United Kingdom: 
Autumn Statement 2013

Introduction

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URL: http://www.ukbudget.com

Executive summary

- The Chancellor’s Autumn Statement contained a raft of employment and personal tax measures, with a mixture of revenue-raising measures (focusing particularly on tax avoidance) and modest tax reliefs.
- There were no surprise changes to income tax rates or allowances.
- Employer’s Class 1 National Insurance contributions will be abolished on earnings up to the upper earnings limit for employees aged below 21.
- The government announced it will legislate against false self-employment involving the use of on-shore employment intermediaries, certain dual contracts for nondomiciled employees, and (as expected) tax avoidance using partnerships. The dual contract measures, in particular, are a surprise move by the Chancellor.
- Employee share schemes are favored. After many years the value of shares that can be awarded under an approved Share Incentive Plan and the monthly maximum contributions to a Save As You Earn (SAYE) scheme are both to be increased. Indirect employee ownership via an employee ownership trust will also be encouraged through capital gains tax and inheritance tax reliefs for owners willing to cede majority ownership to an employee trust, and through a limited tax exemption for trust distributions to employees.
- Proposed amendments to the taxation of share awards made to internationally mobile employees will be welcomed by many although some employees will be adversely affected.
- Proposed changes to the capital gains tax treatment of residential property include the imposition of capital gains tax on realized gains accruing from April 2015 to nonresident individuals and trustees disposing of UK residential property. There is also a reduction in the final period exemption for a person’s principal private residence (PPR) from 36 months to 18 months. These changes may impact employers of international assignees who tax equalize personal as well as company income.
- Several measures are proposed against the perceived use of partnerships to avoid income tax and NIC. Members of UK limited liability partnerships who receive “disguised salary” will be taxed as employees.

Rates and allowances

Income tax rates and personal allowances – The standard personal allowance will increase to £10,000 from 6 April 2014. This represents a £560 increase for basic rate taxpayers. The 40% higher rate band will apply to income over £41,865.

Deloitte view – The increase in the standard personal allowance will primarily benefit basic rate taxpayers, though many higher rate taxpayers will also benefit to some extent.

National insurance rates and thresholds – Class 1, Class 1A, and Class 1B national insurance rates remain unchanged; however, thresholds and limits are subject to a small increase. The lower earnings limit will increase from £109 to £111 per week and the upper earnings limit will increase from £797 to £805.

Deloitte view – Changes to the structure of National Insurance Contributions (NICs) may follow from the Office of Tax Simplification (OTS) report into expenses and benefits due to be published in January.

Income tax: transferrable marriage allowance – The Chancellor announced that married couples and registered civil partners will be able to transfer £1,000 of the personal allowance of one spouse or partner to the other. It will benefit married couples and civil partners where one does not use their full personal allowance and the other is a resident basic rate taxpayer.

The transferor’s personal allowance will be reduced by £1,000. The spouse or civil partner receiving the transferred allowance will be entitled to a reduced income tax liability of up to £200.
Deloitte view – The tax reducer is carefully expressed to prevent claims by those claiming the remittance basis, non-residents and those whose limited exposure to UK tax allows them to remain basic rate taxpayers even though their true income is higher.

Employer national insurance waiver for staff under 21 – From April 2015, employers’ NICs will be abolished in respect of under-21-year-olds earning less than £813 per week. This is forecast to be the NIC upper earnings limit (£42,285 annualized) and the point above which higher rate income tax is charged. It will apply to both existing employees and to new staff. The measure is included in NIC Bill currently before Parliament.

The government expects that nearly 1.5 million under-21-year-olds will be lifted out of employer NIC completely, resulting in an average saving of £355 per employee. No individual’s state pension entitlement will be adversely affected.

Deloitte view – The measure will make it cheaper for businesses to employ under-21-year-olds and as such is welcome. Employees will remain liable for employee contributions above the primary threshold.

