May 2016

2016 Budget Special

Headlines:

Reduction in capital gains tax rates

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Entrepreneurs Relief

An individual who is either a director or an employee of a trading company who has held at least 5% of the shares in the company for 12 months or more will not pay more than 10% capital gains tax on gains realised by selling those shares.

Other changes to Entrepreneurs' Relief:

There are to be relaxations to two restrictions imposed last year

1. Shares in a company which itself does not carry on a trade will after all qualify for entrepreneurs relief provided the underlying investment is in a trading partnership or trading company and gives the investor an indirect interest in the underlying trade of at least 5%. This change is backdated to 18th March 2015.
2. Since 3rd December 2014 entrepreneurs' relief has been denied where goodwill was transferred to a close company. That rule is to be relaxed where the investor holds less than 5% of the shares or where the disposal is part of the arrangements for a disposal to a third party.

Phoenixism

From 6th April 2016 shareholders who wind up a company may not be entitled to entrepreneurs' relief on liquidation distributions if they start a new business which is broadly similar to that previously carried on by the defunct company.

Investors relief

A new form of capital gains tax relief is proposed. An investor who subscribes for shares in an unlisted trading company, but who is neither a director nor an employee and makes a gain on disposing of the shares will pay tax at no more than 10% of the gain provided he has held the shares for at least three years. This relief applies only to shares issued after 16th March 2016, is available only to the original subscriber (not to someone who buys existing shares) and is subject to a lifetime limit of £10m. The same relief applies if the shares are in a holding company of an unlisted trading group.

This new relief has some similarities to Enterprise Investment Scheme (EIS) Relief.

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No entrepreneurs relief for phoenix transactions

Bearing in mind that EIS shares may be sold at a 0% rate they may remain preferable.

Employee Shareholder Status (ESS)

Employees who give up some employment rights in return for shares in their employer company have been able to sell those shares without any gain being subject to capital gains tax.

To curb this "concession", shares granted after 16th March 2016 will be subject to a maximum £100,000 per employee.

Carried interest reform

Asset managers of private equity funds enjoy part of their rewards in the form of carried interest which is subject to capital gains tax rather than income tax. Under changes being introduced, where the average holding period for fund investments is less than 40 months, at least some of the carried interest profits will in future be subject to income tax not capital gains tax. If the average holding period is less than 36 months all the carried interest profits will be subject to income tax. If the holding period is between 36 and 40 months, there will be a tapering proportion chargeable to income tax.

Non-UK domiciled individuals

The gradual erosion of tax advantages to non-UK domiciled individuals continues with some significant changes proposed although they will not be introduced until the 2017 Finance Bill. Until April 2017 planning opportunities may therefore be available to some non-UK domiciliaries.

- From April 2017 it is proposed that non-UK domiciled individuals will become "deemed UK domiciled" once they have been UK resident for 15 out of the previous 20 years. This will apply to income tax, capital gains tax and inheritance tax.
- Individuals who have a UK domicile of origin but leave the UK and acquire a domicile of choice elsewhere will always be treated as UK domiciled if they return to the UK. This applies even if they return to the UK before 6th April 2017.
- It is understood that an individual who becomes deemed UK domiciled will not be assessable on the income or gains of a trust which they set up before becoming so domiciled although they would be assessed on income or gains received from the trust. Non-UK domiciled individuals who have been UK resident for less than 17 years should consider whether to create an offshore trust before April 2017.
- Wealthy non-UK domiciled individuals often own UK homes through an offshore company, and possibly also through an offshore trust. The main reason for this has been to shelter the property from UK Inheritance Tax. This significant advantage is to be withdrawn next year.

Deemed domiciled after 15 years

- Individuals who become deemed UK domiciled on 6th April 2017 will be able to re-base their non-UK assets to their market value on that date for capital gains tax purposes. This is a significant change and is likely to offer some planning opportunities. It is not yet clear how those who become deemed UK domiciled after 6th April 2017 will be treated.

Deduction of tax from bank interest

For many years bank deposit interest has had basic rate tax deducted at source. From 6th April 2016 such interest is being paid gross with no tax deducted at source.

