Forbes Dawson
THE TAX SPECIALISTS

Budget 2021

Forbes Dawson's Top 10

BUDGET 2021 – THE ROAD TO RECOVERY

Today's Budget was one of the most eagerly anticipated in a decade. The economic shock brought about by the outbreak of COVID-19, and the unprecedented support packages which were put in place last March have led to a huge increase in Government borrowing. Many commentators feared that this could rise to knee-jerk tax rises, such as an increase in Capital Gains Tax, leading to some taxpayers racing to accelerate disposals ahead of 6 April.

As it turned out, Rishi Sunak decided not to tinker with CGT rates (for now), focusing instead on the company tax regime. For several years corporation tax rates have been reduced, with the ability to use companies and get money out as dividends becoming increasingly attractive. The government responded by putting up dividend tax rates so that the advantage was significantly reduced. Today the Chancellor announced that corporation tax will, from April 2023, increase to 25% for all but the smallest companies. This change is two years away, but owner-managers may want to re-evaluate their strategy in the meantime.

For others, the Budget will produce its usual mixture of winners and losers. Those looking to buy and sell properties may breathe a huge sigh of relief that the temporary 0% stamp duty cut will be extended until the end of June. On the wider personal tax front was the news that thresholds will be frozen for at least three years after next April. Through 'fiscal drag' this could effectively lead to higher tax liabilities over time.

As ever, we welcome the opportunity to discuss any matters arising out of today's Budget with you.

THE FORBES DAWSON TEAM
3 MARCH 2021

CORPORATION TAX TO INCREASE TO 25%

For the last decade, corporation tax rates for large companies have been steadily cut, from 28% to 19%. It was clearly on the Chancellor's conscience that, with the amount of support provided to businesses during the pandemic, this could not continue.

Today's Budget announces that from 1 April 2023 the main rate of corporation tax will be increased to 25%. Companies with profits of £50,000 or less will not be subject to the higher rate, with a tapering applying (known as marginal relief) for companies with profits of between £50,000 and £250,000.

The 25% rate will apply to any company which meets the definition of a "close investment holding company" ('CIHC'), regardless of size. Broadly, this covers any "close company" (i.e. if it is privately owned and controlled by five or fewer individual participators) other than those that carry on trading or commercial property activities.

OUR VIEW

A 6% increase in corporation tax is likely to have an impact upon the choice of business structure for family businesses and professional services firms. When corporation tax rates dropped, many businesses raced to incorporate.

However, with the increase in dividend tax rates that occurred in 2016/17, the tables may now have turned. This is particularly true for businesses in the £50,000 - £250,000 profit range who, due to the way that the tapering works, will pay a marginal rate in excess of 25%. Some form of mixed/partnership structure may now offer tax advantages.

With CIHCs automatically subject to the 25% rate this change may also impact Family Investment Companies. However, the effect may be felt less where their income is geared towards dividends, which generally qualify for a tax exemption.

EXTENDED LOSS CARRYBACK RULES FOR BUSINESSES

After announcing the corporation tax rate rise, the Chancellor then sweetened the pill by introducing an extension to the period over which company trading losses can be carried back to offset earlier years profits. This period will now be three years, as compared to the current one year. The extension also applies to unincorporated trading businesses.

This will apply to trading losses made by companies in accounting periods ending between 1 April 2020 and 31 March 2022 and by unincorporated businesses in tax years ending 2021 and 2022.

The one year carry back remains without restriction, however a £2m cap applies to the amount of losses that can be carried back under the extended period. This cap applies to the year in which the losses arose, rather than the year to which they are carried back.

In a corporate group scenario this cap must be shared between entities, subject to a de minimis of £200k per entity, which is not subject to the cap.

OUR VIEW

This seems like a sensible move from the Chancellor. In the short term when many businesses are struggling, they can carry back losses to reclaim tax paid in pre-COVID years giving them a much needed short term cash boost.

For companies, the price for this boost (and the longer term benefit to the exchequer) being that those losses will be relieved against profits taxed at 19%, compared to potential relief at 25% if carried forward against future profits post April 2023.

