

F i n a n c i a l A d v i c e . n e t M O N E Y N E W S

December 2017

It was hard not to feel for the plight of Chancellor Hammond. Sandwiched, as he was, between the rock of uninspiring growth forecasts and the reported hard place of the Brexiteers.

Given the circumstances he performed with good grace, decent delivery and more than a few jokes. The reference to Jeremy Clarkson being shunned by May and Hammond was a particular highlight.

It is the Chancellor's first Budget in November but very little in the way of fundamental tax change came about. Highlights are the proposals in relation to:

- VCT and EIS.
- The freezing of indexation relief for corporate capital gains.
- A consultation on trust taxation.
- A consultation on employment status and the use of personal service companies on the private sector.

INCOME TAX

Tax rates

- (i) The limit for the starting rate for savings income remains at £5,000 and the rate of tax on income in this band is held at zero.
- (ii) The basic rate limit increases to £34,500 so that the higher rate tax threshold [ie. the basic rate limit (£34,500) plus the basic personal allowance (£11,850)] becomes £46,350.
- (iii) The basic rate of tax remains at 20% and will apply to taxable income in the band £1 to £34,500. Dividends in excess of the £2,000 dividend allowance will be taxed at 7.5% if they fall within the basic rate tax band. Taxable income in excess of £34,500 will be taxed at 40% (32.5% for dividends) up to the threshold of £150,000 when the additional rate of tax applies – see (iv) below.
- (iv) The additional rate of tax (which applies to taxable income in excess of £150,000) is 45% (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 2018/19 tax bands and tax rates, which cover only non-dividend and non-savings income, are not yet known. Other income is subject to the UK-wide rates shown above.

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Personal allowances

- (i) The personal allowance increases from £11,500 to £11,850. Where an individual's adjusted net income exceeds £100,000, the level of the basic personal allowance will be reduced by £1 for each £2 over £100,000 until it reaches zero. This means that the basic personal allowance will reduce to zero where adjusted net income is £123,700 or more.
- (ii) The married couple's allowance (MCA), which is only available provided at least one spouse was born before 6 April 1935, is increased to £8,695. There is a reduction in the MCA of £1 for every £2 additional income in excess of the total income threshold which is increased to £28,900. The MCA will not reduce below £3,360 (the "minimum amount") increased from £3,260.
- (iii) Relief in respect of the MCA and maintenance payments continues to be given as a tax reduction at the rate of 10%.
- (iv) Spouses and registered civil partners will be entitled to transfer £1,185 of their personal allowance (called the "marriage allowance") to their spouse or registered civil partner provided that after the transfer neither spouse pays tax at above the basic rate. For more on the marriage allowance see below.

The Marriage Allowance

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

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

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

Planning

For all couples, as a bare minimum, both personal allowances, starting/basic rate tax bands and the dividend and personal savings allowances should be used to the full. This is particularly beneficial where income can be legitimately shifted from a higher or additional rate taxpaying spouse to a non, starting or basic rate taxpaying spouse. For those with cash and investments this will usually be facilitated by an outright and unconditional transfer of income-producing assets from the higher tax paying spouse to the other.

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Any such transfers would usually be capital gains tax and inheritance tax neutral as transfers between spouses living together are treated as transfers on a no gain/ no loss basis for capital gains tax purposes and transfers between UK domiciled spouses (living together or not) are exempt from inheritance tax without limit.

Those able to control the amount of dividend income they receive, such as shareholding directors of private companies, should consider paying themselves up to £5,000 in dividends in tax year 2017/18, especially as the dividend allowance will reduce to £2,000 from April 2018.

NATIONAL INSURANCE CONTRIBUTIONS

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

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

- The Employee's Primary Class 1 National Insurance rate is 12% on earnings between the Primary Threshold (£162 per week - £8,424 pa) and Upper Earnings Limit (£892 per week - £46,350 pa).
- Employees, in addition, pay 2% Primary Class 1 National Insurance on all earnings above the Upper Earnings Limit (£46,350 pa).
- The Employer's Secondary Class 1 contribution rate on earnings above the Secondary Threshold (£162 per week - £8,424 pa) is 13.8%. This rate applies also to Class 1A and Class 1B contributions.
- The self-employed Class 4 rate on profits between the Lower Profits Limit (£8,424 pa) and Upper Profits Limit (£46,350 pa) is 9% and 2% above £46,350 pa.
- The self-employed Class 2 flat rate contribution is £2.95 per week when profits above £6,205 pa.

