax losses arising after 1 April 2017 will be available for carry forward against profits from the company's other income streams and profits of other group companies
- For profits arising after 1 April 2017, only 50% of group profit can be sheltered by carry forward losses (subject to a £5m profit de minimis).

The pain of the loss restriction is eased by the £5m profit de minimis which means that the majority of businesses will not be adversely affected by this element of the package and the burden will fall only on larger groups.

The requirement to stream tax losses has long been a frustration for those who consider that a company's tax bill should align with its economic profit and so this relaxation is welcome. While there is no indication that the Government is thinking of moving to full group tax consolidation, the ability to offset a carried-forward loss in one company against a profit of another company is a welcome improvement to the existing group relief system.

The Government has also stated that it wishes to simplify the administration of the new rules. It will be interesting to see whether, since the consultation, there has been any movement away from the schedular system and the need to stream trading and non-trading losses and profits.

Banks will continue to be able to shelter only 25% of their profits by pre-April 2015 tax losses. In respect of their post-April 2015 tax losses, banks will continue to be treated in the same way as other companies.

TAX DEDUCTIBILITY OF CORPORATE INTEREST EXPENSE

The Government confirmed that a limit on the tax deductions that large groups can claim for their UK interest expenses will be effective from 1 April 2017.

These rules will limit deductions where a group has:

- Net interest expenses of more than £2m
- Net interest expenses exceeding 30% of UK taxable earnings and
- A net interest to earnings ratio in the UK exceeding that of the worldwide group.

Further to the recent consultation, the Government has confirmed a widening of the public interest exemption which aims to ensure that projects for the public benefit are not affected by the new restriction.

A somewhat unexpected development is that banking and insurance groups will be subject to the rules in the same way as groups in other industry sectors. Originally it was thought targeted rules for banks and insurance companies would be required. Banking and insurance companies typically generate net interest income and should not be affected by the rules. Their inclusion, however, is an indication that targeted rules will not be introduced

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on the basis that existing financial regulation places sufficient restrictions on these sectors.

The limitation will apply to external debt as well as internal debt. It is not yet known whether there will be any grandfathering provisions for existing debt. Groups with borrowings should urgently review how they will be affected by these provisions. Where there is a restriction, groups may wish to consider refinancing their UK debt, for example by pushing more debt down into overseas subsidiaries or, perhaps, by increasing their UK tax base through changes to their trading models and transfer pricing arrangements.

INFRASTRUCTURE AND INNOVATION INVESTMENT

The Chancellor has prioritised investment in infrastructure, science and innovation and the digital economy in order to increase productivity.

A new National Productivity Investment Fund will provide for £23 billion of spending between 2017-18 and 2021-22, targeted at housing, transport, digital communications, and R&D, including:

- £7.2bn to support the construction of new homes
- £4.7bn to enhance the UK's position as a world leader in science and innovation
- £2.6bn to tackle congestion and ensure the UK's transport networks are fit for the future
- £0.7bn to support the market to roll out full-fibre connections and future 5G communications.

£1.8bn will also be awarded to Local Enterprise Partnerships (LEPs) across England through a third round of Growth Deals, to improve transport connections, unlock house building, boost skills, and enhance digital connectivity.

This will give a direct boost to businesses in the construction, transport and communications sectors, with a wider benefit to businesses carrying out R&D.

In addition to this funding, the Government has announced that it will review the R&D tax relief regime to make the UK a more attractive place in which to do R&D activity and increase innovation. This follows the positive impact of the introduction of the 'above the line' R&D tax credit in 2013.

Companies undertaking R&D activity can expect an increase in R&D incentives, both in the form of grant funding and in R&D tax relief. For SMEs, one incentive can restrict the other and so it will be important to understand the interaction of the two in order to maximise the R&D benefits.

TAX ADVANTAGED VENTURE CAPITAL SCHEMES

The Enterprise Investment Scheme (EIS), Seed Enterprise Investment Scheme (SEIS) and Venture Capital Trusts Scheme (VCT) exist to encourage individuals to invest equity finance into unquoted trading companies. A number of technical changes will be introduced to remove anomalies in the existing legislation.

