Autumn Statement 2016

Our expert analysis breaks down the Autumn Statement and explains what it all means for you.

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OVERVIEW

A JAM packed Autumn Statement?

We've all read the press around the Autumn Statement but as the Chancellor stood up there was mounting speculation as to whether he would deliver a speech helping those families who are "Just About Managing".

What he has delivered was a rather upbeat assessment of the economy, compared to other countries', especially given that the OBR predicts that growth will be 2.4% lower than it expected over the next five years, following the Brexit vote. Growth will slow to 1.4% in 2017 before it starts to rise to 1.7% in 2018, 2.1% in 2019 and 2020 before falling slightly to 2.0% in 2021. One announcement that was expected is that the country will not be running a surplus in 2019-20 but will, in fact, borrow during that year and going forward into the next parliament.

From a tax perspective he confirmed his intention to work towards the higher personal allowances set previously, of £12,500, before individuals start to pay tax at 20% and £50,000 before they hit the higher rate tax, which remains at 40%, by 2020. There were changes to the salary sacrifice rules to ensure they are taxed the same as salary although the main benefits that employees use, such as pensions and child care costs, remain untouched. The National Living Wage received a boost, increasing to £7.50 from £7.20 from April 17 and spending on enforcement will increase.

From a business point of view the Chancellor again confirmed that the reduction in the rates of corporate tax will be introduced, as planned. He recognised that production was a problem for the country and so is introducing a National Productivity Investment Fund, worth 23 Bn, that will target four areas: housing, transport, digital communications and research and development.

He made no changes to Inheritance Tax or to Capital Gains Tax except to abolish the exemption which had previously been introduced for those employees who invested in Employee Shareholder Status (ESS), only introduced in 2013. He also sought to tackle VAT flat rate avoidance by changing the scheme for those in the service industry, although this could see many leaving the scheme as they may be worse off when the changes come in to force on the 1st April next.

This Autumn Statement was perhaps not jam packed with new and exciting announcements but really charted a course, in uncertain waters, that was broadly more of the same. It will bring some help to those families who are just about managing but they and businesses will need to look towards future budgets, when times are more certain, before they can expect and real help. Perhaps the most exciting statement, for those of us who are tax geeks, is that the Spring Budget, that I have grown up with, will become an Autumn Budget and the Autumn Statement will become a Spring Statement, so that everything is turned on its head and which seems to mean two tax budgets next year!

Graham Poles
Tax Partner

BUSINESS TAX

Corporation Tax Rates

In his first, and last, Autumn Statement in his role as Chancellor, Philip Hammond kept the promise of his predecessor to reduce the rate of Corporation Tax to 17% by 2020 which is one the lowest in the G20.

Interest Relief Reforms

He also announced that, following a consultation, the Government will introduce rules to limit the amount of tax deductions available to large groups of companies for their UK interest expenses from April 2017.

The reform of the rules will affect groups of companies that have net interest expenses of more than £2 million where net interest expenses exceed 30% of UK taxable earnings and the group's net interest to earnings ratio in the UK exceeds that of the its worldwide group. Banking and insurance groups will be subject to the rules in the same way as groups in other industry sectors in a bid to ensure level playing fields for all businesses.

Loss Relief Reforms

From April 2017, as announced in the March 2016 Budget and following a consultation period, the Government will legislate for reforms to restrict the amount of profit that can be offset against carried forward losses to 50%. However, there will be more flexibility over the types of profit that can be relieved by losses incurred after April 2017.

The restriction will be subject to a £5 million allowance for each stand alone company or group. In implementing the reforms the government plans to also take steps to address any unintended consequences of the new rules and hopefully simplify the administration of them. How simply they simplify things remains to be seen.

Non-Resident Companies

At Budget 2017, the government will consult on whether or not to bring all non-resident companies who are in receipt of taxable UK sourced income into the corporation tax regime.

This may well bring an end to the large multinational companies we read about making very large profits in the UK and not paying any UK corporation tax. We will have to wait until next year to see what the Government has to say on the case and options for implementing this change.

Substantial Shareholding Exemption (SSE) reforms

Following a consultation, the Government will make changes to simplify the rules to Substantial Shareholding Exemption. The changes will take effect from April 2017.

Consultation on the Structure of Business Tax

- Government seeking fairness between different business structures for self-employed and owner managed business.
- Potentially more complex rules and uncertainty whilst we wait for consultation.

