

Spring Statement 2019



Amidst all the Brexit debates, the Chancellor Philip Hammond presented his second Spring Statement on Wednesday 13 March 2019.

In his speech the Chancellor provided an update on the economy and responded to the Office for Budget Responsibility forecasts. In addition he launched consultations on various aspects of the tax system together with updates on earlier consultations.

In this publication we concentrate on the tax consultations that were announced either at Spring Statement or in recent weeks and progress that has been made in the development of legislation from earlier consultations.

We also remind you of tax changes which take effect for 2019/20. The new timing of the Autumn Budget allows the announcement of most new measures well in advance of the tax year in which they are due to take effect.

You should contact us before taking any action as a result of the contents of this summary.

Personal Tax

The UK personal allowance, tax rates and bands for 2019/20 were announced by the Chancellor in the Autumn budget in October 2018.

The personal allowance

The personal allowance is £11,850 for 2018/19 and increases to £12,500 for 2019/20. There is a reduction in the personal allowance for those with 'adjusted net income' over £100,000. The reduction is £1 for every £2 of income above £100,000. So for 2018/19 there is no personal allowance where adjusted net income exceeds £123,700. For 2019/20 there is no personal allowance available where adjusted net income exceeds £125,000.

The marriage allowance

The marriage allowance permits certain couples, where neither pays tax at more than the basic rate, to transfer 10% of their personal allowance to their spouse or civil partner.

Comment

The marriage allowance reduces the recipient's tax bill by up to £238 a year in 2018/19. The marriage allowance was first introduced for 2015/16 and there are many couples who are entitled to claim but have not yet done so. It is possible to claim for all years back to 2015/16 where the entitlement conditions are met. A recent change to the law allows backdated claims to be made by personal representatives of a deceased transferor spouse or civil partner.

Tax bands and rates

The basic rate of tax is 20%. In 2018/19 the band of income taxable at this rate is £34,500 so that the threshold at which the 40% band applies is £46,350 for those who are entitled to the full personal allowance. In 2019/20 the basic rate band increases to £37,500 so that the threshold at which the 40% band applies is £50,000 for those who are entitled to the full personal allowance.

Individuals pay tax at 45% on their income over £150,000.

Scottish residents

The tax on income (other than savings and dividend income) is different for taxpayers who are resident in Scotland to taxpayers resident elsewhere in the UK. The Scottish income tax rates and bands apply to income such as employment income, self-employed trade profits and property income.

In 2018/19 and 2019/20 there are five income tax rates which range between 19% and 46%. Scottish taxpayers are entitled to the same personal allowance as individuals in the rest of the UK. The two higher rates are 41% and 46% rather than the 40% and 45% rates that apply to such income for other UK residents. For both 2018/19 and 2019/20, the threshold at which the 41% band applies is £43,430 for those who are entitled to the full personal allowance.

Welsh residents

From April 2019, the Welsh Government has the right to vary the rates of income tax payable by Welsh taxpayers. The UK government has reduced each of the three rates of income tax paid by Welsh taxpayers by 10 pence. The Welsh Government has set the Welsh rate of income tax at 10 pence which will be added to the reduced rates. This means the tax payable by Welsh taxpayers continues to be the same as that payable by English and Northern Irish taxpayers.

Tax on savings income

Savings income is income such as bank and building society interest.

The Savings Allowance, which was first introduced for the 2016/17 tax year, applies to savings income and the available allowance in a tax year depends on the individual's marginal rate of income tax. Broadly, individuals taxed at up to the basic rate of tax have an allowance of £1,000. For higher rate taxpayers the allowance is £500. No allowance is due to additional rate taxpayers.

Some individuals qualify for a 0% starting rate of tax on savings income up to £5,000. However, the rate is not available if taxable non-savings income (broadly earnings, pensions, trading profits and property income less allocated allowances and reliefs) exceeds £5,000.

Tax on dividends

The first £2,000 of dividends are chargeable to tax at 0% (the Dividend Allowance). Dividends received above the allowance are taxed at the following rates:

- 7.5% for basic rate taxpayers
- 32.5% for higher rate taxpayers

- 38.1% for additional rate taxpayers.

Dividends within the allowance still count towards an individual's basic or higher rate band and so may affect the rate of tax paid on dividends above the Dividend Allowance.

