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From the editor

The Spring Budget has helped cement Philip Hammond's reputation as a gimmick-free chancellor. After scrapping George Osborne's 'shares-for-rights' scheme in the Autumn Statement, this time he reduced the dividend allowance, another Osborne initiative. The small number of new tax announcements in this Budget – just 14, compared with 50 in last year's Budget – suggests that Hammond is serious about having only one major fiscal event per year. It's a bold move, though, for the chancellor to raise class 4 NICs, thus breaking the Conservative's 'triple lock' manifesto pledge (even if he didn't breach the subsequent legislation, which refers only to class 1 contributions). Whether this move is as politically damaging as the 'pasty tax' furore remains to be seen, but the fact that the IFS has since backed his plans over NICs lends support to the chancellor's claim that the move is necessary to protect the tax base. We can expect further measures to 'level the playing field' for employees and the self-employed in due course.

In this special edition, we provide a guide to all the key announcements, and several leading practitioners examine the detail. My thanks to all authors for their timely contributions.

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Your ten page guide to the key announcements, courtesy of Lexis PSL, includes:

- the planned increases in class 4 NICs paid by the self-employed;
- the reduction in the dividend allowance from April 2018;
- the introduction of a new withholding tax exemption for interest on debt traded on a multilateral trading facility;
- a one year delay for smaller businesses before they have to submit quarterly reports of income and expenses to HMRC;
- the government's commitment to continue to raise the personal allowance and the threshold at which higher rate tax applies; and
- the new criminal offence for the evasion of the soft drinks industry levy.

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Our pick

Budget 2017: self-employment and all that

The chancellor of the exchequer, Philip Hammond, delivered his first Budget on 8 March. The CIOT and Institute for Government were quick to praise the relatively small number of new tax measures, which they hope marks the start of the 'do less and do it better' approach advocated in January's *Better Budgets* report.

The headline announcement was an increase in the main rate of class 4 NICs from 9% to 10% in April 2018, followed by a further step up to 11% in April 2019. This is the government's first move towards closing the gap between the employed and self-employed, as the broader review of employment practices gathers pace. The abolition of class 2 NICs will still go ahead in April 2018, but in creating winners and losers, the policy comes 'dangerously close' to breaking the government's commitment not to increase rates of VAT, income tax or class 1 NICs over the lifetime of this parliament, as Jill Rutter, programme director at the Institute for Government, pointed out. A number of the chancellor's own colleagues feel the same way and are likely to say so in the Budget debates. The combination of abolishing class 2 and increasing class 4 is expected to raise £145m a year by 2021/22, the chancellor said.

Stephen Herring, head of taxation at the Institute of Directors, said of the class 4 change: 'It will not be an easy road to travel down, as there will be many contractors, traditionally self-employed occupations and, yes, entrepreneurs who will pay more in NICs because of it. Nevertheless, the increasingly flexible economy means that the journey must be made.'

John Cullinane, CIOT tax policy director, commented: 'If the government truly intends to level the playing field, the big factor is employer's national insurance contributions. That is the "elephant in the room", which went unmentioned by the chancellor today.'

Another big announcement was a cut in the tax-free dividend allowance from £5,000 to £2,000 with effect from April 2018. As the chancellor put it, this is intended 'to address the unfairness around director/shareholders' tax advantage'. It will also raise £2.6bn over the next five years.

As many had hoped he would, the chancellor announced that businesses below the VAT registration threshold will benefit from the delayed introduction, until April 2019, of 'making tax digital' quarterly reporting.

The chancellor also confirmed that new penalties for enablers of tax avoidance schemes will be introduced from the date of royal assent to the Finance Bill. This is due to raise £115m over the next five years. Reflecting the concerns expressed by many professional advisers over the new penalties, Jason Collins, head of tax at Pinsent Masons, said: 'HMRC is likely to have a working list of who they want to target first with this measure. By the looks of it, QCs, small accountancy firms, law firms and boutique advisors will be in their sights.' Stella Amiss, tax partner at PwC, was more conciliatory, commenting: 'The government has worked to ensure there is greater clarity in its proposals and that they are appropriately targeted and proportionate. The government recognises taxpayers need to access tax advice that helps them understand and comply with tax rules.'

Business taxes

The case for corporation tax cuts

Cutting the headline rate of corporation tax has led to stronger economic growth and higher profitability for companies across the UK, with corporation tax receipts increasing by 28% since 2011/12, according to the Centre for Policy Studies (CPS). *The case for corporation tax cuts*, published by the CPS, suggests that the Labour party's pledge to reverse the government's planned 17% corporation tax rate in 2020 and increase it to 21.5% would raise, at most, between £3.7bn and £5bn in the long term, falling short of Labour's aim of funding £15bn in spending.

Personal taxes

New HMRC employment status tool

HMRC has launched its new 'check employment status for tax' online tool, which workers, engagers or agencies can use to check whether the intermediaries legislation applies to a particular engagement in the private or public sector. This replaces the old employment status indicator tool.

The service can be used for current or future engagements in both private and public sectors and will allow HMRC to determine whether:

- the intermediaries legislation (IR35) applies to an engagement; and
- a worker should pay tax through PAYE for an engagement.

HMRC has stated that it will stand by the results given, unless a compliance check finds the information provided isn't accurate. It will not, however, stand by results achieved through contrived arrangements designed to give a specific outcome from the service.

Stamp taxes

OTS update on stamp duty review

The Office of Tax Simplification has completed the first phase of its work on the review of stamp duty on paper share transactions and has published its interim report. The report describes the progress made following a first round of interviews and outlines two proposed options:

- creating a digital, self-assessed, stamp duty to sit alongside SDRT; or
- modifying SDRT to create a merged tax, which would charge 'agreements to transfer', rather than the transfer instruments.

The report asks a number of questions examining the feasibility of the proposed options, on which the OTS invites comments by 31 May 2017 (see www.bit.ly/2lZSRAv).

One of the questions about the self-assessed stamp duty asks whether HMRC should retain some measure of adjudication as part of the self-assessment process, in order to balance certainty with simplicity.

While none of the interviewees have suggested changing the fundamental requirement for payment of stamp duty to register a transfer of legal ownership, the majority favour the merged tax approach. This raises questions around when the payment obligation would be triggered, which could be the 'agreement to transfer', or could use the concept of completion or substantial performance, as with the SDLT rules. Other questions associated with this option concern whether to define the assets in scope using the SDRT definition of 'chargeable securities', or retain the stamp duty definition of 'stock or marketable securities'. The existing stamp duty and SDRT exemptions and reliefs would also need to be considered, along with the treatment of partnership interests, share buybacks and various other issues.

The OTS intends to issue its main report in the summer.

VAT and indirect taxes

CRC energy efficiency scheme

The CRC Energy Efficiency Scheme (Allocation of Allowances for Payment) (Amendment) Regulations, SI 2017/211, come into force on 31 March 2017, to set

the price of allowances used in the scheme for the years 2017, 2018 and 2019.

The CRC (carbon reduction commitment) scheme is a mandatory UK wide emissions trading scheme under which large public and private sector organisations surrender a number of allowances at the end of each scheme year equal to their total CO2 emissions. Budget 2016 announced that the scheme is to be abolished following the 2018/19 compliance year.

Changes to VAT flat-rate scheme

The CIOT has published additional information it has received from HMRC on changes to the VAT flat-rate scheme (FRS). The information concerns:

- leaving the scheme: HMRC confirmed that there is a requirement to notify that someone will be leaving the scheme, although they do not have to wait for a letter from HMRC to leave the scheme and can withdraw retrospectively provided they have not already submitted a return; and
- hybrid returns: HMRC confirmed that the new rules apply only for that part of an accounting period that falls after 1 April 2017, meaning traders could have hybrid returns where two FRS rates are applied (the 'normal' rate until 31 March 2017 and the 'low-cost trader' rate from 1 April 2017).

The new regulations will be laid on 8 March 2017 and will come into effect on 1 April 2017.

International taxes

EU consults on administrative cooperation and VAT fraud

The European Commission is consulting until 31 May 2017 on updating the rules governing administrative cooperation in tackling cross-border VAT fraud in the EU. This is the latest in a group of four consultations forming part of the Commission's action plan on VAT, launched in April 2016.

The consultation aims to update the rules of Council Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of VAT. It seeks to:

- gather views from stakeholders about their experience of the current rules governing administrative co-operation and fight against cross-border fraud in the field of VAT;
- bring new insights for the ongoing evaluation of Regulation (EU) 904/2010;
- provide information about possible improvements for checking the validity of VAT identification numbers, including 'VIES on-the-web'; and
- collect quantitative data on possible regulatory costs/benefits for businesses, and SMEs in particular.

Responses must be submitted via an online questionnaire by 31 May 2017.

EU Parliament report on double taxation dispute resolution

The EU Parliament's committee on economic and monetary affairs has issued its report on the Commission's proposal for a directive on double taxation dispute resolution mechanisms in the EU. The Commission published its proposal on 25 October 2016, as part of the latest corporate tax reform package. The committee's report suggests a number of amendments, including:

- when a taxpayer submits a complaint requesting resolution of a double taxation dispute, sanctions should not be imposed on the taxpayer in relation to the same matter until a binding decision is taken;
- in addition to publishing at least an abstract of the final decisions by competent authorities, the Commission should make this information available on a centrally managed webpage for the benefit of all taxpayers; and
- the Commission should review application of the directive after five years with regard to the possible extension of its scope to cover all double taxation situations, such as indirect taxes, personal income taxes, inheritance taxes and taxation of occupational pensions.

Malaysia joins BEPS framework

Malaysia has become the 94th country to join the BEPS inclusive framework, which provides a forum for countries representing varying levels of development to participate on an equal footing in the OECD's committee on fiscal affairs.

People and firms

Laura Charkin joins **Goodwin Procter** as tax partner. Charkin, formerly of King & Wood Mallesons, specialises in fund taxation.

Priya Dutta, formerly of Gabelle, joins **Mark Davies & Associates** as senior tax manager. Dutta advises on domicile, residency, offshore trusts and other property holding structures.

Gavin Tucker, formerly senior tax manager at PwC, joins **Customs Connect** as director of VAT.

South West based accountancy firm **Thomas Westcott** appoint **Sheldon Cole**, previously at EY, as tax partner. Cole has over 20 years' experience in providing personal and corporation tax advice.

To publicise tax promotions, appointments and firm news, email paul.stainforth@lexisnexis.co.uk

Administration & appeals

Offshore penalty regime regulations

The government has published a group of regulations commencing the latest changes to the offshore penalty regime. Legislation in FA 2016 increased the minimum penalties for offshore inaccuracies involving 'deliberate' and 'deliberate and concealed' behaviour by 10% of the potential lost revenue. Taxpayers will be required to provide additional details on how the evasion took place to secure maximum penalty reductions. A new asset-based penalty will apply to evasion using offshore transfers and structures. The naming provisions for deliberate defaulters will be strengthened to protect only those taxpayers who make full unprompted disclosures; and extended to individuals who use a company or other entity to evade UK tax:

- The Finance Act 2016, Schedule 21 (Appointed Days) Regulations, SI 2017/259, appoint 1 April 2017 as the date on which changes to the offshore penalty regime come into force in relation to offshore transfers. For income tax and CGT purposes, the changes have effect from 6 April 2016, while for IHT they apply to transfers of value made on or after 1 April 2017. Powers for the Treasury to make further regulations defining 'additional information' to be provided to HMRC by way of disclosure come into force on 8 March 2017.
- The Finance Act 2016, Section 164 (Appointed Day) Regulations, SI 2017/261, appoint 1 April 2017 as the date on which HMRC's new powers come into force to publish details of deliberate defaulters, where the relevant penalties relate to offshore matters.
- The Finance Act 2016, Schedule 22 (Appointed Days) Regulations, SI 2017/277, appoint 1 April 2017 as the date on which asset-based penalties for serious inaccuracies or failures in relation to offshore matters and transfers come into force. For income tax and CGT purposes, the changes have effect from 6 April 2016, while for IHT they apply to transfers of value made on or after 1 April 2017. Powers for the Treasury to make further regulations setting out the maximum amount of the penalty reduction for disclosure and co-operation come into force on 8 March 2017.

Offshore funds

Following consultation, the Offshore Funds (Tax) (Amendment) Regulations, SI 2017/240, disallow the deduction of performance fees incurred by offshore reporting funds in calculating UK investors' reportable income, for reporting periods commencing on or after 1 April 2017.

Our pick

Smith and Nephew Overseas and others v HMRC
Exchange losses allowable

In ***Smith and Nephew Overseas and others v HMRC*** [2017] UKFTT 151 (8 February), the First-tier Tribunal (FTT) found that losses incurred as a result of a change in functional currency were allowable.

