BEYOND THE BREXIT HORIZON

Tolley's Budget 2018 Summary

Covering the key tax measures of the Chancellor's Budget.

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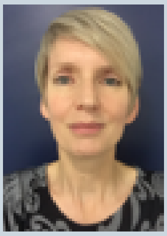

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Foreword

So, who's idea was it to have the Budget on a Monday? As the House of Commons does not sit until 2:30pm on a Monday it meant the Chancellor's speech did not start until 3:30pm. Those who missed it because they forgot to put their clocks back over the weekend were said to be crestfallen, and even more so when told they could always watch it on catch-up. For journalists and commentators who work on summaries like this one, the later start is not at all welcome. It seems that the Budget's first achievement was to provide an unexpected windfall for late night cab companies.

Monday Budgets were not all that uncommon back in the day but the last one was delivered by John Selwyn Lloyd on Monday 9 April 1962. Just three months later, Macmillan sacked him from the Cabinet, making him the highest-profile casualty in the reshuffle commonly known as the Night of the Long Knives. Mr Hammond, take note?.

So what did the Chancellor have to say today (apart from mentioning 'the hard work of the British people' which he did no fewer than seven times on my count)? A large number of spending commitments were announced, including the much vaunted increased funding for the NHS, but as far as tax revenue is concerned, the Budget is perhaps notable for the number of pre-Budget predictions that did not come to pass. Pensions tax relief is largely untouched, capital gains tax rates are not increased, and the personal allowance and basic rate limit have not been frozen (though the freeze will take place in 2020 instead so could be said to be merely delayed).

The main tax announcements are summarised below.

Personal and Business Tax

Rates and allowances

For 2019/20, the personal allowance is increased from £11,850 to £12,500 and the basic rate limit from £34,500 to £37,500, so that the level of income at which an individual comes within the change to income tax is extended from £46,350 in 2018/19 to £50,000 in 2019/20. The 2019/20 figures will remain the same for 2020/21. After that they will rise with the annual increase in the Consumer Price Index.

The higher rate limit and the personal allowance income limit remain unchanged at £150,000 and £100,000 respectively for 2019/20. The basic, higher and additional rates are all unchanged, as are the rates on dividends and savings income. The dividend allowance, personal savings allowance, starting rate for savings and starting rate limit all stay at their 2018/19 levels. The transferable tax allowance for married persons (aka the marriage allowance) automatically becomes £1,250 for 2019/20. Other income tax personal reliefs are increased in line with inflation, as is the capital gains tax annual exempt amount which becomes £12,000 from 6 April 2019. Rates of capital gains tax are unchanged, as are income tax rates for trustees.

Capital allowances

The annual investment allowance will temporarily increase from £200,000 to £1 million for the two-year period from 1 January 2019 to 31 December 2020. This does mean there will once again be complex rules for periods of account spanning those dates, and businesses will need to take care that they do not inadvertently spend too much at the wrong time in the accounting period.

The 100% first-year allowances for energy saving plant and machinery and environmentally beneficial plant and machinery will come to an end on 5 April 2020. The current 100% first-year allowance for expenditure incurred on electric charge-point equipment, which was to have expired on 5 April 2019, is extended to 5 April 2023.

The special rate of writing-down allowance will reduce from 8% to 6% from 6 April 2019. The special rate applies to cars (other than certain low emission cars), long-life assets, thermal insulation and integral features. For periods of account spanning 6 April 2019, expenditure in the special rate pool will be relieved at a hybrid rate somewhere between 6% and 8%.

A new Structures and Buildings Allowance (SBA) is to be introduced for new non-residential structures and buildings. Relief will be provided on eligible construction costs incurred on or after 29 October 2018, at an annual rate of 2% on a straight-line basis. There will not be a system of balancing charges or balancing allowances on a subsequent disposal of the asset. Instead, a purchaser will continue to claim the annual allowance of 2% of original cost. The amount eligible for relief will not be increased where a structure or building is purchased, or where it has appreciated in value, as this does not represent the cost of construction. Relief will be available for UK and overseas structures and buildings, where the business is within the charge to UK tax. The cost of

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land or rights over land, and the costs of obtaining planning permission, will not be eligible for relief. Relief will not be available for structures or buildings where a contract for the physical construction works is entered into before 29 October 2018. For speculative building and those structures or buildings constructed 'in house', relief will not be available where the construction activity began before that date. SBA expenditure will not qualify for the annual investment allowance.