The rules on conversion rights for SEIS and EIS shares will be clarified, which we hope will remove the threat of a conversion being treated as a disposal for EIS relief purposes. VCT provisions for follow-on funding will be brought into line with EIS provisions, and regulations around share for share exchanges will be introduced to provide greater certainty to VCTs. There will be a consultation on HMRC's 'advance assurance' service, which has not been working as intended lately.

Any simplification and clarification of the SEIS, EIS and VCT legislation to facilitate investment into growing companies is welcome, although it is disappointing to note that the Government is putting off dealing with the question of opening up these schemes for replacement capital.

It is also disappointing that there is no mention of clarification of the new "growth and development requirement". HMRC's interpretation of this goes beyond what the legislation intended and it would have been helpful if the Government had addressed this.

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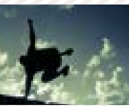
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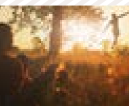
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PATENT BOX

The patent box rules will be amended in Finance Bill 2017 for cases where R&D is undertaken collaboratively by two or more companies under a cost sharing arrangement. The new provisions will ensure that there is neither an advantage nor disadvantage for the companies involved from organising the R&D activity in this way. The change will take effect for accounting periods beginning on or after 1 April 2017.

SUBSTANTIAL SHAREHOLDINGS EXEMPTION REFORM

Following consultation undertaken after the March 2016 Budget, the Government will make changes to simplify the rules from April 2017.

Currently, to qualify for the exemption, both the investor group and the investee subgroup must meet a trading status requirement. The proposal is that the exemption will be reformed to remove the test for the investor group. From April 2017 it is the trading status of the investee company (and, if relevant, its subgroup) which counts. This should help groups with a combination of trading and investment activities, eg a mixed property group may access the exemption when selling its development subsidiary. Furthermore, the new approach has the advantage that the UK company should itself have ready access to the required information. In the case of foreign owned groups, obtaining information about the foreign parent's wider group activities has proved onerous and the proposed change should remove this requirement.

The Chancellor also indicated that a more comprehensive exemption will be introduced for companies owned by 'qualifying institutional investors'. Beneficiaries may include pension funds and sovereign wealth funds whose gains would be tax exempt when investing directly, but are currently taxable when investing through a UK company. This has caused some to invest through offshore holding companies, and the reform is designed to remove that incentive.

This change could benefit UK companies which own at least 10% of the equity of another company when they sell at a gain.

EXTENSION OF CORPORATION TAX TO NON-RESIDENT COMPANIES

The Government will consult in 2017 on whether the UK income of non-UK resident companies should be brought within the charge to corporation tax so that such companies will be subject to the same rules as UK resident companies.

With the exception of non-UK resident companies undertaking a trade in UK land, currently, non-UK resident companies which trade in the UK without a permanent establishment are, in principle, chargeable to UK income tax. UK income tax also applies to the rental income of non-UK resident companies holding UK real estate for the purposes of investment.

There are already some significant differences in the tax rules between income tax and corporation tax which can mean that such companies are not charged to tax in the same way or at the same rate as companies already within the charge to UK corporation tax.

In addition, certain changes to corporation tax announced in this Autumn Statement, along with the reduction in the headline rate of corporation tax to 17% by April 2020, will result in a marked difference between companies chargeable to income tax and corporation tax unless the treatment of both is aligned.

If the proposal is implemented, it could have a significant effect, in particular for non-UK resident owners of UK investment property. While such businesses might benefit from future reductions in corporation tax rates, they would become subject to the same restrictions to interest deductibility which will apply to UK corporates from April 2017. As property investment activity is often highly geared, this could result in a significant additional tax burden.

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Companies within the charge to corporation tax are taxable on both income and capital gains. Non-UK resident companies within the charge to income tax are generally not chargeable to UK tax on capital gains other than those arising on residential property. Extending the charge to corporation tax to non-UK resident companies, therefore, could result in capital gains previously not within the charge to UK tax becoming taxable in the UK for the first time.

Although there may be disadvantages for companies which are affected, there may also be benefits from coming within the charge to corporation tax. In some circumstances, corporation tax payers have access to greater flexibility over certain tax treatments, for example the ability to make elections and/or claim reliefs that are unavailable to income tax payers.

PETROLEUM REVENUE TAX – REDUCING ADMINISTRATIVE BURDEN

Two measures were announced to reduce administrative burdens for participators in the Petroleum Revenue Tax (PRT) regime.