Following a change in its functional currency, from sterling to US dollars, as the result of a company reorganisation, Smith and Nephew and its two sister companies claimed foreign exchange losses totalling over $1m, arising as a result of the fall in value of the pound against the US dollar. HMRC disallowed the losses.

There were three issues. The first one was whether the appellants' accounts complied with GAAP for the purpose of the loan relationship rules. This depended on the correct approach when accounting for a change in functional currency. The FTT was swayed by the taxpayers' expert; and by the fact that E&Y had confirmed that the companies' accounts gave a true and fair view.

The next issue was whether the exchange differences were 'exchange losses' within FA 1996 s 103. The FTT noted that an exchange loss is 'the comparison at different times of the expression in one currency of the valuation put by the company in another currency in relation to an asset'. This is therefore an arithmetic exercise and the legislation does not require any exposure to exchange rates between two dates, just a comparison at different times first in one currency and then in another. The exchange differences were therefore exchange losses for the purpose of s 103.

Finally, the FTT had to decide whether the exchange differences 'fairly represented' a loss arising to the appellants, as defined by s 84(1). The tribunal rejected HMRC's argument that the expression required an overarching 'sanity check' to prevent an arithmetic difference from giving rise to a loss. The expression had been included simply for identification and/or timing purposes to identify the relevant entries. The exchange differences did therefore 'fairly represent' losses.

Why it matters: The FTT rejected the statement of HMRC's witness, noting that he had sought 'to avoid giving direct answers to questions put to him in cross examination and gave the impression, contrary to the overriding duty of an expert to help the tribunal on matters within his expertise, of seeking to argue HMRC's case'. A seemingly biased witness can therefore prove highly detrimental. The case is also a reminder that tax legislation sometimes caters for 'purely arithmetic' losses.

Business taxes

Pensions chargeable payments and the reasonableness test

In ***HMRC v Sippchoice*** [2017] UKUT 87 (1 March), the Uppert Tribunal (UT) found that the reasonableness test established in *Mobilx* [2010] STC 1436 is not appropriate when deciding whether a pension fund's belief that a payment is not chargeable is reasonable.

Under an alleged pensions liberation scheme, members of a pension scheme were enabled to access their pension funds, in the form of loans, before the age at which members are permitted to obtain such benefits (55 years). The intention of the scheme (which HMRC accepted that Sippchoice did not know was being operated) was to enable those benefits to be accessed without a charge to tax under the unauthorised payments regime.

Like the FTT, the UT proceeded on the assumption that the loans were unauthorised payments and thus were scheme chargeable payments for the purpose of FA 2004 s 164. The issue was whether the FTT had erred in law in determining that the charge fell under s 268(7), so that the scheme administrator's liability may be discharged. The provision requires both that the scheme administrator has formed a belief that an unauthorised payment was not a scheme chargeable payment; and that his belief was reasonably held.

The FTT had used the reasonableness test set out in *Mobilx*, which applies when deciding whether a trader knew that the transaction he was entering into was connected with MTIC fraud. The UT found that the FTT's reference had been 'inapt'. The UT pointed out that the test can be formulated as 'whether the trader should have known that there was no reasonable explanation other than connection to VAT fraud'. There was, however, no scope for the application of a 'no reasonable explanation' test in assessing the reasonableness of a belief for the purpose of s 268(7).

That said, the FTT had not made any errors of law when assessing whether Sippchoice's belief had been reasonable. It had not applied the *Mobilx* test as 'some sort of proxy for the test of reasonableness', but had confined its reference to *Mobilx* to evidential issues, as to the due diligence conducted by Sippchoice.

Why it matters: The UT found that the FTT had made an 'error of principle' by referring to the *Mobilx* test when applying the reasonableness test. However, the FTT had applied the correct principles when deciding whether: (1) Sippchoice had conducted reasonable enquiries; and (2) whether it had been reasonable for Sippchoice to be reassured by those enquiries.

Administration & appeals

Should a closure notice state the tax liability?

In ***R (on application of W Archer) v HMRC*** [2017] EWHC 296 (21 February), the High Court found that closure notices should have included the amount of tax due but dismissed the application for judicial review on the ground that the taxpayer should have appealed to the FTT.

Mr Archer was in dispute with HMRC in relation to two avoidance schemes until the Court of Appeal (CA) found that both schemes failed. HMRC issued two closure notices, which did not state the amounts of tax payable. Mr Archer contended that the notices were valid but that they failed to amend his returns in line with TMA 1970 s 28A(2)(b). He argued that the notices had not created a debt under s 59B(5), so that HMRC could not issue a statutory demand in relation to the sum in dispute (over £24m).

The court accepted HMRC's evidence that the returns had been amended to reflect the amount of tax payable in accordance with the closure notices – even though this was disputed by the taxpayer. The issue was therefore whether the closure notices themselves should have set out the amount of tax due. The court found that the statutory scheme 'predicates the giving of notices of amounts being assessed'. This means that amendments to the taxpayer's return must be set out in the closure notice. In addition, the court referred to *Bristol & West* [2016] STC 1491 as authority for the proposition that: 'HMRC is required to state its case as to the amount of tax due, in the closure notice itself.'

The court also had to decide whether TMA 1970 s 114(1) could apply to give effect to the closure notices. It observed that the provision can only apply where there has been an assessment. The sentence included in the notice, 'I am amending your return', did not amount to an assessment so that the notice was outside the scope of s 114.

Finally, the court addressed HMRC's argument that the taxpayer should have appealed to the FTT, which would have rectified the closure notices under s 114. Although there was no 'relevant assessment', there were 'other proceedings' (albeit defective). The court noted that 'the real question' was whether the omission was too 'significant and/or fundamental to be capable of salvation'. The court held that 'although the conclusions were brief, they were sufficient to enable the taxpayer to understand where he stood with HMRC'. He should therefore have appealed against the notices to the FTT.

Why it matters: The judge noted: 'I assured Mr Goldberg (Counsel for the taxpayer) during the hearing that I would not permit myself to be swayed by any opinion as to his client's behaviour.' He observed, however, that the closure notice clearly stated that the whole of the losses were disallowed and that he could do the sums 'on his pocket calculator'. The taxpayer had known were he stood.

Legitimate expectation and the jurisdiction of the FTT

In ***R & J Birkett trading as The Orchards Residential Home et al v HMRC*** [2017] UKUT 89 (2 March), the UT found that the FTT did not have jurisdiction to consider the taxpayers' legitimate expectation that no penalty would be imposed.

Mr and Mrs Birkett are partners in a number of partnerships, each of which operates a residential care home. The partnerships made contributions to a trust as part of a scheme designed to reduce the taxable profits of the partnerships. HMRC opened enquiries into the partnerships' returns and issued information notices under FA 2008 Sch 36. Daily penalties were imposed as a result of the partnerships' non-compliance with the notices.

The partnerships appealed to the UT, submitting that HMRC imposed the daily penalties on 23 November 2012 in the belief that no appeal had been brought against the initial penalties, but that it was made clear to HMRC that such an appeal had in fact been brought on 26 October 2012.

The main ground of appeal to the UT was that the FTT had erred in law when finding that it did not have jurisdiction to consider Mr and Mrs Birkett's legitimate expectation that no penalties would be imposed once they appealed. The UT observed that the appeal was made under Sch 36 para 47. It noted that the jurisdiction of the tribunal on an appeal under para 47(a) is confined to deciding whether the statutory requirements under para 40 are met. This means that the FTT cannot, on an appeal under para 47(a), review the decision of the HMRC officer on any other grounds. The FTT does not therefore have jurisdiction to review the decision on the grounds that it was unfair to issue the penalties because the appellants had a legitimate expectation. As to the level of the penalties (para 47(b)), the FTT found that the FTT does have jurisdiction to substitute an amount different from that imposed by HMRC. This jurisdiction is not limited to deciding whether the amount exceeds the statutory maximum. However, as there was no argument as to quantum, the FTT did not have jurisdiction in relation to the penalties.

Finally, the UT found that there had been no infringement of the European Convention on Human Rights A1P1. There is no UK law provision for the suspension of daily penalties while the initial penalty is challenged by way of appeal. Furthermore, the failure to include such a provision is not 'burdensome, arbitrary, unfair or excessive'.

Why it matters: This was an unusual case. The FTT had originally misplaced the appeal papers and HMRC had not been notified of the appeal. HMRC had then issued daily penalties on the basis that no appeal had been lodged and yet it had refused to withdraw the penalties once informed of the appeal. The UT pointed out that, although the FTT does not have judicial review jurisdiction, it may consider questions of public law in the course of exercising the jurisdiction which it does have. In the present case, this meant that although the FTT did not have a discretion when deciding whether a penalty should be imposed, it could substitute its own decision as to the correct amount.

Jurisdiction of the FTT to amend a return

In ***HMRC v E Walker*** [2016] UKUT 32 (1 February), the UT found that once the FTT had found that the taxpayer was entitled to a smaller repayment than the one actually claimed, it should have amended its return.

Mr Walker was a contractor in the construction industry. Following an enquiry, HMRC had issued a closure notice against which the taxpayer had appealed.

Although the FTT had found in favour of the taxpayer, it had found that he was entitled to a smaller repayment than the one made to him but it had decided that it had no power to amend his return under TMA 1970 s 50(6) and (7). HMRC challenged this conclusion as to the FTT's power to amend returns.

The UT noted that the rights of the taxpayer and HMRC in relation to payment and repayment are determined by the contents of the self-assessment return, as amended from time to time. It added that if the FTT finds that the self-assessment (here, the assessment as amended as a result of the closure notice) states too small an amount as the amount chargeable to income tax, it has the power (under s 50(7)(a)) to increase the assessment made under s 9(1)(a): 'It would, as we see it, be a surprising result if the FTT were then unable to give effect to its findings by amending the return.'

The UT accepted that TMA 1970 s 59B is not justiciable before the FTT, as it is concerned with matters of collection and enforcement. However, it noted that the appeal was against the conclusions of the closure notice, the impact of the amendment on the parties' rights and the obligations under s 59B, and that this was a separate matter. The UT added that once an amendment is made to the self-assessment return by s 50(6) and (7), s 59B then applies to the amended return just as it does to an original return or to an amendment following a closure notice which is not appealed.

Why it matters: Having found that the FTT should have given effect to its own decision by amending the taxpayer's return, the UT proceeded to make the amendments, thus reducing the amount of tax repayments owed by HMRC to Mr Walker.

Case tracker update

There have also been the following developments:

- ***Gala 1 Ltd v HMRC*** [2016] UKUT 564 (TCC) (VAT groups and overpaid VAT): UT has refused taxpayer permission to appeal to CA.
- ***HMRC v BMW (UK) Holdings Ltd and another*** [2016] UKUT 434 (TCC) (VAT group representative member and right to repayment): UT has refused taxpayers' application for permission to appeal to CA.

See case tracker on taxjournal.com for details of the status of leading tax cases.

Cases reported by Cathya Djanogly (cathya.djanogly@hotmail.com)

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Q&A

The big picture

The 'less is more' chancellor.

Chris Sanger
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For those raised on the rabbit-producing theatrics of Gordon Brown or on the political audacity of George Osborne, Philip Hammond's Budget style may take a bit of getting used to. Faced with no particular crises, reasonably promising forecast data, and the prospects of a further budget in the autumn, the new chancellor didn't need to do much. So, at least in aggregate, he didn't, spending only £175m over the five years. And he particularly didn't have many measures on tax, with the slim 64 page Red Book containing only seven pages and six individual measures (four of which were anti-avoidance) devoted to the fine art of revenue raising.

What was the theme of the Budget?

Unlike many of his predecessors, this chancellor is not much given to setting grand, over-arching themes. The days when the cover of the Red Book was not red but featured smiling pictures of families and hospital workers were abandoned by his predecessors, but even under them there were general over-arching themes. This Budget had some slight echoes of this, with nods to Fairness and Clamping Down on Avoidance and, of course, Britain being Open for Business. But really, this is not a Capital Letters Chancellor.

Who were the winners at this Budget?

While there were no massive giveaways, there were clear groups who will come out as winners. For starters, one give away was already baked into the system: the long march towards a basic personal allowance of £12,500 and a higher rate threshold (including the personal allowance) of £50,000 continues. The only news on this in the Budget was the OBR confirming that Hammond would still need to spend an extra £1.3bn between now and 2020/21 in order to achieve his target. Clearly, the chancellor didn't want to spend that now.

