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Legal update ——— November 2016

Tax
The United Kingdom Autumn Statement 2016

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The Chancellor has just delivered his last Autumn Statement and the Spring Budget in 2017 will be the final spring Budget. Starting in autumn 2017, there will be an Autumn Budget, including tax changes. And from 2018 there will be a Spring Statement, responding to the forecast from the Office of Budget Responsibility, but no major tax announcements.

That was one of the highlights of a relatively quiet speech by the Chancellor. As ever though, some important tax announcements are buried in the "small print". We set out some of these below.

Personal taxes

Income tax and NI

Next year, the personal allowance will rise to £11,500 (from £11,000) and the higher rate threshold to £45,000 (from £43,000, including the personal allowance). The National Insurance (NI) employer and employee thresholds will be aligned from April 2017. There will be no NI cost to employees, and the maximum cost to business will be an annual £7.18 per employee.

The government will consider how benefits in kind are valued for tax purposes and publish a consultation on employer-provided living accommodation.

Capital Gains Tax

The Capital Gains Tax (CGT) advantages of shares awarded under the employee shareholder regime will be abolished for arrangements entered into on, or after, 1 December 2016. At present, in broad terms, if the employee disposes of such shares, a gain arising on that disposal may be exempt from CGT, although the exemption applies only to £50,000 worth of shares acquired, and subject to a lifetime allowance of £100,000 of gains.

Annual tax on enveloped dwellings (ATED)

The annual chargeable amount of ATED will rise in line with inflation for the 2017/18 chargeable period (as from 1 April 2017).

Non-domiciled individuals

As previously announced, permanent non-domiciled status will be abolished. From April 2017, non-domiciled individuals will be deemed UK-domiciled for tax purposes if they have been UK resident for 15 of the past 20 years, or if they were born in the UK with a UK domicile of origin.

Additionally and also trailed previously, from April 2017, Inheritance Tax will be charged on UK residential property when it is held indirectly by a non-domiciled individual through an offshore structure, such as a company or a trust.

Business taxes

As previously announced, the rate of corporation tax will be reduced to 17% by 2020.

Tax deductibility of corporate interest expense

Following a consultation, from April 2017 interest deductions that large groups can claim for their UK interest expenses will be limited. There will be a restriction where a group has net interest of more than £2 million, net interest exceeds 30% of UK taxable earnings and the group’s net interest to earnings ratio in the UK exceeds that of the worldwide group.

Bringing non-resident companies’ UK income into the corporation tax regime

The government is considering bringing all non-resident companies receiving UK source income into the corporation tax regime (rather than the income tax regime which is often the case). The government will consult on this proposal. If enacted, this will bring in other aspects of the UK corporation tax code, such as the limitation of corporate interest expense mentioned above, and the new loss relief rules mentioned below.

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Loss relief
Following a consultation, the government will legislate for reforms that will restrict the amount of profit that can be offset by carried-forward losses to 50% from April 2017, while allowing greater flexibility over the types of profit that can be relieved by losses incurred after that date. The restriction will be subject to a £5 million allowance for each standalone company or group.

VAT groups
The government will consult on options for amending the VAT grouping rules. This is in response to recent decisions from the European Court of Justice.

Tax avoidance

As previously announced, the government will introduce a new penalty for any person who has enabled another person or business to use a tax avoidance arrangement that is later defeated by HMRC.

The government will also remove the defence of having relied on non-independent advice as taking "reasonable care" when considering penalties for any person or business that uses such arrangements.

Tax compliance

The government will consult on a new legal requirement for intermediaries arranging complex structures for clients holding money offshore to notify HMRC of the structures and the related client lists.

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