The first removes the conditions for opting out, thereby making it easier for participators to opt fields out of the PRT regime. Previously, the responsible person had to show that the field would never produce assessable profits for any participator in the field at any point in the future, or that any assessable profit would be equal to or less than each participator's share of the field's oil allowance.

The second measure will simplify the reporting requirements for those that remain. The measure will remove the oil allowance reporting requirements from the PRT 1 and 2 forms. There will also no longer be a requirement to report the tax liability instalment on the PRT 6 form.

Both measures will take immediate effect. This means that a responsible person will be able to elect to opt fields out of the PRT regime for chargeable periods beginning on or after 1 January 2017 and the simplified reporting will apply to the current chargeable period (ending 31 December 2016) and any subsequent reporting periods.

LETTING AGENT FEES

The Chancellor announced that it was the view of the Government that letting fees charged by property agents should be borne by landlords. In order to improve competition in the private rental market, the Government intends, after consultation, to legislate to ban the charging of fees by letting agents to tenants. A ban on agents' fees is already in place in Scotland.

The Government's intention is that the change will save tenants money as landlords will be able to shop around for better terms with their letting agents. However, there is a significant risk that agents will seek to increase their prices to landlords who would then, in turn, pass on the additional cost to tenants in the form of higher rents.

BUSINESS RATES

The next revaluation for business rates in England, Scotland and Wales will take place in 2017. It was, therefore, hoped that the Government would use the Autumn Statement to announce additional reliefs for those areas likely to be significantly disadvantaged. Instead, it has been announced that the rate of rural rate relief will be increased to 100% to match the rate of small business rate relief from 1 April 2017.

CAPITAL ALLOWANCES ON CHARGING POINTS

In order to encourage the use of low emission vehicles, a new 100% first year allowance will be available for expenditure incurred on the acquisition of new and unused electric charge point equipment. However, the allowance will be time limited and will expire on 31 March 2019 (for corporation tax) and 5 April 2019 (for income tax).

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PERSONAL ALLOWANCE AND BASIC RATE BAND

The Chancellor reiterated the Government's commitment to increase the combined personal allowance and basic rate band limit to £50,000 by the end of this Parliament.

In line with this commitment, the personal allowance will increase to £11,500 for 2017/18 (up from £11,000 in 2016/17). Similarly, the basic rate band will increase to £33,500 for 2017/18 (up from £33,000 in 2016/17). Therefore, an individual will be able to earn up to £45,000 of income in 2017/18 without paying higher rate tax.

Once the personal allowance reaches £12,500, it will then rise in line with the Consumer Price Index.

NON-DOMICILE TAXATION

As previously announced, from 6 April 2017 non-UK domiciled individuals (non-doms) will be deemed UK domiciled for all tax purposes after they have been UK resident for 15 of the past 20 tax years, bringing such individuals within the scope of worldwide taxation. Additionally, individuals who were born in the UK and who have a UK domicile of origin will revert to their UK domiciled status for tax purposes whilst resident in the UK.

The Chancellor reconfirmed that non-doms who establish a non-UK resident trust before becoming deemed domiciled in the UK under the new rules will not be taxed on foreign income and gains retained in the trust. In addition, following a recent consultation, it is confirmed that the ability for non-doms to invest their foreign source income and gains into UK businesses using Business Investment Relief will be widened so as to encourage greater investment into the UK.

The Government also confirmed that, following the closure of another recent consultation, it will legislate to charge inheritance tax on all UK residential property indirectly held through an offshore structure such as a company or a trust from 6 April 2017. This is intended to close a perceived loophole that such structures have primarily been set up to avoid inheritance tax.

Although there was a general consensus by practitioners that these reforms should be delayed,

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non-doms finally have confirmation that the rules are coming in from 6 April 2017 and they have a limited opportunity to prepare for them. It remains to be seen whether the inheritance tax proposals will have a retrospective effect. As the proposals stand, certain prior events (such as giving away company shares) may still give rise to a tax charge upon an individual's death after 5 April 2017.

PENSIONS

The Government regards the tax reliefs offered on pension saving as generous so any suggestion that they are being abused is taken seriously: two measures were announced to address perceived abuses.

Under the current rules, contributions of up to £40,000 a year to an individual's pension funds obtain tax relief. There are restrictions on this amount for individuals with an annual income of over £150,000 and also for those aged 55 or over who have already accessed their pension fund via flexible drawdown.

