

# Autumn 2018 Budget Summary



## Headlines ...

- Corporation tax still 19%, falling to 17% in April 2020
- Capital Allowances - Annual Investment Allowance increased to £1 million for two years
- 'IR35 Reforms' for private sector from April 2020 - onus moves to the employer
- Entrepreneurs' Relief - changes to qualifying period of ownership
- Entrepreneurs' Relief - changes to definition of 'personal company'
- Digital Services Tax to be introduced from April 2020
- Income tax - personal allowance and higher-rate threshold increased a year early
- Personal allowance increased to £12,500 from April 2019
- Higher rate income tax threshold increased to £50,000

## CORPORATION TAX RATES

Corporation tax rates have already been enacted for periods up to 31<sup>st</sup> March 2021.

The main rate of corporation tax is currently 19% and will remain at this rate for next year. The rate will fall to 17% for the financial year beginning on 1<sup>st</sup> April 2020.

### ANNUAL INVESTMENT ALLOWANCE - raised to encourage investment in equipment, computers and, perhaps, a Tesla or similar electric vehicle!

The Chancellor has announced a temporary increase in the Annual Investment Allowance (AIA), raising the limit from £200,000 to £1m for a period of two years. The Chancellor acknowledged that this increase is in response to a long-standing request of the British Chamber of Commerce (BCC), reflecting the views of its members to encourage investment in plant and machinery.

Legislation will be introduced in the Finance Bill 2018-19 to increase the limit for a period of two years from 1<sup>st</sup> January 2019, with transitional rules in place where a business has a chargeable period that spans either the operative date of the introduction, or the operative date of the reversion on 1<sup>st</sup> January 2021.

### R&D REGIME REVIEW – make sure you're claiming all you can!

The Government has sought to prevent abuse of the R&D tax relief for loss-making Small and Medium-sized Enterprises (SMEs) by re-introducing a PAYE and NIC limit from 1<sup>st</sup> April 2020. This could restrict total cash tax credits claimed from HMRC. HMRC estimates it has prevented fraud of £300 million linked to this relief.

No amendments were made to the rates of R&D relief to either the SME or R&D expenditure credit regimes. However, the SME payable tax credit available to loss-making SMEs will be subject to a restriction of three times the company's total PAYE and NIC liability for accounting periods beginning on or after 1<sup>st</sup> April 2020.

The change is likely to impact loss-making SMEs where they outsource the majority of their R&D activities offshore and have limited UK staff. Also, companies may be affected where a major proportion of their R&D claim arises from sub-contractor, temporary staff, consumables or software costs. Therefore, it will be important to consider team structures going forward to ensure R&D claims are not restricted by the PAYE and NIC cap.

The Government has confirmed it will consult on how the cap will be applied to ensure the focus is on the prevention of abuse and any wider impact on UK businesses is managed.

### OFF-PAYROLL RULES EXTENDED TO THE PRIVATE SECTOR – another attempt at reducing tax benefits for people trading through personal service companies?



To help taxpayers comply with the existing rules and bring private-sector organisations in line with public sector bodies and agencies, the Government will reform the off-payroll working rules (known as IR35) in the private sector.

The PSC rules apply to contractors who provide services to a client through an intermediary company in circumstances in which the

contractor would normally be treated as an employee but for the existence of the intermediary. According to The Times, about 600,000 contractors work through PSCs and potentially benefit from more favourable tax rates than those which apply to employees. The rules (known as IR35) already make workers who operate in this way liable to income tax and NICs on deemed employment income, and since April 2017, for contractors working in the public sector, the public sector body for which the contractor works has been responsible for determining whether the IR35 rules apply to the PSC.

From April 2020, the private sector will be brought into line with the public sector, except that this will only apply where the end user is a large or medium-sized business (as defined in companies' legislation). Any private sector organisation that engages workers through PSCs, or any other off-payroll labour, should take the opportunity to review their position and examine their potential exposure. The rules for IR35 are complex and do not apply in every scenario; it is important to establish how this change may apply to your organisation, and factor in the potential impact for your workforce.

For small companies the PSC, rather than the end user, continues to be responsible for determining whether the IR35 legislation applies. No details of which organisations will qualify for this exemption have yet been released. The Government expects to raise £1.1bn from this measure in 2020-2021 and a further £1.9bn by the end of 2023-2024, suggesting it perceives significant non-compliance in this area.