To determine which tax band dividends fall into, dividends are treated as the last type of income to be taxed.

Gift Aid - donor benefits

The donor benefits rules that apply to charities who claim Gift Aid tax relief on donations are simplified from 6 April 2019. The benefit threshold for the first £100 of the donation remains at 25% of that amount. For gifts exceeding £100, charities can offer benefits up to the sum of £25 and 5% of the amount of the donation that exceeds £100. The total value of the benefit that a donor can receive remains at £2,500.

Comment

The new limits replace the current mix of monetary and percentage thresholds that charities have to consider when determining the value of benefit they can give to their donors without losing the entitlement to claim Gift Aid tax relief on the donations given to them.

Gift Aid Small Donations Scheme

The Gift Aid Small Donations Scheme (GASDS) applies to small charitable donations where it is impractical to obtain a Gift Aid declaration. GASDS currently applies to donations of £20 or less made by individuals in cash or contactless payment. The limit increases to £30 from 6 April 2019.

Business Tax

Making Tax Digital for Business: VAT

HMRC is phasing in its landmark Making Tax Digital (MTD) regime, which will ultimately require taxpayers to move to a fully digital tax system. Under the new rules, businesses with a taxable turnover above the VAT threshold (currently £85,000) must keep digital records for VAT purposes and provide their VAT return information to HMRC using MTD functional compatible software.

The new rules have effect from 1 April 2019 where a taxpayer has a 'prescribed accounting period' which begins on that date, or otherwise from the first day of a taxpayer's first prescribed accounting period beginning after 1 April 2019. For some VAT-registered businesses with more complex requirements the rules will not have effect until 1 October 2019. Included in the deferred start date category are VAT divisions, VAT groups and businesses using the annual accounting scheme.

The government has now confirmed that a light touch approach to penalties will be taken in the first year of implementation. Where businesses are doing their best to comply, no filing or record keeping penalties will be issued.

The focus will be on supporting businesses to transition and the government will not be mandating MTD for any new taxes or businesses in 2020.

Comment

Keeping digital records will not mean businesses are mandated to use digital invoices and receipts but the actual recording of supplies made and received must be digital. It is likely that third party commercial software will be required. Software is not available from HMRC. The use of spreadsheets will be allowed, but they will have to be combined with add-on software to meet HMRC's requirements.

In the long run, HMRC is still looking to a scenario where income tax updates are made quarterly and digitally, and this is really what the VAT provisions anticipate.

Corporation tax rates

Corporation tax rates have already been enacted for periods up to 31 March 2021.

The main rate of corporation tax is 19%. The rate will fall to 17% for the Financial Year beginning on 1 April 2020.

Capital allowances

Plant and machinery

In the Autumn Budget, the government announced an increase in the Annual Investment Allowance for two years from £200,000 to £1 million in relation to qualifying expenditure incurred from 1 January 2019. Special rules apply to accounting periods which straddle this date.

Other changes made to plant and machinery capital allowances include:

- a reduction in the rate of writing down allowance on the special rate pool from 8% to 6% from April 2019. This includes long-life assets, thermal insulation, integral features and expenditure on cars with CO₂ emissions of more than 110g/km. Special rules apply to accounting periods which straddle this date
- the end of the 100% first year allowance and first year tax credits for products on the Energy Technology List and Water Technology List from April 2020.

Structures and buildings

A new capital allowance, the Structures and Buildings Allowance, gives relief for expenditure on certain structures and buildings. The allowance is available for new structures and buildings intended for commercial use, and the improvement of existing structures and buildings, including the cost of converting or renovating existing premises to qualifying use. Relief is limited to the

original cost of construction or renovation and given across a fixed 50-year period, at an annual flat rate of 2% regardless of changes in ownership.

Only certain expenditure will qualify. The structures or buildings must be brought into use for qualifying activities. These include trades, professions or vocations and certain UK or overseas property businesses - essentially commercial property lettings.

Relief will be given on eligible construction costs incurred on or after 29 October 2018. Where a contract for the physical construction work is entered into before this date, relief is not available.

Comment

Since the ending of Industrial and Agricultural Buildings Allowances, no relief has been available for most structures and buildings. The new allowance addresses the gap and is intended to encourage investment in construction for commercial activity.

Draft legislation has been published for comment.