For this latter group, a Money Purchase Annual Allowance (MPAA) applies and tax relief is only given on the first £10,000 of pension contributions. The purpose of this restriction is to stop individuals 'recycling' tax relief by making contributions that get tax relief, withdrawing the funds and then making more contributions that attract tax relief. From 6 April 2017, the MPAA will be reduced to £4,000.

The pension freedoms introduced in April 2015 also permit individuals in a personal pension plan to draw down up to 100% of their pension in one tax year. While the first 25% of such a drawdown is usually tax free, the balance is taxable at the individual's marginal rate of tax for the year (ie up to a maximum of 45%).

However, if an individual is resident in another jurisdiction when the funds are drawn down, depending on the terms of the UK's double tax treaty with that jurisdiction, the funds may be taxable in that jurisdiction at the local rate of income tax. There are a number of countries that have local taxing rights over pension income and have much lower rates of income tax than the UK: some individuals living in such countries have taken advantage of this to draw down all of their UK pension at a low tax rate. If such individuals return to the UK within five years, the drawn down income is taxable in the UK in the year of return. In the future, individuals who have taken this route will be taxable in the UK on the drawn down funds if they resume residence in the UK within ten years.

Other changes will bring the taxation of foreign pensions held by UK residents into line with the taxation of UK pensions so that there will be no tax advantages for the pensioner. In addition, the Government will tighten the criteria under which offshore pensions can be qualifying registered overseas pensions schemes (QROPS) and close section 615 schemes to new members.

Finally, the Government will consult on giving pension providers powers to block suspicious pension transfers and other ways to prevent pension scams (including a ban on pension cold calling).

INDIVIDUAL SAVINGS ACCOUNTS AND A NEW NATIONAL SAVINGS BOND

As announced in Budget 2016, the amount that an individual can save in an Individual Savings Account (ISA) every tax year will increase from £15,240 to £20,000 from 6 April 2017. The ISA subscription limit includes the total amounts added to an ordinary ISA, the Help To Buy ISA and the new Lifetime ISA in the tax year.

Separately, the annual subscription limit for Junior ISAs and Child Trust Funds is also set to increase on 6 April 2017 from the current limit of £4,080 to £4,128 (in line with the Consumer Price Index).

The Government will also introduce through NS&I a new three year Investment Bond offering an interest rate, indicatively set at 2.2%. Individuals aged 16 and over may invest between £100 and £3,000 in the new bond which will be made available in spring 2017.

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SOCIAL INVESTMENT TAX RELIEF

Social Investment Tax Relief (SITR) was originally introduced in 2014 to encourage investment in 'social enterprises' by offering a tax reducer to individual investors of 30% of their investment. To qualify as a social enterprise an organisation must be either a registered charity, Community Benefit Society or Community Interest Company and meet various other qualifying conditions.

The limit of funding that a qualifying enterprise can obtain under SITR is currently subject to a complex formula and is broadly £250,000 over three years. It was announced in the Autumn Statement that from 6 April 2017, the amount of investment that enterprises up to seven years old can raise through SITR will increase to £1.5m. Other changes, including the exclusion of certain activities, are also to be made to SITR to ensure that the scheme is well targeted.

This will be a welcome change for both social enterprises and those individuals looking to make investments in this area as at present the funding that may be raised under SITR is very limited. The Government also announced it would keep SITR under review, with a commitment to undertake a further review within two years of these changes.

PERSONAL PORTFOLIO BONDS

Personal Portfolio Bonds (PPBs) broadly take the form of life insurance policies. Such policies are popular among investors as they allow for the deferral of tax on the income and growth within the policy until such time as a chargeable event occurs.

There are anti-avoidance rules that apply to policies where the policyholder has the ability to select which assets are acquired - these are intended to prevent individuals from creating their own personal portfolio of investments within a tax deferred wrapper. Policies falling within these rules will be regarded as PPBs and the investor will be subject to an income tax charge on 15% of the original investment, increasing each year on an annualised basis.

To prevent the anti-avoidance rules applying unnecessarily there is a list of permitted assets in which a policy (otherwise caught by the rules) can invest without triggering the PPB tax charge. It was announced in Budget 2016 that the Government would consult on being given the power to amend the list of permitted assets, by regulation. It was confirmed in the Autumn Statement that this change will go ahead with effect from the date of Royal Assent to Finance Bill 2017.

