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TAX JOURNAL

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Autumn Budget 2017

Carefully does it...

From the editor

A cautious chancellor has delivered a safe Budget. There was talk of getting Britain fit for the future, reports Chris Sanger (p 6), but 'in truth, the Budget was less about setting grand visions, and more about addressing the particular challenges of today'. The OBR's downward revision to the UK's growth forecasts meant the chancellor had to walk 'a narrow tightrope between fiscal prudence and easing austerity' (John Hawksworth, p 13). The Budget was an especially 'low key affair for private clients, perhaps the quietest for a decade' (Sue Laing, p 9). For SMEs, there were 'a couple of dogs that didn't bark': namely, the reduction in VAT registration threshold and the extension to the private sector of 'off-payroll' public sector reforms, although both will be subject to consultation (David Whiscombe, p 12). Following the paradise papers, the government will consult on extending assessment time limits for offshore matters (Jason Collins, p 11). For multinationals, there are a 'number of positive announcements, as well as arguably the most significant change to the taxation of property since the introduction of SDLT' (Sandy Bhogal, p 8.)

I hope you find this guide helpful. My thanks to all contributors for their timely insight.

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Our pick

Autumn Budget 2017: all around the houses

The chancellor of the exchequer, Philip Hammond, delivered his second Budget on 22 November. Given the general view that he did not have a particularly strong hand to play, radical changes were neither expected, nor presented. It was widely trailed that housing measures would be central to this Budget and so it was appropriate that the announcement most likely to grab headlines was the abolition of SDLT for first-time buyers up to £300,000 (and 5% between £300,000 and £500,000).

Will this solve the housing problem? Jeremy Cape, partner at Squire Patton Boggs, has his doubts: 'Alistair Darling introduced this in 2010 (up to £250,000) so at least they can use the old drafting', he quipped. The CIOT highlighted a November 2011 report from HMRC which concluded that the policy had little effect on improving the affordability of homes. The CIOT also expects discussions on how land and buildings transaction tax might be adapted to support first-time buyers in Scotland, with the Scottish Budget due in December.

Not mentioned in the speech was the proposed extension of capital gains tax to include disposals of UK commercial property by non-residents from April 2019, as well as indirect disposals of residential property. The detail is set out in a consultation document, with a separate technical note containing an anti-forestalling rule to apply from 22 November.

Business measures included a doubling of the EIS annual investment limit for individuals to £2m, provided any amount over £1m is invested in one or more knowledge-intensive companies, with the annual investment limit for knowledge-intensive companies doubled to £10m from April 2018.

Demonstrating the government's commitment to tackling tax avoidance and evasion, the Budget included 18 new anti-avoidance measures, forecast to raise an additional £4.8bn between now and 2022-23. These include three changes having immediate effect from 22 November, concerning intangible fixed assets related party 'step-up' schemes, adjustments for depreciatory transactions within a group, and a change to the double taxation relief TAAR.

The decision to introduce a withholding tax from April 2019 on royalty payments made to low or no-tax jurisdictions in connection with sales to UK customers is one part of the government's plans for plugging holes in the international tax system exposed by the digital economy. A position paper sets out a combination of coordinated reforms within the OECD framework and unilateral measures. 'Reforming international tax rules for digitalisation is a hugely complex task', said Carolyn Fairbairn, CBI director-general, warning that 'unilateral changes hamper coordinated international action to reform the global tax system and can damage countries' competitiveness'. The CIOT also struck a cautionary note about the effectiveness of unilateral measures without broader international agreement.

Despite much speculation around VAT threshold changes, this will remain frozen at £85,000 for the next two years. Measures to extend VAT joint and several liability for online marketplaces and the requirement to display VAT numbers online will be included in the forthcoming Finance Bill. A number of the other anti-avoidance measures are to be the subject of consultations in December 2017 or early in 2018.

The CIOT expressed regret at the government's decision not to extend disincorporation relief beyond the current 31 March 2018 expiry date. John Cullinane, CIOT tax policy director, said: 'We hope that the government will keep this area under review. A broader relief with some anti-avoidance provisions might play a sensible part in a more rational overall system which tries to reverse the current tax incentive for businesses to incorporate'.

In all, 22 consultations and calls for evidence are promised between now and Spring 2018, as listed in Annex B of the Budget overview document.

Ten measures were introduced with immediate effect:

- removal of CGT transitional rules on carried interest;
- removal of six-year time limit on corporate CGT adjustments for depreciatory transactions;
- restriction of double taxation relief for overseas permanent establishment losses;
- application of market value rule to intangible fixed asset licences granted between related parties;
- disguised remuneration close companies' gateway rules to apply whether or not amounts contributed were taxed previously as employment income;
- widening the scope of the double taxation relief TAAR;
- backdating of marriage allowance claims on behalf of deceased partners by four years (effective 29 November);
- adjustments to SDLT higher rates for additional dwellings;
- new SDLT relief for first time buyers; and
- removal of an unintended CGT charge on assets transferred to a non-resident company in exchange for shares on restructuring.

The Finance Bill will be published on Friday 1 December.

Business taxes

Committees propose Bill for modern employment practices

The House of Commons Work and Pensions committee and Business, Energy and Industrial Strategy committee have published a joint report, incorporating the text of a draft Bill intended to 'take forward the best of the Taylor Report recommendations'. Matthew Taylor's review of modern working practices was published in July. In May, the work and pensions committee published its own report on self-employment and the gig economy. The proposed Workers (Definition and Rights) Bill would introduce a presumption that 'worker' would be the default employment status, as part of a new 'framework for modern employment'. See taxjournal.com for more detail.

Separately, a new research report commissioned by HMRC, *Understanding barriers in determining employment status in SMEs*, found that businesses unsure about employment status often treat staff as employees subject to PAYE in order to avoid the risk of miscategorising. Usage of HMRC's employment status indicator (ESI) tool is low, although those SMEs that use the tool are positive about it. Around a quarter of SMEs are aware of the ESI, but only 5% have used it, with only 2% using it currently. SMEs tend to use the tool as a guide alongside other sources of information, such as advice from an accountant or lawyer.

VAT and indirect taxes

Taxation (Cross-border Trade) Bill published

The government has introduced the Taxation (Cross-border Trade) Bill to parliament, providing for new customs, VAT and excise regimes to be in place when the UK leaves the EU. Containing 56 clauses and nine Schedules, the Bill was originally referred to in the Queen's speech and subsequent white papers as the Customs Bill.

The Bill is designed to allow the government to create a standalone customs regime and will provide for amendment of existing VAT and excise legislation, while allowing these regimes to continue to function whatever the outcome of the negotiations. The Bill does not provide for new zero rates, reduced rates, exemptions, refunds or new VAT reliefs. The government emphasises that the Bill does not presuppose any particular outcome from the UK's negotiations with the EU.

The House of Commons debated and approved two ways and means resolutions for the Bill on 20 November. The date for second reading has yet to be announced.

Commenting on the Bill, Anastassia Beliakova, head of trade policy at the British Chambers of Commerce, said: 'Firms tell us that they want clarity on the future of the UK's VAT regime, and what our exit from the EU will mean for cross-border liabilities. HMRC must be given more resources, and adopt a clear focus on customer service, to enable it to support exporters and importers as it navigates the UK's exit from the EU.'

HMRC delays pension fund management VAT change

HMRC has decided to delay until 1 April 2019 the withdrawal of its practice of allowing insurers to treat their supplies of non-special investment fund pension fund management services as exempt from VAT. The withdrawal had originally been announced for 1 January 2018. HMRC has announced the delay to give insurers more time to implement the changes.

This revised policy will bring the VAT treatment of pension fund management by insurers into line with that for non-insurers, reflecting the government's acceptance that relevant litigation in the CJEU is now final and there will be no further review of the rules in this area before the UK exits the EU. Pension fund management services provided by insurers relating to defined contribution pension funds now qualify for exemption in accordance with the CJEU decision in ATP Pension Services.

HMRC has amended Revenue and Customs Brief 3/2017 to reflect the revised date (see http://bit.ly/2kFvq2f).

In a recent change to its VAT Input Tax (VIT) manual, HMRC confirmed that the existing rules for input tax deduction (the 70/30 split) will continue to be available to taxpayers, together with the newer options introduced following the CJEU decision in *PPG Holdings* [2014] STC 175, such as the tripartite contract option. Which option is applied will depend on whether the employer does or does not directly contract and pay for the services used to run the pension scheme.

People and firms

KPMG appoints **Matthew Herrington** as partner. Herrington, formerly of McDermott Will & Emery, will focus on international tax structuring, transfer pricing and dispute resolution. KPMG also promotes **Matthew Fleming** to partner within the firm's legal services tax disputes practice.

To publicise tax promotions, appointments and firm news, email paul.stainforth@lexisnexis.co.uk

Business attitudes to VAT registration

HMRC has published the findings of research it commissioned into business behaviours and experiences associated with VAT registration. The research involved a telephone survey of 2,009 businesses, followed up with 40 businesses that agreed to be re-contacted. The main findings included:

- VAT registered businesses were more likely to sell most to other VAT registered businesses (more than 60%), while unregistered borderline businesses tended to sell to consumers or unregistered businesses;
- accountants were the most common source of advice on VAT among registered and unregistered businesses (67%/57%), followed by HMRC (14%/11%);
- the most common unprompted reason given for voluntary registration was the expectation of reaching the threshold soon (26%), followed by agent advice (20%) and the ability to reclaim VAT (13%);
- most saw reclaiming VAT as the main benefit, followed by improved reputation or credibility;
- the most commonly anticipated drawback was additional administrative burden, followed by financial impact, such as the need to increase prices;
- the most commonly used VAT support scheme was the flat rate scheme (46%), followed by cash accounting (15%) and annual accounting (5%); and
- 20% of unregistered borderline businesses admitted to having taken some action to remain under the threshold and outside the VAT system, most doing so because they expected VAT registration to have a negative effect on their profit, or their competitiveness, if the cost was passed on to their customers.

The report, *Behaviours and experiences in relation to VAT registration*, is available at bit.ly/2zZNqZ7.

International taxes

ICIJ releases 'paradise papers' documents

The International Consortium of Investigative Journalists (ICIJ) has released the first batch of documents from the cache of leaked files known as the 'paradise papers', which reveal information on the offshore activities and structures of many prominent individuals and companies. The list was first published on 20 November and will be updated as new documents are released.

EU state aid investigation into CFC rules

The European Commission has published the letter containing the non-confidential version of its decision, announced on 26 October, to open an in-depth investigation into the 'finance company exemptions' provided for in the UK's controlled foreign companies (CFC) rules. See bit.ly/2hSW9ba.

Administration & appeals

Finance Bill: royal assent

The second Finance Bill 2017 received royal assent on 16 November 2017, becoming the Finance (No. 2) Act 2017. The House of Lords stages all took place on 15 November.

Among the measures coming into effect from the date of royal assent are new penalties for enablers of defeated tax avoidance; and for failing to correct offshore tax non-compliance.

The enablers' penalty is a fixed 100% fee-based penalty on anyone who has profited from enabling the use of tax avoidance arrangements that HMRC later defeats either in a court or tribunal. HMRC has indicated in guidance that advisers who act wholly within the spirit of the guidelines on the professional conduct in relation to taxation should not find themselves affected by the new penalty.

Commenting on the enablers' penalty, Chris Davidson, chair of the CIOT's management of taxes sub-committee, called HMRC's guidance 'reassuring', but added: 'It is nonetheless advisable that tax practitioners familiarise themselves with the scope of the penalty before providing advice to a client on a tax arrangement that is potentially within the GAAR, including one designed by others, in order to minimise any risk of exposing themselves to an enablers' penalty.'

Our pick

The Queen on the application of Aozora GMAC Investment v HMRC

HMRC guidance and legitimate expectation

In ***The Queen on the application of Aozora GMAC Investment v HMRC*** [2017] EWHC 2881 (14 November), the High Court dismissed a claim for judicial review of HMRC's decision to apply ICTA 1988 s 793A in circumstances where its own guidance suggested that it was not applicable.

Aozora UK was the wholly owned subsidiary of a Japanese company, Aozora Japan. Aozora UK owned a subsidiary in the USA, Aozora US. During accounting periods ending 31 March 2007 to 31 March 2009, Aozora UK had made loans to Aozora US, and received interest payments. The US had imposed 30% withholding tax on the interest received and Aozora UK was liable to corporation tax in the UK on interest. It was denied relief under ICTA 1988 s 790, on the basis that ICTA 1988 s 793A applied to prevent the relief from applying.

Aozora UK argued that HMRC's *International Manual* (at INTM151060) contained a representation by HMRC that gave rise to a legitimate expectation that it would be taxed in accordance with the manual, whether or not the terms of the manual were accurate, and that it would be conspicuously unjust and an abuse of power for HMRC to resile from the alleged representation.

The court accepted that the manual did contain a representation by HMRC. It pointed to the general notice contained in the manual which stated that 'readers may assume that the guidance will be applied in the normal case'. Furthermore, there was no authority suggesting that a statement of the law, or an interpretation of the law, contained in a particular guidance, could not in principle constitute a relevant representation.

The question was therefore whether the guidance was comprehensive, in so far as it purported to explain the legal and practical effect of s 793A(3). The court noted that the manual contained the following statement: 'At 1 April 2003, the only provision to which s 793A applies is article 24(4)(c) of the new UK/US DTA.'

The court concluded that given the clear and unequivocal guidance of the manual, the 'ordinarily sophisticated taxpayer' was not required to look beyond the UK/US tax treaty article 24(4)(c), which had no relevance to Aozora.

However, the court found that Aozora's adviser, Deloitte, had not relied on the relevant representation but on its own analysis. In addition, Aozora was unable to establish that, by reason of its 'putative reliance' on the relevant representation, it had suffered substantial detriment. In particular, it was plausible that Aozora Japan would have set up a subsidiary in the UK even if it had been aware of the tax implications, since the UK was an attractive financial centre.

Why it matters: **Robustly rejecting HMRC's argument that taxpayers should look beyond the guidance contained in its manuals, the court noted: 'I suppose that some ordinarily sophisticated taxpayers might have been suffering acute anxiety and in that condition asked themselves whether, as an objective matter, and exercising exorbitant prudence, they should look beyond the article of the treaty that had been uniquely identified for them by HMRC, towards other parts of the tax treaty.' However, such an unusually anxious taxpayer would have found that unilateral tax credit under s 790A(3) was available even if an applicable tax treaty denied credit.**

Personal taxes

Were loss claims stand alone?

In ***R (on the application of De Silva and another) v HMRC*** [2017] UKSC 74 (15 November), the Supreme Court found that claims made by partners had not been stand alone but had been contained in their returns, so that HMRC was entitled to enquire into those claims under TMA 1970 ss 8 and 8A.

The appellants were limited partners in a number of film partnerships. The partnerships had entered into a compromise agreement with HMRC (under TMA 1970 s 54), which provided that the partnerships would be allowed losses at a considerably lower level than claimed in their tax returns. HMRC had then written to the partners, explaining that their individual tax returns would be amended to only allow claims to carry-back partnership trading losses reflecting the losses agreed in the partnership settlement agreement. The partners had applied for judicial review of this decision, as there was no right of appeal.

The partners contended that their claims for relief were stand-alone claims made in Year 1, which could only be the subject of enquiry under TMA 1970 Sch 1A para 5(1); and that because no such enquiry had been initiated by HMRC within the relevant time period, any further enquiry (and subsequent amendment of tax returns) was precluded.

The Supreme Court observed that s 8(1AA)(a) defines the amounts in which a person is chargeable to income tax in a year of assessment as net amounts taking account of any relief, a claim for which has been included in the return. The claims to carry back losses related to Year 2 and were given effect in relation to that year under Sch 1B paras 2(3) and (6). The taxpayer should therefore make a claim in his tax return in respect of Year 2 and state the extent to which the relief claimed had already been given, in order to establish the amounts for which he was chargeable to income tax for that year of assessment. If too much had already been given as relief, the self-assessment could take that into account by adjusting the amount to which the taxpayer was chargeable to income tax for Year 2 (s 9(1)(a)).

The court added that HMRC may inquire into a return under ss 8 or 8A if an officer gives notice of his intention to do so (s 9A(1)); and that enquiry may extend to anything contained in the return, or required to be contained in the return, including any claim (s 9A(4)). HMRC was therefore entitled to enquire into the taxpayers' carry back claims contained in their Year 2 tax returns; and it was not required to start an enquiry under Sch 1A in order to challenge those claims.

Why it matters: **The court distinguished this case from *Cotter* [2013] UKSC 69, which concerned a claim made by an amendment to a tax return relating to Year 1 which intimated a claim for a loss that would occur in Year 2. The claim had no bearing on the amount chargeable in Year 1 and it was a stand-alone claim to which Sch 1A applied. By contrast, in this case the taxpayers' claims were made in their tax returns for Year 2 and were not stand-alone claims.**

VAT

Defining first occupation

In ***Kozuba Premium Selection sp. z o.o. v Dyrektor Izby Skarbowej w Warszawie*** (Case C-308/16) (16 November), the

CJEU found that a Polish provision, which made the VAT exemption on the supply of buildings subject to the condition that their first occupation arose in the context of a taxable transaction, was contrary to EU law.

Kozuba, a Polish company, acquired a building which it extensively refurbished, spending 55% of the initial value of the building. It was used as a show home until it was sold to a third party. Under Polish law, the exemption of the Principal VAT Directive article 135(1)(j) does not apply to a transfer of an existing building which has been used by its owner for its own commercial purposes, on the ground that such use cannot be classified as 'first occupation'. In addition, to the extent that it extends the criterion of 'first occupation' to conversions of buildings, Polish law requires the costs of such a conversion to reach 30% of the value of the building, for its sale to be taxable. The Polish tax authorities therefore considered that the sale of the building was taxable because it had led to its first occupation. The issue was whether the relevant Polish law provisions were contrary to EU law.

The CJEU pointed out that the distinction between old buildings (for which sale is exempt) and new buildings (for which sale is taxable) stems from the 'relative lack of added value generated by the sale of an old building'. It also observed that the criterion of the 'first occupation' of a building referred to the first use of the property by its owner or tenant.

The court concluded that member states are not permitted to subject the VAT exemption on supplies of buildings to the condition that the first occupation occurs in the context of a taxable transaction. The sale was therefore exempt as the sale of an old building.