### FREEZE OF VAT REGISTRATION THRESHOLD EXTENDED TO 2022

The VAT registration threshold will be frozen at £85,000 for two more years. In the 2017 Budget, the Chancellor announced a freeze until 2020 to allow the Government time to consult on possible reforms to the current level of the threshold. The Office of Tax Simplification had identified the threshold as an obstacle to business growth and as having a distortive effect on the market in some business-to-consumer sectors. In this year's Budget, it was announced that the freeze to the threshold will be extended until 31st March 2022. The de-registration threshold will also remain frozen at £83,000.

### ENTREPRENEURS' RELIEF (ER)

The Government has introduced two important changes to Entrepreneurs' Relief (ER). ER reduces the rate of capital gains tax (CGT) on disposals of certain business assets from 20% to 10%. The changes make ER more difficult to claim for business owners and their management teams.

#### Longer Holding Period for Entrepreneurs' Relief

The Chancellor announced an increase to the holding period for business assets and shares held by individuals. Individuals will need to hold the assets or shares for at least two years, as opposed to the current twelve months, before they can claim ER on the disposal.

There had been significant speculation that more radical changes were being contemplated such as abolishing ER altogether. However, the Chancellor strongly reiterated his commitment to ER as an important means of supporting entrepreneurial activity in the UK and as a 'longer-term business investment'.

The change will apply to disposals made on or after 6<sup>th</sup> April 2019. Individuals who have held their assets or shares for more than one year but less than two at the date of disposal will not be eligible for ER.

## Changes to the definition of 'personal company' - 5% 'economic interest' test

The second change introduces two additional tests that must be satisfied before ER is available – both take effect from 29<sup>th</sup> October 2018. These changes mean that the existing condition that an individual holds 5% of the ordinary share capital and votes will be extended to:

- 5% of distributable profits (dividends); and
- 5% of assets available on a winding up of the company.

This means that to qualify for ER an individual must have a 5% 'economic interest' in the company.

The additional tests address an anomaly (or 'an identified abuse of the current rules') whereby individuals could hold 5% of the votes and nominal value of the company but not have a commensurate economic interest. The change affects the eligibility for ER of those who hold shares that have voting rights that are disproportionate to their entitlement to economic benefits in the company.

These further conditions are added to the conditions for relief on associated disposals and the withholding of relief on goodwill.

### ER on the sale of EMI shares

Some individuals also qualify for ER by virtue of holding options over shares granted under the Enterprise Management Incentive (EMI) regime. The holding period will be extended to two years for such option holders to qualify for ER, as opposed to the current twelve months. This applies to disposals of EMI shares from 6<sup>th</sup> April 2019.

The changes to the 5% rule outlined above do not appear to affect EMI option holders (based on the draft legislation). This means that EMI option holders do not need to hold 5% of shares by nominal value, voting rights or dividend rights. Consequently, it appears to remain possible to grant EMI options over non-dividend bearing, non-voting shares.

### ER on other transactions

The changes to ER affect the availability of the relief on the sale of shares originally issued after incorporation of a trade. A transfer of trade in exchange for shares should benefit from ER, if a trade existed for at least two years prior to incorporation. This is a change from the current regime that would have required the resulting shares to be held for two years before disposal. The change benefits sole traders who incorporate the trade shortly prior to selling the business.

The current legislation could catch other transactions that involve transfers of business and the full impact has yet to be understood.

### ER on gains made before dilution

The Government confirmed a change that allows minority shareholders to retain their ER in certain circumstances where their shareholding falls below 5% because of equity investment. Under the new rules, a shareholder can elect to claim ER on the gains accrued before dilution below 5%, provided the dilution resulted from an issue of new shares for cash. ER may be claimed on the eventual disposal of qualifying shares.

The change addresses the perceived disadvantage of losing entitlement to ER by minority shareholders adversely affected by equity investment. It also encourages minority shareholders not to obstruct investment opportunities and should support angel investment at early stages of business growth.

## EMPLOYMENT

### Employment Allowance – new restrictions

The Government recognises that while the value of Employment Allowance (EA) to larger businesses is marginal it is still meaningful for smaller businesses, providing them with up to £3,000 off their employer's NIC bill. Therefore, from April 2020, the Government plans to make EA available only to employers with an employer's NIC bill below £100,000 in their previous tax year. This measure is expected to ensure that over 99% of micro-businesses and 93% of small businesses continue to benefit from EA.