Actually in the Budget itself, and responding to more recent developments, the chancellor was keen to offer an olive branch to the hard-pressed businesses impacted by sudden changes in their business rates. These were as a result of the revaluation moving the burden around the country and some shocks breach the old adage of Jean-Baptiste Colbert about the art of taxation and the plucking of the goose.

As well as promising to do better next time and consult more fully, the chancellor unveiled three measures aimed at easing the pain and reducing the hissing:

- a discretionary fund of £180m to support what he described as 'hard cases';
- a further £20m a year to help businesses transitioning out of the small business rate relief scheme; and
- a £1,000 discount to smaller pubs.

Even with these changes, though, the Treasury will be taking many more feathers and there was nothing for the larger businesses. In all the focus on the sudden transition, the fact that the rate of business rates, which were 41.4% when George Osborne first became chancellor, have soared some 6.6 percentage points to 48% from this April has escaped much comment and action. The government argues that it was ever thus, and that every revaluation delivers the same amount of tax take to the exchequer, but this is some particularly odd logic. Applying the same logic to VAT would see us raising VAT rates as total spending dries up, increasing corporation tax rates as companies made less profits, or increasing income tax rates as salaries drop, none of which would appear rational. It's unclear why business rates should be so different.

The other tax reducing measures were relatively small, with good news for HGV drivers, who will see a freeze in VED and the road user levy. More widely anticipated was the announcement of the one year deferral of the 'Making tax digital' provisions for those under the VAT threshold.

And who were the losers?

Perhaps due to the few tax measures in the Budget, the chancellor spent some time setting up the source of funds for

his £5bn spending spree. We've had various public enemies in the past, from the oil companies to the banks and to second home owners but, this time, the new chancellor wanted to take cash without labelling his victims as miscreants.

In an admission to having been both an employee and self-employed in his time, the chancellor praised the work that is undertaken by the self-employed before shifting tack and going on to remind everyone that they benefit from lower NICs. While there are differences in the benefits that they receive from the state, this doesn't justify the shortfall. The chancellor is therefore going to both increase the burden on the self-employed (through increasing the main rate of class 4 NIC from 9% to 10% from April 2018 and then to 11% from April 2019) and look to more closely align the state benefits.

In an apparent rebuke to his predecessor, Philip Hammond noted that part of the disparity resulted from George Osborne's removal of class 2 NIC, the weekly payment that stops next year. The chancellor hinted that he could have just abandoned the abolition of class 2 NIC, but that the new system would increase the progressivity of the NIC system. More importantly, perhaps, the net effect of the two measures will raise money overall, taking almost £50 per month from those earning at or above the upper profits limit. Taken on its own, the increase generates a healthy £2bn in total over the five year scorecard period.

Staying on the theme of revising the tax system to cope with new ways of working, the chancellor took a knife to the new dividend allowance, something only in place since the start of this tax year. When George Osborne had set the allowance in the Summer Budget of 2015, he confirmed that he wanted those with share portfolios of up to £140,000 to be outside the scope of the new tax. This new chancellor clearly had different ideas, with portfolios of about £50,000 now within reach of the new dividend tax. The Treasury would argue that the increase in the limits for ISAs can justify cutting the allowance down to size, but action so quickly doesn't promote longer term investment.

The target was clearly the owner-manager and those operating through personal service companies. While the loss of £3,000 of allowance can cost a higher rate taxpayer almost £1,000, their companies will at least benefit from next month's one percentage point cut in corporation tax.

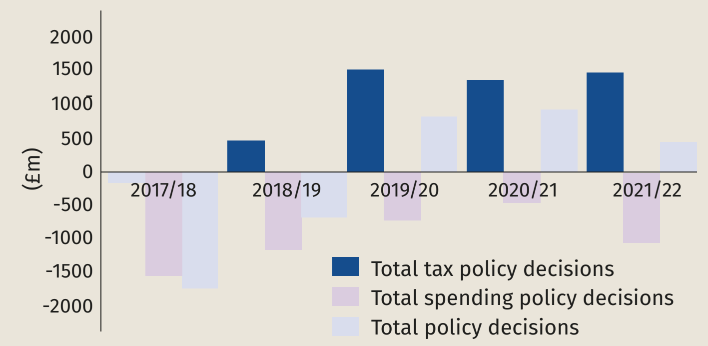
Taken together, both these measures seem only to be a down-payment on changes yet to come. The whole Pandora's box that is the way that the tax system interacts with modern ways of working will come to the fore again in the summer, when Matthew Taylor submits his report on employment practices in the modern economy. Although this will not technically cover taxation, this is in good time for the chancellor to review and feature new ideas in his first ever Autumn Budget.

A different type of chancellor?

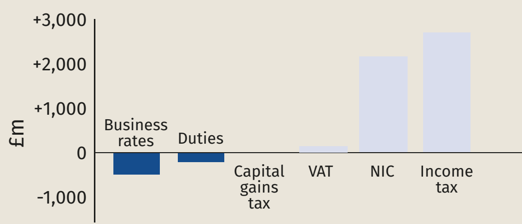
So the chancellor showed a lot of restraint, changing only enough in the tax system to fund the new spending commitments being forced upon him, rather than seeking the limelight through tax changes. Even the review of research and development tax credits concluded that there was no need to be more generous, merely to have sleeker administration.

But in at least one way, the chancellor was bolder. Rather than tiptoeing around manifesto commitments, as George Osborne did by introducing a 'new' dividend tax rather than changing income tax on dividends, or through introducing an apprenticeship levy rather than raising employers' NICs (both of which would be a breach of manifesto commitments), the chancellor has been wholly straightforward and changed national insurance.

Total exchequer impact of Budget 2017 policy decisions



Impact on revenues



This looks to be a clear breach of the manifesto commitment. Some might see the fact that this is technically allowed under the 'triple lock' that was meant to legislate the manifesto commitment as 'manifesto avoidance' or 'aggressive manifesto planning', rather than being in line with the spirit of the law. However, at least this is transparent and doesn't add insult to injury by complicating the tax system merely to obfuscate whether such a breach exists.

Any innovations?

We did see the announcement of a minimum excise tax (MET), which sets a minimum level of excise duty for any packet of cigarettes such that the total excise duty on a packet of cigarettes is the higher of either the MET, or the usual application of duties. This is intended to ensure that the exchequer does not lose out if prices fall. This has been talked about for some time, and the question now being raised is whether this innovation will migrate to other duties.

What should we be watching out for in future?

As well as the whole discussion of new ways of working, the chancellor also acknowledged that he needed to think further on how business rates penalise bricks and mortar retailers over those selling online. While this was also considered by his predecessor, this new chancellor seems less willing to let this continue into the long term.

So apart from the lack of excitement what do the numbers tell us?

First of all, they tell us that where the chancellor did raise money, he raised it big time, with his 'fairness' measures on the self-employed NICs and dividends scooping almost £5bn over the scorecard period. This rather dwarfs his largess on business rates and pays for the spending changes. So he delivered on his promises of a balanced Budget, but not necessarily of a boring one. The argument on the self-employed and indeed the manifesto commitment will run and run… ■

Budget comment

The impact on MNCs

Business as usual, for better and for worse.

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This Budget may have signalled a break with convention in being the last Spring Budget before the government moves to a 'single annual fiscal event' in the Autumn, but the chancellor's Budget speech largely stuck to the blueprint presented at the Autumn Statement 2016. There were few, if any, surprises for MNCs, which will have taken some comfort from hearing the mantra of recent budgets repeated that the government wishes to preserve the UK's competitive tax system.

Of course, the flipside of a relatively uneventful Budget is that a number of significant, previously announced, measures remain in the pipeline, with MNCs needing to prepare for what is coming. In this respect, there will have been disappointment on the part of MNCs and their advisers that the government has not moved away from certain complex and material changes to the UK's corporation tax code that are due for imminent implementation.

The precise details of a number of legislative changes are still to be seen, with Finance Bill 2017 due to be published on 20 March 2017. Therefore, the following paragraphs necessarily only reflect the content of materials available at the time of writing.

Still with us: The Budget confirms that the already announced reform of the corporation tax loss relief rules and the 'BEPS 4' inspired tax deductibility of corporate interest expense rules will be included in Finance Bill 2017, to take effect from 1 April 2017. Both measures will inevitably impact MNCs doing business in the UK and their ongoing UK corporation tax profiles, as has been discussed in previous editions of *Tax Journal*.

There is perhaps a glimmer of hope in that changes to the proposed interest deductibility rules will be reflected in Finance Bill 2017 in the light of comments received, 'to ensure the rules don't give rise to unintended consequences or impose unnecessary compliance burdens'. In particular, it has been announced that the modified debt cap rules will be clarified to remove potential restrictions on the deductibility of carried forward interest expense; and the rules relating to debt guaranteed by related parties will be refined so as to remove certain 'performance guarantees' and all pre-31 March 2017 guarantees from related party interest calculations, and intra-group guarantees from the application of the group ratio rule. The definition of 'interest' will be clarified to include income and expenses from dealing in financial instruments as part of a banking trade.

On the plus side, previously announced revisions to the substantial shareholdings exemption (SSE) have also been confirmed for inclusion in Finance Bill 2017, again with effect from 1 April 2017. The complexity of the SSE has long been a source of anxiety for many MNCs with UK operations; and, therefore, the proposals to simplify the rules are very welcome: in particular, an exemption for companies owned by 'qualifying institutional investors'; and the removal of the requirements for the investing company to be a sole trading company or a member of a trading group, and for the investee company to continue to be a trading company or the holding company of a trading group after the disposal (except for disposals to connected persons).

Other measures of note: Two noteworthy measures of interest to certain MNCs have been introduced to take effect from 8 March 2017.

First, a policy paper and draft legislation have been published to amend the rules dealing with the appropriation of capital assets to trading stock. The concern appears to be with businesses that have loss making capital assets, which then seek to 'convert' capital losses into more flexible trading losses. This is because current legislation allows an election to be made to treat the market value of a capital asset appropriated to trading stock as increasing or reducing trading profit in certain circumstances, rather than crystallising a chargeable gain or allowable capital loss. The changes, to be included in Finance Bill 2017 but taking effect from 8 March 2017, will mean that the legislation will only permit such an election to be made where the appropriation into trading stock at market value would give rise to a chargeable gain and not where it gives rise to an allowable loss. Accordingly, any allowable capital loss that arises when the appropriation takes place will remain within the chargeable gains rules.

Second, the legislation introduced in Finance Act 2016 dealing with profits from trading in and developing land in the UK is to be amended to clarify that all relevant profits from dealing in or developing land that are recognised in the accounts on or after 8 March 2017 will be subject to the rules (removing the previous exclusion for profits arising from disposals governed by contracts entered into prior to 5 July 2016).

Other material points for MNCs to watch out for are:

- amendments to the patent box rules dealing with cost sharing arrangements;
- a response document to the consultation on the taxation of partnerships and draft legislation (slated for inclusion in Finance Bill 2017/18);
- proposed 'administrative changes' to the R&D tax credits system, advertised as increasing 'certainty and simplicity around claims';
- a (previously announced) consultation – due to be launched on 20 March 2017 – about bringing non-resident companies currently chargeable to UK income tax and non-resident capital gains tax within the scope of UK corporation tax;
- a consultation in the Summer on plant and machinery leasing in view of accounting changes to be effected by IFRS16 from 1 January 2019;
- a discussion paper to be published on 20 March 2017 dealing with the taxation of late-life oil and gas assets; and
- long awaited revisions to the double taxation treaty passport scheme, and a consultation on a new withholding tax exemption for debt traded on multilateral trading facilities.

There will also be a summer consultation on risk profiling of large businesses. Clearly, there is much in the coming weeks and months to keep MNCs and their advisers busy. ■

Budget comment

Private client perspective

In a Budget where the big surprise was a National Insurance contribution increase for the self-employed, for private clients, there has been no unexpected change of course.

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The chancellor's first and last Spring Budget contains few surprises for private clients. The changes to non-dom tax rules have long been trailed, and the draft legislation was already in print. New sanctions will now apply to those failing to report offshore tax liabilities – we have come a long way from disclosure facilities! UK land remains a hot topic; IHT will now apply irrespective of any offshore envelope, and the FA 2016 rules that subjected offshore property developers to tax in the UK have been tightened up.

Non-dom changes: As expected, from 6 April 2017 non-doms will be deemed domiciled in the UK for all tax purposes if they have been UK resident for at least 15 of the past 20 tax years, so they will lose the use of the remittance basis of taxation for income and capital gains tax, and inheritance tax will apply to their worldwide assets. But:

- non-UK based assets may be rebased to their market values on 5 April 2017; and
- offshore trusts set up before becoming deemed domiciled are protected (see below).