CAPITAL GAINS TAX

Capital gains tax exemption

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

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

The rates of capital gains remain unchanged.

Capital gains tax payment window

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

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

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

At Autumn Budget 2017 the government announced that from April 2019 tax will be charged on gains made by non-residents on disposals on all types of UK immovable property, extending the existing rules that apply only to residential property.

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

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

Planning

The annual exemption is given on a ‘use it or lose it’ basis. Disposals driven by a desire to trigger gains within the exception of course need to such that they circumvent the anti-avoidance provisions aimed at preventing “bed and breakfasting” being effective. Of course, in the ordinary course of ensuring that a portfolio adheres to a specified asset allocation model investors may, as a useful and tax effective “by-product” of the re-balancing use their annual exemption.

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In some cases where a disposal is ascertained to be the right thing to do and you are near to the end of a tax year phasing the disposal (eg. of shares or collective investments) two tax years can prove to be beneficial as it may then facilitate the use of two annual exemptions.

Despite the generally positive investment performance across a range of assets, some holdings could still be standing at a loss and as such, those who either make a capital loss or have carried forward losses need to understand how these can be used.

If a taxpayer realised a gain and a loss in the same tax year:

- The loss will be set off against the gain, even if the gain is within the taxpayer's annual exemption. Some or all of the exemption may therefore be wasted.*

However, if the taxpayer carried forward a loss from a previous tax year:

- The carried forward loss is only used up to the extent that it reduces their overall gains to the level of the annual exemption.*
- The loss is therefore only partly used when necessary with the balance carried forward to set off against gains in later tax years.*

Care should therefore always be taken before realising gains and losses together in a single tax year so as not to inadvertently waste the annual exemption.

INHERITANCE TAX

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

Planning

All of the usual planning strategies remain. With the nil rate band being frozen at £325,000 for a number of years, making use of the various inheritance tax exemptions should not be ignored.

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TRUST TAXATION

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

The increase in the annual CGT exemption affects trustees. The annual CGT exemption available to trustees will increase from £5,650 to £5,850 from 6 April 2018 – although this limit will be diluted according to the number of trusts created by the same settlor but will never be less than £1,170.

DIVIDEND TAXATION FOR INVESTORS

The dividend allowance will decrease from £5,000 to £2,000 from April 2018. No further changes to the dividend allowance were announced.

VCT, EIS, SEIS, SITR AND BR INVESTMENTS

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

- The annual investment limit for Enterprise Investment Scheme (EIS) investors will be doubled from £1 million to £2 million, provided that any amount above £1 million is invested in knowledge-intensive companies.
- The annual investment limit for knowledge-intensive firms will be doubled from £5 million to £10 million through the EIS and by Venture Capital Trusts (VCTs).
- Greater flexibility will be provided for knowledge-intensive companies over how the age limit is applied for when a company must receive its first investment through the schemes. Knowledge-intensive companies will be able to choose whether to use the current test of the date of first commercial sale or the point at which turnover reached £200,000 to determine when the 10-year period for EIS (7 years for VCT) has begun.

Risk to Capital Provision

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

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view as to whether an investment has been structured to provide a low risk return for investors.

Knowledge Intensive EIS

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

Planning

There were wide ranging suggestions that the Venture Capital Scheme market would be adversely impacted in the Budget. There have been no negative changes to tax reliefs or holding periods, nor will there be any new exclusions for certain sectors.

The EIS Association has consequently heralded this as a vote of confidence in the sector.

The introduction of the Risk to Capital measures will however have an impact on the planning approach to alternatives as the risk profile increases. Expectation of returns and timescales will become harder to predict which will make concepts like the rolling EIS / VCT less appealing.

For investors with a suitable risk profile and who can maximise the tax reliefs both EIS and VCTs should remain a solution worth considering as part of an holistic financial plan.

ISAs

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

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

Planning

While the annual subscription limit for an ISA remains at £20,000 given the added flexibility of being able to access funds from a tax free environment, an ISA remains particularly attractive to higher rate taxpayers and/or additional rate taxpayers.

The increase in the Junior ISA and Child Trust Fund limit also provides a good opportunity for parents to save more for their children and grandchildren.

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LIFE POLICY TAXATION

Employer premiums to life policies

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

The change will have effect on and after 6 April 2019. More information on this will be available when the Finance Bill is published.