The list of permitted investments has not materially changed since 1999 and therefore it is a welcome change for policyholders that the Government will from next year have the power to update the list to keep up to date with an ever evolving investment landscape.

LIFE INSURANCE POLICIES

Following a consultation on the taxation of life insurance policies, the Government has announced that Finance Bill 2017 will contain provisions to deal with the disproportionate charges that can arise from a part-surrender or part-assignment of a policy.

Currently, an individual can, in certain circumstances, generate a large tax liability, disproportionate to their economic gain, from the partial surrender of a life insurance policy. In the case of Lobler v HMRC [2015], the taxpayer was successful in rectifying their partial-surrender so that the excessive tax liability did not arise.

The provisions in Finance Bill 2017 will enable individuals, where appropriate, to make an application to HMRC to have the charge recalculated on a just and reasonable basis from 6 April 2017.

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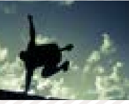
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ALIGNMENT OF NIC AND INCOME TAX

The Government has embarked on a review of how it can align NIC and income tax which will be a long and complex process. As a first step, it has announced that the employer and employee NIC thresholds will be aligned from April 2017 as recommended by the Office of Tax Simplification.

Both employers and employees will start paying NIC on weekly earnings above £157 – a rise of £1 and £2 respectively from the current tax position – and employers pay NICs above this threshold on an uncapped basis. Employees pay NIC at a rate of 12% between this threshold and an upper threshold (currently £827) and at a rate of 2% thereafter. This upper threshold will increase to £866 from April 2017 so employees will pay an additional £3.60 a week from 6 April 2017. It is a simplification, but the Government projects this measure will raise an additional £750m by 2021/22.

SALARY SACRIFICE

Following a consultation, the Government will introduce changes to salary sacrifice arrangements from April 2017. There is no change for benefits that the Government supports being offered in this way - pensions, childcare and cycle to work schemes. Other benefits that are tax free such as health screening, workplace car parking and mobile phones for private use will, however, lose their tax free status if they are provided by salary sacrifice. Employers will also have to pay Class 1A NIC on the benefit. Arrangements already in place or implemented before April 2017 will however, not be impacted by these new rules until April 2018.

There is also no change for the employees' NIC position on employer provided benefits that are provided via salary sacrifice – they remain outside the scope of employees' NICs. The position for intangible benefits (eg buy or sell holiday) and payroll giving tax relief also appear to remain untouched.

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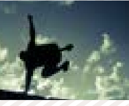
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One of the most popular salary sacrifice benefits is the provision of a company car. Significant changes were predicted in the consultation but they have been amended and delayed. The first change is the Government has added ultra-low emission vehicles (ULEVs), a vehicle with CO_2 emissions below a level of 75g/km, to its list of benefits delivered by salary sacrifice that will not be subject to any rule changes.

However, for all other company cars the rules will change. For any new cars provided under arrangements implemented after 5 April 2017, the car will be taxed on the higher of the tax due on the cash sacrificed to obtain the car, and the tax arising from the car benefit in kind charge. For car arrangements already in place or implemented before 6 April 2017, it would appear cars provided before April 2017 will not be affected by the changes until April 2021.

In practice, this suggests that employees and employers that are already, or will start to participate in car salary sacrifice arrangements before 6 April 2017 will have certainty about their tax arrangements. From then on, unless they choose a ULEV, there may be little tax and NIC advantage in participating in such an arrangement.

This is likely to focus employees' attentions on ULEVs but there are also non-tax reasons why people choose cars under salary sacrifice arrangements. So whilst the car supply 'mix' may change, this benefit will continue. Until the detailed legislation is released, we will not be able to assess the full impact.

EMPLOYMENT STATUS

The changes announced for Personal Service Companies (PSCs) are restricted to the public sector at present but we anticipate further measures regarding off-payroll labour may be introduced over the life of this parliament. The recent decision in the Uber employment status case is just one of a number of cases that will keep this issue in the spotlight, and employers will need to pay close attention to their use of off-payroll labour going forward. The Government also announced that it will extend its disguised remuneration legislation to cover arrangements used by the self-employed.