Individuals with a UK domicile of origin will be deemed UK domiciled for all tax purposes while they are UK resident.

Non-doms will also be able to 'clean up' mixed funds during the two year window of the tax years 2017/18 and 2018/19. This may enable individuals to release clean capital (which can be remitted to the UK without a tax charge) from accounts which currently contain a mix of clean capital and foreign income and gains.

Inheritance tax on land: Coming again as no surprise, from 6 April 2017, IHT will be charged on all UK residential property even where indirectly held by non-doms or trusts they have created through an offshore company. The rules are not simple, as the charge does not apply to the property itself but to the interest in the holding structure (be that a company or a partnership), as well as the benefit of loans to those structures if used to finance such property. 'De-enveloping' planning is already widely underway, and will continue to be effected after 5 April, ideally before the occurrence of any significant taxable event! No reliefs were offered to assist people in de-enveloping their residential property structures, and none have materialised in the Budget.

Protection of overseas trusts: The changes to the tax rules affecting offshore trusts have been in draft since December 2016 (for CGT) and January 2017 (for income tax). Essentially, non-doms will continue to be protected from capital gains tax charges under TCGA 1992 s 86 and income tax under the Settlement Code (ITTOIA 2005) and the Transfer of Assets Code (ITA 2007), even if they become deemed domiciled, but the protection is withdrawn if property is added to the trust after 6 April 2017 (subject to the clarification of proposed transitional rules). Attribution and matching of income under ITA 2007 s 731 and gains under TCGA 1992 s 87 will continue to apply, though payment to non-residents will no longer be matched against gains after 5 April 2017. When the draft legislation was first published, it was feared that gains washed out to non-residents prior to 6 April 2017 would be added back to the capital gains pool to be matched on UK residents receiving a benefit in the future. HMRC has commented that this is not the intention, and that only unmatched payments to non-residents will be ignored post 5 April 2017, but this clarification has not yet materialised in the draft Finance Bill.

Offshore non-compliance and the requirement to correct: The draft Bill establishes a new legal 'requirement to correct' for those who have failed to declare UK capital gains tax, income tax or inheritance tax on offshore interests, with the intention of motivating these persons to make a disclosure to HMRC before information is passed to it under the common reporting standard. Punitive sanctions will apply for those who fail to put their houses in order before 1 October 2018, to include penalties of up to 200% of the unpaid tax. Also, HMRC may name and shame the worst offenders. The new requirement will apply to all taxpayers who are in default as at 5 April 2017.

Reduction in the dividend allowance: Dividend income that is charged to income tax on individuals (though not trustees) at 0% by ITA 2007 s 13A will reduce from £5,000 to £2,000 from 6 April 2018. This reduces the tax advantage offered to those who work through a personal service companies in being able to receive their income at dividend rates. Together with an increase in class 4 NICs (to 11% in April 2019), it will reduce the tax differences applying to employees and the self-employed.

QROPs: Since FA 2004, it has been popular for UK individuals to transfer their pensions to a qualifying recognised overseas pension scheme (QROPS), potentially avoiding tax. As a result, the draft Finance Bill 2017 contains legislation subjecting transfers to QROPS requested on or after 9 March 2017 to tax at a rate of 25% unless, broadly, both the individual and the pension savings are in the same country, both are within the European Economic Area, or the QROPS is provided by the individual's employer. The charge is to be withheld by the scheme administrator. Tax charges will also apply to distributions out of the funds transferred within the five tax years following the transfer.

Life insurance policies: Life insurance policies are currently subject to special rules, so that surrenders or assignments annually of up to 5% of the premium paid do not incur a tax charge. Surrenders or assignments in excess of the cumulative annual allowance may generate a charge to income tax. It is, however, possible to generate a huge charge to tax by making a large surrender or assignment early in the life of the policy, so that the gain subject to charge is far in excess of any underlying economic gain on the policy. New draft legislation means that, with effect from 6 April 2017, policyholders in this position may apply to HMRC to have their gain recalculated on a just and reasonable basis.

Non-resident companies consultation: Originally announced at Autumn Statement 2016, the government will be consulting on the rationale and options for bringing non-UK resident companies within the scope of corporation tax. These companies are already subject to income tax on UK source income (e.g. rent on UK properties), and to non-resident capital gains tax on residential property. Let's see what is to follow! ■

Budget comment

Enforcement and compliance measures

Despite the usual trumpeting of measures to tackle avoidance, evasion and aggressive planning, this Budget contained only a handful of new enforcement announcements.

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Spring Budget 2017 mostly announced refinements to refine policy initiatives previously announced in Autumn Statement 2016 or earlier – so the chancellor of the exchequer was true to his word that, at least in an enforcement sense, the government has moved to a single fiscal event in the autumn of each year.

That said, Budget 2017 did involve a handful of new enforcement measures, especially in relation to indirect taxation, making this Budget different from the VAT-lite Budgets and Autumn Statements of recent years.

It also trumpeted that over 35 measures to tackle avoidance, evasion and aggressive planning were being introduced over the life of this parliament and that £140bn in tax had been secured through tackling non-compliance since 2010. However, there was a surprising lack of information about a few projects which have been ongoing for a while now. We may therefore need to wait for Autumn Budget 2017 for these to get going.

Offshore: In particular, nothing was said about the consultation on introducing a requirement to register offshore structures for intermediaries arranging complex structures for clients holding money offshore. The consultation closed on 27 February.

There was also nothing mentioned about whether the 'persons of significant control' regime for UK companies and LLPs, or something similar, would be extended to trusts – or whether such a regime would be introduced for trusts and foreign companies owning UK real estate. A requirement to disclose beneficial ownership of residential property would have a much greater deterrent effect on foreign investors than any of the recent tax changes (ATED, CGT and IHT), so before acting on that the government may be waiting to see how the property market fares in response to Brexit and changes to SDLT introduced in the last 12 months.

Avoidance: Some minor modifications to the new penalty regime for enablers of defeated abusive avoidance and users of defeated avoidance who fail to take reasonable care were announced, including extending the former regime to NICs and setting out how the GAAR panel will be involved in the determination of whether a scheme was abusive.

The new 'Disclosure of avoidance schemes: VAT and other indirect taxes', which sits in draft Finance Bill 2017 Sch 21 and applies to a full gamut of indirect taxes from custom duties through to pool betting duty, will now also include avoidance of the sugar levy.

It was also announced that the changes to bring NICs recovery within the tax assessment machinery and time limits, rather than, as it presently sits, under debt recovery procedures subject to the Limitation Act 1980, has been deferred to form part of a future NICs bill.

Fraud: Two new measures were announced to combat VAT fraud. First, HMRC will consult on policy options for combating VAT fraud on labour costs in the construction sector. The fraud usually involves the racking up of significant VAT debts in a company which supplies labour services before that company goes 'missing' without accounting for the VAT.

Second, HMRC will consult on an innovative 'split payment' method to combat the ease with which VAT fraud can take place in online market places – the issue being that unregistered overseas sellers can gain easy access to UK retail customers, resulting in substantial amounts of VAT being undeclared and compliant businesses being undercut. The regime would presumably create an obligation on the market place or payment handler to account directly to HMRC for VAT on the sale, passing only the gross sum on to the seller. This would clearly require a judgment by the payment handler as to whether the supply is subject to VAT and I am sure will be massively complex – although other countries appear to have successfully implemented similar sounding schemes.

Minor but significant amendments to the Fulfilment House Due Diligence Scheme, to be introduced with effect from April 2018 to combat online VAT fraud, were also announced.

The hidden economy was also targeted, with further proposals to be released for requiring evidence of tax registration as a condition of obtaining certain business licences or services, tougher 'failure to notify' sanctions for 'ghosts' (entirely off the system) and moonlighters (whole source of income undeclared), and monitoring those previously found to be non-compliant.

Large business: HMRC has announced it will consult on a new approach to risk profiling large business, in order to improve rates of compliance. This may be linked to the longstanding consultation on introducing a framework for cooperative compliance between HMRC and large business – and the review of the effectiveness of the customer relationship manager programme. The relationship between large business and HMRC is probably currently at its lowest ebb – with dissatisfaction levels rising about the use (or misuse) of real-time working, time taken to resolve issues, and access to policy teams.

On the flip side, HMRC battles with a public perception of a cosy relationship. There is a clear imperative to have a good working relationship with the customers who individually provide such large slugs of tax revenue, but even perhaps a small change in title might help allay the perception issues. Using the term customer 'compliance' manager rather than 'relationship' manager might help to explain that HMRC's 'relationship' with large business is not just about frictionless tax collection but also about cracking down on any non-compliance.

Employees, workers and the self-employed: Of course, one of the hottest topics right now is the tax treatment of the 'gig' economy – and what the chancellor referred to as the 'highly paid professionals' working through LLPs (not sure who he means by that!). The first steps in correcting this anomaly have now been taken by reducing the tax free dividend allowance and increasing class 4 NICs. We await to see the outcome of the Taylor Review to see where we are going next. ■

Budget comment

The impact on SMEs

Levelling the playing field.

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Whilst there is nothing in the Budget to send SMEs into frenzies of delight, there is nothing to cause paroxysms of despair either.

The package of changes to business rates will be especially welcomed by beleaguered high street traders and pubs in particular. These include support for small businesses losing small business rate relief to limit increases in their business rates to £600 each year; providing English local authorities with funding to support £300m of discretionary relief; and introducing a £1,000 business rate discount for pubs with a rateable value of up to £100,000.

Levelling the playing field still figures prominently. The reduction in the dividend allowance from £5,000 to £2,000 from April 2018 reduces the tax advantages of trading through a corporate vehicle, although the increase in the rate of class 4 NICs for the self-employed from 9% to 10% in April 2018 and to 11% in April 2019 goes the other way and increases the tax advantages. Also, as proposed previously, the rules on quasi-employees operating through limited companies or similar intermediaries (that is, the infamous 'IR35' rules) are to be tightened up. In the public sector, responsibility for operating the rules, and paying the correct tax, will move from the workers' company to the body paying the workers' company, with effect from 6 April 2017.

Still on the 'level playing field' theme, as proposed previously the tax and employer national insurance advantages of salary sacrifice schemes will be removed from April 2017, except for arrangements relating to pensions (including advice), childcare, cycle to work and ultra-low emission cars. This will mean that employees swapping salary for benefits will pay the same tax as individuals who buy them out of their post-tax income.

The crackdown on avoidance and deferral continues apace. First, a new anti-avoidance measure applies from 8 March 2017 to stop conversion of capital losses into income. This applies where an investment such as land is appropriated into trading stock. From 8 March 2017, where the appropriation gives rise to a capital loss, it will no longer be possible to elect to roll this loss into the carrying value of stock. Second, hot on the heels of the changes to the profits from trading in and developing land in the UK introduced in FA 2016, amendments are made to bring all profits recognised in the accounts on or after 8 March 2017 into the charge to UK corporation tax or income tax, regardless of the date the contract was entered into.

Still on the land tax theme, there has been a welcome delay in the implementation of the proposed reduction in the filing and payment window for SDLT. The reduction in the filing and payment window from 30 days to 14 days will now be delayed until April 2018.

Meanwhile, HMRC has confirmed that the previously announced changes to corporation tax loss relief, to the substantial shareholding exemption and to the tax deductibility of corporate interest expense will be implemented, very much as previously proposed, with effect from 1 April 2017.

With regard to the substantial shareholding exemption, with effect from 1 April 2017 the rules will be simplified to remove the investing company requirement; to remove the requirement that the investee company is a trading company immediately after the sale (where the sale is to an unconnected party); and to provide a more comprehensive exemption where the company is owned by qualifying institutional investors.

With regard to the loss relief reform, companies will have more flexibility in the way they can use losses arising on or after 1 April 2017. When they are carried forward, these losses will be usable against profits from different types of income and profits from other group companies but there will be a restriction on the use of losses carried forward by companies so that they can't reduce their profits arising on or after 1 April 2017 by more than 50% if the company's or group's profits exceed £5m.

With regard to the tax deductibility of corporate interest expense, the new rules to be introduced from 1 April 2017 will affect few SMEs (and none whose business is purely domestic), given the threshold of £2m of interest expense. Where they apply, the rules will limit deductions where a group has net interest expenses exceeding 30% of UK taxable earnings.

HMRC has also confirmed its intention to treat all payments in lieu of notice as taxable. Furthermore, NICs will be payable on any termination payments in excess of the £30,000 exemption, which thankfully otherwise remains (aside from the abolition of foreign service relief).