Intangible fixed assets

The Intangible Fixed Assets regime, which was introduced from 1 April 2002, fundamentally changed the way the UK corporation tax system treats intangible fixed assets (such as copyrights, patents and goodwill). Generally, the regime taxes gains and losses on such assets as income and gives relief for the cost of acquiring such assets as and when the expenditure is written off in the company's accounts.

However, since 8 July 2015, the amortisation of goodwill has not been eligible for relief. After a review of the rules, the government has now decided to introduce targeted relief for the cost of goodwill but only in relation to the acquisition of businesses with eligible intellectual property. Companies that acquire goodwill on or after 1 April 2019 will receive relief for goodwill up to a limit of six times the value of any qualifying intellectual property assets in the business being acquired. The categories of qualifying assets include: patents, registered designs, copyright and design rights and plant breeders' rights. Relief will be given at a fixed rate of 6.5% in all cases.

The restriction on relief will continue to apply in relation to internally-generated goodwill acquired in a related party incorporation. Goodwill acquired prior to 1 April 2019 will continue to be subject to the tax treatment prevailing at the time it was acquired.

Preventing abuse of the R&D tax relief for SMEs

Budget 2018 announced that, from 1 April 2020, the amount of payable R&D tax credit that a qualifying loss-making company can receive in any tax year will be restricted to three times the company's total PAYE and NICs liability for that year. This is to help prevent abuse of the payable credit system. The government has now announced that a consultation will be published and will focus on how the measure will be applied, to minimise any impact on genuine businesses.

VAT Partial Exemption and Capital Goods Scheme

The government will publish a call for evidence on potential simplification and improvement of the VAT Partial Exemption regime and the Capital Goods Scheme - ensuring they are as simple and efficient for taxpayers as possible.

VAT fraud in labour provision in the construction sector

The government will pursue legislation to shift responsibility for paying VAT along the supply chain with the introduction of a domestic VAT reverse charge for supplies of construction services with effect from 1 October 2019. Draft legislation and guidance has been issued.

The domestic reverse charge will affect supplies of 'specified services' at the standard or reduced rates where payments are required to be reported through the Construction Industry Scheme (CIS). Therefore supplies between sub-contractors and contractors, as defined by CIS, will be subject to the reverse charge unless they are supplied to a contractor who is an end user. End users will usually be recipients who use the building or construction services for themselves, rather than those who sell the services on as part of their business of providing building or construction services.

There will be exclusion from the reverse charge for certain supplies such as the manufacture of building or engineering equipment. But the reverse charge will apply to goods, where those goods are supplied with the specified services.

Comment

A domestic reverse charge means that a contractor receiving the supply of specified construction services must account for the output VAT due rather than the sub-contractor who supplied the services. The contractor also deducts the VAT due on the supply as input VAT, meaning no net tax is payable to HMRC. This removes the scope to evade any VAT owing to HMRC.

Employment Taxes

Off-payroll working in the private sector

The changes to the off-payroll working rules (commonly known as IR35) that came into effect in April 2017 for the public sector will be extended to the private sector from April 2020. A consultation paper has now been issued on the proposed operation of the rules.

The off-payroll working rules apply where an individual (the worker) provides their services through an intermediary (typically a personal service company) to another person or entity (the client). The 2020 changes will use the off-payroll working rules in the public sector as a starting point. This means a client will be required to make a determination of a worker's status and communicate that determination. In addition, the fee-payer (usually the organisation paying the worker's personal service company) will need to make deductions for income tax and NICs and pay any employer NICs.

Only medium and large businesses will be subject to the 2020 rules, so small businesses will not need to determine the status of the off-payroll workers they engage. The government intends to use the Companies Act 2006 definition of a small company which means meeting any two of these criteria: a turnover of £10.2 million or less, having £5.1 million on the balance sheet or less, or having 50 or fewer employees.

Comment

The latest consultation is not intended to consider alternative approaches to tackling non-compliance with the off-payroll working rules. The consultation is intended to provide businesses and off-payroll workers with greater certainty around how the off-payroll working rules will operate and help businesses make the correct determination of a worker's status.

Employer provided cars

The scale of charges for working out the taxable benefit for an employee who has use of an employer provided car are normally announced well in advance. Most cars are taxed by reference to bands of CO₂ emissions multiplied by the original list price of the vehicle. The maximum charge is capped at 37% of the list price of the car.