As to the notion of first occupation in the context of the conversion of a building, the court held that the term 'conversion' 'suggests at the very least that the building concerned must have been subject to substantial modifications intended to modify the use or alter considerably the conditions of its occupation'. The quantitative approach adopted under Polish law was therefore only acceptable in so far as it was applied to decide whether a building had undergone a conversion for EU law purposes.

Why it matters: **The CJEU's view of what constitutes a new building, in the context of a refurbishment, may be broader than HMRC's approach.**

Administration & appeals

Access to HMRC's information

In ***T Ispas and A Ispas v Direcţia Generală a Finanţelor Publice Cluj*** (Case C-298/16) (9 November), the CJEU found that a taxpayer upon whom a VAT assessment is imposed, is entitled to access the information considered by the public authority when it adopted its decision, unless objectives of public interest warrant restricting access to that information.

Mr and Ms Ispas had built and sold apartments in Romania. The tax authorities considered that the sales had been taxable transactions subject to VAT and issued assessments accordingly. The taxpayers challenged these assessments on the ground that they should have been given access to all the relevant information which had led to the issuing of the assessments, in order to be in a position to challenge them.

The CJEU observed that the respect for the rights of the defence is a general principle of EU law which applies to a measure which adversely affects an individual. This principle requires that such an individual be placed in a position in which he can effectively make known his views in relation to the information on which the adverse decision is based. This applies to the authorities of member states when they take decisions which come within the scope of EU law, even if the applicable EU legislation does not expressly provide for such a procedural requirement.

The CJEU added that principle of respect for the rights of the defence is not an unfettered prerogative but may be restricted, provided that the restrictions correspond to objectives of public interest pursued by the measure in question and do not constitute 'a disproportionate and intolerable interference which impairs the very substance of the rights guaranteed'. The CJEU left it to the domestic court to decide whether a restriction was justified in this case.

Why it matters: **This case is likely to be a useful reference for taxpayers wishing to challenge the issue of a VAT assessment by HMRC. It remains to be seen whether its application can extend to direct taxes.**

Non-payment of APN and reasonable excuse

In ***F Chapman v HMRC*** [2017] UKFTT 800 (7 November), the First-tier Tribunal (FTT) found that the taxpayer did not have a reasonable excuse for the non-payment of an accelerated payment notice (APN), so that the penalty was due.

Mr Chapman's self-assessment return claimed a loss which arose from an arrangement notifiable under DOTAS. HMRC opened an enquiry and issued an APN. Mr Chapman subsequently became one of the applicants in judicial review proceedings challenging the validity of the APN and did not make the payment at the required date. HMRC imposed a penalty. A time to pay the APN by instalments was eventually agreed.

This was an appeal against the penalty and the main issue was whether Mr Chapman had a reasonable excuse for the non-payment.

The FTT dismissed the first two reasons given by the taxpayer: difficulties of communication with HMRC had not affected his ability to make a payment; and lack of funds was specifically excluded as an acceptable reason for non-payment (FA 2009 Sch 16 para 16(2)(a).

The third reason put forward by Mr Chapman was that the APN was invalid. The FTT accepted that the purpose of the scheme is to remove the cash flow advantage of 'an unsuccessful tax avoidance scheme asserted in the taxpayer's return'. It added that if belief in the unlawfulness of an APN founded a reasonable excuse and that if the challenge to the APN was unsuccessful, after the failure of the challenge, the excuse would cease, and failure to pay pending the closure of the enquiry would attract a penalty. In addition, the accelerated payment scheme was no aid in interpreting the concept of reasonable excuse, which predated it.

The FTT concluded that there must be 'circumstances in which it is reasonable to consider an APN unlawful and on that basis reasonably decline to pay it'. However, for such a belief to be reasonable, it must be 'robustly based'. This was not established here, as the taxpayer did not point to a patent error in the APN and the FTT had not seen the advice received by the taxpayer.

Why it matters: **The notion that the reasonable belief in the unlawfulness of an APN may be a reasonable excuse for non-payment seems very attractive. However, it is likely to only apply in exceptional cases where the APN is obviously unlawful.**

Case tracker update

New developments include:

- ***HMRC v BMW (UK) Holdings Ltd and MG Rover Group Ltd; Standard Chartered plc v HMRC*** [2016] UKUT 434 (TCC) (VAT: group representative member and right to repayment): taxpayers MG Rover and Standard Chartered appealed to Court of Appeal. Hearing due on 21 January 2019.
- ***Mr & Mrs E Kelly t/a Ludbrook Manor Partnership*** [2017] UKUT 326 (input tax recovery hampered by restructuring): taxpayer has applied for permission to appeal UT's decision.

See case tracker on taxjournal.com for a guide to the status of leading tax cases.

Cases reported by Cathya Djanogly (cathya.djanogly@hotmail.com)

More analysis inside this issue:

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Q&A

The big picture

The Budget was less about setting grand visions and more about addressing the particular challenges of today

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The pre-Budget press comment suggested that there wasn't much Philip Hammond could do in his second Budget without coming a cropper one way or another. In the event, he was able to deliver a Budget packed with both tax and spending measures, without handing any obvious hostages to fortune.

So what was the theme of the Budget?

'Theme' might be stretching a point when considering the tax elements alone, but there were certainly several motifs which recurred during the speech of just over an hour. In the interests of political knock-about, there were the usual contrasts with the legacy inherited from the Labour government. Then there was the slogan, throughout the speech, about making Britain 'Fit for the Future' and the repeated assertion of wanting to help the hard pressed right away.

And to top it all, there was the strangely lacklustre reheating of Harold Wilson's white heat of technology motif, as the 'genuinely' in 'Britain is genuinely at the forefront of a technological revolution' seemed to cast doubt on all earlier claims.

None of this added up to a great theme, let alone an emerging Hammondism. In truth, though, the Budget was less about setting grand visions (as one might otherwise expect of first Budgets in a Parliament) and more about addressing the particular challenges of today.

So who were the winners at this Budget?

There is no debate about it this time: on the face of it, the very clear winners were would-be first time buyers benefiting from a targeted abolition of stamp duty land tax (SDLT). Those house hunting in the neighbourhoods of up to £300,000 will see SDLT evaporate completely, while those shopping closer to the higher end (up to £500,000) will see it disappear on the first £300,000. This largesse, amounting to almost £3.2bn over the six year period up to 2022/23, was the single largest element in a 'housing and homeownership' package with a price tag of £9.3bn. Whether this actually helps first time buyers, or instead helps those selling to first time buyers, is yet to be seen. Perhaps the other housing measures and a wider commitment – covering funding, loans and guarantees – to pump an additional £44bn into housing, may be more effective?

The other winners – though the win was much smaller than they would have wished, and had lobbied for – were the business rate payers, who will see the advantageous switch from RPI to CPI inflation indexing brought forward by two years. This is not cheap at £2.3bn. Of course, this doesn't address the legacy of the RPI increases since 2010, which have outstripped property values by 16%, resulting in a higher business rates burden for all.

Arguably, the hard-pressed car drivers of the UK were also winners, with the chancellor spending a handsome £4.2bn to continue to freeze fuel duty. Purists might, though, wonder whether an approach which has an official policy of inflationary increases, but an equally long term practice of freezes, is a sustainable position.

There was also news that sin is no more deplorable than it was last year (unless your tipple is white cider and you drive an old diesel car), with no increases in the excise on taxes on cars, boozing and gambling, and no more than expected on cigarettes.

It may worth adding that, slightly under the presentational radar, the long term winners from the continued commitments to reducing the corporation tax headline rate and increasing income tax's personal allowances and higher rate threshold just keep on winning.

Where did the chancellor raise money?

The Budget saw two packages of measures focused on: the continued clampdown on 'avoidance, evasion, fraud and error'; and the modernisation measures under 'a fair and sustainable tax system'.

Amid a general boosting of the resources devoted to HMRC's effort on avoidance and evasion (a significant £2bn extra), the largest revenue raisers are:

- a new withholding tax on royalty payments made to low tax jurisdictions;
- combating related party step-up schemes on licences in respect of intellectual property;
- preventing CGT avoidance on carried interest; and
- addressing the use of insolvency to escape tax debt.

Among the modernisation measures, the greatest impact will come from the freezing of the indexation allowance from January 2018. The chancellor seems to have decided that inflation is no longer an issue at current rates, placing reliance on the work of the Bank of England.

Beyond these packages, the imposition of joint and several VAT liability on online marketplaces will, at the very least, impose additional burdens on the intermediaries.

Any innovations?

In the realm of the digital economy, where governments globally are struggling to form a coherent response, Hammond has gone for some partial gun–jumping. While remaining true to the credo of seeking an international fix though the OECD, the UK will, in the interim, explore options to raise revenue from digital businesses that generate value from UK users, such as a tax on revenues that these businesses derive from the UK market. A positon paper was published as part of the Budget bundle.

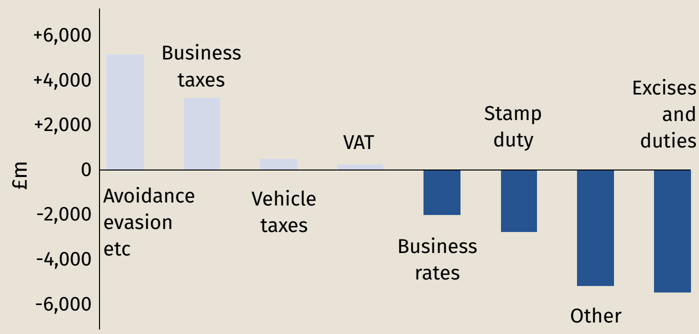
One very welcome innovation was the positive conclusion of the patient capital review. This exercise, which had 'lost in the long grass' written all over it at the outset, has resulted in drawing together a £20bn package of measures – including the establishment of an investment fund incubated in the British Business Bank, and enhancements to the enterprise investment scheme and venture capital trust scheme – to support longer term investment in UK start-ups.

What should we be watching out for in future?

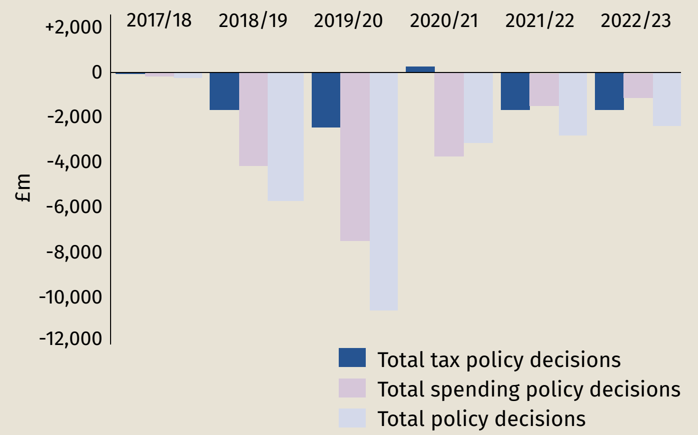
As is customary, the Budget flagged a range of forthcoming consultations, including:

- the tax treatment of intellectual property (potentially modernising the intangible fixed asset regime);
- the design of the VAT registration threshold;
- how to make the taxation of trusts simpler, fairer and more transparent;
- the alignment of UK treatment of VAT and vouchers with similar changes being made across the rest of the EU; and

Impact on revenues



Exchequer impact



- reviewing the rules for off-payroll workers and potentially extending the rules applying to the public sector to all companies.

So what do the numbers tell us?

Standing back from the individual measures, what we see from the Budget arithmetic is the extent to which the government revenue expectations are reliant on the successful pursuit of the anti-evasion and avoidance strategy, with changes to business taxes doing the rest of the heavy lifting. Meanwhile, the big tax raising levers (income tax, NICs and VAT) remain unpulled.

Across the Budget as a whole, despite the lack of eye-catching giveaways and indeed the proverbial rabbit from the hat, the chancellor's work today has resulted in spending an extra £18bn and reducing taxes by £7bn in total. This is quite different from the first Budgets of the Parliaments of his recent predecessors!

Any final thoughts?

Having had two Budgets this year, the chancellor's plans for a 'single fiscal event' means that there should not be another one for a full 12 months. However, with the Spring Statement coming in between, it remains to be seen whether the chancellor can, or indeed politics will allow him to, avoid returning to tax measures before then. Having successfully navigated this Budget, perhaps the chancellor has a greater chance of resisting such temptations than many would have predicted? ■

Budget comment

The impact on MNCs

A number of positive measures were announced which will be of great interest to MNCs, as well as arguably the most significant change to the taxation of property since the introduction of SDLT in 2003.

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When the government announced its intention to move to a 'single annual fiscal event' in the autumn, I did wonder whether the chancellor was also hoping to deliver a first Autumn Budget to remember for 2017. From a tax perspective, you could argue that in some ways the chancellor succeeded, as you could see certain themes and an element of coordination in the measures announced (in particular with respect to research and development and the digital economy).

With a tax code as long and complicated as the UK's, it is always inevitable that MNCs will need to deal with annual changes to existing legislation and an ever increasing number of anti-avoidance provisions. However, there were a number of positive measures announced which will be of great interest to MNCs, as well as arguably the most significant change to the taxation of property since the introduction of SDLT in 2003.

The full Finance Bill is due to be published on 1 December 2017, although some draft legislation and policy papers were published on 13 September 2017. The scope of the measures outlined below will therefore become clearer as further draft legislation and related policy papers and explanatory notes become available.

First movers again

The government has published a position paper on various aspects of corporate taxation of the digital economy. Whilst the position paper recognises the need for international cooperation in this area, and expects this to be led on a global basis by the work of the G20/OECD Digital Task Force, it is interesting to note that the UK government is looking at turnover taxes as a potential interim measure. The UK is clearly keen to provide thought leadership on this issue (as well as possibly being first to implement specific measures), as it has done on a number of BEPS matters.

Whatever your view on the pros and cons of being a first mover, the position paper raises interesting points on how digitalisation can impact business models and the value of data for such businesses. It also recognises that there are a number of complex issues with the design of any legislation; for example, how to distinguish digital companies from other businesses. It will be necessary to ensure appropriate rates for any taxes on digital profits and there are important policy decisions to be made with respect to related activities and funding or capital investment. It will also be important for the new rules not to create a barrier to new businesses.

The position paper is open for consultation until 31 January 2018, which does not seem long enough for such an important and complicated topic. If the UK position is to become a blueprint for the rest of the world, it may be prudent to keep the consultation open for longer, particularly when you consider that the G20/OECD Digital Task Force is not due to deliver its interim report until April 2018.

The position paper is open for consultation until 31 January 2018, which does not seem long enough for such an important and complicated topic

From first mover to arguably last mover, the UK will seek to tax property gains by non-residents from April 2019 (as is currently the case in several other countries). The new rules will apply to direct disposals of commercial property, and to residential property not already within the scope of the existing residential property capital gains tax rules, which were introduced in 2015. The rules will also apply to indirect disposals of entities which derive 75% or more of their value from UK land and where the offshore seller holds at least a 25% interest in that entity over a five year period.

The proposals are stated to be subject to consultation, but there are a number of details already provided for on how existing property holdings will be rebased as of April 2019; and on the interaction with existing exemptions for widely held offshore companies and the availability in certain circumstances of the substantial shareholdings exemption. There is also an anti-forestalling measure, with immediate effect, which would not allow double tax treaties to be used to prevent the taxing of certain indirect disposals. Such a level of detail suggests that most policy decisions have already been made on these proposed rules, but the government would be wise to listen to input from the wider property sector, as UK commercial property forms an important part of the UK economy.

On a related matter, and following an earlier government consultation, it has been confirmed that from April 2020 non-UK resident companies will be chargeable to corporation tax, rather than income tax on UK property income. This continues a theme of seeking consistency in the taxation of UK and non-UK companies, and would bring non-resident landlords within the scope of recently introduced rules restricting both the use of losses and the availability of deductions for financing costs.

Other measures to note

Much has been made of the UK's insistence on being the first country to introduce the OECD BEPS 2 and BEPS 4 recommendations into UK domestic law. The accelerated legislative timetable created a number of areas of uncertainty and technical anomalies. However, to its credit, HMRC has listened to representations on these issues and a number of technical changes to the hybrid rules and corporate interest restriction rules will be included in the Finance Bill. Amongst other things, there will be a number of clarifications which will be helpful for the investment fund and asset management sectors.

Other material points for MNCs to watch out for are:

- the government intends to expand the use of withholding tax on royalty payments to non-UK residents. Whilst the full scope of this measure has yet to be clarified, it is expected to focus on royalty payments to low tax jurisdictions where related goods and services are provided to UK customers;
- the rate of the research and development expenditure credit will increase to 12% from 1 January 2018;
- an extension of the existing anti avoidance provisions applying to transfers of intangible fixed assets between related parties, to cover licences and other related rights. There will also be a wider consultation on the intangible fixed asset regime;
- a change to the look-back provisions with respect to depreciatory transactions on shareholdings, with a requirement to look beyond the current six year period to the whole history of the relevant shareholding;
- a correction to the capital gains rules, which impact the transfer of assets of a foreign branch into a foreign company in exchange for shares. The government has announced certain clarifications to the rules which make it clearer when capital gains should be deferred rather than crystallised for so called 'branch incorporations'; and
- confirmation that the UK's exit from the EU will not mean that the 1.5% SDRT charge on the issue of shares by UK companies into non-UK depositary systems or clearance services will be reintroduced.

Those of you from the oil and gas sector would also be well advised to look at the numerous changes announced for that sector. Space and timing considerations do not allow full justice to be done to those proposals in this article. ■

Budget comment

The private client perspective

The Budget was a low-key affair for private clients, perhaps the quietest for over a decade.

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Few tax measures of interest to private clients were mentioned in the speech itself and only a random selection of items appeared in the supporting documents.

Are we becoming even more xenophobic?