The Government will legislate in Finance Bill 2019 to clarify when expenditure on altering land for the purposes of installing plant or machinery can qualify for capital allowances. The intention is to put beyond doubt that the land alteration expenditure qualifies for plant or machinery capital allowances only where the plant or machinery itself so qualifies. This takes effect for capital allowances claims made on or after 29 October 2018.

Property businesses — rent-a-room relief

It had previously been announced that Finance Bill 2019 would introduce a shared occupancy test for rent-a-room relief for 2019/20 onwards. The potential claimant (or a member of his household) would have to use the residence as sleeping accommodation for at least part of the period of the tenancy in order to qualify for rent-a-room relief on the rents. However, it is now announced that this test will not be introduced by Finance Bill 2019 after all.

ISAs and Child Trust Funds

The ISA annual subscription limit will remain at £20,000 for 2019/20. The annual subscription limits for Junior ISAs and Child Trust Funds are increased in line with inflation to £4,368 from 6 April 2019.

Voluntary tax returns

A number of cases before the tribunal have made it clear that HMRC's powers are limited with regard to self-assessment tax returns submitted voluntarily, i.e. in a case where notice to file a return has not been given or has been given but not properly served. For example, HMRC cannot enquire into such a return and neither can they charge a penalty for late filing. With retrospective effect to 1996/97 (the first year of income tax self-assessment), the same rules apply to these unsolicited returns as to any other self-assessment returns.

Charities and charitable giving

The Government will legislate to increase the charities' small trading exemption limits. These limits apply to trading that does not relate to the charities' primary purpose. The main limit is 25% of the charity's income, but it is currently £5,000 if total income is under £20,000, and is currently £50,000 if total income is over £200,000. In future the limits will be £8,000 if total income is under £32,000 and £80,000 if total income is over £320,000. The changes will have effect on and after 6 April 2019 for unincorporated charities and from 1 April 2019 for incorporated charities.

The Gift Aid Small Donations Scheme currently applies to donations of £20 or less made by individuals in cash or by contactless payment. This will increase to £30. Parliamentary timetable permitting, the increase will take effect from 6 April 2019.

The previously announced simplification of Gift Aid donor benefit rules will go ahead from 6 April 2019 as expected.

Profit fragmentation

Draft legislation had already been published to tackle tax avoidance involving fragmentation of business profits from 6 April 2019. The targeted avoidance typically involves some or all of the profits of a UK business being diverted to an offshore entity which pays little or no tax. The entity might, for example, be an offshore company owned by an offshore trust. The UK trader would not necessarily be a settlor or trustee of that trust and may even be excluded from benefitting from the trust assets but there will be some means by which amounts can accrue to him or to persons linked to him. The rules will operate by applying various tests which consider whether profits have been fragmented and diverted so as to be outside the charge to UK tax. Fragmentation will be counteracted by adding the diverted profits to the profits of the UK trade. Following consultation, changes are being made to the draft legislation to remove the duty to notify HMRC of arrangements meeting certain criteria, to clarify the adjustments required to be made under the legislation, and to make a number of small technical changes.

Brexit

Legislation will be introduced in the Finance Bill 2019 to provide a power to make minor consequential amendments pursuant to Brexit. The Government intend to use the power to make such minor amendments to tax law as to keep it working in the same way as it does now if the UK leaves the EU without a deal.

Employment Tax

Car and van benefits

The amount to which the appropriate percentage is applied in determining the taxable benefit of company car fuel is £24,100 for 2019/20 (£23,400 for 2018/19). The cash equivalent of the benefit of a company van for 2019/20 is £3,430 (£3,350 for 2018/19). The cash equivalent of the benefit of van fuel for 2019/20 is £655 (£633 for 2018/19).

Off-payroll working in the private sector

Responsibility for operating the off-payroll working rules (IR35) in the private sector, and deducting any tax and national insurance contributions due, will move from the individual to the organisation, agency or other third party paying the individual's personal service company. Small organisations will be exempt. This change will bring private sector organisations into line with public sector bodies and agencies, and will have effect from 6 April 2020.