> Doubts remain over making tax digital, but HMRC has at least deferred its introduction for some businesses

In recent years, we have welcomed additional incentives introduced for film and television productions, orchestras and theatrical productions (although excluding shows involving wild animals or those designed to stimulate the audience, or possibly both). These reliefs are now to be extended to museums and galleries that develop new exhibitions. And for those who instead prefer sports, HMRC is to extend the circumstances in which companies can claim tax relief on contributions to grass roots sports. Going forward, relief will be available for donations to wholly owned subsidiaries of sports' governing bodies.

Finally, HMRC has invested heavily in its much criticised 'making tax digital' initiative. Whereas many doubts remain as to whether it and the taxpayer are ready for such changes, HMRC has at least deferred the introduction of the scheme until April 2019 for businesses below the VAT registration threshold. ■

With acknowledgement to the contribution by Anthony Newgrosh also of BKL Tax.

Budget comment

Economics view

Cautious chancellor delivers safety first Budget.

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The Brexit vote has not yet had a major negative effect on UK economic growth, but there are still many uncertainties ahead. So it was not surprising that the chancellor chose to deliver a 'safety first' Budget, in which giveaways on social care, vocational education and business rates relief were broadly offset by tax rises for the self-employed and other measures.

The Office for Budget Responsibility (OBR) revised up its 2017 GDP growth forecast from 1.4% to 2% and revised down its public borrowing estimate for 2016/17 from around £68bn to only around £52bn (see table below).

The medium term net impact of the Budget measures was therefore close to zero

However, both the OBR and the chancellor were keen to stress that this large short term borrowing downgrade was mostly due to one-off factors that had little impact on the medium term outlook for the public finances. Indeed, some of the borrowing was just shunted into 2017/18 due to timing effects, with the result that the deficit is actually projected to rise slightly next year to £58bn (or £55bn if you exclude the extra money for social care, business rates relief and other net giveaways in 2017/18).

On a medium term view, extra economic growth in 2017 will be offset by slightly slower average growth over the following three years, so the OBR's estimate of the overall level of GDP in 2021 is more or less unchanged from what it projected in November. The same is true of the budget deficit, which is still projected to be around £17bn in 2021/22, the last year of the forecast period.

In summary, the OBR does not expect the recent relatively good news about the economy and the public finances to last. In particular, it expects higher inflation linked to the weak pound to cause a marked deceleration in real consumer spending growth from around 3% in 2016 to just 1.8% in 2017 and only around 1% in 2018. The OBR expects some offset from stronger net exports due to a more competitive currency, but not enough to stop overall UK GDP growth moderating to below trend rates of around 1.6–1.7% in 2018 and 2019. This would, however, be only a modest slowdown, not a recession.

The chancellor did find around £3bn extra for social care and the NHS over the next three years and a total of around £0.5bn of business rate relief spread over the next four years, with both of these giveaways being front-loaded in 2017/18. There was also a welcome injection of cash to support enhanced technical education for 16 to 19 year olds, which is an area where the UK has long lagged behind countries like Germany.

The OBR does not expect the recent relatively good news about the economy and the public finances to last

Once you get beyond the next year, though, these giveaways were offset by increases in national insurance contribution rates for the self-employed and a reduced tax-free allowance for dividends. So the medium term net impact of the Budget measures was close to zero, although the tax increases for the self-employed have proved politically contentious.

The chancellor will be hoping that the uncertainty surrounding Brexit will not dampen growth in 2018/19 as much as the OBR forecasts, in which case the public finances could improve faster than projected. If this happens, the chancellor may be able to afford either tax cuts or spending rises later in the Parliament. Or he might achieve his longer term aim of a balanced budget sooner than expected. But it is far from guaranteed that the Brexit negotiation process will go smoothly, so the chancellor was prudent to adopt a relatively cautious approach for now. ■

Comparison of key OBR forecasts

Real GDP growth (%)	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**
Autumn Statement (November 2016)	2.1	1.4	1.7	2.1	2.0	2.0
Budget (March 2017)	1.8	2.0	1.6	1.7	1.9	2.0
CPI inflation (%)						
Autumn Statement (November 2016)	0.7	2.3	2.5	2.1	2.0	2.0
Budget (March 2017)	0.7	2.4	2.3	2.0	2.0	2.0
Public sector net borrowing (£bn)*	**2016/17**	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**2021/22**
Autumn Statement (November 2016)	68	59	47	22	21	17
Budget – excluding new policy measures (March 2017)	52	55	39	20	22	17
Budget – including new policy measures (March 2017)	52	58	41	21	21	17

*Excluding borrowing of public sector banks.
Source: OBR

Budget report

A to Z guide to the key tax announcements

Headlines

Key announcements that were new for Spring Budget 2017 include:

- the increase in class 4 NICs paid by the self-employed from 9% to 10% in April 2018 and to 11% in April 2019;
- the reduction in the dividend allowance from £5,000 to £2,000 from April 2018;
- the introduction of a new withholding tax exemption for interest on debt traded on a multilateral trading facility;
- a one year delay for smaller businesses before they have to submit quarterly reports of income and expenses to HMRC;
- the government's commitment to raise the personal allowance to £12,500, and the threshold at which higher rate tax kicks in to £50,000, by 2020; and
- the introduction of a new criminal offence for the evasion of the soft drinks industry levy.

Government responses to the recently closed consultations on VAT grouping and the requirement to notify HMRC of offshore structures were not published, but might be expected alongside the introduction of the Finance Bill 2017 into parliament, which will be on 20 March 2017.

The chancellor of the exchequer, Philip Hammond, delivered his first and last Spring Budget on Wednesday 8 March 2017 to an almost rampant Tory side of the House. In the main, the opposition front bench sat stony faced and immobile through the chancellor's address with little interference from their backbenchers. It was in parts an unashamed self-congratulatory performance delighting the Tory back benchers and, fittingly, on International Women's Day, punctuated by a beaming and, at some junctures, a laugh out loud prime minister.

The chancellor's performance was self-assured with far more barbs at the opposition hitting the mark than at the Autumn Statement. He commented that this would be the 'last' Spring Budget, referring to the last time this phrase was used, by Norman Lamont, and mentioning that Mr Lamont was sacked some weeks after his statement and plainly indicating that he did not expect to suffer the same fate.

Right at the start, the chancellor made it clear that this was a Budget for young people and public services. This was indeed the main thrust of what followed but there was no disguising the glee at the UK economy doing so well, so he could perhaps be forgiven for using the old phrase – the UK 'was open for business'.

The chancellor supported this with some impressive figures from the Office of Budgetary Responsibility (OBR), basically indicating that future growth and borrowing had been revised from the Autumn Statement and that the first was being increased and the latter decreased.

The chancellor continued his focus on measures to increase productivity and building an economy that 'works for everyone', announcing or confirming measures relating to living standards such as tax-free child-care and increased free childcare hours; increased funding to be provided to local councils for social care and to the NHS to support its A&E services; and the trailed commitment to technical education for young people.

Some of the new measures announced related to business concerns at the substantial increase in business rates as a result of recent revaluations. This was met with promises of increases in rates reliefs and a war chest for local authorities to dispense as discretionary relief to those hard hit by the revaluations. Most importantly pubs with a ratable value of less than £100,000 will be given a discount on their payable rates of £1,000.

In line with the proposals for changing the Budget timetable announced at the Autumn Statement, the chancellor used the Spring Budget 2017 to announce a number of consultations on future reforms. However there were some significant policy announcements, all of which could be classified within the heading of 'ensuring that the tax system is both fair and sustainable'. The particular targets of that challenge were the differences in taxation that can arise from the choice of business structures. In that context the government has announced increases to NICs for the self-employed and a decrease in the amount of the dividend allowance (thereby increasing the income tax suffered by individuals who operate through companies and pay themselves dividends, among others).

The two successive increases to class 4 NICs mean that, from April 2019, they will be paid at 11% (compared with a 12% rate for class 1 NICs for employed earners). There has been a government and media focus on the treatment of workers in the gig economy, who are usually treated as self-employed and this announcement may have been fuelled by the growth in that sector. The measure (after offsetting the loss from the abolition of class 2 NICs) is expected to raise nearly £500m over the next four tax years, although the forecasts suggest a peak of class 4 NICs in 2019/20, followed by drops in the next two years, perhaps predicting that the self-employed will change their working practices in response to this change. Although when most people consider a self-employed person, they will think of individuals working on their own, these changes of course extend to those who work in partnerships, many of whom employ a large number of staff themselves, and are therefore responsible for paying the employer NICs. This rate rise is unlikely to be much softened by the government's commitment to consult on the disparities between parental benefits for employed and self-employed individuals.

The Conservative manifesto in 2015 committed: 'no increases in VAT, national insurance contributions or income tax'. The class 4 NICs changes could be considered to have breached that manifesto pledge. However, when enacted into the National Insurance Contributions (Rate Ceilings) Act 2015, the lock was applied only to class 1 NICs, so the change proposed does not at least require a change to that enacted lock.

Despite these increases in tax, it has been hailed as a 'business friendly Budget', mainly due to the lack of significant change in the corporate tax sphere and confirmation of the business tax roadmap measures such as the cuts to corporation tax to 19% from April this year and again to 17% in 2020 and further support for businesses who are facing increases in business rates.

The key tax and duties announcements are as follows:

Accommodation benefits

As announced at AS 2016, the government will publish a consultation on 20 March 2017 on proposals to bring the tax treatment of employer-provided accommodation and board and lodgings up to date. This will include proposals for when accommodation should be exempt from tax, as well as supporting taxpayers during any transition. *See:*

Measures with immediate effect

New measures that are coming into effect on 8 March 2017:
- offshore property developers;
- tax treatment of appropriations to trading stock;
- insurance premium tax (IPT) anti-forestalling measures;
- promoters of tax avoidance schemes (POTAS); and
- transfers to qualifying recognised overseas pension schemes (QROPS) requested on or after 9 March 2017 will be taxable under defined conditions.

Spring Budget 2017 (para 3.7) and Overview of tax legislation and rates (OOTLAR) (para 2.6).

Aggregates levy

The current rate of £2 per tonne will remain in effect. This continues the freeze that has been in place since 2009. *See: Spring Budget 2017 (para 3.30).*

Alcohol and tobacco

The following was announced:

Alcohol duty rates and bands: The duty rates on beer, cider, wine and spirits will increase by the RPI with effect from 13 March 2017.

The government announced that it intends to have a consultation on: introducing a new duty band for still cider that has a just below 7.5% abv in order to target white ciders; and the impact of introducing a new duty band for still wine and made-wine between 5.5-8.5% abv.

Tobacco duty rates: The government has previously announced in Budget 2014 that tobacco duty rates will increase by 2% above RPI inflation and this change will come into effect from 6pm on 8 March 2017.

Minimum excise tax: The government announced that it will be introducing a minimum excise tax for cigarettes that is intended to target the cheapest tobacco and promote fiscal sustainability. The rate will be set at £268.63 per 1,000 cigarettes. The new tax will come into effect from 20 May 2017.

Tobacco, illicit manufacture: Following the announcement made in Autumn Statement 2015 and following technical consultation on the draft legislation produced in December 2016, legislation will be introduced in Finance Bill 2017 that will be intended to control the use and ownership of tobacco manufacturing machinery in the UK. The changes are intended to prevent the illicit manufacture of tobacco products in the UK by introducing powers to establish a licensing regime for this type of machinery. Powers will also be introduced to provide for forfeiture of unlicensed tobacco manufacturing machinery and penalties for failure to comply with the conditions of a licence. The legislation will take effect from the date of Royal Assent.

Heated tobacco products: As announced in Budget 2016 the government will be consulting on the duty treatment of heated tobacco products. The consultation will be launched on 20 March 2017 and the consultation document should be available on this date.

See: Spring Budget 2017 (paras 3.33–3.35) and OOTLAR (paras 2.24–2.25).

Benefits in kind: call for evidence

As announced at AS 2016, the government will publish a call for evidence on 20 March 2017 on exemptions and valuation methodology for the income tax and employer NICs treatment of benefits in kind, in order to better understand whether their use in the tax system can be made fairer and more consistent. *See: Spring Budget 2017 (para 3.7) and OOTLAR (para 2.9).*

Benefits in kind: making good

As announced at Budget 2016 and confirmed at AS 2016, and following a consultation over the summer, FB 2017 will align the dates for an employee to make good on non-payrolled benefits in kind. The date by which the making good must take place if the taxable value of the benefit in kind is to be reduced or re-moved was determined following the consultation and will be 6 July following the end of the tax year. The change will affect making good on a tax liability arising in the tax year 2017/18 and subsequent years. *See: OOTLAR (para 1.6).*

Business rates

The government will provide £435m of support for businesses facing significant increases in business rates following the revaluation that takes effect from April 2017. Three measures were announced:
- a £1,000 business rate discount for public houses with a rateable value of up to £100,000;
- a cap on the increase in business rates for small businesses losing small business rate relief; and
- a £300m discretionary relief fund to allow local authorities to provide support to individual cases in their local area.