This has echoes of the SME R&D tax credit scheme, where a company can choose to surrender losses in return for 14.5% cashback now. Alternatively they carry those losses forward in the hope that they will relieve them against future profits, saving tax at the higher rate of 19% (...now potentially up to 25%!)

CAPITAL ALLOWANCE 'SUPER DEDUCTION'

A temporary allowance has been introduced for companies in respect of qualifying capital expenditure incurred between 1 April 2021 and 31 March 2023. The 'super-deduction' of 130% can be claimed in respect of most plant and machinery investment. In the absence of the annual allowance ('AIA'), this would typically have only attracted 18% writing down allowances.

A first year allowance of 50% is also to be made available in respect of capital expenditure which would have only qualified for writing down allowances at 6% under current rules.

These measures will sit alongside the existing capital allowances regime meaning companies will be able to choose whether to claim capital allowances, the super-deduction, or a combination of the two. Unlike the AIA, there are no limits to the amount of capital expenditure that can qualify for the super-deduction. This will be of particular assistance to capital intensive businesses that routinely exceed their AIA entitlement.

New disposal rules will apply to assets on which the 'super-deduction' is claimed. Disposal receipts will result in balancing charges with any disposal proceeds being grossed up by a factor of 1.3. The rule does not apply to the 50% first year allowance items.

OUR VIEW

On first glance this appears to be an annual investment allowance by another name. However, the operation of the two allowances are distinctly different.

This enhanced allowance will undoubtedly provide many companies with a short-term cashflow benefit by accelerating tax relief on the initial acquisition of plant or machinery. The timing of its introduction may also be very welcome in light of the temporary increase in the AIA to £1m ceasing at the end of December 2021.

The gross up on disposal proceeds is understandable but balancing charges could catch out the unwary, particularly as the temporary relief is given at 19% but balancing charges may be realised when corporation tax rates have increased to 25%.

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PERSONAL TAX & VAT THRESHOLDS FROZEN

The Chancellor announced that the following allowances and thresholds will increase from their current 2019/20 amounts but will remain frozen at their 2020/21 limits until the end of the 2025/26 tax year:

Allowance/Threshold	2019/20	2020/21 – 2025/26
Personal Allowance	£12,500	£12,570
Basic Rate Limit	£37,500	£37,700
NIC Upper Limits	£50,000	£50,270

The annual exemption for capital gains tax and pensions lifetime allowance will also be frozen.

This differs from the previous approach opted for by the Chancellor of increasing the allowances and thresholds in line with inflation.

VAT threshold

The VAT registration threshold will remain at the current limit of £85,000 until 31 March 2024. Likewise, the threshold of £83,000, which determines whether a person may apply for deregistration, will remain constant at £83,000 for the same period.

OUR VIEW

The Government has maintained its 'triple lock promise', ensuring that there has been no increase in the rate of income tax, national insurance or VAT in this budget.

However, the freezing of tax rates can give taxpayers a false sense of security that they will not be paying additional tax on their future income.

Due to fiscal drag, increases in income resulting from inflation will result in taxpayers involuntarily moving into higher rate tax brackets.

The freezing of the VAT threshold may have a similar effect, leading to more small businesses going over the cliff-edge where they need to register for and charge VAT to their customers.

CHANGES TO SELF-ASSESSMENT PENALTIES

As part of the Making Tax Digital ('MTD') project, individual and partnership self-assessment returns will need to be filed quarterly from 2023 for taxpayers with turnover from self-employment or rental properties of over £10,000 per annum. To coincide with this HMRC are changing the penalty regime.

From 6 April 2023, for those who have to file quarterly and from 6 April 2024 for everyone else, the penalty regime will be:

Late filing penalties

Each late return will attract one point. When you reach the point threshold (two points for those in annual filing or four points for those in quarterly filing) you will be charged a £200 penalty.