Taxation of dividends

The taxation of dividends is being changed with effect from 5th April 2016:

There will no longer be a notional tax credit

Individuals will be taxed on only the dividends actually received

The first £5,000 of dividend income each year will be taxed at 0%.This is not an additional zero rate band but forms part of the tax band which would otherwise apply.

The rates of tax for dividends are now:

Basic rate taxpayer first	£5,000 0%
Basic rate taxpayer >	£5,000 7.5%
Higher rate taxpayer	32.5%
Additional rate taxpayer	38.1%

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Change in taxation of dividends

Capital Gains Tax Rates

The rate of capital gains tax payable by individuals and trustees is generally being reduced from 6th April 2016 (except in respect of gains made on residential property and the disposal of carried interest):

From 6th April 2016	CGT rate generally	CGT rate on residential property and carried interest
Basic rate	10%	18%
Higher and additional rate	20%	28%
Trustees	20%	28%

The Capital Gains Tax Exemption for 2016/17 remains at £11,100.

However there is concern that these rules may not cover certain situations so they are therefore being extended:

- To apply also to repayments of share capital or share premium as well as to distributions in a winding up.
- So that the test looks at the main purpose of the transaction rather than that of the person.
- To include not only the person who effected the transaction, but others who may also obtain a tax advantage. An example of this might be where trustees effect a transaction which benefits beneficiaries.

Micro entrepreneurs

With advances in technology many individuals are generating income via companies such as AirBnB and Uber. Presumably to reduce the administrative burden which this imposes on HMRC, from 6th April 2017 there will be a £1,000 allowance for property income and a £1,000 allowance for trading income. So income falling within these limits would not be taxed. If the income exceeds the limit, an individual may choose to be taxed on either: the excess of that income over £1,000 or the excess of that income over their actual related expenditure.

Disguised remuneration

The disguised remuneration rules introduced in 2011 and designed to counter the use of employment benefit trusts did not apply to some loans to employees made before the 2010 Autumn Statement provided they were not altered.

This is to be changed so that if such a loan is still in place by 5th April 2019 income tax will be charged on the amount outstanding.

Salary sacrifice arrangements

Income tax and National insurance savings may be possible where an employee gives up part of his or her salary in return for a benefit. Whilst the government is considering limiting the benefits which qualify for this relief, it has confirmed that pension savings, childcare and health-related benefits will continue to qualify.

Transactions in securities

Various arrangements involving transactions in securities can result in a shareholder making a disposal which gives rise to a gain which on the face of it appears to be subject to capital gains tax. In some cases the gain effectively arises from an accumulation of profits which have not been distributed as income.

As gains are generally subject to a lower rate of tax than income, there already exist anti-avoidance measures which are designed to counter such a tax advantage if one of the main purposes is to secure an income tax advantage.

Property taxation

Stamp Duty Land Tax (SDLT)

Additional residential properties

The purchase of a second residential property (either for own use or for letting) will generally attract an additional 3% SDLT charge if completion takes place after 31st March 2016.

Whether an individual owns more than one property at the end of the day determines whether the additional 3% applies.

If only one property is owned at the end of the day, no additional SDLT is due

If there are two properties at the end of the day and the new one is to replace the individual's main residence, initially the additional 3% SDLT will be payable, but if the original main residence is sold within 36 months, that additional amount may be reclaimed.

Residential properties acquired by companies will be subject to the new higher rate unless existing rules already impose the 15% charge (because the consideration exceeds £500,000 and no exemption applies).

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Reduction of rate in capital gains tax

SDLT for Commercial property

The "slab" system for commercial properties is being reformed so that SDLT will in future be charged at different rates for each transaction band covered:

Transaction value	Rate
£0- £150,000	0%
£150,001- £250,000	2%
£250,000 +	5%

So purchasing a property costing £300,000 would give rise to an SDLT charge of £4,500 (£100,000 x 2% plus £50,000 x 5%).

Where a non-residential lease is granted, the rate of SDLT will increase from 1% to 2% if the net present value of all the rent payable under the lease is £5m or more.

Annual Tax on Enveloped Dwellings (ATED)

An annual tax arises under the ATED regime where a "high value" UK residential property is owned by a non- natural person (generally a company). This regime started in 2013 and now applies to properties worth more than £500,000 on 5th April 2012 or costing more than £500,000 but acquired since that date.