We have already had two Finance Acts this year, following a hiatus after the unexpected June election result. The Finance (No. 2) Act became law last week, introducing a sea change to the taxation of non-doms, 'backdated' to 6 April 2017. In summary:

- Non-doms will become deemed domiciled for all tax purposes once UK resident for 15 out of the previous 20 tax years. They will acquire a deemed domiciled for IHT a little earlier than before and, more fundamentally, will no longer be able to claim the remittance basis for income tax and CGT indefinitely.
- Those born in the UK with a UK domicile of origin, who have subsequently acquired a domicile of choice elsewhere but then become resident in the UK again, will be treated as UK domiciled from the date of their return (for income tax and CGT); or from their second year of tax residence (for IHT) broadly for the duration of their stay.
- Trusts established by resident non-doms before they become deemed domiciled can roll up income and gains offshore tax-free until the trust is 'tainted'; e.g. by funds being added (directly or indirectly) after the settlor has acquired a deemed domicile.
- UK residential properties held indirectly through overseas companies and associated loans are within the scope of IHT.

The Budget confirmed that further anti-avoidance measures aimed at offshore trusts will be introduced from April 2018. These measures had already been announced and, in essence, provide that:

- it will no longer be possible to 'wash out' trust gains by payments to non-residents;
- capital payments made to a close family member of a UK resident settlor will be taxed to CGT and income tax on the settlor; and
- where a non-resident beneficiary receives a distribution from a trust and then makes an onward gift (directly or indirectly) of all or part of it to a UK resident, the original payment will be taxed as if received by that UK recipient.

Compliance and transparency reign supreme

The net continues to tighten for non-compliance, particularly in relation to offshore avoidance and evasion. In conjunction with the OECD and EU, the government plans to require designers of offshore structures which could be misused to evade taxes to notify HMRC of both the structures and the clients using them. The PSC (persons with significant control) register for companies was introduced in June 2016; legislation was recently put in place for the new trusts register (requiring HMRC to be notified of the 'beneficial owners' of UK express trusts and non-UK trusts that incur UK tax liabilities); and the Stock Exchange is busily attributing legal entity identifiers (LEIs) to all trusts in order to facilitate a global reference system for parties to financial transactions. There really is 'no place to hide' now, which perhaps reflects some of the fallout from the Panama and Paradise papers.

HMRC will also consult in the spring on extending assessment time limits for non-deliberate offshore tax non-compliance, enabling it to assess at least 12 years of back taxes without needing to establish deliberate non-compliance.

UK trusts are destined to be in the limelight again

There is a huge wave of 'populism' and trusts have been an easy target for journalists. Perhaps we should not therefore be surprised by an intriguing Budget announcement, in just two lines of text in the overview document: 'The government will publish a consultation in 2018 on how to make the taxation of trusts simpler, fairer and more transparent.' Until we see the consultation, we can only speculate on what more is in store for trusts and it is not even clear which taxes might be in point, although IHT may well be a candidate. Indeed, this might explain the House of Commons briefing paper on IHT issued to MPs in July 2017, which covered the structure, history, rationale and proposals to reform IHT over the last 20 years. That said, the government had a look at IHT trust simplification only a few years ago by launching two back-to-back consultations, which eventually led to only minor changes.

Any proposals for making tax on trusts *fairer* would of course be welcome. For example, there is no rationale for subjecting trusts to an income tax rate of 45% above the first £1,000 when individuals only pay the additional rate on income exceeding £150,000. But the reference to *transparency* again sounds ominous.

Real property is immoveable and so an easy target

One radical development was the launch of a consultation on proposals to tax gains realised by non-residents (individual owners, trusts and companies, including those widely held) from disposals of *all* UK property, bringing commercial property owned by non-residents into the CGT net from April 2019. Maybe this should not have been surprising because, in the last few years, the tax treatment of UK residential property owned by non-residents has been increasingly aligned to that of UK residents.

One radical development was the launch of a consultation on proposals to tax gains realised by non-residents

However, the government is also now planning a tax charge if non-residents sell property-rich vehicles, so tax will bite if the vehicle (often a non-resident company) sells the land or if a shareholder sells his shares. This is a big change and will have a wide impact. The new tax (whether on disposals of non-residential land or disposals of shares in property-rich vehicles) will apply to gains arising on or after April 2019, effectively a rebasing of commercial property to that date so historic gains will not be caught.

A crumb of comfort perhaps?

Some hope on the horizon is that IHT reliefs for agricultural and business property *might* be left alone. An independent research paper, published alongside the Budget, looked at the influence of these reliefs on estate planning. It concluded that the reliefs are not being abused, the public's understanding of them is quite limited and they are not generally used for IHT avoidance. Instead, they prevent the break-up of family farms and businesses, which is, of course, exactly what they are intended to do.

But HMRC wants its money upfront

Finally came a surprise announcement that certificates of tax deposit (CTDs) will be abolished with almost immediate effect. No new CTDs can be purchased on and after 23 November but existing certificates will continue to be honoured until 23 November 2023. Any then remaining should be submitted promptly to HMRC for a refund. So it will no longer be possible to hedge one's bets and buy a certificate to cover a possible tax liability without any risk of an interest charge. ■

Budget comment

Litigation and investigations aspects

A raft of enforcement measures, although not all of them are new.

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My initial view about Budget 2017 was that it was light on announcements in relation to litigation and investigations – and I was going to comment that the chancellor had resisted the siren calls (or outright clamour) for 'more' action in response to the 'scandal' (or largely non-event) that was the Paradise Papers. The Budget paper *Tackling tax avoidance, evasion and non-compliance* started by listing out the government's achievements since 2010, in the sort of self-aggrandising way more usually seen during staff appraisals (which I suppose the Budget has now become for HMRC). In particular, it highlighted 100 measures introduced since 2010; an additional £160bn protected and collected since 2010; and spearheading the global campaign for tax transparency.

Then, bam, the paper announces 18 new measures.

The first eye-catcher was the extension of assessment time limits to 12 years (from the usual four years, or six years in cases of carelessness) for all offshore matters. (The 20 years for fraudulent conduct was left undisturbed.)

If anyone was in any doubt that HMRC recognises that, despite the Paradise papers 'noise', offshore centres are not in fact teeming with service providers willing to help their clients engage in evasion, this is the proof in the pudding. Most of the non-compliance which the common reporting standard will uncover is going to be technical in nature or the result of genuine mistakes. HMRC has therefore cleverly bought itself double the time to analyse, track down and pursue such non-compliance and increase the amount it can yield.

HMRC has cleverly bought itself double the time to pursue such non-compliance

It also underlines the further blurring of the line between planning, avoidance and evasion – in this case, through closing the space between morality and criminality in tax, by reducing the gap between fraud and avoidance assessment time limits from 14 years (20 to six) to just eight years (20 to 12).

A consultation is planned for the spring. What is not yet clear is whether the time limits will be retrospective. My instinct is that they won't be, because it would mean HMRC would be able, overnight, to reopen old years (i.e. 2006 to 2012). The last precedent in this area was the removal of the need for HMRC to prove negligence or fraud to make 20 year assessments for taxes lost through 'failure to notify' chargeability. The new rules (given effect by FA 2008) removed the conduct condition altogether, but they only apply to periods on or after 31 March 2010. However, in this day and age, and with the ferocity of online campaigns, precedents such as that have less meaning, so who knows what will happen…

Other measures of real note, even though very narrowly targeted, are the proposed new measures to tackle VAT evasion by sellers on online marketplaces:

- FA 2016 introduced (VATA 1994 s 77B) joint and several liability provisions, which make the operator of an online marketplace liable for unpaid VAT liabilities of an overseas seller in respect of whom HMRC had served a notice on the operator. This will be extended to UK sellers as well, reflecting that overseas sellers were sidestepping the rules through incorporating shell UK companies.
- More notably, the government plans (apparently without even the offer of a consultation) to extend joint and several liability to the operator in circumstances where it knew (or should have known) that a particular overseas seller should have been (but wasn't) registered for VAT, i.e. absent any notification from HMRC. This is a huge extension of the principle of joint and several liability. Current VAT rules provide for joint and several liability based on a knew or should test in respect of certain prescribed goods, but those rules apply only to businesses directly making a supply of the goods, rather than a third party to that supply chain, as is the case here.
- Operators will also have to ensure that VAT registration numbers displayed by sellers on the website are *valid*, and the government is also calling for evidence on whether operators do enough to ensure tax compliance of the users of their marketplaces.

Having then thought that the Budget had delivered a raft of new enforcement measures, on closer inspection I noted that not all of the 18 'new' measures were in fact 'new'. A handful were updates on initiatives previously announced, such as the proposals for applying a reverse charge in the construction sector. Meanwhile, the requirement to notify HMRC of offshore structures is now being taken forward in conjunction with the OECD and EU (a victory for common sense, given that the UK is spearheading the transparency drive and rules such as the common reporting standard, which also shine a light on offshore structures).

On one view, whatever the government does to tackle avoidance and evasion will be futile. Some campaigners will never accept that the government has done enough, whatever it does. Those campaigners may be disappointed that there was nothing extending the ambit of the register of trusts, or forcing our offshore territories to make their company registers publicly available, or any mention of the long mooted public register for the ultimate beneficial owners of UK real estate. The campaigners may, however, be pleased to see that HMRC will be given an extra £155m to help to 'address a range of avoidance and evasion activity, including tackling enablers and facilitators of tax fraud'.

I believe there is a lot to be read into this reference to enablers and facilitators. If tax evasion is to be eradicated, the final piece in the jigsaw is the role that big business has to play and its response to the Criminal Finances Act 2017 facilitation offences. These offences and the tax evasion facilitated are crimes of dishonesty – but the question of what is dishonest is decided by a jury. It takes years for today's conduct to make it into court, so who knows what standards the public will be holding the representatives of corporates to in 5 to 10 years' time. Is your business ready for that? ■

Budget comment

Measures affecting SMEs

Small change for SMEs.

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The 'big picture' is that SMEs as a whole are not likely to be very greatly advantaged or disadvantaged by the chancellor's budget proposals, though some sectors will potentially be more affected than others.

SMEs in the business of building residential properties will be greatly interested in the November Budget statement, focusing as it does on the government's ambitious aspirations to increase the supply of new homes dramatically over the next five years or so. And, specifically, Mr Hammond recognises the need to support the SME housebuilding sector, rather than remaining dependent on 'the major national housebuilders that dominate the industry'. That said, none of the support measures are primarily tax ones.

The other main class of SME which may potentially prick up its ears at the Budget statement is the high-tech sector. The government seeks to encourage investment in knowledge-intensive companies (KICs) under enterprise investment schemes (EIS) and venture capital trust (VCT) schemes. It does so by doubling the amount an individual may invest to £2m, provided any excess over £1m is invested in KICs, and doubling the annual investment limit for such companies to £10m (albeit leaving the lifetime limit at £20m).

Further, 'slow burning' KICs benefit from a change that effectively allows the period before their turnover reaches £200,000 to be ignored when applying the 'permitted maximum age' rules. All of these changes come in from 6 April 2018 and are subject to EU state aid rules.

Further targeting of EIS, seed enterprise investment schemes (SEIS) and VCT investment on higher-risk, higher-growth investments (though not specifically KICs) is seen in the proposal that the reliefs will be restricted to companies where there is a 'real risk' to the capital being invested and will exclude arrangements intended to provide 'capital preservation'. This follows from a consultation document published in August. Subject to seeing the legislation, the proposal looks at first glance as if it will require a horribly subjective assessment; and the examples given by HMRC in its response to the consultation document, published on Budget day, do not give much reassurance in that regard.

To make things worse, although the change applies only to investments made either after royal assent to Finance Bill 2017/18 or after 5 April 2018 (depending on which HMRC publication you believe – different dates are given!), HMRC says that once detailed guidance has been published (shortly after publication of Finance Bill 2017/18) it will cease to provide advance assurance for any investment where it appears that the new condition would be failed, were it already in force.

Following consultation earlier this year, a government response on the scope for streamlining the advance assurance service generally is to be published on 1 December 2017. And there will be consultation in 2018 on the introduction of a new knowledge-intensive EIS fund structure in which funds would have the flexibility to deploy capital raised over a longer period. Again, this is subject to EU state aid rules, though by the time any such funds come into existence, such rules may no longer be relevant to the UK.

At present, an entrepreneur may find that the consequence of raising much needed external finance to develop the business will have the effect of reducing his or her shareholding below 5% and so denying entrepreneurs' relief on an eventual sale. It is reassuring that the government has recognised this as a problem and has promised consultation in spring 2018 on ways to change the legislation to address it.

Companies entitled to claim payable tax credit on their R&D expenditure (broadly, large companies) benefit from a 1% increase to 12% from 1 January 2018 – helpful rather than game-changing. At least as valuable in the R&D field is the piloting of a new advanced clearance service for R&D expenditure credit claims, to provide pre-filing agreement, alongside a campaign to increase awareness of eligibility for R&D tax credits among SMEs.

One unexpected change is the abolition from 31 March 2018 of disincorporation relief (or, more accurately, the failure to renew it: it was always a limited-time relief). It was of limited value and little used: few will regret its demise.

> A couple of dogs didn't bark: the reduction in the VAT registration threshold; and the extension to the private sector of the 'off-payroll' reforms, although both will be subject to consultation

A couple of dogs didn't bark. Mr Hammond (probably wisely) backed down from the widely trailed proposal to reduce the VAT registration threshold to the kind of level common in other EU countries, and confirmed that the present £85,000 will be maintained until 31 March 2020. There is to be consultation on 'the design of the VAT threshold' – presumably to see if concerns that have been expressed about the 'cliff-edge' effect can be addressed. While structural alteration may be difficult while the UK remains in the EU, Brexit may perhaps permit a more bespoke design.

Another pre-Budget rumour concerned the extension to the private sector of the 'off-payroll' sector reforms recently introduced to the public sector. This, too, is to be the subject of consultation in 2018.

Finally, one small concession is that from April 2018 there will no longer be a benefit-in-kind charge in respect of electricity provided by an employer in workplace charging points for electric or hybrid cars owned by employees. This is helpful, if only because the difficulty of working out the cost will often be disproportionate to the tax charge.

It would be nice to suppose that the relief would remain available, in the case of SMEs where the workplace (or one of them) is at the SME owner's home, in respect of charging the SME owner's car. Sadly, experience suggests not. ■

Budget comment

Economics view

The chancellor walks a narrow tightrope between fiscal prudence and easing austerity.

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UK economic growth has slowed this year and this more sluggish performance is now projected to continue for some years to come, as productivity growth remains disappointing. This has worsened the medium term public finance outlook and reduced the wriggle room available to the chancellor. He therefore had to walk a narrow tightrope in his Budget between maintaining a downward path for the budget deficit and responding to widespread pressures for an easing of austerity.

The Office for Budget Responsibility (OBR) revised down its 2017 GDP growth forecast from 2% to 1.5%, as higher inflation has bitten into consumer spending power and Brexit-related uncertainty has dampened business investment growth. Despite this slower growth, the OBR also revised down its public borrowing estimate for 2017/18 from around £58bn to only around £50bn, given better than expected public finance data so far this year (see table).

However, the OBR judged that this short-term borrowing undershoot is unlikely to persist. Looking further ahead, the OBR has revised down its GDP growth projections significantly for each of the next four years, due to slower than previously expected productivity growth. By 2021, the UK economy is now expected to be more than 2% smaller than forecast in March; and this gap will only grow in later years if productivity growth remains subdued.

Slower economic growth translates to slower projected tax revenue growth and so to a higher budget deficit in the medium term – around £28bn in 2021/22 on unchanged policies as opposed to the £17bn OBR forecast back in March. This is despite a £4bn public borrowing reduction in 2021/22, due to housing associations being reclassified from the public to the private sector following recent regulatory changes.

The chancellor is still projected to meet his medium term target of getting the structural budget deficit below 2% of GDP in 2020/21 with some margin for error, but his headroom has shrunk since March from around £26bn to around £15bn now.

If prudence was his only concern, the chancellor might have responded to less favourable OBR forecasts by tightening fiscal policy over the next few years. But the chancellor also recognised that he needed to respond to political pressures to ease austerity and start to address fundamental economic challenges relating to housing and productivity.

> The Budget eased tax and spending policy significantly in the short term ... however, money will be clawed back in the medium term

The Budget therefore eased tax and spending policy significantly in the short term, increasing borrowing in 2019/20 by around £9bn. There were giveaways on housing and infrastructure, health, freezing fuel and alcohol duties and business rate indexation, as well as an extra £3bn of spending on Brexit preparations over the next two years. Aside from housing and infrastructure, however, most of these measures were only temporary and money will be clawed back in the medium term through various tax avoidance measures and other policy changes.

The chancellor will be hoping that UK growth is not as sluggish over the next few years as the OBR now forecasts, in which case he could have more room for manoeuvre in future Budgets. But it is far from guaranteed that the Brexit negotiation process will go smoothly, so the chancellor was prudent to adopt a relatively cautious approach for now, while doing what he could to address concerns around housing, health and longer term productivity growth. ■

Comparison of key OBR forecasts for March and November 2017 Budgets

Real GDP growth (%)	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**
Budget (March 2017)	2.0	1.6	1.7	1.9	2.0	N/A
Budget (Nov 2017)	1.5	1.4	1.3	1.3	1.5	1.6
CPI inflation (%)						
Budget (March 2017)	2.4	2.3	2.0	2.0	2.0	N/A
Budget (Nov 2017)	2.7	2.4	1.9	2.0	2.0	2.0
Public sector net borrowing (£bn)*	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**2021/22**	**2022/23**
Budget (March 2017)	58	41	21	21	17	N/A
Budget – excluding new policy measures (Nov 2017)	49	37	26	29	28	29
Net impact on borrowing of new Budget measures (Nov 2017)	1	3	9	4	2	-3
Budget – including new policy measures (Nov 2017)	50	40	35	33	30	26

*Excluding borrowing of public sector banks.

Source: OBR

Budget report

A to Z guide to the key tax announcements

Headlines

Key announcements that were new for Autumn Budget 2017 include:

- a significant collection of measures on venture capital schemes to encourage more investment in high-risk innovative companies;
- changes to the rules taxing both non-resident individuals and non-resident companies in respect of UK property;
- the consultation on extending the off-payroll working rules to the private sector;
- confirmation that the UK will not seek to reintroduce the higher 1.5% rate of stamp duty and SDRT on exit from the EU;
- the proposed introduction of withholding tax on royalties paid to recipients in low tax jurisdictions that relate to UK sales, regardless of the location of the payer;
- SDLT to be abolished immediately for first-time buyers purchasing properties worth up to £300,000 and for first-time buyers purchasing properties worth up to £500,000, the first £300,000 will be exempt;
- consultation on the taxation of trusts will be published in 2018 with the aim of making it simpler, fairer and more transparent;
- CGT relief for overseas buyers of UK commercial property to be phased out, with exemptions for foreign pension funds; and
- further steps to tackle tax evasion and the hidden economy including extension of the time limits for HMRC to assess non-deliberate offshore tax non-compliance.

