Autumn Statement 2015

25 November 2015

HIGHLIGHTS

Summary

It was a reasonably muted Autumn Statement from the Chancellor after much speculation at the weekend in the papers about changes to CGT, Entrepreneurs Relief and Incorporation Relief for property businesses.

As anticipated there were no changes to income taxes, NIC, VAT.

What changes there were are mostly effective immediately and there is a reference to retroactive tax, applicable to those who continue to engage in tax avoidance planning for remuneration that subsequently fails.

We have detailed in this release those changes that we believe are going to be most relevant to our clients and their businesses. If there is anything you wish to discuss further please do not hesitate to contact us.

cowgillholloway

1. Stamp Duty Land Tax

The greatest surprise emerging from the Autumn statement was the changes to be made to SDLT on second homes.

Higher rates of SDLT will be charged on purchases of additional residential properties (above £40,000), such as buy to let properties and second homes, from 1 April 2016. The higher rates will be 3 percentage points above the current SDLT rates.

These changes come on the back of restrictions to interest relief for individuals at the higher rate. It seems that the Chancellor has property investors in his sights and therefore there may be further changes on the horizon.

Individuals owing property portfolios may want to consider incorporating into a company in order to avoid the relief restrictions and reduce exposure to risk.

Cowgills Commentary :

Clients thinking of investing in residential property portfolios ought to consider accelerating any purchase before the changes in April 2016, although thought to the restrictions on interest relief being phased in over the next couple of year ought to be given.

Current SDLT Rates on freehold sales and transfers	SDLT Rate
Up to £125,000	Zero
The next £125,000 (the portion from £125,001 to £250,000)	2%
The next £675,000 (the portion from £250,001 to £925,000)	5%
The next £575,000 (the portion from £925,001 to £1.5 million)	10%
The remaining amount (the portion above £1.5 million)	12%

2. Changes to the distribution rules…?

Although not mentioned in the speech there has been reference in the press releases to Government consultation in the coming months on distributions (i.e. dividends) from companies.

The Government are concerned that companies are implementing planning which converts income to capital, which when paid out to employees is taxable at a significantly lower rate, securing a tax advantage.

This comes after the recent increases in the dividend tax rates and a couple of tax cases where HMRC have successful challenge dividends as being earnings.

It is proposed that there will be changes to the 'Transactions in Securities' rules and the introduction of a 'Targeted Anti-Avoidance Rule', which may impact on part disposals of shares!

Cowgills Commentary:

HMRC have targeted remuneration planning for a number of years now.

Of late HMRC have had some success challenging arrangement where employees have been awarded shares and HMRC have sought to tax them as earnings.

Any changes to remuneration strategies ought to be discussed with advisors to ensure you don't fall into the complex web of anti avoidance that the Government is weaving!

3. Prospective changes to the employment regime

Travel & Subsistence for intermediaries
The government proposes to introduce legislation from April 2016 to restrict tax relief for travel and subsistence expenses for workers engaged through employment intermediaries (umbrella/personal services companies).

This has been on the Governments radar for sometime so it is not a surprise that they have indicated they are looking to address this practice, although one wonders whether the delay is due to a dilemma as to how to address it….

Salary Sacrifices
The government is concerned about the growth in salary sacrifice arrangements and plans to gather evidence on salary sacrifice arrangements to decide whether the provisions are being abused- another heads up on future changes to a really useful relief if used properly.

Cowgills Commentary :

Salary Sacrifices are good ways for employees to fund pensions, medical benefits and other permitted expenditure such as training.

The advantage to the employee AND employer being the saving on NIC which would be due on the amount sacrificed.

4. Accelerated CGT for residential property disposals

This provision came somewhat out of the blue, and was not given the attention that it deserved in the Chancellor's speech.

Essentially the proposal is that from April 2019 individuals who sell a residential property (one not covered by Principal Private Residence Relief) will be required to pay the tax liability 30 days after the disposal date.

This is a significant acceleration in the timing of CGT tax payments, and more worryingly indicates that the Government are happy to tinker with the fundamental principals regarding the timing of payments of tax. If the basis of the change is that the consideration has been received and therefore ought to be paid over without delay, it begs the question what prevents the Chancellor from implementing the same principals on the disposal of any capital assets – including the sale of businesses?

Cowgills Commentary :

This provision is not due to be introduced until 2019 as part of the new Digital Tax Accounts- it is unclear at this time how these will work in practice but the premise is that most self employed people, landlords and business will be required to keep track of their tax affairs and update HMRC at least quarterly via their digital tax account.

Given the recent criticism from the Public Accounts Committee on the ability of the public to access HMRC services, the introduction of a new and improved digital service will undoubtedly be welcome!

5. Joint ventures and partnerships – Entrepreneurs relief

When the Government announced changes in its July Budget to capital gains tax ("CGT") Entrepreneur's Relief this had an unfortunate effect of denying the beneficial 10% CGT rate for certain joint venture and partnership commercial structures.

The Autumn statement contained an announcement that this area will be looked at again to determine if 'certain genuine commercial transactions' can come back within the scope of the relief. However no further detail has yet been given and no guarantee can be given that all joint venture and partnership structures will come back within the scope of the relief.

It is to be hoped that this detail will be forthcoming in the draft 2016 Budget documents… watch this space!

Cowgills Commentary :

At the weekend there had been speculation that there would be further changes to Entrepreneur's Relief which would significantly reduce the benefit to entrepreneurs.

This measure seems to indicate that the Treasury has listened to criticism that previous changes captured legitimate commercial arrangements.

How they may amend this provision whilst still addressing the mischief it was intended to capture remains to be seen.

6. Further deterrents to avoidance tax planning

The Government's efforts to persuade individuals and businesses to desist from avoidance planning continues.

Serial Avoiders- taxpayers who continually enter into tax avoidance schemes that ultimately fail in the courts will be subject to harsher reporting requirements and may be publicly named.

Serial abusers of tax reliefs could also be subject to restrictions on them accessing such reliefs for a period of time.

Consultation will also be released regarding artificial planning which falls foul of the General Anti Abuse Rule (GAAR). It is proposed that significant penalties of 60% may be levied as a punitive measure.

The government will introduce a new criminal offence that removes the need to prove criminal intent for the most serious of cases of evasion involving the non-declaration of offshore income and gains.

Cowgills Commentary :

The Government had already introduced swingeing measures over the last couple of years to reduce the appeal of avoidance planning with the introduction of Accelerated Payment Notices (APNs) and Followers Notices.

It is clear from these new measures that the Government are continuing to remove any attraction that this type of tax planning may have for individuals and companies

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