New voluntary national insurance to top up state pension – In October 2015, the government will introduce a new class of voluntary NICs, to be known as Class 3A, to allow eligible individuals a time-limited opportunity to top-up their additional state pension record. As a result of this measure, eligible individuals reaching retirement age before the enhanced state pension takes effect in 2015 will be permitted to buy additional state pension entitlement.

Deloitte view – The measure is aimed at improving state pension outcomes for individuals whose state pension entitlement will be less than the amount payable when the new single tier pension comes into effect on 6 April 2016. We await further details of the new Class 3A contributions.

Anti-avoidance measures

Dual Contracts – Measures will be taken to prevent high-earning nondomiciled employees from avoiding tax by artificially splitting their remuneration between UK and non-UK earnings through the use of dual contracts. By this means, non-UK contract income can be exempted from UK income tax, unless it is remitted to the UK. The measures are subject to consultation but are expected to take effect from April 2014.

The measure will apply where the earnings are taxed abroad at a lesser rate than in the UK. It is likely to affect a minority of mainly high earning non-UK (nondomiciled) employees who are UK resident but whose jobs require them to spend a significant amount of time working abroad.

Deloitte view – We understand nondomiciled employees who work wholly abroad in a genuine non-UK employment and who elect the remittance basis may remain exempt from UK income tax on their non-UK earnings. However, HMRC have long objected to what they see as the artificial splitting of a single job into separate UK and non-UK employments to save UK tax (and often also non-UK tax) on the non-UK income. It is not yet known whether the so far unspecified measures will include making the UK employer accountable for PAYE and national insurance contributions on an offshore contract brought within scope of the new measures.

Measures against ‘false self-employment’ – Measures will be introduced in April 2014 to stop employers hiring workers on a self-employed basis via UK agencies or intermediaries when they are really employees and their earnings should be subject to Pay As You Earn (PAYE) withholding and employee/ employer national insurance contributions (NIC). Staff will no longer be able to claim self-employed status on the basis that they or the intermediary are able to supply a substitute worker. If workers are subject to control or the right of control by the end user, or anyone else. The UK intermediary or agency must apply PAYE and NIC.

The main effect of this is expected to be felt in the construction industry, although other industries, including information technology, will be affected.

Deloitte view – Stricter enforcement of PAYE in construction industry has long been on the government’s agenda but the scope and timing of these proposals is a surprise. Taken together with a parallel initiative to stop avoidance using offshore employment these measures represent a systematic attempt to fasten PAYE and NIC liability on the UK intermediary or agency which supplies workers to end users, wherever they are employed. Employers using agency staff who are not already subject to PAYE/NIC should evaluate their own position before the measures take effect in April 2014.
Share plans

**New sourcing approach to share awards for internationally mobile employees** – As a tax simplification measure, the government announced that it will change the tax treatment of share awards made to internationally mobile employees. They will be charged to income tax only on that part of the exercise or vesting gain accrued while resident or working in the UK. The current statutory sourcing rules, which operate by reference to the employee’s tax position at award, are expected to be adjusted accordingly. We understand the changes may also extend to NICs. Consequential changes will be made to ensure that a matching corporation tax deduction is available, including to the host employer to whom foreign employees are seconded.

The new sourcing approach is planned to take effect for awards made from 1 September 2014 onwards.

**Increased limits to SIP and SAYE** – Under a Share Incentive Plan (SIP), employees can purchase shares (partnership shares) from gross income and be awarded shares at no cost (free shares). Under a Save As You Earn (SAYE) plan, employees save money from their net pay over a three- or five-year period and the accumulated funds can be used to exercise a share option which is granted at the beginning of the savings period.

The government has announced an increase to the tax free limits that apply under SIP and SAYE from 6 April 2014. In particular:

- The maximum value of partnership shares under a SIP that can be purchased each year is increased from £1,500 to £1,800;
- The maximum value of free shares that can be awarded each year under a SIP is increased from £3,000 to £3,600; and
- The maximum value which an employee can save each month under SAYE is increased from £250 to £500.

**Deloitte view** – It is disappointing that the new sourcing rules are being introduced only with effect from 1 September 2014 and will run in parallel with the existing rules for awards made before that date.