### Employer Provided Cars – further incentives to move to electric cars

The scale of charges for working out the taxable benefit for an employee who has use of an employer provided car are normally announced well in advance. Most cars are taxed by reference to bands of CO<sub>2</sub> emissions multiplied by the original list price of the vehicle. The maximum charge is capped at 37% of the list price of the car.

For this tax year there was generally a 2% increase in the percentage applied by each band. For 2019/20 the rates will increase by a further 3%.

A new development for the current tax year is an increase in the diesel supplement from 3% to 4%. This applies to all diesel cars (unless the car is registered on or after 1<sup>st</sup> September 2017 and meets the Euro 6d emissions standard) but the maximum is still 37%. There is no change to the current position that the diesel supplement does not apply to hybrid cars.

### Charging facilities for electric and hybrid cars

Legislation is proposed to provide a new exemption from a taxable employment benefit where an employer provides charging facilities for employees' all-electric and plug-in hybrid vehicles at or near the workplace. The exemption is backdated to have effect from 6<sup>th</sup> April 2018.

Employer provided cars and vans are already exempt from this benefit.

### Exemption for travel expenses

Draft legislation has been issued which removes the requirement for employers to check receipts when making payments to employees for subsistence using benchmark scale rates. This will apply to standard meal allowances paid in respect of qualifying travel and overseas scale rates. Employers will only be asked to ensure that employees are undertaking qualifying travel. This will have effect from April 2019.

The proposed legislation will also allow HMRC to put the existing concessionary accommodation and subsistence overseas scale rates on a statutory basis from 6<sup>th</sup> April 2019. Like benchmark rates, employers will only be asked to ensure that employees are undertaking qualifying travel.



## National Living Wage (NLW) and National Minimum Wage (NMW)

Following the recommendations of the independent Low Pay Commission (LPC), the government will increase the NLW by 4.9% from £7.83 per hour to £8.21 per hour from April 2019.

The government will also accept all of the LPC's recommendations for the other NMW rates to apply from April 2019, including increasing the rates for:

- 21 to 24 year olds by 4.3% from £7.38 to £7.70 per hour
- 18 to 20 year olds by 4.2% from £5.90 to £6.15 per hour
- 16 to 17 year olds by 3.6% from £4.20 to £4.35 per hour
- Apprentices by 5.4% from £3.70 to £3.90 per hour.

## MAKING TAX DIGITAL FOR BUSINESS: VAT

HMRC is phasing in its landmark Making Tax Digital (MTD) regime, which will ultimately require taxpayers to move to a fully digital tax system. Regulations have now been issued which set out the requirements for MTD for VAT. Under the new rules, businesses with a turnover above the VAT threshold (currently £85,000) must keep digital records for VAT purposes and provide their VAT return information to HMRC using MTD functional compatible software.

The new rules have effect from 1<sup>st</sup> April 2019 where a taxpayer has a 'prescribed accounting period' which begins on that date, or otherwise from the first day of a taxpayer's first prescribed accounting period beginning after 1<sup>st</sup> April 2019. HMRC has recently announced that the rules will have effect for some VAT-registered businesses with more complex requirements from 1<sup>st</sup> October 2019. Included in the deferred start date category are VAT divisions, VAT groups and businesses using the annual accounting scheme.

HMRC has recently opened a pilot service for businesses with straightforward affairs and the pilot scheme will be gradually extended for other businesses in the next few months.

Keeping digital records and making quarterly updates will not be mandatory for taxes other than VAT before 2020.

## Structures and Buildings Allowance – incentive for constructing new offices and retail & wholesale premises

The Chancellor has announced the introduction of a Structures and Buildings Allowance (SBA) for new non-residential structures and buildings, allowing the eligible costs of construction to qualify for relief at the rate of 2% per annum on a straight-line basis.

This follows recommendations from the Office of Tax Simplification (OTS) and long-standing requests from various business groups to provide tax relief on the cost of buildings and structures in addition to the capital allowances already available for plant and machinery within those assets, thereby incentivising capital investment in new commercial buildings.

The relief will be available for qualifying expenditure on projects where construction costs are incurred on or after 29<sup>th</sup> October 2018. Where a contract for physical construction works has been entered into before 29<sup>th</sup> October 2018, the relief will not be

available. The relief will be limited to the original construction or renovation cost of the property across a fixed 50-year period, regardless of ownership changes, periods of disuse or periods where the building is being used for non-qualifying purposes. The benefit will simply pass between owners at the written-down value.