For 2018/19 there was generally a 2% increase in the percentage applied by each band. For 2019/20 the rates will increase by a further 3%.

Exemption for travel expenses

New legislation has been introduced which removes the requirement for employers to check receipts when making payments to employees for subsistence using benchmark scale rates. This will apply to standard meal allowances paid in respect of qualifying travel and overseas scale rates. Employers will only be asked to ensure that employees are undertaking qualifying travel. This will have effect from April 2019.

The legislation also allows HMRC to put the existing concessionary accommodation and subsistence overseas scale rates on a statutory basis from 6 April 2019. Like benchmark rates, employers will only be asked to ensure that employees are undertaking qualifying travel.

Apprenticeship Levy

The Apprenticeship Levy generally applies to employers if their annual 'paybill' is over £3 million. A pay bill means the total earnings upon which Class 1 employer NICs are calculated.

Employers that pay the Levy are able to use the funds towards qualifying apprenticeship training costs with a 10% government top up. For other employers, a system of co-investment means that government funding currently meets 90% of the training costs and the employer 10%.

At Budget 2018 the government announced that the co-investment rate would be halved from 10% to 5%, and the amount employers who pay the Levy can transfer to certain other employers

would increase from 10% to 25%. The Chancellor has announced that these changes will now take effect from April 2019.

Comment

Apprenticeships are a devolved policy. This means that authorities in each of the UK nations manage their own apprenticeship programmes, including how funding is spent on apprenticeship training. These funding rules apply in England.

Capital Taxes

Capital gains tax (CGT) rates

The current rates of CGT are 10%, to the extent that any income tax basic rate band is available, and 20% thereafter. Higher rates of 18% and 28% apply for certain gains; mainly chargeable gains on residential properties with the exception of any element that qualifies for private residence relief.

There are two specific types of disposal which potentially qualify for a 10% rate, both of which have a lifetime limit of £10 million for each individual:

- Entrepreneurs' Relief (ER). This is targeted at working directors and employees of companies who own at least 5% of the ordinary share capital in the company and the owners of unincorporated businesses
- Investors' Relief. The main beneficiaries of this relief are external investors in unquoted trading companies who have newly-subscribed shares.

CGT annual exemption

The CGT annual exemption is £11,700 for 2018/19 and £12,000 for 2019/20.

Entrepreneurs' Relief (ER)

Minimum qualifying period

The minimum period throughout which certain conditions must be met to qualify for ER is being increased from one year to two years. This has effect for disposals on or after 6 April 2019 except where a business ceased before 29 October 2018. Where the claimant's business ceased, or their personal company ceased to be a trading company (or the holding company of a trading group) before 29 October 2018, the existing one year qualifying period continues to apply.

New 5% rules for company shareholders

To qualify for ER, the company needs to be an individual's 'personal company'. This means that an individual must throughout the relevant qualifying period:

- be a company employee or office holder
- hold at least 5% of the company's ordinary share capital and
- be able to exercise at least 5% of the voting rights.

For disposals on or after 29 October 2018, an individual must also satisfy either of the following:

- distribution tests which require the individual, by virtue of that holding, to be entitled to at least 5% of the company's profits available for distribution to 'equity holders' and 5% of the assets available for distribution to 'equity holders' in a winding up
- a proceeds test which requires the individual, in the event of a disposal of the whole of the ordinary share capital of the company, to be beneficially entitled to at least 5% of the proceeds.

Comment

In the distribution tests the term 'equity holders' is a wider definition than ordinary share capital. As a consequence, the tax profession raised concerns about the wide ranging impact of these tests and, as a result, the government introduced the alternative proceeds test.

In the proceeds test, the 5% threshold is computed by reference to the market value of the company at the end of the qualifying period. That may mean, in situations where the new distribution tests are not met, it may not be known until the disposal of shares whether ER will be available.

Gains for non-residents on UK property

Legislation, broadly having effect for disposals from 6 April 2019, charges all non-UK resident persons on gains on disposals of interests in any type of UK land, whether residential or non-residential. As a consequence, the CGT charge relating to the Annual Tax on Enveloped Dwellings is abolished.

All non-UK resident persons will also be taxable on indirect disposals of UK land. The indirect disposal rules will apply where a person makes a disposal of an entity that derives 75% or more of its gross asset value from UK land. There will be an exemption for investors in such entities who hold a less than 25% interest.

