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Budget 2016

The Forbes Dawson Top 10

16 March 2016

Experts in keeping things simple

Capital gains tax

1

CGT Reduction and new 'Investors' Relief'

From 6 April 2016, the main rate of CGT will be cut from 28% to 20%, with a similar reduction from 18% to 10% for basic rate taxpayers. Excluded from this are capital gains arising on the disposal of residential property and carried interest, for which the old rates of 18% and 28% still apply.

The government have also introduced a new relief, known as 'Investors' Relief' which reduces the capital gains tax rate to 10% for gains made on external investment into unlisted trading companies. The rules are similar to EIS in that the shares must be newly subscribed and held for at least three years, plus there is a lifetime investment cap of £10m. Officers and employees of the company will not qualify.

This relief is in addition to Entrepreneurs' Relief and appears to mean that an individual could qualify for 10% CGT on gains of up to £20m during their lifetime (i.e. £10m of ER gains and £10m of 'Investors' Relief' gains).

Our View

These are welcome changes. The new 'Investors' Relief' with a 10% capital gains tax rate offers a parallel relief to ER for those that wish to invest in companies but do not work within them.

That said, in most cases it would appear that the Enterprise Investment Scheme ('EIS') would offer more relief with the gain attracting full exemption from CGT.

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Employee Shareholder Status

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Benefits of Employee Shareholder Status slashed

Employee Shareholder Status (ESS) shares are now only exempt for the first £100,000 of gains enjoyed by each shareholder. Previously ESS shareholders enjoyed a full exemption in respect of any gains on their shares. The new rules apply to any ESS shares which are awarded from midnight tonight. Given that a 7 day 'cooling off period' is required between providing employees with the obligatory independent advice and issuing the shares, there is no scope to rush ESS awards through.

HMRC claim that 'this measure prevents abuse and improves the fairness of the tax system, by ensuring that the level of exempt capital gains from the disposal of Employee Shareholder shares is not excessive'. Here they are probably referring to the increased take up of these kinds of shares by private equity organisations whereby low value shares were awarded with the prospect of significant gains. HMRC would claim that the original objective was to provide the prospect of modest tax-free gains to the day to day workers of a company.

Our View

Even George Osborne looked slightly embarrassed when he announced this measure. This was after all his brainchild which he announced with much aplomb in 2013.

The £100,000 limit will not only vastly diminish the appeal of ESS shares to private equity firms but such a relatively low limit could also deter key employees from taking up the benefit.

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Residential property

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Residential property gets clobbered!

The Chancellor sees second homeowners and residential property investors as easy targets to generate cash for the Exchequer. There is a shortage of homes in the UK that drives up demand, and the acquisition and disposal of property is easy to police.

The SDLT increases that were announced in November are confirmed, and also extended to companies. The new rates will apply to all residential property acquisitions which complete after 1 April 2016, except where it is the only home of the individual. The draft legislation makes it clear that spouses living together are treated as one. The existing and new rates are as follows:

Threshold	Existing rates	New rates
£0 - £125k	0%	3%
£125k - £250k	2%	5%
£250k - £925k	5%	8%
£925k - £1.5m	10%	13%
£1.5m +	12%	15%

As noted above, the rate of CGT for non-corporate investors is retained at 28%, despite the reduction from 28% to 20% on other assets.

Our View

Property investors have been aware of this change for some time, and there will be a rush now to complete any current transactions before 1 April 2016. We had previously thought that companies might be excluded from the changes, but unfortunately it has been confirmed that they will not.

One bit of good news is that incorporation relief for a property investment business remains feasible – this will be sensible for many clients, particularly where they have a highly geared residential portfolio.

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Corporation tax

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Main Rate to fall to 17% by 2020

The Chancellor announced another reduction in corporation tax rates. This is on the back of his announcement in the last Budget that the main rate would fall to 19% from 1 April 2017 and 18% from 1 April 2020. The second reduction will now be to 17%.

The government will also introduce new legislation to reform the loss relief rules for companies. Under the current regime, losses carried forward can only be used against profits of the same company, and in some cases is restricted to certain types of income. In future the rules are likely to be more flexible, so that companies can offset their historic losses against profits from other income streams, or to other group companies. The government will consult on the design of the reforms and introduce legislation from 1 April 2017.

At the same time, loss reliefs will be restricted for large companies making profits over £5 million so that only 50% of the profit can be sheltered by brought forward losses.

Our View

These are welcome changes to the UK corporation tax system. The loss relief rules, and in particular the rules for groups of companies, have been out of step with the way that most businesses operate for some time.

Non-incorporated businesses (particular investment businesses) may also want to consider moving to a limited company structure for the cash-flow advantages.

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Commercial property SDLT

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New system of SDLT for commercial properties

Similar to the reforms for residential property introduced last year, the Chancellor has now announced a new system of SDLT for commercial properties. From midnight tonight sales of non-residential properties will be subject to SDLT using a progressive rate system, rather than the current slab-based approach. The bands will be as follows:

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

The rates will be charged on each slice falling with the band (so a property worth £200,000 will be subject to 2% SDLT but only on £50,000). The slicing approach is already taken for leasehold transactions; however, a new 2% rate will be introduced from today for transactions with a net present value of over £5 million. Transitional rules apply for contracts which have already exchanged but not completed, whereby purchasers will be able to choose whether to apply the new or old rules.