Each additional late return will then result in a £200 penalty until you have filed the required number of returns on time (two annual returns or four quarterly returns) and brought your outstanding returns up to date. Once this milestone is reached, your points total will reset to zero. If you do not reach the penalty threshold, points will expire after two years.

Late payment penalties

Any payment late after day 15 –	2% penalty of outstanding tax
Any payment late after day 30 –	a further 2% penalty of outstanding tax
Any payment late after day 31 –	daily penalties equal to a rate of 4% per annum of the outstanding tax until the tax is settled.

This is on top of late payment interest at 2.5% over the Bank of England base rate.

OUR VIEW

Clearly any change in penalty regimes will produce winners and losers. However, we feel that this change is welcome, as the current regime penalises first-time offenders, in the same way as those that consistently file late.

The downside is that under the new regime, whilst there will be no late filing penalty for a first-time offender, the tax-geared penalties are greater. An accidental late filer is likely to pay their tax late as they won't know their tax liability until they file. A 2% penalty on outstanding tax will, in most cases, be higher than the old £100 penalty.

The change to quarterly MTD returns will cause disruption for taxpayers (and their agents). HMRC have stated that in the first year of operation they will take a 'light-touch' approach to the initial 2% late payment penalty where a taxpayer is doing their best to comply.

As with the current regime if you enter a time to pay arrangement before a penalty is charged, then there will be no further penalties applied.

CAPITAL GAINS TAX – NO MAJOR CHANGES … YET

Pre-budget transaction activity took on heightened levels of fervour as taxpayers widely anticipated increases in capital gains tax rates, in order to help fund the impact of the pandemic on the economy.

In November 2020, the Office of Tax Simplification (OTS) had published the first of two reports undertaking a review of capital gains taxes, at the Chancellor's request just months earlier.

The report highlighted the disparity between CGT and income tax rates, resulting in taxpayers potentially arranging their affairs in such a way as to re-characterise income as capital. Suggestions included aligning CGT rates more closely with income tax rates, as well as the replacement of Business Asset Disposal Relief (formerly known as Entrepreneurs' Relief) by a more effective combination of an investment relief and a retirement relief.

However, CGT was not mentioned in the Chancellor's address, and HMRC's post-budget announcements were limited to confirming the freezing of the capital gains annual exemption for the next five years from 2021-22 to 2025-26 at the current level of £12,300 (£6,150 for trusts) as well as the clarification of an anti-avoidance rule relating to non-UK residents claiming gift relief on business assets.

OUR VIEW

Whilst this Budget was clearly about boosting the economy and deferring the more difficult decisions, we anticipate seeing changes to the capital gains regime over the next year, perhaps as early as the Autumn statement.

The second part of the OTS report is due to be published at any time and, given the interaction between capital gains and inheritance taxes, we would expect an overhaul of both regimes in the near future.

COVID SUPPORT SCHEMES CONTINUE

Furlough and self-employed support schemes

It was confirmed that both the Furlough and Self-Employed Support Schemes have been extended to 30 September 2021. However, employers will be expected to pay 10% towards the hours their staff do not work in July, increasing to 20% in August and September.

Recovery Loan Scheme

A further loan scheme will run from 6 April 2021 until 31 December 2021, providing loans/overdrafts of up to £10 million over six years. The business will need to show that it is a viable business and has been impacted by COVID.

The Government will guarantee 80% of the loan. No personal guarantees will apply for loans of up to £250,000 and an individual's private residence cannot be taken as security.

Restart grants

Shops will also be able to claim grants of up to £6,000 to reopen on April 12. Hospitality and leisure will be able to claim up to £18,000.

OUR VIEW

An extension to the Furlough Scheme had already been widely reported.

There was much speculation that any extension to the Furlough Scheme would be targeted to the leisure and hospitality sectors but the scheme has been extended across the board.

The Recovery Loan Scheme offers more Government-backed finance for businesses impacted by the pandemic. However, as the Government guarantee is only 80%, we would expect a greater degree of due diligence to be undertaken by the lender, compared to say the Bounce Back Loan Scheme.