Expenditure on residential property and other buildings that function as dwellings will not qualify for the SBA. The definition of dwelling for the purpose of this relief broadly follows the interpretation used for capital allowances, although the Government has invited views as to the appropriateness of this interpretation. Expenditure on land or acquiring rights over land and the associated legal and stamp duty costs will also not qualify for the relief.

Structures and buildings include offices, retail and wholesale premises, walls, bridges, tunnels, factories and warehouses, and so goes significantly beyond the limits of the old Industrial Buildings Allowance (IBA) which was phased out from 2008. SBA expenditure will not qualify for the Annual Investment Allowance (AIA), therefore businesses seeking to maximise tax relief are still encouraged to identify separately the construction costs of such structures and buildings that will qualify for capital allowances.

## BUSINESS RATES – relief for retailers, pubs and restaurants

For the next two years all retail properties in England with a rateable value of up to £51,000 will receive a one third reduction in their business rates. This relief will then be superseded by the rates revaluation due to take place in 2021.

The background to this measure is an acceptance that retailers, particularly on local high streets and in town centres, are experiencing a period of significant commercial difficulty. Government subsidy will be provided in the form of a reduction in business rates. This represents an annual saving of up to £8,000 and is expected to apply to up to 90% of independent shops, pubs and restaurants. Local newspapers will also continue to benefit from a business rates discount of £1,500 for their office space and there will be a new 100% relief for all public lavatories.

In view of these reliefs, a consultation will take place on the criteria whereby businesses providing self-catering accommodation and holiday lettings become chargeable to business rates rather than council tax, to ensure that only genuine businesses benefit from business rates and the reliefs that apply to them.



## TAX ABUSE AND INSOLVENCY

The Government is aiming to raise an additional £35m by 2023-24 through the introduction of a measure designed to make directors liable for business taxes owed where there is a risk of a company deliberately entering insolvency to avoid or evade tax.

Following Royal Assent of Finance Bill 2019-20 directors, as well as other persons involved in a company's or LLP's tax avoidance, evasion or phoenixism, will be jointly and severally liable for the business's tax liabilities that are outstanding.

In addition, from 6<sup>th</sup> April 2020 when a business enters insolvency HMRC will act as the preferred creditor for taxes paid by the business's employees and customers. This will result in taxes which are temporarily held in trust by the business going to fund public services rather than being distributed to other creditors. This reform will apply to taxes collected and held by businesses on behalf of other taxpayers, including PAYE income tax, employee NIC, VAT and Construction Industry Scheme deductions. The rules will remain unchanged for taxes owed by businesses directly to HMRC, such as corporation tax and employer NIC.

## PERSONAL TAX ALLOWANCES

### Tax on dividends

As previously announced the generous £5k tax-free dividend allowance which applied to the 2017/18 tax year is reduced to £2k for 2018/19 and 2019/20.

Dividends over the £2k tax-free sum are taxed at 7.5% for basic rate taxpayers, 32.5% for higher rate (40%) taxpayers and 38.1% for additional rate taxpayers (45%).

### Tax on savings income

Savings income is income such as bank and building society interest.

The Savings Allowance, which was first introduced for the 2016/17 tax year, applies to savings income and the available allowance in a tax year depends on the individual's marginal rate of income tax. Broadly, individuals taxed at up to the basic rate of tax have an allowance of £1,000. For higher rate taxpayers the allowance is £500. No allowance is due to additional rate taxpayers.

Some individuals qualify for a 0% starting rate of tax on savings income up to £5,000. However, the rate is not available if taxable non-savings income (broadly earnings, pensions, trading profits and property income less allocated allowances and reliefs) exceeds £5,000.

### The marriage allowance

Couples, where neither pays tax at more than the basic rate, can transfer 10% of their personal allowance to their spouse/partner, potentially reducing the recipient's tax bill by up to £238 in 2018/19. It is possible to claim for all the years back to 2015/16 where the entitlement provisions are met.

## CLASS 2 AND 4 NATIONAL INSURANCE CONTRIBUTIONS (NICs)

The government has recently announced that Class 2 NICs will not be abolished for the duration of this Parliament. The Chancellor confirmed in March 2017 that there will be no increases to Class 4 NICs rates in this Parliament.

## PENSIONS

Despite fears that higher rate tax relief on pension contributions would be withdrawn or the annual allowance reduced (the Chancellor had described the cost of pension tax relief as "eye-wateringly expensive"), pensions tax relief has been left alone. Instead the lifetime allowance increases from £1,030,000 to £1,055,000. The Financial Times recommends that if one spouse does not work, he or she could still consider making a contribution of £3,600 on which basic rate tax relief is available.