OFF PAYROLL WORKING IN THE PUBLIC SECTOR

At present any organisations that engage workers who trade via their own limited company, often referred to as a PSC, have no PAYE and NIC considerations if they contract with and pay the PSC directly - unless the PSC is registered offshore or provides a worker that can be considered to be a director.

However, from 6 April 2017, organisations in the public sector, or who provide labour services to the public sector, may have to consider PAYE, and potentially NIC if they use workers engaged via PSCs to deliver services. Following a consultation, the Government will go ahead with its proposed reform of what are termed the 'off-payroll working rules'. The new rules will require public sector employers, and those providing labour services to the public sector, to assess whether they are exercising control, direction or supervision over the worker. If that is the case, they may need to withhold PAYE and/or NIC from the payments they make to the PSC – essentially moving potential liabilities from the PSC to the engager.

Making such an assessment may be a subjective and complex exercise, and while no detailed legislation has been issued yet, this change is likely to add to the administrative burden and operating costs of public sector organisations. The definition of the 'public sector' is much wider than one might think.

For workers with skillsets that are in high demand, this may result in an increase in their day rates, and for other workers this may negate the potential benefits of operating via a PSC. However, in some sectors it is quite common for workers not to be able to obtain work unless they have a PSC. The 5% tax-free allowance that is currently available to PSCs will be removed for those working in the public sector that are subject to the new rules.

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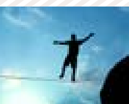
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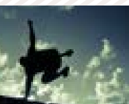
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EMPLOYEE SHAREHOLDER STATUS ABOLISHED

The short-lived tax relief for employees entering into Employee Shareholder Status (ESS) has been withdrawn. Introduced by George Osborne in 2013, his successor announced that as of 1 December 2016, the tax benefits of ESS will not be available to new entrants.

The relief was connected to an agreement to, in effect, waive certain statutory employment rights. However, the Government has concluded that it was not being used as intended. Fewer ESS arrangements had been implemented since the relief was capped in Budget 2016, although the ability to agree the values of shares with HMRC in advance under ESS had continued to prove attractive to employers and employees. The Government has said that the associated employment law regime for ESS, which is now superfluous, will be repealed at the next legislative opportunity.

Where employees had already formally agreed to enter into ESS before the date of the Autumn Statement, they will still be able to acquire shares and benefit from the tax relief. The tax position of ESS shares acquired before 23 November will also be unaffected.

EMPLOYMENT TAX SIMPLIFICATION

The Government also confirmed a range of simplification measures. The first relates to the Pay as You Earn Settlement Agreement (PSA) process which will apply from the 2018/19 tax year onwards. Final details have yet to be released but the recent consultation proposed removing the need to agree a PSA in advance with HMRC and enabling digital PSA returns.

Legislation will also be released in Finance Bill 2017 to ensure an employee who wants to 'make good', on a non-payrolled benefit in kind will have to make the payment to their employer by 6 July in the following tax year. 'Making good' is where the employee makes a payment in return for the benefit in kind they receive. This reduces its taxable value. This will have effect from April 2017, and will give both employers and employees some clear guidance on this issue.

Currently any employee called to give evidence in court that receives legal support from their employer has a taxable benefit in kind charged on the cost of that support. From April 2017 this will no longer be taxable. The Government will also publish the results of its consultation on employer-provided living accommodation which may herald a change in the way this benefit is taxed going forward. Finally, new calls for evidence on the valuation of all other benefits and employee business expenses will be published at Budget 2017.

LIVING AND MINIMUM WAGE INCREASES

The Chancellor has announced that the 'Living' wage will increase by 30p to £7.50 per hour from April 2017. This is a 4.17% increase but annual increases in excess of 6% will be needed if the £9 per hour target is to be reached by 2020 as promised by the previous Chancellor.

The minimum wage rates were increased in October this year but will increase again from April 2017 to £3.50 for apprentices, £4.05 for 16 to 17 year olds, £5.60 for 18 to 20 year olds and £7.05 for 21 to 24 year olds.

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INSURANCE PREMIUM TAX - STANDARD RATE RISE

The standard rate of Insurance Premium Tax (IPT) is to increase with effect from 1 June 2017, from 10% to 12%. This is the third IPT rate rise announced over the course of the last 18 months, which will result in the rate doubling from its October 2015 level of 6%. At its new rate the UK's standard rate of IPT can no longer be viewed as low compared to many other countries.