FURTHER SUPPORT FOR RETAIL/HOSPITALITY

In his Budget today, Rishi Sunak offered further support to the ailing hospitality, tourism and retail sectors.

Business rates

Today's Budget gave hospitality, retail and leisure businesses a further three month 100% business rates holiday. The previous 12 month 'holiday' period was due to end this month.

The exemption will now last until June 2021. Following this there will be a further six-month period (to December 2021) where rates will be two-thirds of the normal charge, up to a maximum of £2m for closed businesses.

VAT

In July 2020 the Chancellor reduced VAT to 5% to protect jobs in the hospitality and tourism industries. The reduced rate applies to business including pubs, coffee shops, as well as staycations and tourist attractions.

VAT will remain at 5% until 30 September 2021 when it increases to 12.5%. This is with a view to the 20% rate applying from next April.

OUR VIEW

The hospitality and tourism industry includes over 150,000 businesses that employ over 2.4m people and have been one of the hardest hit during the pandemic. They will be one of the last sectors to be released under the government's roadmap, with some hospitality businesses not being able to operate until late June.

Therefore, both measures announced today provide a welcome boost.

STAMP DUTY HOLIDAY EXTENDED

The Government announced measures last year to temporarily increase the amount that a purchaser could pay for residential property before they pay SDLT, in order to combat the negative effect the coronavirus pandemic was having on the housing market.

The increase to £500,000 was due to expire on 31 March 2021 but in line with recent reports, the Chancellor today announced that the nil rate band would be extended until 30 June 2021.

To avoid a 'cliff-edge', the SDLT holiday will then be phased out with the threshold decreasing to £250,000 between 1 July 2021 and 30 September 2021, before returning to its 'pre-COVID' level of £125,000 on 1 October 2021. This effectively reduces the maximum tax saving from £15,000 pre-1 July 2021 to just £2,500 between 1 July and 30 September 2021.

The aim of the policy is to maintain confidence in the housing market and remove the imminent 31 March 2021 deadline for any property deals that are in progress.

There were no new announcements on the SDLT rates applicable to commercial property and these remain the same as last year.

OUR VIEW

Although news of the extension had been well publicised in the days leading up to the Budget, the announcement is welcome for anyone who is currently in the process of buying or selling a residential property.

However, with the relief being cut back from July, individuals should ensure any transactions or tax planning opportunities are completed as soon as possible to take best advantage of the savings available.

If you are currently thinking of transferring residential property to a company or between family members, the SDLT holiday extension provides an incentive to do this sooner rather than later.

Existing SDLT reliefs should also not be overlooked (for example, Multiple Dwellings Relief) as the SDLT holiday can significantly enhance the benefit of these.

CONSULTATIONS ON R&D AND EMI RELIEFS

Enterprise Management Incentive ('EMI') option schemes

The EMI scheme is an approved share scheme available to SMEs which offers significant tax advantages to both employees and employers. The Government announced that it will consult views on the current scheme in order to assess its effectiveness and whether more companies should be able to access the regime. In particular, the Government is looking at the impact of the qualification thresholds which mean larger companies are currently excluded.

Research and Development ('R&D') tax relief

At last year's Budget, the Government announced that it would consult on what costs companies can include in R&D tax credit claims. The results, published today, show there is considerable appetite for categories of expenditure to be expanded to include costs of accessing datasets and payments for cloud computing services, in order to ensure the credits remain well-targeted and reflect modern R&D processes.

The Government also announced a review to explore how private-sector R&D investment in the UK is supported or otherwise influenced by tax relief, and where changes may be appropriate.

OUR VIEW

It is vital that companies are able to recruit and retain the key talent that they need to grow, yet they may not necessarily have sufficient cash to offer competitive salaries.

An expansion of the EMI scheme, for example, by a relaxation of the above thresholds, will be welcomed by high growth companies looking to retain and reward their key employees.

That the Government is exploring modernising the relief by extending the categories of qualifying software costs is welcome.

With the announcement of the new consultation, the Government is demonstrating its commitment to ensure that R&D tax relief remains up-to-date, competitive and well-targeted.

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