Removal of the indexation allowance on corporate capital gains

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

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

Other provisions

The Finance Act (No. 2) 2017 includes provisions that change the current tax rules for part surrenders and part assignments of life insurance policies to allow policyholders, whose policies have generated a wholly disproportionate gain, to apply to HMRC to have the gain recalculated on a just and reasonable basis.

The legislation clarifies who can apply for relief and when and how the recalculation is given effect.



CORPORATION TAX

Corporate indexation allowance

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

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

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

Planning

The proposed freezing of the indexation relief for corporate capital gains is likely to affect onshore bonds.

The full implications will depend on a number of factors (not least the future level of inflation and the extent to which growth in value is driven by capital gains as opposed to reinvested income) and the full implications of this change will need to be worked through. It would not be surprising to see representations being made by representative bodies.

Corporate investors in collectives will also lose out but overall (subject to satisfying themselves in relation to all of the other important factors before investing eg risk, debt repayment, entrepreneurs relief, business relief) investing in an equity based collective delivering tax free dividends and no tax on (now unindexed) capital gains should still represent a tax effective solution.



BUSINESS TAX

Off-payroll working in the private sector

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

Employment status discussion paper

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

Planning

Any advisers and clients who could potentially be affected by the outcomes of the proposed consultation in relation to contractors and personal service companies should keep a close eye on developments.

Given the strength of publicity and apparent government interest in this area some change seems highly likely to emerge.

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EMPLOYEE BENEFITS AND TAXABLE BENEFITS IN KIND

Disguised remuneration

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

- introduce the close companies' gateway, to tackle disguised remuneration avoidance schemes used by close companies to remunerate their employees, and directors, who have a material interest. This change will have effect on and after 6 April 2017; and
- require all employees, and self-employed individuals, who have received a disguised remuneration loan to provide information to HMRC by 1 October 2019.

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

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

Benefits in kind

- From April 2018, there will be no benefit in kind charge on electricity that employers provide to charge employees' electric vehicles.
- The diesel supplement, used to calculate company car tax and car fuel benefit charge where the employer provides the employee with a diesel car that is made available for private use, will be increased from 3% to 4% with effect from 6 April 2018.
- The fuel benefit charge and van benefit charge will increase by RPI from 6 April 2018.
- The existing concessionary travel and subsistence overseas scale rates will be placed on a statutory basis on and after 6 April 2019.

Taxation of employee business expenses

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

- Consulting, in 2018, on extending the scope of tax relief currently available to employees and the self-employed for work-related training costs; and
- Improving the guidance on employee expenses, particularly on travel and subsistence and the process for claiming tax relief on non-reimbursed employment expenses.

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Save As You Earn scheme

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

Life assurance and overseas pension schemes

From April 2019, tax relief for employer premiums paid into life assurance products or certain overseas pension schemes will be modernised to cover policies when an employee nominates an individual or registered charity to be their beneficiary. Please see the Taxation of Life assurance section.

Employment status discussion paper

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

CAPITAL ALLOWANCES

First Year Tax Credits

The government will legislate in Finance Bill 2018/19 to extend First Year Tax Credits (FYTC) for five years and reduce the percentage rate of the claim to two-thirds of the corporation tax rate on and after 1 April 2018.

Enhanced Capital Allowances (ECAs): energy-saving technologies

The government will update the energy-saving technology list (ETL) that qualify for the First Year Allowance (FYA).

The FYA enables profit-making businesses to deduct the full cost of investments in energy and water technology from their taxable profits. Loss-making businesses do not make profits, so they cannot claim these tax breaks. Instead, loss-making businesses can claim FYTC when they invest in efficient products that feature on the energy and water technology lists.

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PENSIONS

A welcomed sigh of relief could be heard from the pensions industry as the Autumn Budget was devoid of any pension changes.

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

The Autumn Budget was also used to confirm that the master trust tax registration legislation will be contained in the Finance Bill 2017-18 and remains unchanged from the draft legislation issued in September 2017.

PROPERTY TAX

Stamp Duty Land Tax (SDLT)

First Time Buyers Relief

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

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

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

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

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

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

Higher rates for additional properties

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

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

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

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

Capital gains tax payment window

The introduction of the 30 day payment rule to pay capital gains tax arising on a residential property has been deferred until April 2020. Please see the section on capital gains tax.

Filing and payment

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

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Annual Tax on Enveloped Dwellings (ATED)

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

Other measures affecting property investors

Mileage rates for landlords

The government will extend, to individual landlords (or partnerships wholly consisting of individual landlords), the option to use fixed rates per business mile to calculate their allowable deductions for motoring expenses, instead of deducting actual running costs and claiming capital allowances - making the tax computations of these businesses more consistent with trading businesses. The mileage rates will be the same as for trading businesses and employees using the same vehicles.