The government will also consult before the next revaluation in 2022 on its preferred approach for modernising the business rate system. *See: Spring Budget 2017 (paras 3.15–3.19).*

Cash basis for unincorporated businesses

As previously announced and as part of tax simplification, the government is simplifying the cash basis for calculating taxable income. The cash basis allows small businesses to be taxed on the basis of receipts less payments of allowable expenses. The measures include:
- increasing the general entry threshold to £150,000 and the exit threshold to £300,000 with effect from the tax year 2017/18;
- simplifying the rules on capital and revenue expenditure from April 2017 (although 2017/18 profits can be calculated using the old or new rules); and
- extending the cash basis to unincorporated landlords with receipts of £150,000 or less from 6 April 2017.

See: Spring Budget 2017 (para 3.40) and OOTLAR (paras 1.44–1.46).

Company cars

There were no changes announced to the company car tax rates that will apply from 2017/18 to 2020/21 as already either enacted or announced in AS 2016.

Conditionality

HMRC consulted in autumn 2016, as part of its proposals to 'tackle the hidden economy', on new rules to make access to certain licences or business services conditional on being registered for tax. At Spring Budget 2017, the government stated that it will develop further proposals in this area. It believes there is a good case for conditionality but recognises

that it must minimise any new administrative burdens. No timescale is given for the next step. *See: OOTLAR (para 2.32).*

Corporate interest expense deductibility restrictions

As announced at Budget 2016, and following several stages of consultation, new rules restricting the ability to obtain corporation tax deductions for interest and other finance amounts will come into effect from 1 April 2017.

The new rules will limit a group's deductions for net interest expense to 30% of tax-EBITDA in the UK (the fixed ratio rule), with an option for multinational groups to apply an alternative restriction based on the net interest expense to EBITDA ratio for the worldwide group (the group ratio rule). In both cases, deductions will also be capped to ensure that the net UK interest deduction does not exceed the total net interest expense of the worldwide group (the modified debt cap) and the existing debt cap legislation will be repealed. Only groups with net interest expense in the UK of more than £2m annually will have to apply the rules.

Draft legislation for the new rules was published in stages, on 5 December 2016 and 26 January 2017. In response to comments received, the government has now announced that several changes to the provisions will be reflected in FB 2017 in order to ensure that the rules do not give rise to unintended consequences or impose unnecessary compliance burdens. The government has announced that these changes will, in particular:

- remove certain unintended restrictions that arise from the modified debt cap which could otherwise prevent deductions for carried forward interest expense;
- make the optional alternative rules for public infrastructure easier to apply – specifically, the changes will remove the requirement to compare the level of indebtedness of group companies qualifying for alternative treatment under those rules with that of group companies not so qualifying (e.g. those outside the UK), and in addition transitional rules will apply so that businesses will have time to restructure in order to qualify for these alternative rules;
- limit the scope of the provisions which treat interest on debt guaranteed by a related party as related party interest – these provisions will not apply in the case of certain performance guarantees or to any guarantees granted before 31 March 2017, nor will they apply to intra-group guarantees in the context of the group ratio rule;
- amend the definition of interest to include income and expenses from dealing in financial instruments as part of a banking trade; and
- introduce new provisions for insurers regarding the calculation of interest on an amortised cost basis to provide a practical alternative to fair value accounting. *See: OOTLAR (para 1.23).*

Corporation tax: loss relief

As announced at Budget 2016, legislation will be included in the FB 2017 that will provide more flexibility on the types of profit that can be relieved by losses incurred after 1 April 2017 and also restrict the amount of losses than can be carried forward to 50% (of profits above £5m) from 1 April 2017. The draft legislation published on 26 January 2017 will be revised to include provisions for oil and gas companies and contractors. *See: OOTLAR (para 1.17).*

Creative sector tax reliefs

It was confirmed that the government will seek state aid approval for the continued provision of high-end television, animation and video games tax reliefs beyond 2018. *See: OOTLAR (para 2.16).*

Disclosure of indirect tax avoidance schemes

As announced at AS 2016 and included in draft FB 2017, FB 2017 will revamp the VAT avoidance disclosure regime. The requirement to make disclosures to HMRC will move from scheme users to scheme promoters, and the rules will be extended to include all indirect taxes. The new regime takes effect from 1 September 2017. *See: OOTLAR (para 1.38).*

Disguised remuneration

As announced at AS 2016, legislation in FB 2017 will tackle the use of disguised remuneration avoidance schemes. There will be a new charge on disguised remuneration loans made after 5 April 1999 that are still outstanding on 5 April 2019. The close companies' gateway will be introduced to commence from 6 April 2018, following further consultation to ensure that it is appropriately targeted at disguised remuneration schemes. Proposals on the collection of tax and NICs from the changes will be set out in a technical consultation later in 2017. FB 2017 will also include legislation to tackle use of similar schemes by the self-employed with effect from 6 April 2017. Legislation will also be introduced with effect from April 2017 to prevent employers claiming a deduction when computing their taxable profits for contributions to a disguised remuneration scheme unless income tax and NICs are paid within a specified period. *See: OOTLAR (para 1.10).*

Dividend allowance reduction

The government announced that it will reduce the dividend allowance from £5,000 to £2,000. This measure, which will apply from April 2018, is part of the chancellor's drive to reduce the difference between those working through a company and those who are employed or self-employed. Taken together with increases to the ISA and personal allowances, the government believes that 80% of general investors will continue to pay no dividend tax. The legislation will be included in FB 2017. *See: Spring Budget 2017 (para 3.6), OOTLAR (para 1.2) and TIIN Income tax: dividend allowance reduction.*

Employees' expenses

As announced at AS 2016, the government will publish a call for evidence on 20 March 2017 to better understand the use of the income tax relief for employees' expenses, including those that are not reimbursed by their employer. *See: Spring Budget 2017 (para 3.7) and OOTLAR (para 2.4).*

Employment allowance: illegal workers restriction

The government consulted from November 2016 to January 2017 on excluding certain employers from claiming the employment allowance for one year where that employer received a civil penalty from the Home Office for employing illegal workers. The government has decided not to proceed with the proposal as a result of consultation responses which raised concerns around complexity. *See: OOTLAR (para 2.36).*

Employment allowance: national Insurance

Following reports of schemes being used to avoid paying the correct amount of NICs, HMRC is actively monitoring

compliance with the national insurance employment allowance. The government will consider taking further action in the event this avoidance continues. *See: OOTLAR (para 2.33).*

Enablers of tax avoidance

The government has confirmed that FB 2017 will introduce the controversial new 'enablers' rules: penalties for persons who enable other persons or businesses to use tax avoidance arrangements that are later defeated by HMRC. This measure was consulted on from August to October 2016 and was included in draft FB 2017 as published on 5 December 2016.

There has been widespread concern in the tax profession that these measures would potentially be relevant in many commercial transactions, although the draft legislation published in December 2016 was less broad in scope than was suggested in the original consultation. At Spring Budget 2017 the government announced further revisions, following 'extensive consultation and input from stakeholders'. The revisions:

- provide further details on when and how the general anti-abuse rule (GAAR) advisory panel will consider enabler cases;
- apply the enablers regime to arrangements that seek to avoid NICs;
- make consequential changes to the promoters of tax avoidance schemes (POTAS) legislation; and
- make further minor amendments to 'improve clarity and targeting'.

The revisions will be in FB 2017 when it is published on 20 March 2017, and the rules will come into effect from royal assent (expected in July 2017). *See: Spring Budget 2017 (para 3.44) and OOTLAR (para 1.41).*

Energy and transport taxes

The following announcements were made:

Vehicle excise duty (VED): VED for cars, motorcycles and vans registered before 1 April 2017 will be increased by the retail price index (RPI) with effect from 1 April 2017.

HGV VED and road user levy: these rates will be frozen with effect from 1 April 2017. The government has requested evidence be provided in respect of updating the existing HGV road user levy and they will formally issue this request in Spring 2017. The government also stated that it intends to work with the industry in order to update the levy so that it will reward hauliers that plan their routes efficiently and incentivise hauliers to make efficient use of the roads and improve air quality.

Red diesel: The government announced that it intends to request evidence on the use of red diesel in order to improve its understanding of eligible industries and their use of red diesel. The government would specifically like to receive evidence from urban red diesel users. The call for evidence will be published on 20 March 2017.

Air passenger duty (APD): The rate of APD for the year 2018/19 will increase in line with the RPI. The rates for 2019/20 will be provided in Autumn Budget 2017 in order to give airlines sufficient notice of the increase.

Carbon pricing: The government announced that it remains committed to carbon pricing in order to assist with decarbonising the power sector. UK prices are currently determined by the EU Emissions Trading System and Carbon Price Support. With effect from 2021/22, the government intends to tar-get a total carbon price and will set the specific tax rate at a later date in order to give businesses greater clarity on the total price that they will be required to pay. Further details on carbon prices for the 2020s will be set out at Autumn Budget 2017.

Levy control framework: The government is aware that it will need to limit the cost for businesses and households as the UK decarbonises its energy supplies. The levy control framework has already been assisting with controlling the costs of low carbon subsidies in recent years and it will be replaced by a re-vised set of controls. Details of these new controls will be provided later in 2017.

See: Spring Budget 2017 (para 3.23–3.32) and OOTLAR (para 2.26).

Enterprise management incentives

The government is to seek state aid approval to extend the tax reliefs associated with the enterprise management incentive (EMI) scheme beyond 2018. The last time state aid approval was granted to this scheme was in August 2009. *See: OOTLAR (para 2.15).*

Failure to notify: penalties

HMRC will consider strengthening the existing penalties for failure to notify a tax liability, as part of the longer term HMRC penalties review. *See: OOTLAR (para 2.32).*

Gaming duty

The following measures were announced:

Gross gaming yield (GGY): The government previously announced in Budget 2016 that they will include legislation in FB 2017 that will raise the GGY bandings for gaming duty in line with inflation based on the RPI. The revised GGY will be used to calculate the amount of gaming duty due for accounting periods starting on or after 1 April 2017. See Annex A: rates and allowances for details of the GGY bandings.

Remote gaming duty freeplays: The government will include legislation in FB 2017 to amend the definition of gaming payment and prizes and change the tax treatment of freeplays for remote gaming duty. The government consulted on the changes and the draft legislation has been amended to ensure that the change is proportionate. The legislation is intended to ensure that freeplays used to participate in remote gaming will have a value as stakes when calculating the dutiable profit of the operator and freeplays given as prizes will not be deductible.

See: OOTLAR (paras 1.31, 1.32) and TIIN Gaming duty: increase in casino gross gaming yield bands for more information.

Grassroots sport

As announced at AS 2015 and included in draft FB 2017 (clause 23), a new tax relief will be introduced with effect from 1 April 2017, minor amendments will be made to extend the meaning of 'sport governing body' to include its 100% subsidiaries. *See: OOTLAR (para 1.21).*

Hybrid mismatches

As announced at AS 2016 and outlined in a technical note published on 5 December 2016, the government reconfirmed at Spring Budget 2017 that it will include legislation in FB 2017 to make two minor changes to the hybrid rules, both with effect from 1 January 2017:

- removing the requirement to make a formal claim for a future period to be admitted as a payee's permitted taxable

period for the purposes of chapters 3 and 4 of the hybrid rules; and

- removing amortisation deductions from the meaning of relevant deductions for the purposes of chapters 5–8 of the hybrid rules, thereby providing an exemption from those chapters for certain mismatches relating to such payments.

See: OOTLAR (para 1.19) and TIIN Corporation tax: Hybrid and other mismatches – permitted taxable periods of payees and deductions for amortisation.