Our View

The change will have a positive impact for the majority of transactions. However, the tipping point will come at around the £1 million mark. Purchases of commercial properties in excess of this figure are likely to face higher SDLT.

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Entrepreneurs' Relief

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Entrepreneurs' Relief U-Turn

The government has made a U-turn on rules brought in last March restricting ER which had unintended effects:

1. The joint venture rules will be amended to make it clear that ER will still apply if the individual holds an effective 5% interest in the trading company (directly or indirectly) and the investor company is substantially trading. Rules had been introduced targeting situations where individuals were able to use the JV rules to get round the 5% test. This change is backdated to 15 March 2015.
2. Prior to 15 March 2015 it was relatively easy to pass assets used in a business (where no rent was paid) down to the next generation whilst claiming ER on the gain. Restrictions were introduced that made this impossible. Fortunately this has been reversed allowing disposals of such assets to attract ER as an associated disposal.
3. ER will also be available on the gains arising on the disposal of goodwill; typically when incorporating a business into a company. The rules don't quite revert back to previous legislation and instead only offer the relief where the individual holds less than 5% of the acquiring company's shares, and the company is controlled by five or fewer participators or all the directors.

Our View

We are pleased to see that the Chancellor has revised these areas of legislation, as they affected many genuine commercial situations.

The backdating of the remedial changes is welcome.

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Pensions and ISAs

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No change on pensions and new Lifetime ISA introduced

The Chancellor has confirmed that he will not introduce changes to pensions rules in this Budget. It had been expected that there might be changes to the tax-free lump sum or to reduce the relief on contributions.

Meanwhile, a new 'lifetime ISA' will be introduced in April 2017 to encourage young people to save. Available to individuals aged 18-40, savings of £4,000 each year can be made up to age 50 and will receive a government bonus of 25%. The £4,000 will sit within the overall ISA limits which are set to rise from £15,000 to £20,000.

The money saved can be used to buy a first home or to save for retirement. Unlike pension schemes where there is a 25% tax-free lump sum, all the savings from a Lifetime ISA can be drawn out tax-free after age 60. You can transfer your Help to Buy ISA into the Lifetime ISA or continue to save into both. You would continue to receive the government bonus on both accounts. The Lifetime ISA has the flexibility of withdrawals before the age of 60, (subject to the loss of the government bonus plus any interest on any growth and will be subject to a 5% charge).

Our View

We are pleased to see that George Osborne has backed away from yet more changes on pensions, as the uncertainty surrounding the tax rules has been extremely unhelpful.

The ISA changes are good news for savers. In particular, the Lifetime ISA will be attractive for individuals that don't like the idea of the long term commitment of contributing into a pension pot.

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Income tax rates

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Personal allowance and basic tax rate increases

The personal allowance will be increased as follows for the next two tax years:

- £11,000 for 2016/17
- £11,500 for 2017/18

The basic rate threshold is also set to increase as follows:

- £32,000 for 2016/17
- £33,500 for 2017/18

As a result the point at which individuals will start to pay the higher rate of tax (40%) will increase to £43,000 from 6 April 2016 and £45,000 from 6 April 2017.

Class 2 National Insurance contributions are also set to be abolished from 2018. The current rate is £2.80 per week for self-employed individuals or partners who are have profits in excess of £5,965.

Our View

The increase in the basic rate threshold will be welcomed by middle income earners who have been hit harder than most in recent years.

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Business rates

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Increased exemption and thresholds

New measures have been introduced, which allow the smallest businesses to pay no rates at all and reduce rates for higher value properties from April 2017. In summary:

- Small Business Rate Relief ('SBRR') will be permanently doubled from 50% to 100% meaning that small businesses occupying property with a rateable value of £12,000 or less will pay no business rates
- Tapered relief will be given on properties with a rateable value between £12,000 and £15,000
- The threshold for the standard business rates multiplier will increase to a rateable value of £51,000

Also from 2020:

- Business rates will be cut for all business through a switch in the annual indexation of business rates from RPI, to CPI, the main measure of inflation.

Our View

Businesses have been calling for an overhaul of the outdated business rates system for some-time now, therefore permanently doubling the SBRR, and the more frequent revaluation of properties, together with the switch in the annual indexation from RPI to CPI is welcome news for many small businesses.

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Anti-avoidance schemes

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Tax net closes on EBTs and EFRBS

The Budget contained details of significant changes for "disguised remuneration" tax avoidance schemes. These typically involved an employer paying into an EBT or EFRBS, which in turn provided benefits such as loans to employees. New legislation was introduced in 2011 to stop these schemes but the legislation did not apply to any loans previously made to employees.

The Budget announced that HMRC will be given additional powers to tackle disguised remuneration schemes. Specific provisions will apply to new schemes brought in after 2011 that are currently being used. More importantly, the Budget document says that HMRC will be able to tax any historical loans from an EBT that are not repaid or have not otherwise been taxed by 5 April 2019 as if it is employment income.

In most cases the money lent from the EBT has been spent many years ago so individuals may struggle to find cash to pay the tax.

Our View

Employers and individuals will need help to understand whether they can reach an equitable arrangement with HMRC to resolve their tax positions before April 2019. We have already assisted a number of clients with EBT/EFRBS settlements.

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To discuss how we can help you, please get in touch with us.

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