The chancellor of the exchequer, Philip Hammond, delivered his first Autumn Budget on Wednesday 22 November 2017.

Political hopes and expectations weighed heavily on the Budget, with many wondering whether it could contain anything to alleviate the pressures caused by the lack of a government majority in Parliament, and the ongoing Brexit negotiations. The chancellor, however, wore the pressure lightly, with several comic moments, including at one point being passed a box of cough sweets by the prime minister. It was quite a lengthy speech, with even more released in the detailed documents that followed, although everyone will be glad that he didn't challenge William Gladstone's record of 4 hours and 45 minutes set in 1853.

As had been much trailed, there was a lot of focus on housing and the need for more home building, giving the chancellor the opportunity to update his predecessor's tagline, moving from focusing on fixing the roof, to laying foundations. A number of the big tax measures related to the taxation of property. The Budget 'scorecard' shows that the big tax announcements that were new for today, in terms of cost to the exchequer, were the abolition of SDLT for first time buyers for properties up to £300,000 (or the first £300,000 for properties up to £500,000), and the bringing forward of business rates uprating so that it follows CPI rather than RPI. However these are to be balanced, albeit in future years, by extending non-resident CGT to all types of UK property and bringing non-resident companies within the corporation tax net in respect of their UK property income and gains; both slightly surprising at a time when the government is attempting to attract foreign investment into the UK.

As has become expected in Budget speeches, the funding for any tax giveaways comes in the form of new anti-avoidance measures, of which there were many, and renewed investment into HMRC, this time with a focus on technology, to enable the collection of additional tax revenues

Mr Hammond's plans for resetting the fiscal calendar promised policy consultation in the spring with draft legislation in the summer, but today saw the announcement of a number of consultations on significant tax measures, some of which are expected next week, which have the potential to have a significant impact in future years, such as off-payroll working in the private sector and employment status, tax changes to reduce the amount of single-use plastics, and the introduction of withholding tax on royalties paid to low tax jurisdictions in respect of UK sales. We are told to expect further clarity on the new tax policy making cycle before the end of the year.

Despite some of the increases in tax and the surprise removal of indexation allowance for corporate gains, most large businesses will be relieved that few fundamental changes have been made to the main business tax roadmap measures such as the cuts to corporation tax to 17% in 2020 and further support for businesses which are facing increases in business rates. The investment community will also welcome the majority of the measures announced to enhance and refocus the EIS and VCT schemes, perhaps with some trepidation about the new 'risk to capital' condition.

The crackdown on anti-avoidance and evasion continued with the announcement of a series of new measures and additional investment in HMRC to tackle avoidance, evasion, and non-compliance.

The long predicted changes to business and agricultural property relief failed to materialise yet again, although this remains something to watch for the future. Those practitioners hoping for a simplification of the residence nil rate band were left disappointed.

From a private client perspective, the most interesting developments are probably yet to come with a consultation on the taxation of trusts announced for 2018 with the stated aim of making the taxation of trusts more simple, fair and transparent, whatever this may mean.

The key announcements are as follows:

Armed forces personnel accommodation

FB 2018 will introduce an income tax exemption for certain allowances paid to armed forces personnel for renting or maintaining accommodation in the private market. A class 1 NICs disregard will also be introduced. The change will have effect from royal assent of FB 2018, and replicates the position where members of the armed forces are provided with living accommodation by the Ministry of Defence.

See: Autumn Budget 2017 (para 3.15), Overview of tax legislation and rates (OOTLAR) (para 1.11) and Tax information and impact note (TIIN): Income tax: armed forces accommodation allowance exemption.

ATED: 2018 to 2019 annual chargeable amounts

The annual amounts for the annual tax on enveloped dwellings (ATED) will be increased by 3% from 1 April 2018.

ATED applies to high-value UK residential property owned on, or acquired after 1 April 2013, by non-natural persons. The current annual chargeable amounts range from £3,500 to £220,350 (depending on the value of the property). The amounts that will apply from 1 April 2018 range from £3,600 to £226,950.

See: OOTLAR (para 2.62) and TIIN: ATED: annual chargeable amounts.

Bank levy re-scope

As announced at Summer Budget 2015, and following a subsequent consultation, draft FB 2018 clauses changing the scope and administration of the bank levy were published on 13 September 2017. The changes:

- limit the scope of the bank levy to the equity and liabilities recognised on the UK balance sheets of banks and building societies (rather than their worldwide balance sheets as is currently the case) – this will apply to chargeable periods ending on or after 1 January 2021; and
- simplify certain aspects of the administration of the bank levy – these changes apply either from royal assent to FB 2018 or to chargeable periods ending on or after 1 January 2018.

The government announced that the draft legislation has been changed to include a number of technical changes to the bank levy calculation. We expect these changes to be published as part of the publication of the FB 2018 on 1 December 2017.

See: OOTLAR (para 1.27).

Benefits-in-kind: company cars and vans

FB 2019 will provide that, from April 2018, there will be no benefit-in-kind charge on electricity provided by employers at workplace charging points for charging employees' electric (or hybrid) cars.

The government announced that, as part of a commitment to protect the environment, the diesel supplement for company car benefits in kind by 1% (from 3% to 4%), with effect from 6 April 2018. However, the maximum level of the appropriate percentage for cars including the diesel supplement will remain at 37%.

From 6 April 2018, the flat rate van benefit charge will increase to £3,350 from its current rate of £3,230. The flat rate van fuel benefit charge will increase to £633 from £610.

See: Autumn Budget 2017 (para 3.13) and OOTLAR (para 2.15).

BEPS multilateral instrument

FB 2018 will amend TIOPA 2010 s 2 (which gives effect to double tax treaties in UK law) with the intention of making it wide enough to encompass the UK's implementation of the BEPS multilateral instrument (MLI). The MLI is an instrument developed as part of the OECD's BEPS project to enable countries to implement the BEPS measures that require changes to double tax treaties, without having to renegotiate each treaty individually. The UK is a signatory to the MLI but the MLI will not take effect here unless the UK ratifies it under its own legislative procedures.

It is still unclear how, precisely, the UK will implement the MLI under domestic law (given that the MLI amends treaties that take effect in UK law under multiple statutory instruments). One possibility is a 'super' statutory instrument to amend all the others, but it is not obvious that TIOPA 2010 currently provides the necessary authority to do this. TIOPA 2010, ss 2 and 6 gives effect to arrangements (which normally means double tax treaties) that provide relief from certain specific taxes. The MLI does not fall comfortably within this description, particularly the MLI provisions dealing with dispute resolution.

The changes to TIOPA 2010 s 2 (and equivalent inheritance tax provisions) announced at Autumn Budget 2017 are intended to widen this provision so that it does provide the necessary authority to implement the MLI. The amendments will provide that the section extends to giving effect to arrangements that operate primarily to restrict relief provided for in existing arrangements and delegate specific functions to competent authorities.

The legislation will take effect from royal assent to FB 2018, which under the new Budget timetable is expected to be before the new tax year begins in April 2018. This indicates that the UK does not intend to implement the MLI before that date, at the earliest.

See: Autumn Budget 2017 (para 3.77), OOTLAR (para 1.46) and TIIN: Double taxation – powers to implement multilateral instrument.

Measures with immediate effect

New measures with effect from 22 November 2017:

- Capital gains tax: taxation of carried interest
- Capital gains depreciatory transactions
- Double tax relief and permanent establishment losses
- Intangible fixed assets: related party step-up schemes
- Disguised remuneration
- Double taxation relief: changes to targeted anti avoidance rule
- SDLT higher rates
- SDLT relief for first time buyers

Capital allowances

A number of changes to the capital allowances regimes were announced, as follows:

- the existing first year tax credit regime is to be extended until the end of the current parliament. However, from 1 April 2018, the claimable credit is to be reduced to two-thirds of the current corporation tax rate;
- the energy-saving technology list will be amended by statutory instrument (in December 2017) to add new technologies and modify existing ones, to reflect technological advances and changes in standards; and
- the first year allowances regime for zero-emission goods vehicles and gas refuelling equipment is to be extended to 31 March 2021.

See Autumn Budget 2017, para 3.48 and OOTLAR (paras 2.27, 2.28).

Carried interest

FB 2018 will include legislation to remove, with immediate effect, the transitional commencement provisions which apply to carried interest arising in connection with asset disposals before certain dates in 2015. The commencement provisions relate to carried interest arising to an investment manager in connection with a disposal of partnership assets before 8 July 2015 and the application of provisions in the disguised investment management fee rules which determine the time at which amounts of carried interest arise to a manage. The transitional rules will not apply to carried interest arising on or after 22 November 2017.

See: Autumn Budget 2017 (para 3.75), OOTLAR (para 1.29), and TIIN, draft legislation and explanatory notes: CGT: carried interest.

CGT annual exempt amount

The CGT annual allowance will be increased in 2018/19 in accordance with the table below:

	2017/18	2018/19
Annual allowance for individuals, personal representatives and trustees for disabled individuals	£11,300	£11,700
Annual allowance for other trustees	£5,650	£5,850

These increases are in line with CPI.

See: OOTLAR (para 2.33).

Certificate of tax deposit scheme

The certificate of tax deposit scheme allowed tax payers to deposit money with HMRC and use it later to pay certain tax liabilities. Deposits held under the scheme earnt daily interest for up to six years.

It will no longer be possible to purchase new certificates from 23 November 2017 although existing certificates will continue to be honoured until 23 November 2023. Any certificates remaining after this date should be promptly submitted to HMRC for a refund and, thereafter, HMRC will seek to repay the balance of any certificate which remains unpaid and unclaimed. If HMRC is unable to repay the balance of any certificate which remains unpaid and unclaimed (for example, because it is unable to contact the current certificate holder after reasonable effort) it will regard the balance as forfeited.

See: Autumn Budget 2017 (para 3.85) and OOTLAR (para 2.71).

CGT payment window for residential property

The government has confirmed its intention, announced at Autumn Statement 2015, to reduce the payment window for CGT charged on residential property (other than where it is not chargeable due to principal private residence relief) to within 30 days of completion of the disposal, but has deferred the introduction of the measure to April 2020 (from April 2019 as originally announced). Legislation had been expected in Finance Bill 2017.

See: Autumn Budget 2017 (para 3.19) and OOTLAR (para 2.34).

Corporate interest restriction

Some technical amendments are being made to the corporate interest restriction rules (CIR) that were brought in by F(No. 2)A 2017. The changes result from discussions with business and aim to ensure that the restriction regime works as intended. Some of the changes will take effect retrospectively from 1 April 2017 (in line with the main rules), and others from 1 January 2018.

FB 2018 and FB 2019 will make amendments to:

- the rules around relevant derivative contract debits and credits (which feed into the definitions of tax-interest and group-interest) to ensure that derivatives which hedge a financial trade that is not a banking business are not inappropriately taken out of the CIR by the exclusion for derivatives hedging trading risks (TIOPA 2010 ss 384, 387, 411–412)
- the calculation of group-EBITDA, to align the treatment of R&D expenditure credits with the approach taken in the calculation of tax-EBITDA (TIOPA 2010 s 416)
- various aspects of the infrastructure rules, to:
  - ensure that insignificant amounts of non-taxable income do not affect the operation of the exclusion (TIOPA 2010, ss 433, 436);
  - change the time limit for making an election to be a qualifying infrastructure company to the last day of the accounting period where the election would first apply (TIOPA 2010 s 434);
  - prevent a third party which acquires an asset from a qualifying infrastructure company from being automatically treated as making an election to be a qualifying infrastructure company (TIOPA 2010 s 434);
  - ensure that the limitation on relief for related party interest cannot be avoided by using a conduit company to provide the finance (TIOPA 2010 s 438);
  - the definition of a group, to align it with accounting standards and to ensure that asset managers do not cause otherwise unrelated businesses to be grouped together (TIOPA 2010 s 475); and
  - the administrative rules, so that when an interest restriction return is submitted companies will be required to amend their company tax returns if their tax position has changed as a result (TIOPA 2010 Sch 7A para 70).

See: OOTLAR (para 1.20) and TIIN: Corporation tax: amendments to the corporate interest restriction rules.

Corporate capital gains on foreign branch incorporations

FB 2018 will include a relieving provision, taking effect for disposals of shares or securities on or after Budget Day (22 November 2017), to remove an 'unintended' corporation tax charge that can arise following a foreign branch incorporation. The potential charge is a result of the complex interaction between the rules on share exchanges and reconstructions, the substantial shareholdings exemption (SSE), and the rules postponing a tax charge on a foreign branch incorporation (TCGA 1992 s 140).

When a UK company transfers the assets of a foreign branch to a non-UK resident company in exchange for shares in that company, and the assets are standing at a gain, the UK company can make a claim under TCGA 1992 s 140 to postpone the corporation tax that would otherwise arise on that gain. There are a number of subsequent corporate actions which can cause the postponed tax to come into charge, including where the UK company disposes of its shares in the non-UK company. If this disposal takes place as part of a share exchange or reconstruction, this should not be treated as a disposal for these purposes (through the operation of TCGA 1992 ss 127, 135 and 136). However, if the disposal qualifies for the SSE, the SSE rules switch off the 'no disposal' treatment, so that potentially the postponed tax comes into charge.

The government describes this outcome as an anomaly and will rectify it by amending the legislation so that 'no disposal' treatment applies in these circumstances, irrespective of the SSE rules.

The measure has been introduced following representations from affected businesses. The government has stated that the existing rules are a particular problem for finance businesses that have traditionally operated through a network of foreign branches, and which need to restructure, for example to meet changing regulatory requirements in the territories where they conduct their business.

See: Autumn Budget 2017 (para 3.35), OOTLAR (para 1.32) and TIIN: Corporation tax: capital gains assets transferred to non-resident company – reorganisations of share capital.

Corporation tax on non-UK resident companies' UK property income and gains

Following an announcement at Autumn Statement 2016 and a consultation at Spring Budget 2017, the government has confirmed that it intends to introduce corporation tax on non-UK resident companies' UK property income and on their gains from disposals of UK residential property, replacing the current income tax and CGT charges. The changes will take effect from April 2020. The government plans to publish draft legislation for consultation in summer 2018, and given the proposed implementation date, the final legislation may be intended for Finance Act 2020.

This measure follows the introduction in 2016 of a corporation tax charge on companies that deal in or develop UK land. It is a further erosion of the principle that non-UK resident companies do not pay corporation tax unless they trade in the UK though a UK permanent establishment.

See: Autumn Budget 2017 (para 3.32) and OOTLAR (para 2.32).

Depreciatory transactions

The government has announced that FB 2018 will contain provisions removing the six-year time limit that currently limits the scope of the depreciatory transaction rules.

Currently, where a company claims a capital loss on the disposal of shares or securities in a subsidiary, it is required to adjust its calculation for any depreciatory transactions that materially reduced the value of those shares or securities within the six years prior to the disposal. The change will remove the time limit on the look-back so that any depreciatory transactions taking place on or after 31 March 1982 would need to be taken into account. The aim is to ensure that any losses claimed by a group are in line with the genuine economic loss suffered and to prevent groups circumventing the depreciatory transactions rules by simply holding on to a subsidiary for six years.

The removal of the time limit applies to disposals made on or after 22 November 2017, although an earlier commencement date will apply where a negligible value claim is made on or after 22 November 2017 and, pursuant to that claim, a disposal is treated as taking place prior to that date.

See: Autumn Budget 2017 (para 3.74), OOTLAR (para 1.30) and TIIN, draft legislation and explanatory notes: Corporation tax: capital gains depreciatory transactions within a group.

Digital economy and corporate tax

The government has published a position paper on corporate tax and the digital economy. The paper explores how the international tax framework currently works (reflected in the OECD model tax convention), the challenges to the current framework (including the continued risk of base erosion and profit sharing) and whether the framework is flexible enough to deal with how digital businesses operate and generate value.

The government believes that a multinational group's profits should be taxed in the countries in which it generates value. It recognizes that many digital businesses that operate in markets through an online platform rely on their users (who may or may not be the business's consumers) to generate revenue and create value for the business through their active participation in the platform. Examples given include users of a free social media platform that generates revenue from advertising directed at UK users and online marketplaces that generate revenue from matching suppliers and purchasers. This 'user generated value' is not captured under the existing international tax framework and the paper suggests that it should be given more weight when allocating profits between countries for tax purposes.

The government intends to push for reforms to the international tax framework and pending such reform, explore interim options to raise revenue from digital businesses that generate value from UK users. It believes that the interim report of the OECD task force on the digital economy (due to be presented next year) should consider these points and outline a multilateral process to resolve them. In the meantime, it suggests exploring a tax on revenues that businesses generate from the provision of digital services to the UK market.

The government is inviting comments on its suggested approach by 31 January 2018.

In order to prevent under taxation the government will also extend UK withholding tax to cover royalties paid, in connection with sales to UK customers, to no or low tax jurisdictions (see: Withholding tax on royalties) and has announced further action to stop online VAT fraud (see: Online VAT fraud).

See: Autumn Budget 2017 (para 3.38), OOTLAR (para 2.64) and Corporate tax and the digital economy: position paper.

Digital platforms

Future development: As an apparent corollary to the government's making tax digital (MTD) programme, the chancellor's speech indicated an expectation that digital platforms should and will play a wider role in ensuring their users are compliant with the tax rules.

With that in mind, the government has announced it will explore with digital platforms how their business operating models work and what opportunities there are to promote better tax compliance by their users. No specific details of the government approach were indicated but they will make a call for evidence in spring 2018 on what more digital platforms could do to prevent non-compliance among their users.

The principle to be pursued is to ensure digital platforms play a wider role in ensuring that their users are compliant with the tax rules and to minimise opportunities for their users to unfairly undercut businesses that comply with their tax obligations.

See: Autumn Budget 2017 (para 3.82) and OOTLAR (para 2.73).