While, on the one hand, the Chancellor is making a big deal of the falling rates of corporation tax, on the other he has raised concerns over rising rates of incorporations and the consequent loss of revenue to HMRC.

At this stage all we know is that the Government will consult on how to sustain the tax-base and ensure that individuals, working in different ways, are taxed fairly. We presume that they will be looking at the varying tax rates (and taxes) applied to people in self-employment,

partnerships or owner managed businesses compared to employed individuals.

In the meantime, there are some changes that will affect business owners:

Corporate structures: For those already in place, from April 2016, dividend tax rates have for many reduced the benefit of incorporation and increased the cost of extracting cash.

Partnerships: The Government has already consulted on ensuring profit allocations in partnerships are fairly taxed. In the Autumn Statement it was confirmed that draft legislation will be published, for technical consultation, in due course.

Public sector workers: Described as off-payroll working rules but presumably referring to what we would call personal service companies, this was another previously announced measure repeated in the Autumn Statement. Designed to prevent the heads of public bodies and stars of BBC providing their services through their own companies and paying less tax than they would as employees; responsibility for ensuring the worker is correctly classified as employee or genuinely self-employed has now been passed to the public body paying the wages.

Previously the responsibility for ensuring the engagement was correctly taxed – and the risk if it wasn't - fell to the worker's own company.

It will be interesting to see how effective this is within the limited area of Public Body engagers as it could form part of the discussion over fairness of taxation of self-employed businesses versus individuals with their own company.

ATED

Annual Charges on Enveloped Dwellings to increase next Tax year

The annual charges for the Annual Tax on Enveloped Dwellings (ATED) will rise in line with inflation from 2017/18.

Research & Development Spending

- Good news for science and technology businesses and universities.
- The government has committed to increase the R&D expenditure in science and technology by £2bn per year by 2020/21.

This funding will be available to businesses and universities for R&D on technologies such as robotics, artificial intelligence and industrial biotechnology.

There are no further details, as yet, and there appears to be no change to the R&D tax relief available and on which many potential claimant companies are missing out .

Business rates relief increase for rural property

- Good news for a few rural businesses

Currently, village shops, post offices, public houses and petrol stations in rural areas which currently qualify for a 50% reduction in business rates will see this reduction increase to 100%.

To qualify, the business must be located in a rural area with a population below 3,000 and must be the only business of its kind in the area. Also, a village shop or post office must have a rateable value up to £8,500, and a public house or petrol station have a rateable value up to £12,500.

Government commits to increasing Personal Allowance

Most welcome, the Personal Allowance will rise to £11,500 and the Higher Rate threshold to £45,000, from April 2017, with the government committing to getting it all the way to £12,500 with the higher rate threshold to £50,000 by the end of this Parliament.

The Chancellor also confirmed that once the £12,500/£50,000 is reached it will increase each year by the CPI, rather than by the National Minimum Wage as now. Obviously, in the next Parliament this could be overturned by a new Chancellor but for now, it's encouraging news.

EMPLOYMENT TAX

PILON simplification and NI on termination payments

The government has consulted at length on these two areas; firstly on PILONs (Pay In Lieu Of Notice). There are currently different rules as to how to treat a payment when the employer breaches the notice period in the contract. For example, if it is included that a PILON will be paid in the contract, or it has been custom and practice to do so, by the employer, then the payment is treated as earnings, subject to tax and NICs. However, if not, then it can be paid free of tax and NICs. Employers could get confused over these rules so to make it easier any PILON will be treated as earnings from 2018 so subject to Income Tax and NICs.

Secondly, termination payments e.g. payment for loss of office, are not subject to Class 1 NICs. From April 2018 the threshold before which Income Tax is due will remain at £30,000, but anything over this amount will also be subject to Employers Class 1 National Insurance.

PAYE Settlement Agreements (PSA)

Not surprising, but welcomed news is that the Government has confirmed it will simplify the PAYE Settlement Agreement (PSA) process, as outlined in the September 16 consultation document.

The Government consulted on whether or not the PSA process could be made easier. This didn't include changing the PSA legislation, only the process by which employers apply for a PSA.

So what does this mean? From the scope of the government consultation we expect to see:

- Removal of pre-agreement of items included in the PSA
- Online submission
- Removal of the criteria of "minor"
- Alignment of Class 1B NI payments with the Class 1A payment dates

Making good on benefits in kind

Supported by Armstrong Watson, employees who want to make good on benefits in kind will need to make the payment by 6 July each year.