National insurance contributions (NICs)

Reforms to the NICs treatment of termination payments and income from sporting testimonials, which were originally to be introduced from 6 April 2018 but were then deferred until 6 April 2019, are still further delayed, this time until 6 April 2020.

Employment allowance

Most employers can currently claim an employment allowance of up to £3,000 to offset against their liability to employer Class 1 NICs. The Government are to restrict the allowance to employers with an employer NICs liability of less than £100,000 in the preceding tax year. Where employers are connected, the £100,000 threshold will apply to their aggregated liability. This change will take effect from 2020.

Self-funded work-related training costs

Following consultation, the Government are maintaining, but not widening, the scope of tax relief currently available to employees and the self-employed for work-related training costs.

Short Term Business Visitors (STBVs)

Following consultation on the tax and administrative treatment of STBVs from overseas branches of UK headquartered companies, the Government will widen eligibility for the STBV PAYE special arrangement and extend its deadlines for reporting and paying tax. This will have effect from April 2020.

Abuse of insolvency rules

The Government are to introduce legislation in Finance Bill 2020 to enable HMRC to make directors and other persons involved in tax avoidance, evasion or phoenixism jointly and severally liable for company tax liabilities, where there is a risk that the company may deliberately enter insolvency. This will have effect from Royal Assent of Finance Bill 2020.

Other measures

There are no changes to the following previously announced employment tax measures:

- amendment to salary sacrifice rules for taxable cars and vans
- relief from benefit-in-kind rules for employer provided electricity for electric vehicles
- changes to benefit rules on emergency vehicles
- widening the scope of the benefit-in-kind exemption for employer pension contributions
- abolition of receipt checking for subsistence benchmark scale rates
- legislating existing overseas scale rates for accommodation and subsistence

Pensions Tax

The much predicted changes to pensions tax (reduction of annual allowance and/or taper limit, restriction of relief to basic rate etc.) have not materialised. The lifetime allowance is increased with inflation to £1,055,000.

Capital Gains Tax

Entrepreneurs' relief

With effect for disposals on or after 29 October 2018, a new test will be added to existing tests that determine if a company is an individual's personal company for entrepreneurs' relief. The new condition requires the individual to be beneficially entitled to at least 5% of the company's distributable profits and 5% of its assets available for distribution to equity holders in a winding-up.

The minimum period throughout which certain conditions must be met to qualify for entrepreneurs' relief, for example the period a business must be carried on immediately prior to a disposal, is to be increased from one year to two years. This will apply to disposals on or after 6 April 2019, except that where the claimant's business ceased, or his personal company ceased to be a trading company (or the holding company of a trading group), before 29 October 2018, the pre-existing one-year qualifying period will continue to apply.

As previously announced, the Government will legislate to allow individuals whose shareholding is diluted below the 5% qualifying threshold for entrepreneurs' relief as a result of a new share issue to obtain relief for gains up to that time, subject to conditions. The change will apply where a company ceases to be the individual's personal company as a result of its issuing shares on or after 6 April 2019. Following consultation, changes are being made to clarify and improve the computational and qualifying rules in the draft legislation.

Private residence relief

From April 2020, two changes will be made to private residence relief as follows.

The fraction of the gain that is exempt is given by dividing the length of the part period of ownership during which the dwelling-house was the individual's only or main residence, but inclusive of the last 18 months of the period of ownership in any event (36 months for certain disposals by disabled persons and long-term residents in a care home) by the length of the period of ownership. The 18-month period is to be reduced to 9 months, but the 36-month period, where it applies, will be unchanged.

Where the dwelling-house in question has at any time in the period of ownership been let as residential accommodation, the part of the gain, if any, which would otherwise be a chargeable gain by reason of the letting is exempt to the extent of the lower of £40,000 and the amount of the gain otherwise exempt. This lettings relief will be reformed so that it applies only in circumstances where the owner of the property is in shared-occupancy with a tenant.

Taxing gains made by non-UK residents on UK immovable property

As announced at Autumn Budget 2017, the Government will legislate in Finance Bill 2019 to broaden the UK's tax base to include disposals of all forms of UK land made by non-residents. This will include both direct disposals of UK land, and indirect disposals of entities that predominantly derive their value from UK land. The changes will take effect for disposals made on or after 6 April 2019.