Disguised remuneration

The government has confirmed the final part of the package of amendments to the disguised remuneration regime that was originally announced at Budget 2016. Provisions will be included in FB 2018 to:

- make changes to the new close companies gateway, which originally formed part of FB 2017 but, as announced at Spring Budget 2017, was delayed for implementation until 6 April 2018 in order to allow time for further consultation. The gateway will be revised to clarify how the regime applies to the remuneration of employees and directors who have a material interest in their close company employer and to put beyond doubt that ITEPA 2003 Part 7A applies regardless of whether contributions to disguised remuneration avoidance schemes should previously have been taxed as employment income. This change will involve an amendment to ITEPA 2003 s 554A and will have effect from 22 November 2017; and

- make further revisions to the provisions which impose charges on disguised remuneration loans outstanding on April 2019. These provisions were originally announced at Budget 2016 and are included in F(No. 2) A 2017. They will now be amended to include new obligations on affected employees and self-employed individuals to notify their employer and HMRC by 1 October 2019 of certain loan charge information between April 2019 and October 2019. There will also be an amendment to ITEPA 2003 s 689 to ensure that an employee who benefitted from the disguised remuneration avoidance scheme is liable for the tax arising on the loan charge where their employer is based offshore. These changes will take effect from royal assent to FB 2018.

See: Autumn Budget 2017 (para 3.71), OOTLAR (para 1.14), TIIN: Disguised remuneration: further update, and Draft clause.

Disincorporation relief

The government has announced that it will not be extending disincorporation relief beyond its 31 March 2018 expiry date. This date is already enacted, so no legislation is required as a result of this announcement.

Finance Act 2013 ss 58–61 provide that, with effect for disincorporations between 1 April 2013 and 31 March 2018 inclusive, joint claims may be made by a company and its shareholders to allow goodwill or interests in land not held as trading stock to be transferred at a reduced value so that no corporation tax will be payable by the company on the transfer. Relief is restricted to cases where the market value of the assets does not exceed £100,000.

Disincorporation relief was introduced following research by the Office of Tax Simplification (OTS) into small businesses that may feel trapped in a more onerous tax regime for companies and that may welcome moving to a simpler business form. The OTS drew attention, in a focus paper published on 26 July 2017, to the low take-up of the relief, with only 50 claims having been made up to March 2016. The OTS reported that there is still an appetite for small businesses to disincorporate, and suggested ways that the relief could be improved to increase take-up.

There is no explanation for the Autumn Budget 2017 announcement that the relief will be allowed to expire, although it seems safe to assume that the decision is connected with the very low number of claims.

See: OOTLAR (para 2.23).

Double tax relief

Targeted anti avoidance rule changes

FB 2018 will modify the double tax relief anti avoidance rules in TIOPA 2010, ss 81–95 (referred to by the government as the DTR targeted anti avoidance rule, or TAAR). These rules restrict credit for foreign taxes where a person has entered into a scheme or arrangement that falls within certain statutory definitions and that has as its main purpose, or one of its main purposes, to enable the person to claim more than a minimal amount of foreign tax credits. Where these rules apply, HMRC is entitled to serve a counteraction notice on the person which requires them to amend their tax return for the relevant period.

FB 2018 will make two changes to these rules:

- to remove the need for HMRC to give a counteraction notice before the TAAR applies – this will take effect from 1 April 2018; and
- to extend the scope of one of the categories of scheme to which the TAAR applies, so that when determining whether a scheme has reduced a person's UK tax liability, tax payable by connected persons is also taken into account – this takes immediate effect (22 November 2017).

See: OOTLAR (para 1.43) and TIIN, draft clause and draft explanatory notes: Double taxation relief: changes to targeted anti-avoidance rule.

Permanent establishment losses

The government is introducing a new anti-avoidance provision with immediate effect to prevent UK resident companies from obtaining relief for foreign tax where a foreign permanent establishment (PE) has losses that are relieved against non-PE profits in the foreign jurisdiction.

FB 2018 will introduce new ss 71A and 71B in TIOPA 2010. The effect of the measure is to reduce the amount of 'foreign tax paid' (but not below nil) when a company is determining the amount of credit relief or deduction a UK company is entitled to in calculating its corporation tax liability. The reduction applies in circumstances where:

- a loss of the PE is allowed against amounts of a person other than the UK company and as a result is a decrease in the tax chargeable in respect of the foreign tax period; or
- a loss of the PE is allowed against amounts other than amounts of the PE in circumstances where the foreign territory taxes profits of the PE and other persons in aggregate, e.g. a tax consolidation arrangement.

The amount of the reduction is the sum of:

- the amount of the decrease in tax chargeable in the foreign territory; and
- an amount of excess carried forward from earlier periods, reflecting the extent to which losses of the PE have been relieved against other amounts in the foreign territory in earlier periods.

These new provisions are not intended to apply where the Hybrid and other mismatches rules counteracts a deduction or allowance that would otherwise be within these new double tax relief rules.

The provisions come into effect for accounting periods beginning on or after 22 November 2017, with straddle periods being divided into two notional accounting periods.

See: Autumn Budget 2017 (para 3.76), OOTLAR (para 1.21) and TIIN, draft legislation and explanatory note: Corporation tax: double taxation relief and permanent establishment losses.

EIS funds and VCTs

Knowledge intensive EIS fund structure

Future development: The government will consult in 2018 on a new knowledge intensive EIS fund structure with further incentives that would enable the use of capital over a long period (as part of the government's response to the patient capital review).

See: OOTLAR (para 2.10).

Artificial inflation of share prices

Future development: The government will continue to monitor whether the EIS funds and VCTs are causing artificial inflation of share prices and the use of structures involving liquidity preferences, taking action against behaviours against the spirit of the schemes if necessary.

See: Consultation response: Financing growth in innovative firms (para 3.19).

Employee business expenses

As announced at Autumn Statement 2016, the government issued a call for evidence on the taxation of employee expenses on 20 March 2017. The government's formal response will be published on 1 December 2017.

As part of the wider response, the following measures were announced:

- Subsistence benchmark scale rates: FB 2019 will legislate the existing concessionary travel and subsistence overseas scale rates in order to provide certainty to employers. In addition, FB 2019 will include provisions so that employers will no longer be required to check receipts when paying employees for subsistence using either benchmark rates. Employers will only be required to ensure employees are undertaking qualifying travel. This administrative easement will only apply to standard meal allowances paid in respect of qualifying travel or the newly legislated overseas scale rates. *See: Autumn Budget 2017 (para 3.14) and OOTLAR (paras 2.17 and 2.18).*
- Self-funded training: the government will consult in 2018 on extending the scope of tax relief currently available to employees and the self-employed for work-related training costs. *See: Autumn Budget 2017 (para 3.14) and OOTLAR (para 2.20).*
- Guidance and claims process for employee expenses: HMRC will work with external stakeholders to explore improvements to the guidance on employee expenses (particularly on travel and subsistence) and the claims process for tax relief on employee expenses. The aim is to increase simplicity and improve awareness of the process. *See: Autumn Budget 2017 (para 3.14) and OOTLAR (para 2.19).*

Employment status discussion paper

Future development: The government will publish a consultation paper on options for reforming and improving the employment status tests for both employment rights and tax purposes. This consultation will form part of the government's response to the Taylor review of modern working practices.

See: Autumn Budget 2017 (para 3.8) and OOTLAR (para 2.21).

Entrepreneurs' relief after dilution of holdings

Entrepreneurs' relief is a CGT relief designed to encourage individuals to set up and expand their own businesses. Where the conditions are satisfied, the relief reduces the rate of CGT on the sale of certain business assets to 10%.

The government has announced that it will consult on how to enable individuals to access entrepreneurs' relief where their company holding is reduced below the 5% qualifying level following a new share issue that is undertaken to raise funds from external investment. The stated aim of extending the relief in these circumstances is to encourage entrepreneurs to remain involved in their business even after obtaining external funding and the consultation will take place in spring 2018.

It seems plausible that this consultation comes off the back of the perceived injustice of the recent decision of the Upper Tribunal in *McQuillan* [2017] UKUT 344. In that case, the taxpayers were denied entrepreneurs' relief because their shareholdings had been diluted as a result of the existence of other shares that had started out as a loan, but as a pre-condition of obtaining a government grant had been converted, whilst retaining their original economic substance.

See: OOTLAR (para 2.36).

Gift aid

At Autumn Statement 2014, the government announced a comprehensive review of the rules governing the benefits that charitable donors can receive as a consequence of a gift aid-eligible donation (the donor benefit rules). A consultation ran from 18 February to 12 May 2016, which set out some simplification options. As a result of the responses to that consultation, the government announced a second consultation which remained open until 3 February 2017.

Gift aid provides additional funding to charities which helps them to achieve their charitable objectives and provide support to the communities they serve. The government has recognised the value of gift aid and recent improvements included the introduction of online filing and the introduction of a shorter, simpler gift aid declaration form.

A fundamental principle of gift aid is that relief can only be claimed on money that is freely donated, ie a genuine gift. Rules were introduced allowing certain benefits to be given to donors as a 'thank you'. Provided those benefits fall within prescribed monetary limits, gift aid can be claimed on the full amount of a donation. Those benefits were:

- up to £100, the value of the benefit can equate to a total of 25% of the donation;
- between £100 and £1,000, the value of the benefit is capped at £25; and
- over £1,000, the value of the benefit can equate to a total of 5% of the donation, up to a maximum annual benefit value of £2,500.

An 'admissions disregard' is available to certain heritage charities. If a donor pays an additional 10% ('the 10% rule') on a standard admission ticket, or the charity provides access to the building for the full year ('the 12 month rule'), the charity can claim gift aid on the full amount paid.

Additionally, while not included in legislation, HMRC permitted a select number of Extra Statutory Concessions that give charities some prescribed flexibility to provide benefits above and beyond the strict limits, namely:

- the split payment rule;
- the averaging method;
- the ten year rule for a 'lifetime' benefit; and
- where literature is of inconsequential value.

The responses to the consultation did not indicate a clear preference as to a simplification solution to the benefit limits but the government has now proposed a two threshold system based on rates of:

- 25% of the first £100 of a donation; or
- for larger donations, charities will be able to offer an additional benefit to donors up to 5% of the amount of the donation that exceeds £100,
- up to a maximum annual benefit value of £2,500.

Following the review of the gift aid donor benefit rules, the chancellor's speech indicated that the current three monetary thresholds listed above will be reduced to two, while all existing extra-statutory concessions will be legislated, coming into force with effect from 6 April 2019.

See: Autumn Budget 2017 (para 3.20) and OOTLAR (para 2.5).

Hidden economy: conditionality

Future development: The government consulted in autumn 2016, as part of its proposals to tackle the hidden economy, on new rules to make access to certain licences or business services conditional on being registered for tax. A further consultation will be published in December 2017, with any changes to be legislated in a 'future Finance Bill'.

See: Autumn Budget 2017 (3.69) and OOTLAR (para 2.68).

HMRC: additional investment

The government is investing a further £155m in additional resources and new technology for HMRC and that this investment is forecast to help bring in £2.3bn of additional tax revenues by allowing HMRC to:

- tackle the hidden economy through new technology;
- tackle those engaged in marketed tax avoidance schemes;
- enhance efforts to tackle enablers of tax fraud and hold intermediaries accountable for the services they provides using the corporate criminal offence ;
- increase their ability to tackle non-compliance among mid-size businesses and wealthy individuals; and
- recover greater amounts of tax debt.

This investment in HMRC appears a marked change from the plethora of headlines last year regarding HMRC cuts leading to a collapse in service. However, clearly it supports the government's continued campaign to tackle tax avoidance, tax evasion and non-compliance. It is to be expected that wealthy individuals are singled out, amongst others, as well as the new strict liability corporate criminal offences mentioned.

See: Autumn Budget 2017 (para 3.88).

Hybrid mismatch rules

FB 2018 will include legislation making minor amendments to the hybrid rules. The changes were identified as necessary following informal consultation with stakeholders and are not intended to make any changes to the scope of the regime but are meant to clarify when and how the rules apply and to ensure they operate as intended. The amendments will broadly do the following:

- disregard taxes charged at a nil rate;
- clarify the scope of the legislation in relation to multinational companies;
- take capital taxes into account in relation to hybrid instruments, hybrid transfers and CFCs
- apply a proportional counteraction to entities which are seen as hybrids by some investors, but as transparent by others;
- clarify that withholding taxes are to be ignored for the purposes of the regime;
- take account of certain transactions, which do not generate a tax deduction for the payer but give rise to a taxable receipt for the payee, when quantifying certain mismatches;
- align the imported mismatch rules with the other chapters by confirming that dual inclusion income can be taken into account in certain circumstances; and
- take into account certain accounting adjustments which effectively reverse counteracted hybrid mismatches in earlier periods.

The changes relating to taxes charged at a nil rate and multinational companies take effect from 1 January 2018. The remaining changes apply from 1 January 2017, when the regime was introduced.

See: Autumn Budget 2017 (para 3.36), OOTLAR (para 1.22), and TIIN: Corporation Tax: amendments to the hybrid and other mismatches regime.

Indexation allowance: corporate capital gains

The government has announced that indexation allowance, which has been available to reduce the chargeable gains of companies on account of inflation, will be frozen from 1 January 2018. Any disposal on or after that date will be entitled only to the indexation allowance that would be due based on the RPI for December 2017.

The removal of this relief is designed to bring the UK into line with other major economies and broaden the tax base. Legislation will be included in FB 2018.

See: Autumn Budget 2017 (para 3.31), OOTLAR (para 1.31) and TIIN: Corporation Tax: removal of capital gains indexation allowance from 1 January 2018.

Insolvency and phoenixism

Future development: The government will publish a discussion document in 2018 on the use of the insolvency regime to avoid or evade taxes, including through the use of phoenixism. This follows the introduction, by FA 2016, of the 'phoenix TAAR' (ITTOIA 2005 s 396B), which is mainly aimed at solvent liquidations.

See: OOTLAR (para 2.69)

Intangible fixed assets: related party step-up schemes

FB 2018 will include legislation ensuring that the market value rule applies to related party licence arrangements in respect of intangible fixed assets. This measure is aimed at preventing 'step-up' avoidance schemes, which work by creating an increase in the transaction value between the amount recognised by the licensor and the licensee. Legislation was included in Finance (No. 2) Act 2015 to counter step-up avoidance schemes involving a transfer of intangible fixed assets and this measure extends those provisions to the grant of a licence between related parties.

FB 2018 will also include related legislation confirming that all disposals involving non-cash consideration are taxed in line with those involving cash consideration. The revisions ensure that the market value of the non-cash consideration is recognised for accounting purposes. This measure applies to all disposals and not just licensing arrangements.

The measures have immediate effect, applying to transactions occurring on or after 22 November 2017.

See: Autumn Budget 2017 (para 3.73), OOTLAR (para 1.23) and TIIN, draft legislation and explanatory notes: Corporation Tax: intangible fixed assets–related party step-up schemes.

Intangible fixed asset regime: consultation

Future development: The government will consult in 2018 on the tax treatment of intellectual property, focusing on whether any targeted changes are necessary to support investment in intellectual property.

See: Autumn Budget 2017 (para 3.37) and OOTLAR (para 2.31).

ISA annual subscription limits

The ISA annual subscription limit will remain unchanged in 2020/21 at £20,000. However, the annual subscription limit for junior ISAs and child trust funds will be increased in line with CPI from £4,128 to £4,260.

See: Autumn Budget 2017 (3.22) and OOTLAR (para 2.12).

Late submission and late payment sanctions

Following a series of earlier consultations, with the most recent being that published on 20 March 2017, the government has confirmed that:

- in relation to late submission sanctions, it intends to proceed with a points-based model, i.e. where a failure

to meet a submission deadline incurs a penalty point and when the number of points reaches a threshold (as yet undetermined), a financial penalty is incurred. There will be a consultation on draft legislation in Summer 2018 but no implementation date has yet been set; and
- in relation to late payment sanctions, the government intends to publish a new consultation on whether to simplify and harmonise penalties and interest with decisions on both measures to be taken only after that consultation, having stated in the 20 March consultation that it would proceed with plans to introduce penalty interest for late payment of corporation tax, income tax and VAT.

Further detail may be expected in the response document and new consultation, which are expected to be published on 1 December 2017.

See Autumn Budget 2017 (para 3.84) and OOTLAR (para 2.70).

Leasing: accounting changes

Future development: The government will publish two consultations on 1 December 2017 relating to the tax treatment of leasing. The first consultation will look at the impact of the introduction of IFRS 16 (a new accounting standard for leasing which takes effect from 1 January 2019) on income and corporation tax generally and also explore any changes required to ensure the rules that apply to leased plant and machinery continue to work as before. The second consultation will evaluate options for the corporation tax treatment of lease payments under the new corporate interest restriction.

See: OOTLAR (para 2.26).

Life assurance and overseas pension schemes

In broad terms, contributions by individuals and their employers into registered pension schemes are exempt from income tax and corporation tax (subject to the annual and lifetime allowances). At Autumn Budget 2017, the chancellor announced that tax relief for employer premiums paid into life assurance products or certain overseas pension schemes will be modernised. The updated rules will extend the existing exemption to cover policies when an employee nominates any individual or registered charity as their beneficiary.

This measure will be included in Finance Bill 2018–19 and will take effect from 6 April 2019.

See: Autumn Budget 2017 (para 3.25) and OOTLAR (para 2.22).

Lifetime allowance for pensions

The lifetime allowance for pensions sets the limit on the maximum amount of pension savings that can benefit from tax relief in a pension scheme during an individual's lifetime. The limit is set on the total value of an individual's retirement benefits from all pension schemes of which they are a member. The lifetime allowance has previously been reduced from the 2010/11 level of £1.8m to £1.5m in 2012/13, to £1.25m in 2014/15 and to £1m in 2016/17.

At Autumn Budget 2017, the Chancellor confirmed the announcement made at Spring Budget 2015 that the lifetime allowance for pension savings will rise from its current level of £1m to £1,030,000 with effect from 6 April 2018. This increase is in line with CPI.

See: Autumn Budget 2017 (para 3.23) and OOTLAR (para 1.19).

Making tax digital timetable

The Budget speech was long on congratulations for the UK's position in leading the way in technology, so it was probably through gritted teeth the chancellor in his speech confirmed the contents of the written ministerial statement made on 13 July 2017.