The government will include, in the Finance Bill 2017, a measure, previously consulted on, that will ensure an employee who wants to 'make good' on a non-payrolled benefit in kind will have to make the payment to their employer by 6 July in the following tax year. 'Making good' is where the employee makes a payment in return for the benefit in kind they receive; this reduces its taxable value. This will have effect from April 2017.

EMPLOYMENT TAX

Salary sacrifice

Supported by Armstrong Watson taxable benefits included in salary sacrifice schemes will be subject to the same tax rules, as if they were not sacrificed.

Whilst the area of salary sacrifice has always raised interesting debates over the years, HMRC hasn't, until now, aligned the benefit in kind rules with those "benefits" sacrificed.

Taxable benefits still need to be reported on a P11D and Class 1A paid by the employer where appropriate, but the employee often benefits from NI savings thus potentially reducing their overall liability.

This is about to change from next year albeit the government recognises existing schemes will need to transition. Any arrangements in place before April 2017 will be protected until April 2018, with cars, accommodation and school fees protected until April 2021. All salary sacrificed items will need to be calculated and tax / NI paid on what the benefit value is, as if it hadn't been sacrificed.

There are some exceptions:

- Employer supported childcare voucher schemes
- Cycle to work schemes
- Pension contributions
- Low emission cars

National Living Wage

- **NLW rises to £7.50 from April 2017**

The Chancellor used the rise to £7.50 for the National Living Wage to demonstrate how the Conservative Government does give pay rises to low income, working households. Whilst obviously good for employees who earn the NLW, further pressure may be put on businesses that pay this.

National Insurance thresholds aligned

- **Simplification at its best for NI threshold alignment**

The Office of Tax Simplification (OTS), as part of their many reports of late, have recommended a very quick and easy simplification measure. The government have accepted this recommendation and will from April 2017 align the employer and employee NI thresholds. This will mean, from April 2017, both employees and employers will start paying NI on weekly earnings above £157.00.

Just a point to note, as expected, Class 2 NI will be abolished from 2018 simplifying NI for the self-employed.

Employee Shareholder Status (ESS)

- ESS was introduced in 2013 to aid smaller businesses and to create a flexible workforce; basically, employees gave up certain rights in return for tax advantages.
- In today's Autumn Statement it was announced that as ESS was not being used as intended it will be abolished.

The Income Tax and Capital Gains Tax reliefs will be removed for agreements entered into on or after 1 December 2016. Agreements entered into before then, or already entered into, remain unaffected. Any shares acquired at an undervalue on or after 1 December 2016 will be taxed to Income Tax as earnings, and gains and losses computed in the normal way upon disposal.

These changes are being made to tax law with a view to abolishing the entire structure, as soon as possible, once employment law can be amended.

Disguised Remuneration

- HMRC continue to attack use of disguised remuneration schemes

The Budget 2016 announced changes to tackle the use of disguised remuneration schemes, by employers and employees, in particular the loan charge due to come into being in 2019.

The government will now extend the scope of these changes to tackle the use of disguised remuneration avoidance schemes by the self-employed. This will ensure that self-employed users of these schemes pay their fair share of tax and National Insurance.

Also, the government will take steps to make it less attractive for employers to use disguised remuneration avoidance schemes by denying tax relief for an employer's contributions to such schemes unless tax and National Insurance are paid within a specified period.

Money Purchase Annual Allowance reduction

- Double tax relief stopped
- Restrictions on further pension savings

In an unexpected announcement, the Chancellor confirmed that for those individuals who have already flexibly accessed their money purchase pensions savings, the Money Purchase Annual Allowance (MPAA)will reduce to £4,000 from April 2017.

The MPAA only came into effect in April 2015, when the pension freedoms were first introduced and a restriction was placed on the amount of further pension savings that an individual could make into money purchase (defined contribution) pensions to £10,000.

The Government stated that they do not believe that savers should enjoy the effect of double pension tax relief, such as that when money from pensions is recycled to build up further reserves.

They have today launched a consultation document on the implementation of this measure, which we will review and address over the next few days.

Pension Cold Calling

- Pension cold calling ban proposed

The Government is proposing to tackle pension scams, including the banning of cold calls, as announced by the new Chancellor in this year's Autumn Statement.