All non-UK resident companies will be charged to corporation tax rather than CGT on their gains.

There are options to calculate the gain or loss on a disposal using the original acquisition cost of the asset or using the value of the asset at commencement of the rules in April 2019.

Comment

The main effect of the new legislation will be to extend the scope of UK taxation of gains to include gains on disposals of interests in non-residential UK property.

Previous legislation has focused on bringing gains made by non-residents on residential properties within the UK tax regime.

Inheritance tax (IHT) nil rate bands

The nil rate band has remained at £325,000 since April 2009 and is set to remain frozen at this amount until April 2021.

IHT residence nil rate band

From 6 April 2017 a new nil rate band, called the 'residence nil rate band' (RNRB), has been introduced, meaning that the family home can be passed more easily to direct descendants on death.

The RNRB is being phased in. For deaths in 2018/19 it is £125,000, rising to £150,000 in 2019/20 and £175,000 in 2020/21. Thereafter it will rise in line with the Consumer Price Index.

There are a number of conditions that must be met in order to obtain the RNRB, which may involve redrafting an existing will.

Downsizing

The RNRB may also be available when a person downsizes or ceases to own a home on or after 8 July 2015 where assets of an equivalent value, up to the value of the RNRB, are passed on death to direct descendants.

Changes to IHT RNRB

Amendments have been introduced to the RNRB relating to downsizing provisions and the definition of 'inherited' for RNRB purposes. These amendments clarify the downsizing rules and provide certainty over when a person is treated as 'inheriting' property. The changes have effect for deaths on or after 29 October 2018.

Stamp Duty Land Tax (SDLT)

Consultation on SDLT charge for non-residents

The government has recently published a consultation on the introduction of a SDLT surcharge for non-UK residents. The surcharge will apply to purchases of residential property made by non-UK resident individuals and certain non-natural persons. The surcharge will apply to freehold and leasehold purchases of residential property and will be at a rate of 1% on top of existing SDLT rates, including the rates applicable to the rental element of leasehold property.

No date has been set for the introduction of the surcharge.

Other Matters

Extension of offshore time limits

The assessment time limits have been increased for offshore income and gains to 12 years. Similarly the time limits for proceedings for the recovery of inheritance tax are increased to 12 years where the lost tax involves an 'offshore matter'. Where an assessment involves a loss of tax brought about deliberately the assessment time limit is 20 years after the end of the year of assessment and this time limit will not change.

The legislation does not apply to corporation tax or where HMRC has received information from another tax authority under automatic exchange of information.

The potential extension of time limits apply from the 2013/14 tax year where the loss of tax is brought about by careless behaviour and from the 2015/16 tax year in other cases.

Comment

Assessment time limits are ordinarily four years (six years in the case of carelessness by the taxpayer). The justification for the extension of time limits is the longer time it can take HMRC to establish the facts about offshore transactions, particularly if they involve complex offshore structures.

The legislation cannot be used to go back earlier than 2013/14. If there has been careless behaviour HMRC can make an assessment for up to 12 years from 2013/14 in respect of offshore matters but HMRC could not raise an assessment for 2012/13 or earlier (unless there is deliberate behaviour by the taxpayer).

Review of other time limits

A report will be issued in March comparing the time limits for the recovery of lost tax involving an offshore matter with other time limits.

Insurance Premium Tax

A call for evidence will be issued on where improvements can be made to ensure that Insurance Premium Tax operates fairly and efficiently.

Aggregates Levy

A discussion paper has been issued launching a review of the Aggregates Levy including the Terms of Reference and information on timing and scope of the review.

Tackling tax avoidance, evasion and other forms of non-compliance

A policy paper has been issued which:

- outlines HMRC's strategy and approach to compliance for different taxpayer types
- details the government's record in addressing areas where risks of non-compliance have been identified
- provides a summary of the government's investment in HMRC and its commitment to further action.

Comment

The policy paper lists details of over 100 measures the government has introduced since 2010 covering avoidance, evasion and non-compliance.

Late payments made to small businesses

In his speech, the Chancellor announced that further action will be taken to tackle the issue of late payments by large businesses to small businesses. A full response to a call for evidence issued in 2018 will be published shortly. As a first step the government will require Audit Committees to review payment practices and report on them in their Annual Accounts.