Exemptions from the tax are available, for instance if the property is let commercially to an unconnected person. However it is still necessary to complete an ATED return and claim the appropriate exemption.

The tax is payable on 30th April in the tax year. So the tax due for the year 2016-17 was due on 30th April 2016.

Property value	ATED charge 2016-17 £	ATED charge 2015-16 £
£500,001 - £1,000,000	3,500	zero
£1,000,001 - £2,000,000	7,000	7,000
£2,000,001 - £5,000,000	23,350	23,350
£5,000,001 - £10,000,000	54,450	54,450
£10,000,001 - £20,000,000	109,050	109,050
£20,000,001 +	218,200	218,200

Offshore property developers

A series of measures is being introduced to tax profits arising from UK property development where the person benefitting is not UK resident:

1. A non-UK resident (typically a company) which operates a business of developing UK property may be subject to UK on its trading profits. However many double tax agreements provide that such profits will be subject to UK tax only if the non-UK resident has a permanent establishment here.

   From 16th March 2016 the Double Tax Agreements with Jersey, Guernsey and the Isle of Man were amended so that trading profits from UK property development, will be subject to tax here whether or not the non-UK resident has a permanent establishment here.

2. UK tax will also arise where a property development company pays a fee to a related party thereby reducing the development profit.

3. UK tax will also apply where property development profits are realised indirectly through a sale of the company's shares.

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Offshore property investors to be taxed on sale of company shares

Rent a room Relief

An individual who lets out a spare room or rooms in his or her home may claim rent-a-room relief by which at least part of the income is exempt form income tax. The exempt annual amount has risen from £4,250 to £7,500 with effect from 6th April 2016.

Corporate tax

Rate of corporation tax

The rate of corporation tax over the next few years is to be as follows:

Year ending	Rate
Year ending 31st March 2017	20%
Year ending 31st March 2018	19%
Year ending 31st March 2019	19%
Year ending 31st March 2020	19%
Year ending 31st March 2021	17%

Relief for brought forward losses

Under existing rules, brought forward losses may be deducted only from profits of the same trade carried on by the same company.

From 1st April 2017, where a group has profits in excess of £5m the amount of any brought forward losses which it may offset will be limited to £5m plus 50% of the excess of the profits over £5m. So the maximum brought forward loss offset for a company with profits of £9m would be £7m. This restriction applies to losses whenever incurred.

On the other hand there is to be a relaxation in that after 1st April 2017 brought forward trading losses will be able to be offset against non-trading profits or surrendered to other group members. This applies to trading losses arising after 1st April 2017.

Interest deductions

From 1st April 2017 the amount of interest which will qualify for tax relief will be limited to 30% of a group's EBITDA. This restriction does not apply to individuals or to companies (such as non-UK resident landlords) within the charge to income tax (where different restrictions are being imposed). This applies to groups with UK interest costs of more than £2m.

VAT

Increase in registration threshold

From 1st April 2016 the threshold at which VAT registration becomes mandatory increases to a taxable turnover of £83,000 (previously £82,000).

For non-UK businesses, since 1st December 2012 the threshold has been zero so such businesses should register as soon as they make a UK taxable supply regardless of its value.

On-line VAT fraud

A range of measures is being introduced to tackle VAT fraud by non-EU offshore businesses selling goods located in the UK at the time of sale through on-line market places. These include:

Powers to direct that such businesses appoint a UK established VAT representative to be jointly and severally liable for VAT and powers requiring security to be lodged with HMRC to cover potential VAT debts.

BUSINESS TAX

Business rates

The threshold at which small businesses pay business rates is being increased from £6,000 to £12,000. Whilst no charge therefore arises for rateable values below £12,000 there will be tapering relief for those with a rateable value between £12,000 and £15,000.

Capital allowances on cars

Business cars with the lowest emissions ratings currently attract 100% capital allowances. This relief is being extended to April 2021.

Enterprise Zones

A company which incurs expenditure on new plant and machinery in an enterprise zone is entitled to 100% capital allowances. This relief is being extended to the period of eight years following the establishment of a new zone.

Withholding tax on Royalties

Generally income tax at 20% should be deducted from royalty payments made to non-UK residents. However some Double Tax Agreements and the EU Interest and Royalties Directive allow this rate of withholding tax to be reduced (often to 0%). For any reduction to apply the Royalties and Savings Directive requires the payment of royalties not to be part of any anti avoidance measures. A similar rule is being imposed for double tax agreements.