Image rights

HMRC will publish guidelines for employers who make image rights payments in respect of employees. These guidelines will be published in spring 2017 and will improve the clarity of the existing rules. *See: Spring Budget 2017 (para 3.50) and OOTLAR (para 2.10).*

Income tax allowances for trading and property income

As announced at Budget 2016, FB 2017 will include two new income tax allowances of £1,000 each for property and trading income for individuals. The draft legislation will be amended to prevent the allowances from applying to income of a participator in a close company or to any income of a partner from a partnership. *See: OOTLAR (para 1.3).*

Insurance premium tax (IPT)

At Spring Budget 2017, draft legislation to be included in FB 2017 was published to increase the standard rate of IPT to 12% with effect from 1 June 2017 (as was previously announced at AS 2016) and to replace the current anti-forestalling provisions found in FA 1994 ss 67–67C with new ones to be inserted at FA 1994 ss 66A, 66B and 66C that take effect from 8 March 2017. *See: Spring Budget 2017 (para 3.38), OOTLAR (para 1.27) and TIIN, draft legislation and explanatory notes IPT: standard rate and anti-forestalling.*

ISAs

The ISA limit will be £20,000 in 2017/18 (up from £15,420 in 2016/17), as previously trailed in Budget 2016. The chancellor used this above inflation increase to partly justify his reduction to the dividend nil rate band; individuals can purchase shares via an ISA to benefit from the tax-free wrapper. *See: Spring Budget 2017 (para 3.6).*

Landfill tax

The value of the landfill communities fund (LCF) for 2017/18 will remain unchanged at £39.3m and the cap on contributions made by landfill operators will increase to 5.3%. The current cap will be maintained, subject to consideration of landfill tax receipts, continuing progress in reducing the level of unspent funds that are held by environmental bodies and the proportion of the LCF that are spent on administration costs.

The government announced that it intends to consult on extending the scope of landfill tax to cover illegal waste disposals that are made without the required permit or licence.

The government previously announced at Budget 2016 that legislation will be introduced in Finance Bill 2017, and in secondary legislation, to amend the definition of a taxable disposal for landfill tax. The government has consulted in the draft legislation and changes have been introduced in order to clarify the tax treatment of material disposed of at landfill sites and give greater certainty to landfill site operators. The draft legislation has been restructured to simplify and improve ease of comprehension. The measure will come into effect after royal assent of FB 2017 and the changes will apply to disposals to landfill in England, Wales and Northern Ireland. *See: Spring Budget 2017 (para 3.31) and OOTLAR (para 1.28).*

Large business risk review

The government will consult over the summer on its process for HMRC's risk profiling of large businesses and for promoting stronger compliance. *See: Spring Budget 2017 (para 3.41) and OOTLAR (para 2.35).*

Life insurance: part surrenders and part assignments

As announced at AS 2016, the government will legislate in FB 2017 to change the current tax rules for part surrenders and part assignments of life insurance policies, to allow policyholders who have generated a wholly disproportionate gain to apply to HMRC to have the gain recalculated on a just and reasonable basis. Currently, a policy holder who surrenders in part or assigns in part a life insurance policy can be subject to disproportionate tax charges.

Following consultation, the legislation has been revised to clarify who can apply, when and how the recalculation is given effect. These changes will have effect from royal assent of FB 2017. *See: OOTLAR (para 1.11).*

Making tax digital

The following measures were announced:

Deferral for small businesses: As announced at AS 2016 and published in draft on 31 January 2017, FB 2017 will include measures forming part of the government's 'making tax digital' initiative. These include digital record keeping, changes to when and how businesses record accounting and tax adjustments, and a requirement to provide HMRC with summary tax data on a quarterly basis.

At Spring Budget 2017, the government announced a one year deferral for the implementation of these measures for unincorporated businesses, and landlords, with turnovers below the VAT threshold (increased by this Budget to £85,000). This means that only:

- businesses, self-employed people and landlords;
- with turnovers in excess of the VAT threshold; and
- that pay income tax and class 4 NICs.

will be required to start using the new digital service from April 2018. This change will be made in regulations. There will also be a number of changes to the primary legislation in FB 2017, including new provisions to replicate existing income tax compliance powers so that they apply to the new digital requirements.

The measures generally take effect from royal assent (expected July 2017). *See: Spring Budget 2017 (para 3.39) and OOTLAR (para 1.47).*

Late submission penalties: HMRC will publish a consultation on 20 March 2017 on proposals for late submission penalties (the digital equivalent of late filing penalties) and the charging of penalty interest on late payments of tax. *See: OOTLAR (para 2.34).*

Museums and galleries

As announced at Budget 2016 and included in draft FB 2017 (clause 22 and Sch 8), a new tax relief will be introduced with

effect from 1 April 2017. Minor amendments will be made to allow for exhibitions which have live performances as part (but not the main focus) of the exhibition. The rates of relief to be introduced (as announced at AS 2016) as from 1 April 2017 will be:

- 25% for touring exhibitions; and
- 20% for non-touring exhibitions.

This will enable museums and galleries to claim a credit of up to:

- £100,000 for touring exhibitions; and
- £80,000 for non-touring exhibitions,

up to a maximum allowable credit equivalent to qualifying expenditure of £500,000. *See: OOTLAR (para 1.20).*

National living wage

The national living wage will be increased to £7.50 per hour from April 2017. The following table shows all minimum wage rates for all age groups:

Category	Current rate	New rate from 1 April 2017
Workers 25 and over	£7.20 per hour	£7.50 per hour
21-24 year olds	£6.95 per hour	£7.05 per hour
18-20 year olds	£5.55 per hour	£5.60 per hour
16-17 year olds	£4.00 per hour	£4.05 per hour
Apprentices	£3.40 per hour	£3.50 per hour
Accommodation offset	£6.00 per day	£6.40 per day

NICs: increase in class 4 rate

The government will legislate to increase the main rate of class 4 NICs from April 2018. Currently, the self-employed pay class 4 NICs at 9% on profits between £8,060 and £43,000 (with a 2% rate applying to profits over £43,000). From 6 April 2018, the 9% main rate will increase to 10%, with a further increase to 11% from 6 April 2019.

This increase will address the exacerbated differential between the rates of NICs paid by employees and those paid by the self-employed when class 2 NICs are abolished from April 2018 (as announced at Budget 2016), and also reflects the post-April 2016 pension entitlement changes. *See: Spring Budget 2017 (para 3.5), OOTLAR (para 2.7) and National Insurance and the self-employed: factsheet.*

NICs: collection of arrears

As announced at AS 2016, the government will remove NICs from the effects of the Limitation Act 1980 and will align the time limits for the recovery of NICs debts with those for tax. It was originally intended this would be effective from April 2018. However, the government will defer this measure, which will be introduced in a future NICs Bill, to allow more time for a full consultation on the draft legislation. *See: OOTLAR (para 2.8).*

Non-domiciliaries

As first announced at Summer Budget 2015, there are to be fundamental changes to the tax regime for non-domiciled individuals. They involve deeming an individual to be UK domiciled for tax purposes even though he may be non-domiciled in the UK under general law. The rules will apply for income tax, CGT and IHT.

From 2017/18, it is expected that an individual will be deemed UK domiciled for income tax and CGT:

- if he has been UK resident for at least 15 out of the last 20 tax years; or
- if he was born in the UK with a UK domicile of origin, subsequently left the UK and acquired a non-UK domicile of choice and later becomes resident in the UK.

The 20-year 'look-back' period for 2017/18 is 1997/98 to 2016/17. The 'clock' does not restart from 2017/18.

Following the responses to the initial consultation, it was announced that non-domiciliaries:

- caught by the deemed domicile 15-year rule in 2017/18 will be able to rebase their foreign chargeable assets for CGT purposes as at 5 April 2017;
- will have a one-off opportunity to clean-up existing mixed funds within foreign bank accounts (transfers out should be made between 6 April 2017 and 5 April 2019).

Whilst both these measures are good news for the non-domiciliary, they have underlying traps for the unwary that were not obvious at the time of the original announcements. Great care will be needed in advising clients. *See: OOTLAR (para 1.26).*

Non-resident companies

As announced at AS 2016, the government will consult on the options for bringing non-UK resident companies within the charge to corporation tax. The Spring Budget 2017 announcement suggests that the consultation will be limited to non-resident companies that are currently subject to income tax on their UK taxable income and to non-resident capital gains tax on disposals of UK residential property. *See: OOTLAR (para 2.19).*

Northern Ireland: corporation tax

As announced at AS 2016 and included in draft FB 2017 (clause 25 and Sch 9), changes will be made to the Corporation Tax (Northern Ireland) Act 2015 to open it up to all SMEs trading in NI to benefit (and prevent abuse), and minor drafting improvements will be made. *See: OOTLAR (para 1.18).*

Oil and gas: late-life assets

The government has announced that it will publish a discussion paper on 20 March 2017 on 'late-life' oil and gas assets. This will consider the case for allowing transfers of tax history (including decommissioning obligations) between buyers and sellers, to make it easier for oil and gas assets to be transferred.

In addition, as announced at Summer Budget 2015 and consulted on in 2016, the government is introducing regulations to extend the scope of investment allowances and cluster area allowances. The rules will have retrospective effect to 8 October 2015. *See: Spring Budget 2017 (para 3.29) and OOTLAR (paras 2.17, 2.18).*

Offshore property developers

At Budget 2016, the government announced rules to tax profits from trading in and developing UK land. Legislation will be included in FB 2017 to amend the commencement provisions for these rules so that all profits recognised in the accounts of developers on or after 8 March 2017 will be taxed, regardless of the date of the sale contract. Previously profits arising from contracts entered into before 5 July 2016 were excluded from the rules. *See: Spring Budget 2017 (para 3.21), OOTLAR (para 1.15), and TIIN, draft clause and explanatory notes.*

Partnerships

At AS 2016, the government announced that it would legislate in FB 2017 to clarify and improve certain aspects of partnership taxation (including legislation to ensure profit allocations to partners are fairly calculated for tax purposes). Draft legislation was expected in early 2017 for consultation. The government has now announced that it intends to legislate in FB 2017. *See: OOTLAR (para 2.3).*

Patent box: cost sharing arrangements

As announced at AS 2016 and included in draft FB 2017 (clause 24), the government will legislate to ensure that a company entering into a cost-sharing arrangement is not disadvantaged, or advantaged, under the revised patent box rules introduced in FA 2016. Following consultation, the legislation will be revised to narrow the definition of cost sharing arrangement and to better align payments. The provisions have effect for accounting periods starting after 1 April 2017. *See: OOTLAR (para 1.22).*

Patient capital review

The patient capital review was launched by HM Treasury and the Department for Business, Energy & Industrial Strategy (BEIS) in January 2017 and forms part of the government's consultation on building a modern industrial strategy. The terms of reference for this review did not previously include consideration of the tax measures linked with patient or long term funding for growing businesses, but the chancellor today announced that the consultation to be launched in spring will extend to consider the tax reliefs aimed at encouraging investment and entrepreneurship. The announcement does not identify specific reliefs, but it is assumed that it would cover some or all of: EIS reliefs, SEIS reliefs, VCT reliefs, entrepreneurs' relief and investors' relief.

The final recommendations from the review will be presented to the chancellor ahead of Autumn Budget 2017. *See: Spring Budget 2017 (para 3.13) and OOTLAR (para 2.5).*

Pensions

The following measures were announced:

Foreign pension regimes: As announced at Autumn Statement 2016, the government will legislate in FB 2017 to more closely align the treatment of foreign pensions with the UK's domestic pension regime. Following consultation, the legislation has been revised to set out the position for defined benefit specialist pension schemes for those employed abroad ('section 615' schemes) and clarify that all lump sums paid out of funds built up before 6 April 2017 will be subject to existing tax treatment. These changes will have effect from 6 April 2017.

A section 615 scheme is an occupational pension scheme established under ICTA 1988 s 615(6) which:

- is established under trust by an employer that operates wholly or partly outside the UK; and
- provides retirement benefits for employees that work wholly outside the UK.

Currently, a section 615 scheme is exempt from many, but not all, of the regulatory provisions that apply to UK pension schemes. In particular, it benefits from the same IHT exemptions as a UK pension scheme. For tax purposes, it is neither a registered pension scheme nor an employer-financed retirement benefits scheme (EFRBS). *See: OOTLAR (para 1.13), AS 2016 (para 4.21).*

Money purchase annual allowance: At Spring Budget 2017, the chancellor announced that legislation will be included in FB 2017 to reduce the money purchase annual allowance from £10,000 to £4,000 with effect from 6 April 2017. This measure follows a consultation launched at AS 2016 as to the detail of the reduction in the allowance.

The reduction in the allowance is designed to limit the extent to which pension savings can be recycled to take advantage of an unintended double pension tax relief (eg on recycled pension savings), while also retaining the flexibility for individuals who need to access their pension savings to rebuild them if they subsequently have opportunity to do so. A response to the consultation is due to be published along with FB 2017 on 20 March 2017. *See: Spring Budget 2017 (Table 2.2), OOTLAR 2017 (para 1.12), TIIN: Reducing the money purchase annual allowance.*

QROPS transfer charge: This is a measure that had not been pre-announced. The government will legislate in FB 2017 to apply a 25% charge to pension transfers made to qualifying recognised overseas pension schemes (QROPS). Exceptions will be made to the charge, allowing transfers to be made tax free where people have a genuine need to transfer their pension, where:

- both the individual and the pension scheme are in countries within the European Economic Area (EEA); or
- if outside the EEA, both the individual and the pension scheme are in the same country; or
- the QROPS is an occupational pension scheme provided by the individual's employer.