Capital gains tax payment window

Also as announced at Autumn Budget 2017, the Government will legislate in Finance Bill 2019 to introduce a requirement for UK residents to make a payment on account of capital gains tax following the completion of a residential property disposal. This will apply to disposals by non-UK residents on or after 6 April 2019 and by UK residents on or after 6 April 2020. Following consultation, the legislation has been changed to allow reasonable estimates of valuations and apportionments needed to compute the gain, where this information is not available before the payment deadline and to remove disposals by UK residents of non-UK properties from the rules.

Inheritance Tax

Residence nil rate band

Some minor technical amendments are being made to the operation of the residence nil rate band. These will have effect from 29 October 2018.

Corporation Tax

Digital services tax (DST)

Tackling the tax treatment of digital business is part of the OECD's base erosion and profit shifting (BEPS) project and the Chancellor has confirmed he remains committed to this process but has proposed the introduction of a digital services tax whilst the BEPS project is finalised.

The DST will be 2% tax on revenues generated from search engines, social media platforms and online marketplaces where those activities are linked to the participation of UK users. There will be a £25 million per annum allowance and the DST will only apply to groups that generate global yearly revenues of more than £500 million. A tax on revenue can have a higher impact on loss-making and start-up companies but there will be a safe harbour provision that exempts loss-makers and reduces the effective rate of tax for business with very low profit margins. The tax will be introduced in April 2020 but the Government will consult on the detail.

The UK proposal contrasts with a proposal from the European Commission for an interim DST of a 3% tax which the Committee on Economic and Monetary Affairs of the European Parliament has suggested should be set at 5%.

Capital allowances

There are several changes to the capital allowance regime for businesses which are as follows:

- a temporary increase in the annual investment allowance from £200,000 to £1 million for all qualifying plant and machinery acquired on or after 1 January 2019 until 31 December 2020
- a new structures and buildings allowance of 2% on new non-residential structures and buildings where the contract is entered into on or after 29 October 2018
- clarification of the exclusions from plant and machinery for buildings, structures and alterations to land

- from April 2019 a reduction in the writing down allowance for the special rate pool of plant and machinery from 8% to 6%, the special rate pool incudes long-life assets, integral features and high-emission cars
- for 2019 and 2020, an update to items on the energy technology list and the water technology list which qualify for enhanced 100% capital allowances to reflect developments in eligible technologies
- the ending of enhanced 100% capital allowances and first year tax credits from April 2020 for items on the energy technology list and the water technology list
- the extension of enhanced capital allowances for electric vehicle charging points to 31 March 2023 for corporation tax and 5 April 2023 for income tax

Capital losses

From 1 April 2020, the Government will bring the treatment of capital losses in line with other corporate income losses. Therefore, the utilisation of brought forward capital losses will be restricted to 50% of annual capital gains. This aligns with the restrictions on other corporate tax losses which were introduced from 1 April 2017. The current £5 million allowance which applies for corporate income tax losses will therefore be extended to capital losses. There will be a consultation on the detail of the proposals and also the introduction of anti-avoidance measures.

Intangible assets

Following consultation on the treatment of intangible fixed assets in Spring 2018, the Government intend to reform the intangibles regime. This reform will partially reinstate relief for acquired goodwill in the acquisition of businesses with eligible intellectual property from April 2019. This relief was completely removed for goodwill acquired on or after 8 July 2015.

In addition, the de-grouping charge rules will be amended for de-groupings occurring on or after 7 November 2018 so that a charge will not arise where the de-grouping is the result of a share disposal that qualifies for substantial shareholding exemption. A de-grouping charge applies when a company leaves a group after the transfer of an asset on a tax neutral basis. Further details will be released on 7 November 2018.

As announced in the Autumn Budget 2017, a UK income tax charge will apply to amounts received in a low tax jurisdiction in respect of intangible property where those amounts are referable to the sales of goods or services in the UK. This measure will apply to income from both related and unrelated parties. There will be a £10 million de minimis UK sales threshold and exemptions for income that is taxed at appropriate levels or which relates to intangible property that is supported by sufficient local substance. The income tax charge will apply regardless of whether there is a UK taxable presence. This measure will apply from 6 April 2019.