## OFFSHORE COMPLIANCE

The Government has announced that it intends to publish an updated offshore tax compliance strategy. This is expected to set out how HMRC will in future tackle tax evasion and non-compliance related to income, profits and assets located outside the UK on which UK tax is payable.

The new strategy will replace HMRC's 'No Safe Havens' strategy published in 2014. After that strategy was published, the Government introduced several measures such as asset-based penalties, offshore asset moves penalties, and the strict liability criminal offences. It also introduced a requirement for taxpayers to tell HMRC by 30<sup>th</sup> September 2018 about any offshore tax non-compliance that existed at 5<sup>th</sup> April 2017 for income tax, capital gains tax and inheritance tax. Failure to have done so will result in 'Failure to Correct' penalties of up to 200% of the tax unless the person had a reasonable excuse for the failure, plus other penalties and publishing of their details.

HMRC now receives annual disclosures from overseas tax authorities under the Common Reporting Standard (CRS). The CRS data will be analysed by HMRC's connect computer, identifying discrepancies for further investigation. While many of those investigations will use HMRC's civil powers, some of them may be criminal investigations with a view to prosecution. It is quite possible that under the new strategy HMRC will take a tougher approach to non-compliance.

HMRC is still accepting voluntary disclosures of offshore non-compliance via its Worldwide Disclosure Facility (WDF) as well as through other methods such as its Contractual Disclosure Facility. Making a full disclosure unprompted, before HMRC opens an enquiry or investigation, is the best way to minimise tax-gear penalties although Failure to Correct penalties are a minimum of 100% of the tax.

## CHANGES TO CAPITAL GAINS TAX - PRIVATE RESIDENCE RELIEF

### Lettings Relief

The Government is also proposing a change to lettings relief. This relief applies where an individual sells a property that has been their main home and which has also been let out for a time. Currently, in such a situation, letting relief can exempt up to £40,000 of any gain on disposal. From 6<sup>th</sup> April 2020, lettings relief will only apply in situations where the owner of the property is in shared occupancy with the tenant.

As a result of the proposed changes the relief, currently worth up to £11,200 of CGT, would be lost unless the individual selling the property lived in the home at the time it was let out.

### Private Residence Relief (PPR)

The Government will consult on two changes that will affect a widely used tax relief on private homes.

Private Residence Relief is a relief from Capital Gains Tax (CGT) on the sale of an individual's main home.

Where an individual is selling a property that has been their main home for only part of the period of ownership, the last 18 months of ownership is always deemed a period of qualifying occupation for PPR purposes. The Government proposes that this period will be reduced to the last nine months of ownership for property disposals after 6<sup>th</sup> April 2020.

If the changes come in as planned, individuals buying a new home, before selling their old one, will need to ensure a sale of the old

property takes place within nine months to avoid a potential CGT charge.

### No changes to Rent-a-Room Relief

Under Rent-a-Room Relief an individual can rent a room in their main residence to a lodger and receive up to £7,500 a year without having to pay tax. If the individual does not have to complete a tax return for any other reason, there is no need to submit a return to report this income.

If an individual receives more than £7,500 in rent, they can deduct the allowance from the amount subject to tax, or they can choose to deduct the actual expenditure as normal. In both cases, a tax return will need to be completed.

The Government consulted on adding a 'shared occupancy test' to the relief. It believed the relief was increasingly being applied to shorter terms lets, and that the 'tenants' could frequently be holidaymakers, rather than lodgers. However, the Government has opted for simplicity and decided not to make any changes to the relief.

### Stamp Duty Land Tax and first-time buyers relief

The Government will extend first-time buyer's relief in England and Northern Ireland so that all qualifying shared ownership property purchasers can benefit, whether or not the purchaser elects to pay Stamp Duty Land Tax on the market value of the property. This change will apply to relevant transactions with an effective date on or after 29<sup>th</sup> October 2018. It will also be backdated to 22<sup>nd</sup> November 2017 so that eligible purchasers who have not previously claimed first-time buyer's relief will be able to amend their return to claim a refund.

### Reclaim of 3% higher rate for additional dwellings

A technical correction was made to extend the time limit in which you can reclaim the 3% higher stamp duty land tax rate where an individual sells their old home within three years of making the replacement purchase. The change took effect from 29<sup>th</sup> October 2018.

If you would like to discuss any of these topics with Peter, please don't hesitate to get in touch by phone or email.

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