In terms of timing, the 12% rate will apply to all premiums received on or after 1 June 2017, at least for those insurers using the cash accounting scheme. For those insurers using the special accounting scheme, the new rate is likely to apply to premiums received from a later date, where the premium relates to risks covered by the terms of a contract entered into before 1 June 2017.

Insurers and brokers will need to make a commercial decision on the extent to which they will, if at all, pass on the increase. If any part of the rate rise is passed on, it will mean that businesses and individuals will again see the costs of their insurance increase. Insurers and brokers will need to make further changes to their sales platforms, systems and documentation to accommodate the new rate and to enable them to deal with the effect on any mid-term adjustments.

CONSULTATION: VAT GROUP REGISTRATION

It was confirmed in the Autumn Statement that HMRC will proceed with its planned consultation on the future of VAT grouping. This exercise was prompted by the 2015 ruling from the Court of Justice of the European Union (CJEU), in the Larentia + Minerva case, that member states cannot limit VAT grouping to corporate bodies alone. Its expected scope was outlined in a Revenue & Customs Brief in January 2016, but the consultation document itself has since been delayed, presumably due to the outcome of the EU referendum.

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VAT grouping in the UK currently allows companies under common control to register under a single VAT number and submit one VAT return covering all supplies made by those companies, removing the requirement to charge VAT on transactions between group members. HMRC's Brief said that the consultation would propose changes to UK law to extend VAT grouping to non-corporate bodies and create new rules to determine 'close economic, financial and organisational' links for corporate and non-corporate bodies, replacing the current 'control' test based on a company law definition of a subsidiary. If these proposals were adopted, this would open up the benefits of VAT grouping to organisations that include non-corporate entities.

The consultation is also expected to seek views on other VAT grouping issues, including HMRC's policy following another CJEU judgment in the Skandia America case, which affects intra-company supplies between establishments in different countries where one is a member of a VAT group registration.

NEW ANTI-AVOIDANCE AND EVASION MEASURES FOR VAT

A start date has been announced for HMRC's new VAT Avoidance Disclosure Regime (VADR). Legislation to implement the regime will be included in Finance Bill 2017 and the new rules will come into force on 1 September 2017.

VADR will replace the existing VAT Disclosure regime, which remained largely unchanged since its introduction in 2004. It will move primary responsibility for disclosure of avoidance schemes from the user to the promoter and replace the current purpose test (where an arrangement is disclosable because its main purpose is to obtain a tax advantage) with a DOTAS style 'benefit' test (where an arrangement must be disclosed if obtaining a tax advantage is expected to be a main benefit). VADR will also adopt the more punitive DOTAS penalty regime for failure to disclose, where the Tax Tribunal has power to impose an initial penalty of up to £600 per day, with further powers to impose up to £1 million. HMRC has also proposed creating disclosure obligations for arrangements related to Insurance Premium Tax, environmental taxes, customs duty and all excise duties, including gambling taxes.

Draft legislation is also expected soon on new penalties for 'enablers' of tax avoidance arrangements that are later defeated by HMRC. This cross-tax proposal includes VAT, and is also expected to remove the defence of having relied on advice as taking 'reasonable care' when considering penalties for users of such arrangements. However, no implementation date has yet been announced for 'enablers' penalties.

Finally, the Government will legislate in Finance Bill 2017 to introduce a new penalty for participating in VAT fraud, aimed at those who knew or should have known that their transactions were connected with fraud. The new penalty, which was subject to a recent consultation, will be a fixed rate penalty of 30% and is expected to predominantly affect businesses caught up in Missing Trader Intra-Community (MTIC) fraud disputes. According to the consultation document, this will replace the current penalty (under Schedule 24 of Finance Act 2008) that accompanies an assessment for lost tax, because it would remove the requirement for HMRC to show whether the taxpayer's behaviour was careless or deliberate. HMRC says that this type of penalty would save time and administration by allowing it to be issued at the same time as the assessment and for any VAT and penalty appeal to be dealt with in the same Tribunal hearing. (HMRC estimates that this would save £1 million in legal fees and 500 staff hours per year.) The measure will be implemented following Royal Assent.