Termination payments

It is widely known that the first £30,000 of a non-contractual redundancy or termination payment is exempt from income tax and National Insurance Contributions. Less well known is that National Insurance contributions are also exempt for termination payments in excess of £30,000. From April 2018 however employers' National Insurance contributions will be due on all such payments in excess of £30,000.

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Tax relief on interest paid restricted

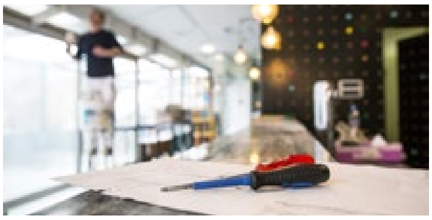
Non-monetary consideration

Under current law, if a business benefits from a transaction which is neither money nor something which can be converted into money, the benefit does not have to be brought into the account as a trading receipt. From 16th March 2016 trading receipts in non-monetary form must be brought into account for tax purposes at their full value. An example of this might be where a trader receives an entitlement to a non-transferable holiday as a reward for being a good customer of a particular supplier.

Loan to participators

A close company (one which is under the control of five or fewer shareholders) must pay to HMRC 25% of the amount of any loan or benefit which it makes to a shareholder. From 6th April 2016 that percentage rises to 32.5%. When the loan is repaid the "tax" may be recovered from HMRC.

Business Premises renovations allowance



Expenditure incurred in converting or renovating unused business premises back into use may attract a 100% allowance if the premises are in a disadvantaged area. This allowance is due to expire in 2017.

Farmers averaging

Fluctuations in farmers profits from one year to another (eg because of changing weather conditions) can mean that one year profits are taxed at the top rate of tax and the next year at the lowest rate. For many years farmers have been able to elect to average profits of two adjacent tax years thereby reducing the tax impact of such fluctuations.

The two year averaging period is to be extended to five years where the average of the first four years profits is less than 75% of those of the fifth year, or the profits of the fifth year are less than 75% of the average of the profits of the four previous years.

Income Tax Rates

	Tax rate 2016-17 (2015-16)	Taxable income 2016-17 £	Taxable income 2015-16 £
Starting rate for savings only	0%	0-5,000	0-5,000
Basic rate:			
Income other than dividend income	20%		
Dividend income	7.5% (0%)		
	0-32,000	0-31,785	
Higher rate:		32,001-150,000	31,786-150,000
Income other than dividend income	40%		
Dividend income	32.5% (25%)		
Additional rate:		Over 150,000	Over 150,000
Income other than dividend income	45%		
Dividend income	38.1% (30.6%)		

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Non monetary trading receipts to be taxed

Income tax allowances

Allowance	2016-17 £	2015-16 £
Personal allowance		
Born after 5th April 1938	11,000	10,600
Born before 6th April 1938	11,000	10,660
Income limit for personal allowance	100,000	100,000
Income limit for personal allowance (born before 6 April 1938)	N/A	27,700
Marriage allowance	1,100	1,060
Married couple's allowance at 10%		
For people born before 6 April 1935	8,355	8,355
Minimum amount	3,220	3,220
Income limit for married couple's allowance	27,700	27,700
Blind person's allowance	2,290	2,290
Dividend allowance (regardless of level of non-dividend income)	5,000	N/A
Personal savings allowance:		
For basic rate taxpayers	1,000	N/A
For higher rate taxpayers	500	N/A
For additional rate taxpayers	Nil	N/A

Savings

ISAs

From 6th April 2017 the annual amount which may be invested in an ISA will rise from £15,420 to £20,000.

ISA will rise to £20,000

Also from 6th April 2017 adults under the age of 40 will be able to invest up to £4,000 a year into a "lifetime ISA" with the government providing a 25% bonus. Income and gains within the fund will be tax free. Provided withdrawals are only for specific "life events" (such as buying a first home for not more than £450,000) there should be no penalties on withdrawal.

Personal savings allowance

From 6th April 2016 a basic rate taxpayer will be entitled to receive the first £1,000 of savings income tax free. For a higher rate taxpayer the amount is £500. For an additional rate taxpayer there is no allowance.

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ISA limit increases to £20,000