The Government plans to publish a consultation on addressing the options and issues, which is welcomed by the financial services industry as many individuals have been scammed out of their retirement savings by unscrupulous and unregulated firms.

Savings Bond

- New market leading savings bond to be launched

Philip Hammond, the new Chancellor, has announced the launch of a new savings bond to support savers, given the current low level of interest rates.

This is in addition to the new personal savings allowance which was introduced from April this year, in which up to £1,000 of interest can be earned without any deduction of tax. This does not impact the annual ISA allowance which the Government continues to support, with the increase in ISA allowance to £20,000 from April 2017.

National Savings & Investment (NS&I) will offer a brand new 3 year savings bond at a rate of 2.2%, though this is subject to change when the product is launched.

The bond will be available to those aged 16 and over with a minimum investment of £100 and a maximum limit of £3,000 and is due to launch in the Spring of 2017.

New Flat Rate Scheme rules could take away the benefit of using the scheme for many service businesses.

The Chancellor has announced new rules today targeting the supposed misuse of the flat rate scheme.

From the 1 April 2017, any user of the flat rate scheme who's considered to be a 'limited cost trader' will have a new rate of 16.5% applied to their gross turnover. This could take away the benefit for many users.

A limited cost trader is defined by HMRC as one whose VAT inclusive expenditure on goods is either:

- Less than 2% of their VAT inclusive turnover in a prescribed accounting period; or
- Greater than 2% of their VAT inclusive turnover but less than £1,000 per annum.

Goods for this purpose must be used exclusively for the purpose of business but exclude the following items:

- Capital expenditure
- Food or drink for consumption by the flat rate business or its employees
- Vehicles, vehicle parts and fuel (except where the business is one that carries out transport services).

Although set out as an anti-avoidance measure, the introduction of these rules appear to be an attack on service-based businesses currently using the flat rate scheme. It would appear unlikely that many would incur expenditure of more than £1,000 per year on goods alone. It may be the case that some businesses that are currently VAT registered under the flat rate scheme would be forced to switch back to standard VAT accounting.

Insurance Premium Taxes set to rise to 12%

Also announced today is an increase in the standard rate of Insurance Premium Tax (IPT) from 10% to 12% from June 2017.

Up until 13 November 2015, the standard IPT rate was set at 6% so today's announcement marks a doubling of IPT rates in less than two years. Insurance companies are likely to pass on the increase to their customers which will result in higher insurance premiums for all.

Income generated from Tampon Tax to go towards women's charities

Philip Hammond has announced today that £3 million of income generated from the 5% VAT applied to sanitary products will be allocated to Comic Relief for distribution to a range of women's charities.

New penalty for participation in VAT fraud

Following the announcement in this year's budget, it has been confirmed that a 'new and more effective' penalty will be applied for participation in VAT fraud.

This will be applied to businesses and company officers who know or should have known that their transactions were connected with VAT fraud. The fixed rate penalty will be 30%.

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OTHER ANALYSIS

Autumn statement becomes autumn budget

The chancellor closed his speech with the revelation that the government would move to a single fiscal event in the autumn of each year with the intention of providing more stability for both businesses and individuals.

The effect is that the existing regime of a 'Spring Budget' and 'Autumn Statement' is flipped on its head but will allow tax rates and bands to be known in advance of their application. This can only have a positive impact for the tax payer and their advisor.

He added that he felt there was no need for major tax changes to be made twice in a year, instead there will be a Spring Budget in 2017 and Finance Bill together with an Autumn Budget later in 2017 followed by a Spring Statement. This enables the government to respond to the Office of Budget Responsibility's (OBR) forecasts. The statement will also review wider economic and fiscal changes together with any launch consultations.

The first Spring Statement will be in the Spring of 2018, however, having two budgets in 2017 means it will be 2018 before the government's intention of stability from one fiscal event can be met.

Tackling avoidance

The government has announced it is taking action to promote fairness in the tax system; a level playing field.

In order to tackle tax avoidance, it will strengthen sanctions and deterrents to those persons enabling tax avoidance.

The government will introduce a new penalty for anyone who has enabled another person or business to use a tax avoidance arrangement which is later defeated by HMRC. The detail will be published in draft legislation shortly.

When considering the application of penalties, for anyone using such arrangements, the government will no longer consider the defence 'that a person has relied on non-independent advice' as them having taken 'reasonable care'.

In addition the government is investing further funds in HMRC to counter tax avoidance and enable cases to be taken forward to litigation.