The intention of making tax digital (MTD) is to help bring the tax system into the 21st century by providing businesses with a modern, streamlined system to keep their tax records and provide information to HMRC. However, it was conceded that while digitalisation is the right direction of travel, there were understandable worries about the scope and pace of reforms and that time was required to see how MTD worked.

In those circumstances the chancellor's speech has confirmed that the timetable is as follows:

- only businesses with a turnover above the VAT threshold (confirmed in the chancellor's speech at £85,000) will have to keep digital records and only for VAT purposes;
- they will only need to do so from 2019; and
- businesses will not be asked to keep digital records, or to update HMRC quarterly, for other taxes until at least 2020.

See: Autumn Budget 2017 (para 3.83) and OOTLAR (para 2.72).

Marriage allowance

The chancellor announced a measure to allow claims to be made for the marriage allowance on behalf of deceased spouses and civil partners and for such claims to be backdated for up to four years in certain circumstances.

The marriage allowance (also known as the transferable tax allowance) was introduced with effect from 6 April 2015 and serves as a tax incentive for those who do not qualify for the married couple's allowance. It allows individuals to transfer 10% of their personal allowance to their spouse or civil partner provided that the recipient spouse or civil partner is not a higher rate or additional rate taxpayer.

The current legislation contained in ITA 2007 ss 55A–55E does not allow the marriage allowance to be claimed on behalf of deceased individuals. However, with effect from 29 November 2017, the legislation will be amended to enable an individual whose spouse or civil partner has died to claim the marriage allowance and for the claim to be backdated for up to four years.

See: Autumn Budget 2017 (para 3.6), OOTLAR (para 1.2) and Policy paper: Income tax: marriage allowance claims on behalf of deceased partners.

Master trust tax registration

Pre-announced: The draft provisions published on 13 September 2017, which extend HMRC's registration and de-registration powers in relation to master trust pension schemes and schemes with a dormant sponsoring employer, will be included in FB 2018 unchanged following consultation. The provisions will take effect from 6 April 2018.

See: OOTLAR (para 1.18).

Mileage allowance for unincorporated landlords

Legislation will be included in Finance Bill 2018 to allow landlords to use the fixed rate deduction for mileage. This will be available from 6 April 2017.

This corrects an anomaly that arose following the codification of the flat rate mileage allowance that took effect from 6 April 2013. Prior to this date, it was HMRC practice to allow unincorporated businesses with turnover under the VAT threshold to claim relief on vehicle expenses via a flat mileage rate. This was the mileage rate used by employees for the use of their own car.

However, when this measure was put on a statutory basis (in ITTOIA 2005 s 94F), it only applied to trades, professions and vocations. The new statutory allowance was not available to property businesses and HMRC did not issue subsequent guidance indicating that it would continue to accept a flat mileage allowance claimed by a property business. This meant that landlords strictly following HMRC's guidance could only claim a proportion of running costs actually incurred, in accordance with HMRC's *Property Income Manual* at PIM2210.

See: Autumn Budget 2017 (para 3.12).

National living wage

The national living wage will be increased to £7.83 per hour from April 2018. The following table shows all minimum wage rates for all age groups:

Category	Current rate	New rate from 1 April 2018
Workers 25 and over	£7.50 per hour	£7.83 per hour
21–24 year olds	£7.05 per hour	£7.38 per hour
18–20 year olds	£5.60 per hour	£5.90 per hour
16–17 year olds	£4.05 per hour	£4.20 per hour
Apprentices	£3.50 per hour	£3.70 per hour

NICs Bill

Pre-announced: As announced on 2 November 2017, the NICs Bill will be introduced in 2018 with its measures taking effect from 2019. This delay, to ensure there is sufficient time to work with Parliament and stakeholders on the detail of the Bill, results in the changes to the three main measures (being the abolition of class 2 NICs, changes to the NICs treatment of sporting testimonials and reforms to the NICs treatment of termination payments) being delayed by one year from the original proposals.

See: Autumn Budget 2017 (para 3.10) and OOTLAR (para 2.13).

NICs employment allowance

Future development: The government has discovered evidence of some employers abusing the employment allowance, often by using offshore arrangements. From 2018, HMRC will require up-front security from employers with a history of avoiding paying NICs in this way.

See: Autumn Budget 2017 (para 3.70).

Non-residents: gains on immovable property

Legislation will be included in FB 2019 taxing gains made by non-residents on immovable property from April 2019. This measure will extend existing rules that apply only to residential property: CGT on ATED–related gains and non-resident CGT (NRCGT).

The new rules will create a single regime for disposals of interests in both residential and non-residential property, introducing a new charge for gains on disposals of commercial property and extending the rules for residential property to indirect sales and disposals made by widely-held companies, i.e. companies that are not close companies. For indirect disposals, there will be a reporting requirement on certain UK third-party advisors who have sufficient knowledge of the transaction. This will be in addition to the obligation on the person making the disposal.

The new rules will also be protected by a broad targeted anti-avoidance rule, that is likely to capture all aspects of the indirect charge, and any provisions in the new direct charge that are not subject to existing anti-avoidance provisions for chargeable gains.

The government has published a consultation on the changes which runs until 16 February 2018. In recognition of the fact that there is significant investment by non-residents in UK commercial property through collective investment vehicles, the government is inviting comments from institutional investors on the measures. It intends to include a targeted exemption for institutional investors such as pension funds.

The changes will have effect on and after 1 April 2019 for companies, and on and after 6 April 2019 for those subject to CGT. An anti-forestalling rule will apply to certain arrangements entered into on or after 22 November 2017, in order to counteract arrangements that seek to avoid the new charge by exploiting provisions in certain double tax treaties.

See: Autumn Budget 2017 (para 3.30), OOTLAR (para 2.35), Consultation document: Taxing gains made by non-residents on UK immovable property and Technical Note: Taxing gains made by non-residents on UK immovable property.

Northern Ireland corporation tax

Future development: The government remains reconfirmed its commitment to a Northern Ireland rate of corporation tax once a restored Northern Ireland Executive has demonstrated that its finances are on a sustainable footing, suggesting that an announcement in 2018/19 on implementing the regime is potentially possible. The Northern Ireland Executive had previously committed to a rate of 12.5% from April 2018.

See: Autumn Budget 2017 (para 4.90).

Oil and gas

Following a consultation in spring 2017, the government intends to legislate to enable sellers of oil and gas fields to transfer some of their tax payment histories to the buyers of those fields. This is intended to facilitate the transfer of these assets by enabling buyers to set the costs of decommissioning oil and gas fields at the end of their lives against the sellers' tax histories. Draft legislation will be published in spring 2018 for inclusion in FB 2019, with the intention that the measures will take effect from 1 November 2018.

The government will consult in spring 2018 on allowing a petroleum revenue tax (PRT) deduction for decommissioning costs incurred by a previous licence holder, to support transfers of assets where the seller retains the decommissioning liability.

In addition, FB 2018 will make it clear that all tariff income (income earned from third parties for the use of assets, such as pipelines) is within the ring fence corporation tax regime. This change will take effect for accounting periods beginning on or after 1 January 2018 and is intended to support the government's commitment to extend investment and cluster allowances to include tariff income.

See: Autumn Budget 2017 (paras 3.54, 3.55 and 3.56), OOTLAR (paras 2.29 and 2.30),TIIN: Ring fence corporation tax: tariff receipts and HM Treasury policy paper: An outline of transferable tax history.

Off-payroll working in the private sector

Future development: Following the April 2017 extension of the IR35 rules to off-payroll workers in the public sector, the government is to consider how best to tackle non-compliance with IR35 in the private sector. It will consult on the issue in 2018, with one possible option being extending the public sector reforms to the private sector. The consultation will draw on the experience of the public sector reforms as well as external research already commissioned by the government (which is due to be published in early 2018).

See: Autumn Budget 2017 (para 3.7) and OOTLAR (para 1.15).

Offshore non-compliance: extension of time limits

Future development: The government will hold a consultation in Spring 2018 to seek public input on extending the time limits for assessing all offshore cases to at least 12 years where non-compliant behaviour is involved. The current time limits are usually four, six or 20 years depending on the behaviour that led to the non-compliance. It can take longer to establish the facts where offshore non-compliance is involved but, at the moment, time limits for onshore and offshore cases are the same. For offshore non-compliance, the time limit will be extended to at least 12 years, whether or not the behaviour is deliberate, to give more time to investigate offshore non-compliance. Where there is deliberate behaviour, the time limit for both onshore and offshore cases will remain at 20 years.

See: Autumn Budget 2017 (para 3.67), OOTLAR (para 2.67).

Offshore structures: requirement to notify HMRC

Future development: The government will publish a response on 1 December 2017 to a consultation that ran until February 2017 which explored a proposal to require businesses or intermediaries creating or promoting certain types of complex offshore financial arrangements to notify HMRC about these structures and provide details of their clients. Responses to the consultation will be fed into similar work that is being undertaken by the OECD and the EU.

See: Autumn Budget 2017 (para 3.66), OOTLAR (para 2.66).

Offshore trusts: anti-avoidance

The government will legislate in FB 2018 to introduce new anti-avoidance rules that relate to the taxation of income and gains accruing to offshore trusts. This measure, originally announced in December 2016, ensures that payments from an offshore trust intended for a UK resident individual do not escape tax when they are made via an overseas beneficiary or a remittance basis user.

The government published a TIIN and draft legislation on 13 September 2017. Although revised legislation has not been published with the Autumn Budget 2017, the OOTLAR states that minor changes have been made to the legislation, including to ensure that the onward gift rules can apply if the close family member rule applies, to clarify the position in the year of the settlor's death and in relation to onward gifts to multiple recipients. The changes will take effect from 6 April 2018.

See: OOTLAR (para 1.4) and TIIN, draft legislation and explanatory note: Offshore trusts: anti-avoidance (13 September 2017).

Partnership taxation

Pre-announced: As previously announced, legislation will be introduced in the Finance Bill 2018 to clarify the tax treatment of partnership income. The changes have been widely trailed, following on from extensive consultation which started in 2016.

The draft legislation introduces five changes, which will take effect from 2018/19, as follows:

Change	Comment
- Where a partner is acting as a nominee for another person in a bare trust capacity, it is the beneficiary who will be treated as the partner for tax purposes. - Where a partner in a partnership (P1) is itself a partnership (P2), for tax purposes the partners of P2 are deemed to be partners of P1. If there is a further partnership layer(s), the legislation keeps looking through until it finds the ultimate partners.	These two provisions are designed to put beyond doubt the tax treatment of partnership profits in these situations. Part of the driver is to make it easier to determine who is taxable on the partnership profits to facilitate reporting under making tax digital.
Unless the details of the ultimate partners have been provided to HMRC, partnership P1 will be required to show the partnership profit allocated to partnership P2 on four possible bases of assessment: UK resident individual; non-UK resident individual; UK resident company; non-UK resident company.	Where HMRC is aware of the full details of the ultimate partners, including the residence status for the relevant period, the partnership P1 need only report partnership P2's profit share on the basis or bases of assessment which are appropriate to the ultimate partners.
The partner profit allocations reported on the partnership tax return will be considered final for tax purposes.	This change may have been prompted by some recent tax cases to which HMRC has been a party despite the dispute essentially being between the partner and the partnership on the allocation of profit. There will be a new mechanism to refer profit allocation disputes to the Tribunal. If there is any change to the profit allocation as a result, HMRC will amend the relevant returns accordingly.
UK tax return reporting requirements will be relaxed for investment partnerships which are classed as 'reporting financial institutions' for the purposes of the common reporting standard (CRS).	These partnerships will not need to provide the unique taxpayer reference (UTR) for a partner that is not chargeable to UK income tax or UK corporation tax. Only the name of the partner and their profit allocation will need to be provided on the partnership tax return. Respondents to the consultation suggested that a different partnership tax return be available for investment partnerships, due to the difficulties in reporting certain income and expenses into the boxes on the existing partnership tax return, but this idea was rejected by the government.

The changes are designed to clarify the current partnership profit allocation and reporting requirements. In practice they will probably not affect the majority of smaller partnerships. Inevitably though some genuine commercial transactions will be caught by the changes. For example, the inability to change the profit allocation retrospectively may well prevent a partnership being able to offer flexible profit sharing policies.

See: OOTLAR (para 1.5) and TIIN, draft legislation and explanatory notes: Partnership taxation: proposals to clarify tax treatment (13 September 2017).

Personal allowance and higher rate threshold

The personal allowance and higher rate thresholds for taxpayers in England, Wales and Northern Ireland will be increased in 2018/19 in accordance with the table below:

	2017/18	2018/19
Personal allowance	£11,500	£11,850
Higher rate threshold	£45,000	£46,350
Additional rate threshold	£150,000	£150,000

Since April 2017, the income tax rates and thresholds for non-savings, non-dividend income for Scottish taxpayers are set by the Scottish Parliament.

These increases are based on the September 2017 consumer prices index (CPI). The chancellor also confirmed the government's commitment to raising the personal allowance to £12,500 and the higher rate threshold to £50,000 by 2020.

See: Autumn Budget 2017 (para 3.5) and OOTLAR (paras 1.1 and 2.1).

Profit fragmentation

Future development: The government will consult in 2018 on how to prevent avoidance by UK traders or professionals who arrange for UK trading income to be transferred to unrelated entities, including where profits accumulate offshore and are not returned to the UK.

See: Autumn Budget 2017 (para 3.72) and OOTLAR (para 2.6).

Rent-a-room relief

The government will publish a call for evidence on 1 December 2017 to establish how rent-a-room relief is used and whether it is supporting longer term lettings.

This consultation was previously mentioned in the Spring Budget 2017 which said that the aim of the consultation was to ensure the relief is 'better targeted to support longer-term lettings.' and that its intended purpose is 'to increase supply of affordable long-term lodgings.'

From 6 April 2016, rent-a-room relief provides for tax free income from renting out a room or rooms in a per-son's only or main residential property up to £7,500 per year. Previously the relief was limited to £4,250 per year. It also applies if an individual rents out a room in a guest house, bed and breakfast or similar provided it is their main residence.

The meaning of 'rent-a-room receipts', as described under ITTOIA 2005 s 786, includes receipts for any meals and cleaning services paid for in relation to the use of the room. ITTOIA 2005 s 789 makes provision for when two or more people are entitled to the rent-a-room income, in which instance the relief is halved for each person.

See: Autumn Budget 2017 (para 3.11) and OOTLAR (para 2.8).

Rental sector incentives

In addition to the consultation on rent-a-room relief, there will be a consultation on private rental sector tax incentives in 2018.

This sector has suffered a number of tax changes in recent years, with increases to SDLT, the abolition of wear and tear allowance and the restriction of tax relief on finance costs. This may act as a barrier to entry or mean that some of these costs are passed on to tenants by way of rent rises.

At the time of writing, it is not clear what measures might be proposed in the 2018 consultation or which ownership structures will be incentivised.

See: OOTLAR Annex B.

R&D expenditure credit

FB 2018 will include legislation increasing the rate of the R&D expenditure credit from 11% to 12%. The increase will take effect in respect of expenditure incurred on or after 1 January 2018.

See: Autumn Budget 2017 (paras 3.26 and 4.18), OOTLAR (para 1.26) and TIIN: Corporation tax: increasing the rate of research and development expenditure credit.

R&D tax credits: increasing certainty and awareness of

To increase certainty for large businesses making R&D expenditure credit claims, the government has announced it will pilot a new advanced clearance service providing pre-filing agreements for three years. This will be accompanied by a government campaign to increase awareness of eligibility for R&D tax credits among SMEs.

See: Autumn Budget 2017 (para 4.18) and OOTLAR (para 2.24).

SAYE pause

The government will allow employees on maternity and parental leave to take a pause of up to 12 months from saving into their save-as-you-earn employee share option scheme. Employees can currently pause saving for six months before the share option will lapse. This increase is to allow employees on maternity and parental leave to continue saving into the scheme and now aligns much better with more general maternity leave entitlements. It also provides a greater incentive for employees to return to the same employer at the end of their leave.

The change will have effect on and after 6 April 2018. HMRC guidance will set out the changes.

See: Autumn Budget 2017 (para 3.24) and OOTLAR (para 2.14).

Self-assessment debt recovery

Since April 2014, all employers have been required to report in real time, which means that information about tax and other deductions under the PAYE system is transmitted to HMRC by the employer every time an employee is paid.

HMRC will, from 6 April 2019, use new technology to recover additional self-assessment debts in closer to real time by adjusting the tax codes of individuals with PAYE income.

See: Autumn Budget 2017 (para 3.86).

SDLT

Filing and payment process

The government has delayed the reduction in the SDLT filing and payment window (from 30 days to 14 days) to FB 2019 for land transactions with an effective date on and after 1 March 2019. The government is proposing to amend the SDLT return to make compliance with the new time limit easier. The reduction in the filing and payment window was originally announced in Autumn Statement 2015 when the government consulted on the proposals.

See: OOTLAR (para 2.63).

Financial institutions bail-in exemption

FB 2019 will contain provisions that exempt certain transfers of property from failing financial institutions to public bodies and creditors from SDLT. The exemption will be limited to the temporary transfer of land to a bridge entity under the UK special resolution regime for managing failing financial institutions. Similar provisions will apply for stamp duty and SDRT.

See: Autumn Budget 2017 (para 3.38) and OOTLAR (para 2.64).

First time buyers

The government has announced that, for all transactions with an effective date on or after 22 November 2017, there will be relief from SDLT for first time buyers of residential property for £500,000 or less. If the consideration for the property is £300,000 or less, no SDLT is payable. If the consideration is over £300,000 and not in excess of £500,000, SDLT will be charged at 5% on the amount above £300,000.

In order for the relief to apply, the conditions that must be satisfied are as follows:

- there must be a purchase of a major interest (i.e. excluding leases with less than 21 years to run) in a single dwelling;
- the purchasers (or all of them if more than one) must be first time buyers who (all) intend to occupy the property as their only or main residence;
- the purchaser(s) must be an individual; and
- the transaction may not be linked with another land transaction, unless that other transaction consists of the garden or grounds of the dwelling or an interest, or right over, land which benefits the dwelling or garden/grounds.

The relief does not apply in the case of higher rates transactions or where the effect of transactions being linked results in the aggregate consideration breaching the £500,000 threshold (in which case previously claimed relief will be withdrawn). The relevant consideration for the purposes of the relief does not include rent payable under a lease.