FLAT RATE SCHEME – HIGHER VAT RATE FOR BUSINESSES WITH LOW COSTS

A new flat rate percentage of 16.5% will apply to certain businesses using the Flat Rate Scheme. This new rate will apply to supplies made after 1 April 2017. Anti-forestalling legislation is in place

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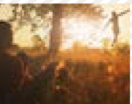
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to prevent payment being made in advance or VAT invoices being issued in advance for supplies that will be made after 1 April 2017.

The Flat Rate Scheme is a simplification that calculates the VAT payable simply by applying a set percentage to total UK income instead of a calculation on the basis of invoices issued and received. A new percentage of 16.5%, much higher than most of the current percentages, will apply to a 'limited cost' business – defined as a business with expenditure on goods purchased for the purpose of the business in the relevant VAT period at less than 2% of its total turnover including VAT. If a business uses annual accounting, it would be included if its purchases of goods were less than £1,000 per annum. Any capital expenditure, food, vehicles and fuel purchased by the business will not count toward the 2% threshold.

This change is likely to affect many labour only contractors as well as consultants and other professionals. It will also affect a business that does not purchase many goods but buys in a large number of services from third parties.

FULFILMENT HOUSE DUE DILIGENCE SCHEME TO BE IMPLEMENTED IN 2018

HMRC has concluded its consultation period on a new Fulfilment House Due Diligence scheme, part of a suite of new measures to address the problem of overseas suppliers of goods who fail to account for VAT on UK sales. HMRC proposed that fulfilment houses will need to register with HMRC and then retain records of the checks that they have made to ensure that their overseas suppliers are complying with UK tax obligations. The consultation documents defined a fulfilment house as "a business that provides services of storage, breaking bulk, unpacking, re-packing and making (or arranging) subsequent delivery to its clients' customers of goods imported from outside the EU which have been cleared for customs purposes". There are also expected to be provisions that apply to businesses which import goods on behalf of overseas suppliers or transport goods to fulfilment houses.

It was confirmed in the Autumn Statement that the legislation covering the scheme will be included in Finance Bill 2017, and that the scheme itself will open for registration in April 2018. It is anticipated that this will increase compliance costs for UK platforms and fulfilment houses.

INTERNATIONAL TRADE: NEW POWERS OF INSPECTION FOR CUSTOMS OFFICERS

The Government will introduce legislation in Finance Bill 2017 to give customs officers extended powers to examine goods away from approved premises such as airports and ports, to search goods liable for forfeiture, and open or unpack any container. This will take effect from the date of Royal Assent to Finance Bill 2017.

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HIDDEN ECONOMY

The Government will introduce specific legislation to tackle businesses that operate in the hidden economy. The aim is to deter the minority of businesses that do not declare and pay the tax they owe and to facilitate future HMRC investigations. In 2017, legislation will be introduced to:

- Make access to licenses and business services conditional on businesses first registering for tax
- Toughen sanctions for those who repeatedly and deliberately participate in the hidden economy: this will include higher penalties and increased monitoring for those who continue to deliberately fail to disclose their hidden economy profits, and
- Allow HMRC to gather data from Money Service Businesses to help it identify and investigate businesses which are not declaring their hidden economy profits.

These measures are aimed at those who repeatedly and deliberately operate in the hidden economy. However, the requirement to register with HMRC may increase the administrative burden for compliant business start-ups that need access to the same licences and services. Money Service Businesses will also feel the impact of complying with requests for data from HMRC.

REQUIREMENT TO CORRECT

A requirement to correct (RTC) is a new statutory obligation for taxpayers who need to disclose or rectify their UK tax position. They have until 30 September 2018 to submit a disclosure to HMRC to correct their tax position. This affects individuals who have failed to notify HMRC of the need to file tax returns, failed to submit tax returns or submitted incorrect tax returns.

A voluntary disclosure should cover all issues up to and including 2015/16, although HMRC may permit disclosures to include 2016/17. An earlier consultation proposed that disclosures should be prepared using existing assessment time limits. HMRC is, however, considering adjusting the legislation to remove incentives to delay disclosures so that older years fall out of time for assessment. Alternatively, assessment time limits may be extended by five years from 30 September 2018 to give HMRC time to analyse the offshore bank data (obtained through the Common Reporting

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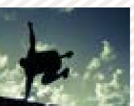
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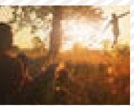
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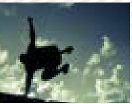
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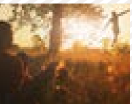
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