Research and development (R&D) tax credit

An SME with a trading loss that has incurred qualifying R&D expenditure can surrender all or part of the loss for a tax credit which is currently 14.5% of the surrenderable loss. For accounting periods beginning on or after 1 April 2020, there will be a limit on the amount of tax credit that a company can claim under the R&D SME tax relief scheme. The limit will be set at three times the total PAYE and NICs payment for the period. There will be consultation on this proposal.

Definition of a permanent establishment

A company not resident in the UK will be chargeable to corporation tax if it carries on a trade in the UK through a permanent establishment (PE). However some companies avoid establishing a PE by fragmenting their activities. From 1 January 2019, a non-UK resident company will be denied this PE exemption where that company or group carries on a business operation in the UK, one of the companies has a PE where complementary functions are carried out and the activities would create a PE if they were in a single company.

This legislative change puts into UK domestic law the proposals of the OECD in their base erosion and profit shifting (BEPS) project.

Diverted profits tax

Amendments will be made to the diverted profits tax rules to close planning opportunities and modify the mechanics of the legislation.

Other measures

The following measures have been previously announced and remain largely unchanged:

> amendments to the corporate interest restriction to ensure that it works as intended and takes account of the impact of IFRS 16

> non-UK resident companies that carry on a UK property business or have UK property income to be within the charge to corporation tax rather than income tax, from 6 April 2020

> certain UK residential property gains for non-UK resident companies will come into charge to corporation tax from 6 April 2019

> amendments to relief for carried-forward losses for companies to ensure that legislation works as intended

> amendments to the controlled foreign company legislation and amendments to the hybrid mismatch rules to comply with the EU directive on anti-tax avoidance

Stamp Duty Land Tax

Extension of first-time buyers relief

First-time buyers relief will be extended to include qualifying shared ownership property purchases in England and Northern Ireland. The first £300,000 on an initial share purchased will not be liable to SDLT. This is whether or not the purchaser elects to pay SDLT on the market value of the property. The balance of the initial share purchased will be chargeable at 5% on amounts over £300,000 with no SDLT chargeable on the lease. There will be no relief on any further shares purchased. This change will apply to relevant transactions with an effective date on or after 29 October 2018 and will also be backdated to 22 November 2017 when the relief for first time buyers was introduced.

SDLT higher rates

The Government will extend the time allowed to amend a tax return relating to higher rates for additional dwellings from three months to twelve months for those who sell their old homes more than 12 months after they buy a new home.

SDLT for non-UK residents

A consultation will be published in January 2019 on an SDLT surcharge of 1% for non-residents buying residential property in England and Northern Ireland.

Stamp Duty (SD) and Stamp Duty reserve tax (SDRT)

A targeted market value rule will come into force on 29 October 2019 for SD and SDRT will be introduced for listed securities transferred to connected companies. The transfer will be chargeable based on the higher amount or value of the consideration, if any, for the transfer or the market value of the securities.

The Government will also consult on aligning the Stamp Duty and SDRT consideration rules and introducing a general connected party market value rule.

VAT

VAT registration and deregistration thresholds

The current VAT registration threshold of £85,000 and the deregistration threshold of £83,000 will be maintained. The threshold will stay at its existing amount until April 2022.

Vouchers

Legislation will be implemented that ensures that the correct amount of VAT is levied on the amount paid by the customer, regardless of whether the customer pays with a voucher or other means of payment.

VAT fraud in labour provision in the construction sector

The Government will extend the scope of the domestic reverse charge mechanism to include labour provision in the construction sector.

VAT and higher education

The Government have stated that they will amend VAT law to ensure continuity of VAT treatment of English education providers under the Higher Education and Research Act.

Split payment (alternative method of collecting VAT)

The Government have announced that they will publish a response to their previous consultation on the introduction of a split payment method under which businesses would pay the VAT collected from the customer directly to HMRC.

VAT grouping

The Government announced that legislation will extend the eligibility to join a VAT group to certain non-corporate entities, and revised VAT grouping guidance will be issued to clarify certain areas.

VAT – adjustments to Regulation 38

Stricter rules will be introduced regarding how and when adjustments to VAT should be made following a retrospective reduction in the price of goods or services.

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