The relief is available under a shared ownership lease or shared ownership trust if the purchaser opts to pay SDLT up-front on the full market value. There are also provisions which apply the relief where the property is purchased using an alternative finance arrangement.

There is a calculator available on HMRC's website which will calculate this relief. Like other SDLT reliefs, this relief must be claimed on the land transaction return.

See: OOTLAR (para 1.41), draft legislation and explanatory notes and Guidance Note: relief for first time buyers.

Higher rates

The higher 3% rates of SDLT have applied to acquisitions of residential property by non-natural persons and to certain acquisitions of additional residential property by individuals since 1 April 2016. To improve the operation of the regime FB 2018 will include provisions that grant relief from the higher 3% rates of SDLT where:

- a purchaser adds to their interest in their main residence, for example, by way of a lease extension, subject to certain restrictions (FA 2003Sch 4ZA new para 7A);
- a court order issued on divorce or dissolution of a civil partnership prevents someone from disposing of their interest in a main residence (FA 2003 Sch 4ZA new para 9B);
- an individual buys property from their spouse or civil partner (FA 2003 Sch 4ZA new para 9A);
- a person buys property in a child's name or on a child's behalf in their capacity as trustee for that child pursuant to a relevant court appointment (FA 2003 Sch 4ZA new para 12(1A)).

To prevent avoidance of the higher 3% rates, FB 2018 will also require a purchaser to dispose of the whole of their former main residence to a person who is not their spouse to benefit from the exemption for replacing a main residence (FA 2003 Sch 4ZA new para 3(ba)).

These measures have immediate effect (22 November 2017), subject to transitional provisions.

See: Autumn Budget 2017 (para 3.29), OOTLAR (para 1.42), and TIIN, draft clause and draft explanatory notes.

SEIS review

Future development: The government will continue to monitor whether the SEIS regime is contributing to valuation bubbles in certain sectors.

See: Consultation response: Financing growth in innovative firms (para 3.12).

Stamp duty and SDRT

1.5% charge on the issue of shares

The government has helpfully confirmed that it will not seek to apply the stamp duty and SDRT 1.5% charge on the issue of shares (and transfers integral to capital raising) into overseas clearance services and depositary receipt issuers once the UK has exited from the EU.

FA 1986 contains provisions that apply a 1.5% charge in these circumstances, but case law (and HMRC practice that aims to comply with EU law) have restricted the scope of these provisions.

See: Autumn Budget 2017 (para 3.39) and OOTLAR (para 2.65).

Financial institutions bail-in exemption

FB 2019 will contain provisions that exempt certain transfers of shares from failing financial institutions to public bodies and creditors from stamp duty and SDRT. The exemption will be limited to the temporary transfer of shares to a bridge entity and the transfer of shares in exchange for temporary certificates issued to creditors that identify their entitlement to the shares under the UK special resolution regime for managing failing financial institutions. Similar provisions will apply to SDLT (see above).

See: Autumn Budget 2017 (para 3.38) and OOTLAR (para 2.64).

Starting rate for savings

The band of savings income subject to the 0% starting rate of tax will be kept at its current level of £5,000 for 2018/19 and will not be increased in line with inflation. As this is a savings rate of income tax, it applies to the whole of the UK.

See: Autumn Budget 2017 (para 3.21) and OOTLAR (para 2.2).

Termination payments: foreign service relief

Pre-announced: As announced at Budget 2016 and confirmed at Spring Budget 2017, FB 2018 will remove the foreign service exemption for termination payments for employees who are UK resident in the tax year their employment is terminated. Following consultation, the legislation remains unchanged from the draft published on 13 September 2017.

See: OOTLAR (para 1.13).

Trusts: simplification consultation

The government has announced it will publish a consultation in 2018 on how to make the taxation of trusts more simple, fair and transparent.

While no further information has been provided at this stage, the government has undertaken a consultation of this kind before. A 2013 consultation considered simplifying certain aspects of IHT relevant property charges (e.g. by introducing flat 6% relevant property charges). Although some aspects that were consulted on at that time were introduced (for example, by FA 2014, which introduced a deeming rule for the treatment of accumulated income, and by F(No. 2)A 2015, which introduced the same day additions rules, in place of splitting nil rate bands across trusts), other aspects have not been taken forward. It could be that some measures which were proposed in the 2013 consultation may be revived in this new consultation (e.g. the alignment of payment and filing dates with those of self-assessment). It was felt at the time of 2013 consultation that some of the measures went beyond simplification and represented fundamental change to the regime, so it is possible that some of these concerns may be addressed in this new consultation.

While not included in the Autumn Budget 2017 announcements, HMRC has published a research report into the influence of IHT reliefs and exemptions. It is not clear whether any findings in this report will form part of the consultation on the taxation of trusts. It is more likely that any conclusions may form part of a wider reform of IHT reliefs and exemptions but this remains to be seen.

See: Autumn Budget 2017 (para 3.9) and OOTLAR (para 2.11).

Universal credit

There are to be some administrative changes that will ease the implementation of universal credit, as follows:

- From January 2018, an interest-free advance on the first month's universal credit payment is to be available within five days of claiming. This will be repayable over 12 months, extended from six months currently.
- The seven-day waiting period will be removed for new claims from February 2018. This means that the benefit starts to accrue from the first day of the claim.
- Universal credit replaces a number of legacy welfare benefits, one of which is housing benefit. From April 2018, housing benefit will continue to be paid for the first two weeks of the universal credit claim in order to reduce problems of claimants being unable to pay their rent while waiting for their first universal credit payment.
- It will be easier for claimants to have the housing element paid direct to their landlord.

See: Autumn Budget 2017 (paras 6.13–6.16).

VAT

Fraud in labour provision in the construction sector

Following a consultation that was launched at Spring Budget 2017 into options for tackling fraud in construction labour supply chains, the government has announced that it will introduce a VAT domestic reverse charge to prevent VAT losses. A response to the consultation will be published on 1 December 2017.

This change will have effect from 1 October 2019, allowing time for the government to consult on the draft legislation (in Spring 2018) and for businesses to prepare for the changes.

The government has also confirmed that it will not amend the construction industry scheme to tackle fraud but it will instead increase its compliance response.

See: Autumn Budget 2017 (para 3.68) and OOTLAR (para 2.40).

Groups

Future development: As announced at Autumn Statement 2016, the government is considering making changes to the rules on VAT grouping in light of case law developments. The government will publish a summary of the responses to the consultation that closed in February 2017 on 1 December 2017, and will consider further whether to make any changes.

See: OOTLAR (para 2.37).

Import VAT

Future development: The government will take into account the benefit of postponed accounting for VAT enjoyed by businesses which import goods from the EU when considering VAT reforms following Brexit. The government will look at options to mitigate any cash flow impacts for businesses.

See: Autumn Budget 2017 (para 3.62) and OOTLAR (para 2.44)

Online VAT fraud

FB 2018 will include various provisions to combat online VAT fraud including:

- an extension of HMRC's powers to hold online marketplaces jointly and severally liable for any unpaid future VAT of traders (including UK traders) selling on their platforms;
- an extension of HMRC's powers to hold online marketplaces jointly and severally liable for any unpaid VAT of overseas traders that fail to account for VAT where the online marketplace knew or should have known that the business should be registered for VAT; and
- a requirement for online market places to ensure that VAT numbers displayed on their websites are valid.

Prior to these changes online marketplaces can only be held jointly and severally liable for the unpaid VAT of certain overseas traders under VATA 1994, s 77B. These changes will come into effect on royal assent of FB 2018.

As a further measure to tackle online fraud, the government is also looking at introducing a split payment model as a new VAT collection mechanism for online sales. This would harness technology to allow VAT to be extracted directly from transactions at the point of purchase. The government will publish a response in December 2017 to the call for evidence announced at Spring Budget 2017, and a further consultation will be launched in 2018.

See: Autumn Budget 2017 (paras 3.78–3.81), OOTLAR (paras 1.33, 2.41), TIIN: VAT: extending joint and several liability for online market places and displaying VAT numbers online and Guidance note: VAT: extending joint and several liability for online market places and displaying VAT numbers online.

Registration threshold

The chancellor has written to the Office of Tax Simplification (OTS) following the publication of its report on routes to simplification for VAT in November 2017. In response to the OTS' recommendation that the VAT registration threshold be examined, the government will consult on the threshold for VAT registration while keeping the thresholds for VAT registration and de-registration at £85,000 and £83,000 respectively until 31 March 2020 (i.e. while the consultation takes place).

See: Autumn Budget 2017 (para 3.61), OOTLAR (para 2.39), TIIN: VAT: maintain thresholds for 2 years from 1 April 2018 and Letter from the Chancellor to the OTS, 22 November 2017.

Vouchers

Future development: The government will publish a consultation paper on 1 December 2017 on VAT and vouchers. It wants to ensure that businesses account for the same amount of VAT when payment is made in vouchers. Legislation is expected in FB 2019.

See: Autumn Budget 2017 (para 3.64) and OOTLAR (para 2.42)

Venture capital schemes

Advance assurance

Future development: On 1 December 2017, the government will publish its response to the 2016 consultation on streamlining the advance assurance service for tax-advantaged venture capital schemes.

See: *OOTLAR (para 2.9).*

Encouraging investments in knowledge-intensive companies

Measures were included in F(No. 2)A 2015 to enhance relief under the enterprise investment scheme (EIS) and venture capital trust (VCT) schemes where investments are made into knowledge intensive companies (KICs). Following the consultation on financing growth in innovative firms, the government has announced further measures to encourage investments into such companies and to loosen some of the conditions for KICs, specifically:

- increasing the individual investment limit for EIS relief to £2m where any amount over £1m (the usual limit) is invested in KICs;
- increasing the annual investment limit (in both the EIS and VCT regimes, being the cap for the amount of risk finance investment raised over the past 12 months) for a KIC to £10m (doubling the standard limit of £5m);
- changing the permitted maximum age rules (in both EIS and VCT regimes, being the rules that ensure the reliefs are targeted to 'young' companies) for KICs so that the ten year initial investing period can start at the point the annual turnover exceeds £200,000 rather than the first commercial sale (at the choice of the KIC); and
- amendments to the operating costs condition (in both the EIS and VCT regimes) so that it can be met by a company that has been in existence for less than three years (the existing rules require a KIC to have spent certain percentages of its operating costs on research and development activity over a three year period prior to the investment).

The measures will be included in FB 2018 and take effect for investments made on or after 6 April 2018 (subject to obtaining state aid approval).

See OOTLAR (para 1.9) and TIIN: Enterprise investment scheme and venture capital trusts – encouraging investments in knowledge-intensive companies.

Relevant investments

A lifetime limit on the total amount of risk finance investment a company may have was introduced by F(No.2) A 2015 to the EIS and VCT regimes of £12m for most companies (increasing to £20m for KICs). When it was introduced it relied on the definition of 'relevant investments' to determine the types of investment included in the lifetime limit, which had the effect (as a result of the various changes that had been made to that definition as used for the purposes of the annual limit since 2007, with associated transitional provisions) of excluding some investments made at earlier stages. This was an unintended effect and the definition of relevant investment (presumably only for the purposes of the lifetime limit) will be amended to include all risk finance investments, whenever made. The measure is also expected to apply for the purposes of social investment tax relief.

The measures will be included in FB 2018 and take effect for investments made on or after 1 December 2017.

See OOTLAR (para 1.10) and TIIN: Venture capital schemes: relevant investments.

Risk to capital condition

Following the consultation on financing growth in innovative firms (to which a response document has been published today), the government has announced its intention to include a new condition for relief in the EIS, seed enterprise investment scheme (SEIS) and VCT regimes to ensure that the relief is better targeted at growth investments and to exclude 'capital preservation arrangements'.

Taking a different approach to the past (where it has excluded particular types of low-risk investment such as energy generation), this measure takes a 'principled approach' requiring all relevant factors to be taken into account in determining whether, on a 'reasonable view':

- the investee company has objectives to grow and develop; and
- there is a significant risk of a loss of capital, where the amount of the loss could be greater than the net return to the investor (which includes the tax relief and income and capital growth).

A non-exhaustive list of factors to be taken into account will be provided in the legislation. The response to consultation suggests it will include:

- the nature of a company's ownership structure, such as being controlled by fund managers as nominees for investors – with the government identifying arrangements where companies are set up by advisers as a particular target, however the examples given do not indicate why investments into companies affiliated with fund managers are necessarily considered to be less risky; and
- whether income from an asset forms a substantial part of the trade,
- while making it plain that the presence of any given factor does not necessarily cause a failure of the condition. The document also indicates that the use of special purpose vehicles or outsourcing of staff where they are common in the industry (such as in film and media production companies) will not necessarily prevent the condition from being met. The documents published do not indicate whether a factor of tax motivation will be included in that list.

Legislation will be included in FB 2018. The documents published contain conflicting information on the effective date: the OOTLAR and the response to consultation state that it will have effect for investments made on or after royal assent of FB 2018, but the TIIN gives a specific date of 6 April 2018 (in either case, subject to obtaining state aid approval).

The government has stated that it will issue detailed guidance on the new measure shortly after the publication of FB 2018 and that HMRC will cease to give advance assurance for investments that appear not to meet the condition from that date. Since advance assurance is not a condition for relief to be obtained, it will still be possible for an individual to obtain relief on an investment made after the guidance is issued (but before the effective date) but the issuing company will not be able to use the marketing advantage of stating that advance assurance has been obtained.

See: OOTLAR (para 1.7), TIIN: Venture capital schemes – risk to capital condition and Consultation response: Financing growth in innovative firms.

VCTs

Encouraging more high-growth investment

A number of additional measures are to be introduced to ensure that the VCT regime is targeted to high-growth companies.

Three substantial changes are to be introduced:

- with effect for funds raised in an accounting period beginning on or after 6 April 2018, there will be a new condition for VCT approval that 30% of the funds raised will have to be invested into qualifying holdings within 12 months of the end of the accounting period in which the funds were raised;
- the 70% qualifying holdings condition will be increased to 80% with effect from accounting periods starting on or after 6 April 2019, but the relaxation under which a disposal of a qualifying holding (held for at least six months) wholly for cash consideration is, broadly, disregarded for six months following the disposal is being extended to 12 months for disposals on or after 6 April 2019; and
- in order to be a qualifying holding in an investee company, a loan must, with effect from royal assent of FB 2018, be unsecured and must not provide more than a commercial rate of return on the principal, where a return of under 10%, averaged over 5 years, will be considered commercial (ie that limit is a safe harbour, but a higher return could still be classified as a commercial return in the right circumstances).

Certain grandfathering provisions will come to an end with effect from 6 April 2018, namely:

- ITA 2007 Sch 2 para 69, which prevents the 'no guaranteed loans' requirement in ITA 2007 s 288 from applying to moneys raised before 2 July 1997;
- ITA 2007 Sch 2 para 81, which allowed moneys raised before 17 March 1998 to continue to be used in property development, farming, woodlands, hotels and nursing homes (when they otherwise had been classified as excluded activities);
- FA 2007 Sch 16 para 3(6)(b), which allowed companies that did not meet the maximum number of employees test to continue to be qualifying companies if the investment was made prior to 6 April 2007;
- FA 2008 Sch 11 para 12(b), which allowed moneys raised before 6 April 2008 to continue to be used in shipbuilding, coal and steel production (when they otherwise had been classified as excluded activities);
- ITA 2007 Sch 2 para 70, which allowed moneys raised before 2 July 1997 to be excluded when considering whether the proportion of eligible shares requirement in ITA 2007 s 289 was met in relation to a given holding; and
- F(No. 3)A 2010 Sch 2 para 6(2)(b), which allowed moneys raised before 6 April 2011 to be excluded when considering whether the VCT met the 70% eligible shares condition in ITA 2007 s 274.

The measures will be included in FB 2018 (subject to state aid approval).

See OOTLAR (para 1.8), TIIN: Encouraging more high-growth investment through VCTs and Consultation response: Financing growth in innovative firms.

Limiting the effect of anti-abuse provisions on commercial mergers

Following the introduction of an anti-abuse measure to prevent individual investors refreshing income tax relief on investments into VCTs by disposing of VCT shares and reinvesting the proceeds in new shares (either by bed and breakfasting or through the merger or restructuring of the VCT), the government is now making a retrospective change to the measures (with effect from 6 April 2014 – the date the original measure came into effect), to ensure that the measure applies as intended and does not capture commercially driven mergers.

Legislation will be introduced in FB 2018 to amend the parts of ITA 2007 s 264A that deal specifically with mergers or restructurings of VCTs so that it does not apply where:

- the merger is more than two years after the date of subscription of the shares;
- the individuals subscribing could not reasonably be expected to know that the merger or restructuring was likely to take place (even if it is within two years); or
- obtaining a tax advantage is not one of the main purposes of the merger (again, even if it is within two years).

See OOTLAR (para 1.6) and TIIN: Venture capital trusts – limiting the effect of anti-abuse provisions on commercial mergers.

Withholding tax

Exemption for debt traded on a multilateral trading facility

As announced at Spring Budget 2017, and following consultation, provisions in FB 2018 will remove the requirement to withhold tax on interest payments where debt is traded on a multilateral trading facility (MTF) that is operated by an EEA-regulated recognised stock exchange.

Following the consultation, it was also decided to widen the definition of alternative finance investment bonds (AFIBs) (which are Shari'a compliant financial instruments, also known as 'sukuk') to include securities which are admitted to trading on such an MTF so that these will also fall within the rules that treat AFIBs as debt, and the return on them as interest, and qualify for exemption from withholding.

Draft provisions for inclusion in FB 2018 were published on 13 September 2017, along with explanatory notes and a TIIN, and these remain unchanged.

The changes are intended to remove a barrier to the development of UK debt markets and will apply to interest payments made on or after 1 April 2018. The amendments in relation to AFIBs will have effect for corporation tax purposes in relation to accounting periods beginning on or after 1 April 2018 and, for income and CGT purposes, from 6 April 2018.

See: OOTLAR (para 1.25) and draft legislation, explanatory notes and TIIN: Debt traded on a multilateral trading facility (13 September 2017).

On royalties

FB 2019 will include legislation requiring the deduction of income tax at source in respect of royalty payments made to low or no tax jurisdictions in connection with sales to UK customers. The rules, which will also apply to payments for certain other rights, will apply regardless of where the payer is located.