In most cases mileage rates will not be available in respect of vehicles for which capital allowances have already been claimed, or for which expenditure in acquiring the vehicle has been deducted in a business using the cash basis; however transitional arrangements will apply where capital allowances have been claimed in previous tax years.

The changes will have effect on and after 6 April 2017 and will be legislated in Finance Bill 2017-18.

Taxing non-residents' gains on immovable property

A consultation on taxing non-residents' gains on immovable property has been published alongside the Budget documents. Please see the capital gains tax section for more information.

Rent-a-room relief

The government has confirmed that it will publish a call for evidence on 1 December 2017 to establish how rent-a-room relief is used and ensure it is better targeted at longer term lettings.

Non-UK resident companies' UK property income and certain gains

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

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legislation for consultation in summer 2018. The change will have effect on and after 6 April 2020.

TAX AVOIDANCE

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

Tax evasion and the hidden economy

A number of new proposals were made to reduce the loss of tax to evasion:

Requirement to notify HMRC of offshore structures

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

Extending offshore time limits

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

Hidden economy

Conditionality – the government will consult further on how to make the provision of some public sector licences conditional on being properly registered for tax. This would make it more difficult to trade in the hidden economy, helping to level the playing field for compliant businesses.

Tax avoidance

NICs Employment Allowance

The government has found evidence of some employers abusing the Employment Allowance to avoid paying the correct amount of NICs, often by using offshore

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arrangements. To crack down on this, HMRC will require upfront security from employers with a history of avoiding paying NICs in this way. This will take effect from 2018 and raise up to £15 million a year.

Disguised remuneration

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

Profit fragmentation

The government will consult in 2018 on the best way to prevent UK traders or professionals from avoiding UK tax by fragmenting their UK income between unrelated entities.

Intangible fixed assets

Related party step-up schemes – the Intangible Fixed Asset rules will be updated with immediate effect, so that a licence between a company and a related party in respect of intellectual property is subject to the market value rule, and to ensure that the tax value of any disposal of a company's intangible assets is correct, even if the consideration is in something other than cash.

Depreciatory transactions

The government will remove the 6-year time limit within which companies must adjust for transactions that have reduced the value of shares being disposed of in a group company. This will ensure that any losses claimed are in line with the actual economic loss to the group. This change will take effect for disposals of shares or securities in a company made on or after 22 November 2017.

Carried interest

To prevent the avoidance of legislation designed to ensure that asset managers receiving carried interest pay CGT on their full economic gain, the government will remove the transitional commencement provisions with immediate effect. See also the section on capital gains tax.

Double taxation relief

From 22 November 2017 a restriction will be introduced to the relief for foreign tax incurred by an overseas branch of a company, where the company has already received relief overseas for the losses of the branch against profits other than those of the branch. This ensures the company does not get tax relief twice for the same loss. The Double

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Taxation Relief targeted anti-avoidance rule will also be amended to remove the requirement for HMRC to issue a counteraction notice, and extend the scope to ensure it is effective.

Double taxation arrangements

Multilateral instrument – with effect from the Royal Assent of the Finance (No. 2) Act 2017, the powers giving effect to double taxation arrangements will be amended to allow the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting to be implemented.

Planning

The continuing high profile given to tax avoidance and evasion should serve as a reminder to concentrate on “permissible” tried and tested financial planning strategies and products. Advisers should also, where appropriate, reassure their clients that just because something they recommend is tax efficient doesn’t mean that it will be attacked. Products and strategies that are specifically contemplated by legislation, settled law and HMRC practice should all be embraced and used where appropriate.

Especially in relation to the recent publicity and resulting noise around the publication of the Paradise Papers, where appropriate, clients may need reassuring that the appropriate use of offshore funds and offshore bonds will not result in them ending up with a starring role on Panorama.

IMPORTANT REMINDER: Past performance is not a reliable guide to the future. The value of investments and the income from them can go down as well as up. The value of tax reliefs depend upon individual circumstances and tax rules may change. The FCA does not regulate tax advice. This newsletter is provided strictly for general consideration only and is based on our understanding of law and HM Revenue & Customs practice as at November 2017. No action must be taken or refrained from based on its contents alone. Accordingly, no responsibility can be assumed for any loss occasioned in connection with the content hereof and any such action or inaction. Professional advice is necessary for every case.

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