The approved scheme limits had been in place for many years, so the increase was well overdue and is to be welcomed. Employers who do not want the revised limits to apply automatically should check the scheme rules and employee communications.

**Employee ownership model – tax exemption for bonuses** – The government supports indirect employee ownership of a trading business via an employee trust as an efficient business model. To encourage this it is introducing reliefs from capital gains tax and inheritance tax charges for existing shareholders who sell or gift shares in a trading company (or holding company of a trading group) such that an employee ownership trust acquires control via a 51% holding. The exemption will apply to disposals in a single year only.

From October 2014 businesses that are indirectly employee-owned and controlled as above may pay up to £3,600 per annum to each employee free of income tax (but not NIC), provided the payments are calculated on similar terms for all eligible employees. Payment may be made by the business or by the trust.

**Deloitte view** – In practice, we do not expect there will be many companies for whom this ownership model would be appropriate. However, where it is feasible, the tax exemptions are relatively generous.

**Capital gains tax**

**Restriction of PPR relief** – Where a property has been an individual’s only or main residence at any point during the period of ownership, Principal Private Residence (PPR) relief is given for the final 36 months of ownership irrespective of the use of the property at that point (the ‘final period exemption’). This final period exemption will be reduced from 36 months to 18 months from 6 April 2014. Certain groups, including the disabled and those in long-term care who are selling their only home, will be protected.

**Deloitte view** – This may affect assignees who sell their UK main residence while living abroad. The resulting gain will become chargeable to the extent that they have been away from the property for more than 18 months and do not re-occupy it prior to sale. International assignees will need to take this into account when making an election to determine
which property is their main residence. There may be a cost impact for employers of international assignees who tax equalize personal as well as company income.

**Capital gains tax disposals of residential properties by nonresidents** – From 6 April 2015, capital gains accruing on the disposal of UK residential properties by nonresident individuals will be made chargeable to capital gains tax. The government will consult early in 2014 on how best to introduce the new charge. This extends and complements the charge on disposals by nonresident companies introduced from 6 April 2013. Many of the UK’s double tax treaties allow the UK to tax nonresident’s property gains, including gains on the disposal of properties enveloped in companies.

**Deloitte view** – This change may have a significant impact on employees assigned from the UK who work abroad for an extended period. It extends the charge on individuals who are temporarily nonresident for up to five years, bringing in, for instance, disposals of properties acquired while non-UK resident, and disposals by non-UK assignees who have left the UK permanently.

**Partnerships**

Following a review, the government is proposing a number of important changes to the taxation of partnerships.

The first change relates to ‘mixed’ partnerships which have both individual and nonindividual partners (e.g., companies). From 5 December “excess” profits are allocated from the non-individual partners to individual partners in certain circumstances. These circumstances are:

1. Where the nonindividual’s partnership profit share is considered to be ‘excessive’;
2. The individual partner is able to enjoy the nonindividual’s profit share, or there are deferred profit arrangements in place; and
3. It is reasonable to suppose that the whole or part of the nonindividual’s profit share is attributable to the individual partner’s power to enjoy those profits or the deferral arrangement.

From 6 April 2014 certain income tax loss reliefs and capital gains tax relief are denied for a loss allocated to the individual partner, rather than to the nonindividual partner, where the loss allocation is done for tax avoidance purposes.

A third change addresses the practice of rewarding junior partners in limited liability partnerships with “disguised salary”: the government thinks this should be taxed as employment income. UK LLP partners will be taxed as employees where less than 20% of their remuneration directly relates to the profits of the partnership as a whole, they do not have the opportunity to exercise significant managerial influence and their capital contribution in any year is less than 25% of their remuneration.

**Deloitte view** – Most measures are largely as expected, though the immediate introduction of anti-forestalling rules in certain areas is a new development. The scope of the measures against salaried UK LLP partners is a surprise as it goes well beyond counteracting the planned use of UK LLPs to convert existing employment into partnership and thereby avoid PAYE and NIC. The proposals may affect large professional partnerships which have always operated as partnerships.

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