The government will publish a consultation on 1 December 2017 and the changes will have effect from April 2019.

See: Autumn Budget 2017 (para 3.34), OOTLAR (para 2.7). ■

This report is derived from Lexis®PSL Tax and Private Client services, with additional material from Tolley Guidance. The Lexis®PSL Tax and Private Client services provide lawyers with practice notes and precedents, with links to trusted sources. Tolley Guidance is an online service for tax practitioners that combines tax technical commentary with practical guidance.

Tax rates and allowances

Income tax allowances

	2018/19 £	2017/18 £
Personal allowance	11,850	11,500
Income limit	100,000	100,000
Transferable marriage allowance[1]	1,185	1,150
Married couple's allowance[1] (relief at 10%)		
Either partner born before 6.4.1935	8,695	8,445
Income limit	28,900	28,000
Minimum where income exceeds limit	3,360	3,260
Blind person's allowance	2,390	2,320
Dividend allowance	2,000	5,000
Personal savings allowance		
Basic rate taxpayers	1,000	1,000
Higher rate taxpayers	500	500

Income tax rates

Taxable Income £	Rate %	Dividend rate %
2018/19		
0 – 34,500	20	7.5
34,501 – 150,000	40	32.5
Over 150,000	45	38.1
2017/18		
0 – 33,500	20	7.5
33,501 – 150,000	40	32.5
Over 150,000	45	38.1

A 0% starting rate for savings income only applies to the extent that such income falls within the first £5,000 of taxable income. If taxable non-savings income exceeds the limit, the starting rate does not apply. A 0% rate applies to savings income falling within the personal savings allowance. Income taxable at the starting rate for savings does not fall within the personal savings allowance.

A 0% rate applies to dividend income within the dividend allowance.

The trust rate of income tax is 45%. The dividend trust rate is 38.1%

Scottish taxpayers. The Scottish government will publish proposed Scottish basic, higher and additional rates and rate bands for 2018/19 on 14 December 2017. The Scottish rates and bands apply only to non-savings, non-dividend income. For 2017/18, the Scottish rates and bands are the same as the UK rates and bands except that the basic rate limit is £31,500.

[1] Available for civil partners.

National insurance contributions

2018/19
Class 1 (Earnings related)

Employees
Weekly earnings

First £162	Nil
£162.01 – £892	12%
Over £892	2%

Employers
Weekly earnings

First £162	Nil
Over £162	13.8%

Employees' rates are reduced to 5.85% for married women with valid certificates of election but the 2% rate above £892 still applies. Rates are nil for employees over state pensionable age. Normal employers' contributions are still payable. Employers' rates for employees under 21 and apprentices under 25 are nil on earnings up to £892 per week.

Employment allowance
(per employer) – £3,000 a year.

Class 1A and **Class 1B** – 13.8%
Class 2 (Self-employed) – Flat rate £2.95 a week.
Small profits threshold £6,205 a year.
Class 3 (Voluntary contributions) – £14.65 a week.
Class 4 (Self-employed) – 9% of profits between £8,424
and £46,350 a year. 2% of profits above £46,350 a year.

Inheritance tax

	2018/19	2017/18
Nil-rate band[1]	£325,000	£325,000
Residence nil-rate band[1]	£125,000	£100,000
Rate of tax on excess	40%[2]	40%[2]
Chargeable lifetime transfers	20%	20%

Annual gifts of up to £3,000 per donor are exempt.

[1] Unused nil rate band is transferable to spouse or civil partner.
[2] 36% where 10% or more of the net estate is left to charity.

Capital gains tax

Annual exempt amounts 2018/19	£
Individuals, disabled trusts, personal representatives for year of death and two years thereafter	11,700
Trusts generally	5,850

Rates 2018/19

Individuals: Standard rate	10%
Higher rate	20%
Trustees and personal representatives	20%
Gains on residential property and carried interest	18%/28%
Gains to which entrepreneurs' relief applies[1]	10%

Corporation tax

Financial Year to	31/3/2019	31/3/2018
Rate	19%	19%

Stamp taxes

Shares and marketable securities	0.5%[2]
Transfers of land and buildings[3]	

Residential (on band of consideration)[4, 5, 6]

£0 – £125,000	0%
£125,001 – £250,000	2%
£250,001 – £925,000	5%
£925,001 – £1,500,000	10%
Over £1,500,000	12%

Non-residential (on band of consideration)

£0 – £150,000	0%
£150,001 – £250,000	2%
Over £250,000	5%

Leases (Rent – on band of net present value)[3]

Residential	Non-residential	
£0 – £125,000	£0 – £150,000	0%
Over £125,000	£150,001 – £5,000,000	1%
N/A	Over £5,000,000	2%

Premiums[3]
Duty on premiums is the same as for transfers of land.

[1] Subject to lifetime limit on gains of £10 million.
[2] Rounded up to the nearest multiple of £5. Transactions of £1,000 or less exempt.
[3] Transfers of land and leases in Scotland are chargeable to land and buildings transaction tax. Different rates of tax may apply. See www.revenue.scot
[4] Where the consideration exceeds £500,000 and the purchase is by – or by a partnership including – a company or collective investment scheme enveloping the property, the rate is 15% of the total consideration.
[5] Where the consideration is no more than £500,000 and the purchaser is a first-time buyer, the 0% band is increased to £300,000 (and the 5% rate applies to any consideration above £300,000).
[6] Rates are increased by 3 percentage points for certain purchases, including purchases of additional residential properties by individuals. Transactions under £40,000 are excluded.

Car benefit

CO_2 emissions (2018/19) grams per km	% of list price Petrol	Diesel
0-50	13	17
51-75	16	20
76-94	19	23
95-99	20	24
100-104	21	25
105-109	22	26
110-114	23	27
115-119	24	28
120-124	25	29
125-129	26	30
130-134	27	31
135-139	28	32
140-144	29	33
145-149	30	34
150-154	31	35
155-159	32	36
160-164	33	37
165-169	34	37
170-174	35	37
175-179	36	37
180 or more	37	37

The diesel rates do not apply to cars meeting the RDE2 standard.

Car fuel benefit

For 2018/19, car fuel benefit is calculated by applying the above car benefit percentage to a figure of £23,400.

Tax-free mileage allowances

Employee's own vehicle	
Motorcars and vans	**2018/19**
Up to 10,000 business miles	45p
Over 10,000 business miles	25p
Each passenger making same trip	5p
Motorcycles	24p
Cycles	20p

Advisory fuel rates for company car from 1 September 2017

Cylinder capacity	*Petrol*	*Diesel*	*LPG*
0-1,400 cc	11p	–	7p
0-1,600 cc	–	9p	–
1,401 cc - 2,000 cc	13p	–	8p
1,601 cc - 2,000 cc	–	11p	–
Over 2,000 cc	21p	12p	13p

Fixed rate deductions: unincorporated businesses

Vehicle expenditure	**Amount per mile**
Motorcars and goods vehicles	
Up to 10,000 business miles	45p
Over 10,000 business miles	25p
Motorcycles	24p

Business use of home Hours worked per month	**Amount per month**
25 or more	£10
51 or more	£18
101 or more	£26

Private use of business premises Number of occupants	**Disallowable amount per month**
1	£350
2	£500
3 or more	£650

Individual savings accounts

Limits	**2018/19**	**2017/18**
Annual limit	£20,000	£20,000
Junior ISA annual limit	£4,260	£4,128
Lifetime ISA annual limit	£4,000	£4,000
Help to Buwy ISA monthly limit	£200	£200

Investment reliefs

	Investment limit	**Income tax relief rate**
Enterprise investment scheme[1]	£1,000,000	30%
Venture capital trusts	£200,000	30%
Seed enterprise investment scheme	£100,000	50%
Social investment relief	£1,000,000	30%

VAT

Standard rate	**20%**
Reduced rate	**5%**

Registration threshold from 1 April 2018	£85,000 pa
Deregistration limit from 1 April 2018	£83,000 pa
Annual accounting scheme turnover limit	£1,350,000 pa
Cash accounting scheme turnover limit	£1,350,000 pa
Flat rate scheme turnover limit	£150,000 pa

[1]Investment limit is £2,000,000 if any amount over £1,000,000 is invested in knowledge-intensive companies.

Capital allowances

Dredging	**Rate %**
(straight-line basis)	
Writing-down allowance	4
Know-how	
(reducing balance basis)	
Writing-down allowance	25
Mineral extraction	
(reducing balance basis)	
Writing-down allowances	
General	25
Acquisition of mineral asset	10
Patent rights	
(reducing balance basis)	
Writing-down allowance	25
Plant and machinery	
(reducing balance basis)	
Annual investment allowance (max £200,000)	100
First-year allowances	
Energy-saving or environmentally beneficial assets	100
New cars with CO_2 emissions 50 g/km or less	100
New gas refuelling stations	100
New zero-emission goods vehicles	100
New assets for use in designated	
areas of enterprise zones (companies only)	100
New electric charge-point equipment	100
Writing-down allowances	
General	18
Cars (other than low-emission cars)	8
Special rate expenditure (including integral features and thermal insulation)	8
Long-life assets	8
Research and development	
Allowance	100

Registered pension schemes

Individual contributions

Maximum tax-relievable contributions are the higher of:

- 100% of taxable UK earnings; or
- £3,600 (where the scheme applies tax relief at source).

2018/19	
Annual allowance	£40,000
Income limit	£150,000
Minimum where income exceeds limit	£10,000
Lifetime allowance	£1,030,000

2017/18	
Annual allowance	£40,000
Income limit	£150,000
Minimum where income exceeds limit	£10,000
Lifetime allowance	£1,000,000

Any unused annual allowance can be carried forward for up to three years.

Tax credits

Annual amounts 2018/19	**£**
Child tax credit	
Family element	545
Child element (for each child)	2,780
Disabled child element	3,275
Severely disabled child element	4,600
Working tax credit	
Basic element	1,960
Lone parent and couple element	2,010
30-hour element	810
Disability element	3,090
Severe disability element	1,330
Childcare element (up to 70% of costs)	**Weekly**
maximum eligible cost (1 child)	175
maximum eligible cost (2 or more)	300
Income thresholds	
Income threshold	6,420
eligible for child tax credit only	16,105
Withdrawal rate	41%
Income rise disregard	2,500
Income fall disregard	2,500

Taxjournal.com: 3 hot topics

See taxjournal.com for expert commentaries on hot topics in tax.

1. State aid

The European Commission's investigations into alleged fiscal state aid represent a new front on tackling perceived corporate tax avoidance. For some, this is a much needed move to ensure the fair taxation of multinationals. For others, it is a blunt tool which misunderstands existing case law, and unfairly undermines member states' taxing rights. Recent commentaries include:

- Can the UK CFC rules survive?
- The EC's state aid ruling on Apple
- A state aid expert's view on why the Commission's approach is highly questionable
- A 20 questions guide to state aid and tax

See taxjournal.com/stateaid

2. Non-dom reforms

The recent reforms to the taxation of non-UK domiciliaries date back to George Osborne's 2015 Summer Budget, when the then chancellor declared: 'There are some fundamental unfairnesses in the non-dom regime that I am putting a stop to … British people should pay British taxes in Britain, and now they will.' Tax Journal's commentary examines the reforms which are split over several Finance Bills:

- 20 questions on the non-doms reforms
- Issues for trustees of offshore trusts
- Unmixing and rebasing in practice
- Offshore gains and destructuring

See taxjournal.com/non-dom

3. The MLI

The purpose of the multilateral instrument or MLI is to enable the implementation of BEPS treaty related recommendations across multiple tax treaties without separate renegotiation. But how does it work in practice? Our articles include:

- What is the MLI and how does it apply to the UK
- A review of the anti-abuse provisions
- Who loves SLOBs?
- How to interpret double tax treaties in light of MLI

See taxjournal.com/mli

What's ahead

November

27 **Cases:** CA scheduled to hear company's appeal in *Zipvit Ltd v HMRC* (and related appeal) (VAT: input tax claims by recipient of postal services); UT scheduled to hear companies' appeal in *Christianuyi Ltd v HMRC* (managed service companies: meaning of 'involvement').

28 **Consultation:** Comments close on draft amending regulations making changes to PAYE legislation from April 2018 in respect of car data reporting and taxable amounts under optional remuneration arrangements (see bit.ly/2mpyW1v).

30 **Consultation:** Comments close on HMRC's draft guidance on penalties for enablers (bit.ly/2xmeNKR); deadline on OTS's call for evidence for its review on capital allowances and depreciation.
Compliance: Companies House should have received accounts of private companies with 28 February 2017 year end and accounts of public limited companies with 31 May 2017 year end; HMRC should have received CTSA returns for companies with accounting periods ended 30 November 2016.

December

1 **Finance Bill:** Government will publish Finance Bill 2018.
Compliance: Payment of corporation tax liabilities for accounting periods ended 28 February 2017 for small and medium-sized companies not liable to pay by instalments; check HMRC website to ascertain whether advisory fuel rates have been increased.

5 **Trust registration:** Deadline extension closes for registration of new trusts via the new online trusts and estates registration service.

6 **Consultation:** Comments close on improving HMRC's business risk review process.

7 **Compliance:** Due date for VAT returns and payment for 31 October 2017 quarter (electronic payment).

8 **Consultation:** Comments close on rules for operation of soft drinks levy.

14 **Budget:** Scotland's draft Budget for 2018/19.
Compliance: Quarterly corporation tax instalment for large companies (depending on accounting year end); monthly EC sales list if paper return used.

For a 'what's ahead' which looks further ahead, see taxjournal.com (under the 'trackers' tab).

Coming soon in Tax Journal:

- In conversation with the EC's director general for tax.
- The latest on US tax reform.

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Working within the private client team you will deal with matters in relation to UK and offshore trusts and their beneficiaries. You will prepare and analyse trust accounts and working papers, prepare tax returns for trust, estate and beneficiary clients, interpret the effects of trust deeds and wills and deal with ad-hoc trust tax queries. You will ideally be AAT or part or fully ATT/STEP qualified with experience of completing trust accounts and returns, dealing with estate administration and estate and trust planning. **Call Alison Ref: 2500**

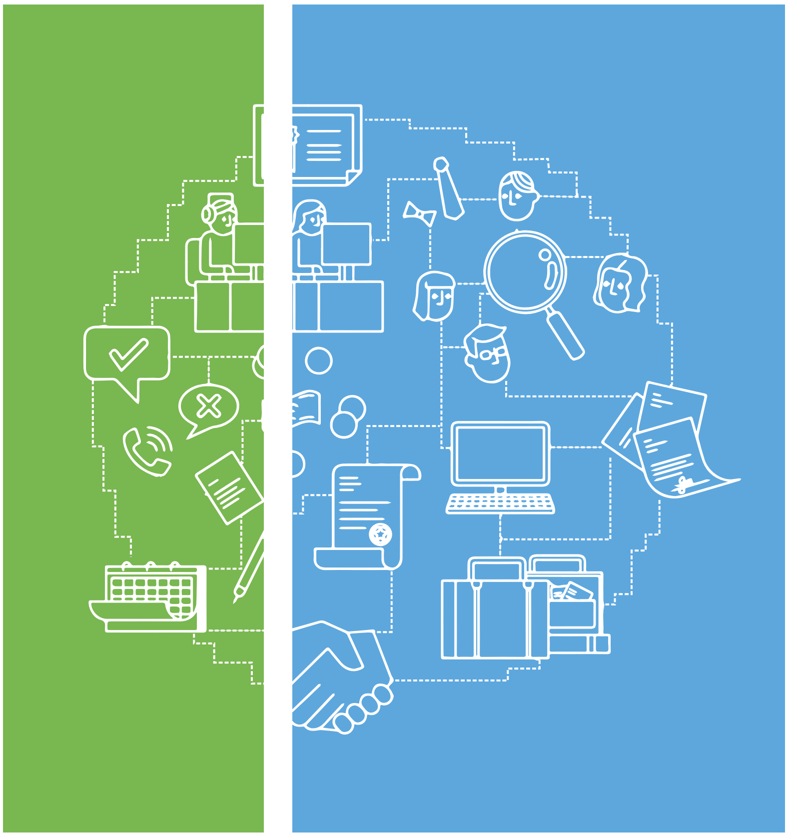
R&D Senior or Manager
Leeds or Manchester – £excellent

An excellent opportunity for a qualified tax professional (ACA, ICAS, ACCA, CTA or a former Inspector of Taxes) to join a growing R&D tax team in an international firm of accountants. You may currently work in mainstream corporate tax and want to specialise – or you may already have some R&D experience. In this role, you will work with engineers and scientists to help companies maximise their R&D spend and claim the relevant allowances for their sector. **Call Georgiana Ref 2517**

Transfer Pricing
Manchester – £39,000 to £45,000 + benefits

Our client is the Transfer Pricing team in a Big 4 accountancy firm. They seek a recently qualified (ACA, CTA or ICAS) to join their team and deal with transfer pricing and broader international tax issues for a great portfolio of blue chip clients. Would consider someone in corporate tax who is looking to specialise. 4 day week considered, and study support for ADIT available. Could suit someone in a London team, who wants to move back to the North West. **Call Georgiana Ref 3000**

www.georgianaheadrecruitment.com



SWINDON

RECRUITING PRIVATE CLIENT TAX PROFESSIONALS – GRADUATE TO MANAGER

Swindon is one of our flagship offices for private client tax, specialising in international, rural, landed estate and trust clients. We are looking to fill vacancies ranging from aspiring graduates or school leavers to established private client tax specialists.

The opportunity

The opportunity offers a mix of complex technical work, client exposure and portfolio management and will provide individuals with the opportunity to advise at an early stage of their career.

You will be part of an established team within a collaborative and focused environment.

The department

We are a growing department of approximately 20 staff ranging from graduate to partner.

We have an extensive in-house training programme which sits alongside professional studies allowing individuals at all levels to develop and progress their careers.

The team are highly committed and professional with a great team spirit and a good work ethic.

Vacancies range from

- **Assistant**
- **Associate** (CTA part / qualified)
- **Manager** (CTA qualified)

Location

Hermes House
Fire Fly Avenue
Swindon
SN2 2GA

For more information please go to

- **careers.rsmuk.com**
- **matthew.hinks@rsmuk.com**

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