If the individual's circumstances change within five tax years of the transfer, the tax treatment of the transfer will be reconsidered.

The changes will take effect for transfers requested on or after 9 March 2017.

The government will also legislate in FB 2017 to apply UK tax rules to payments from funds that have had UK tax relief and have been transferred, on or after 6 April 2017, to a QROPS. UK tax rules will apply to any payments made in the first five full tax years following the transfer, regardless of whether the individual is or has been UK resident in that period. *See: Spring Budget 2017 (para 3.46), OOTLAR (para 1.14) and TIIN: Qualifying recognised overseas pension schemes: charge on transfers.*

Personal allowance and higher rate threshold

By the end of this parliament in 2020, the personal allowance is set to increase to £12,500 and the higher rate threshold to £50,000. In order for personal allowance increases not to be eroded by inflation going forward, once the personal allowance reaches £12,500, it will then rise in line with the consumer price index (CPI).

However, following legislation introduced in FA 2016 s 6, the government will separate the 'main rates' of income tax into three distinct groups for the first time, to be set in FB 2017:

- 'main rates' will apply to non-savings, non-dividend income of taxpayers in England, Wales and Northern Ireland;
- 'savings rates' will apply to savings income of all UK taxpayers; and
- 'default rates' will apply to a very limited category of income taxpayers that do not fall within the two groups above, such as trustees and non-residents.

From April 2017, the income tax rates and thresholds for non-savings, non-dividend income for Scottish taxpayers are set by the Scottish Parliament and the basic rate limit for Scottish taxpayers will be different. *See: Spring Budget 2017 (para 3.4) and OOTLAR 2017 (para 1.1).*

Petroleum revenue tax (PRT) simplification

Since 1 January 2016, PRT has been charged at a zero rate, but it has not been abolished, largely to enable companies to create losses that can be carried back to recover past PRT paid. As announced at AS 2016, FB 2017 will include provisions to simplify the process for opting out of PRT and remove various reporting requirements. Following consultation, the legislation has been revised to make some consequential amendments. The changes have retrospective effect to 23 November 2016 and the revised legislation will be published on 20 March 2017. *See: OOTLAR (para 1.25).*

Plant and machinery leases

HMRC published a discussion document in autumn 2016 on options for reforming the tax treatment of plant and machinery leases in light of the new International Accounting Standards Board leasing standard, IFRS16. The government has now announced that it will take this proposal forward with a consultation in summer 2017, with the intention of making legislative changes that will maintain the effect of the current rules. *See: OOTLAR (para 2.12).*

Promoters of tax avoidance schemes (POTAS)

The government is introducing legislation with immediate effect (from 8 March 2017) to prevent promoters from getting around the POTAS rules by restructuring how their business is owned. The POTAS rules are triggered where, within the previous three years, the promoter has met any one of a number of threshold conditions set out in the legislation. Threshold conditions include:

- being found guilty of certain types of misconduct by a professional body;
- imposing provisions on clients that restrict the disclosure of information to HMRC; and
- repeatedly promoting tax avoidance schemes that do not work ('defeated' avoidance schemes).

The POTAS rules were introduced by FA 2014 and were changed by FA 2015 to catch situations where a threshold condition has been met by someone with a defined type of connection, via a company or partnership, to the promoter. The new measures announced at Spring Budget 2017 extend these provisions by amending the definition of control, and introducing the term 'significant influence' to ensure promoters cannot get around the rules by inserting a person or persons between themselves and the promoting business. *See: Spring Budget 2017 (para 3.43),OOTLAR (para 1.40) and TIIN, draft clause and explanatory notes: Promoters of tax avoidance schemes: associated and successor entities rules.*

Public sector off-payroll working

As announced at Budget 2016 and confirmed at Autumn Statement 2016, FB 2017 will reform the way IR35 applies to public sector bodies. As a result of feedback received during the technical consultation on FB 2017, it will be optional for the public sector body (or agency, if used) to take account of the worker's expenses when calculating the tax due. This change puts the affected workers in the same position as employees, whose employers can choose whether or not to reimburse incurred expenses. This will not affect the individual's right to claim tax relief on legitimate employment expenses from HMRC as part of their own tax returns. In addition, the application of the rules to parliament and statutory auditors will be clarified. The reform to IR35 will come into effect from 6 April 2017. *See: OOTLAR (para 1.9) and Updated TIIN: Off-payroll working in the public sector: changes to the intermediaries legislation.*

Reasonable care defence

As announced at AS 2016 and included in draft FB 2017 (clause 91), FB 2017 will prevent taxpayers who face inaccuracy penalties in respect of a marketed tax avoidance scheme from citing generic advice or marketing material to demonstrate that they have taken reasonable care. The changes come into effect at royal assent and apply to inaccuracies in documents relating to tax periods which begin on or after 6 April 2017. *See: Spring Budget 2017 (para 3.44) and OOTLAR (para 1.41).*

Rent-a-room relief

In a surprise announcement, in summer 2017 the government will launch a consultation on rent-a-room relief, with a view to better supporting longer-term lodgings.

The reference to longer-term lodging may suggest that the conditions for rent-a-room relief could be altered to ensure it applies to long-term lets only. Currently anyone letting a room in their home on a short-term basis using sharing websites, such as Airbnb, can receive up to £7,500 per year in rents without paying income tax. When rent-a-room relief was introduced in 1992, this type of short-term letting could not be envisaged and the government may decide this does not meet the original policy objective. *See: OOTLAR (para 2.2 and Annex B).*

Research and development (R&D) tax review

Following a review of the R&D tax regime, the government will:

- make administrative changes to the R&D expenditure credit to increase certainty and simplify claims; and
- take action to improve awareness of R&D tax credits among SMEs.

See: Spring Budget 2017 (para 3.12) and OOTLAR (para 2.13).

Salary sacrifice

As announced at AS 2016, legislation in FB 2017 will remove income tax and NICs advantages with effect from 6 April 2017 where benefits in kind are provided through salary sacrifice or other optional remuneration arrangements. Transitional provisions will apply for contractual arrangements entered into before 6 April 2017, but these will normally only apply until 6 April 2018 or, if earlier, their variation or renewal. These transitional provisions will extend to 6 April 2021 for arrangements relating to cars with emissions above 75g CO_2 per kilometre, accommodation and school fees. Employer provided pensions and pension advice, childcare vouchers, employer-provided childcare and workplace nurseries as well as cycle to work schemes and ultra-low emissions cars will be excluded from this measure. *See: OOTLAR (para 1.7).*

Savings bonds

As expected, National Savings and Investments (NS&I) will launch a new three-year savings bond in April 2017. It was confirmed in the Spring Budget 2017 that the interest rate will be 2.2% per annum. The bond will be open to those over 16 years of age and the maximum investment will be £3,000.

This interest rate is significantly higher than the rates offered by banks and building societies for mainstream savings products and there is likely to be a high take-up amongst basic rate and higher rate taxpayers (who also benefit from the savings nil rate band). *See: Spring Budget 2017 (para 3.9).*

SDLT: deferring acceleration of receipts

The government has announced that it will delay the reduction in the SDLT filing and payment window (from 30 to 14 days) until after April 2018. The government consulted on changes to the filing and payment process in 2016 and the changes were expected to be introduced in FB 2017. *See: Spring Budget 2017 (para 3.20) and OOTLAR (para 2.31).*

Social investment tax relief (SITR)

As announced at AS 2016, the chancellor confirmed at Spring Budget 2017 that the government will amend the requirements for the SITR scheme with effect for investments made on or after 6 April 2017. The measure enlarges the existing scheme and includes amendments to:

- increase the amount of investment that a qualifying social investment enterprise may receive over its lifetime from the current three year rolling limit of €344,000 to £1.5m;
- reduce the limit on full-time equivalent employees from 500 to 250 employees (not including volunteers);
- exclude the use of money raised under the SITR to pay off existing loans;
- clarify that individuals will be eligible to claim relief under the SITR scheme only if they are independent from the social enterprise; and
- introduce provisions to exclude investments where the main purpose of arrangements is to deliver a benefit to an individual or party connected to the social enterprise.

See: Spring Budget 2017 (Table 2.2), OOTLAR 2017 (para 1.4) and TIIN: Income Tax – enlarging Social Investment Tax Relief.

Soft drinks industry levy

The government has announced the rates that will apply for the purposes of the soft drinks industry levy. The levy was announced at Budget 2016 and will need to be paid by producers and importers of soft drinks with added sugar. The levy will be charged on volumes according to total sugar content and will apply from 6 April 2018. The main rate charge for drinks above 5 grams of sugar per 100 millilitres will be 18 pence per litre and the higher rate for drinks with more than 8 grams of sugar per 100 millilitres will be 24 pence per litre. The levy is included in the draft FB 2017 (clauses 51–78 and Schs 15–17) but following consultation, the legislation has been revised to include a criminal offence for evasion of the levy (in addition to some other minor changes). *See: Spring Budget 2017 (para 3.37) and OOTLAR (para 1.33).*

Substantial shareholding exemption (SSE) reform

As announced at AS 2016 and included in draft FB 2017, FB 2017 will remove the investing company requirement within the SSE, and provide a more comprehensive exemption for companies owned by qualifying institutional investors. Following consultation, amendments have been made to the legislation in draft FB 2017 'to provide clarity and certainty'. The changes take effect from 1 April 2017. *See: OOTLAR (para 1.16).*

Termination payments

As announced at Budget 2016 and confirmed at AS 2016, FB 2017 will tighten and clarify the tax treatment of termination payments and the NICs Bill 2017 will align the tax and employer NICs treatment of termination payments. Following consultation on the draft legislation, the government will legislate to abolish the foreign service exemption in FB 2017/18. All of these changes will take effect from 6 April 2018. *See: OOTLAR (para 1.8).*

Trading stock, appropriations to

In order to address a perceived unfairness in the tax code that can be exploited for avoidance, the government is removing an ability for businesses to convert capital losses into trading losses with immediate effect.

Where a capital asset is appropriated to trading stock, there is a deemed disposal for CGT purposes at market value. Currently, however, businesses can elect for an alternative tax treatment which can be particularly advantageous where a capital loss would otherwise have arisen on the deemed disposal. In such a case, the effect of the election is to reduce the allowable loss to zero and to increase (by the equivalent amount) the market value of the asset which can be brought into account as expenditure in computing trading profit. Effectively, such an election converts what would be a capital loss into a more useful trading deduction that can be offset against the total trading profits of the business.

Draft legislation released alongside Spring Budget 2017 (together with an explanatory note) removes the ability to make such an election where an appropriation to trading stock would give rise to a loss for chargeable gains purposes, meaning that an allowable loss is crystallised when the appropriation takes place and remains within the chargeable gains rules. This change has effect for appropriations to trading stock made on or after 8 March 2017 (i.e. the date of Spring Budget 2017). This measure will be included in FB 2017.

Similar changes are also being made to the equivalent rules relating to assets within the charge to the annual tax on enveloped dwellings (ATED), with the result that the current ability to make an election in respect of the non-ATED related part of any loss is removed. Again, the change has effect from 8 March 2017.

In both cases, the ability to make an election where an appropriation to trading stock would give rise to a chargeable gain is unaffected by these changes. *See: Spring Budget 2017 (para 3.45), OOTLAR (para 1.24) and TIIN: Corporation Tax and Income Tax–Tax treatment of appropriations to trading stock.*

Trusts default rate of income tax

The OOTLAR (para 1.1) makes a somewhat cryptic reference to a 'default rate' of income tax which will apply to trustees. This is not a new rate of tax for trusts but requires some explanation.

With effect from 6 April 2017, the Scottish parliament will be able to set a Scottish rate of income tax to apply to non-savings, and non-dividend income in Scotland. This 'main rate' of tax will apply to individuals' employment, trade, pensions and property income. It does not apply to trusts.

To correspond with the creation of a main rate for Scottish taxpayers, the same term will apply to the non-savings, non-dividend income of individuals in the rest of the UK. The inference is, of course, that the main rates for each part of the UK could diverge in due course.

The regional authority over tax rates does not extend to

the standard rates applied to trusts or non-residents. Hence the introduction of a new term, 'default rate' which describes the standard rate applied to non-savings, non-dividend income of those entities. For trusts, this category is primarily property income.

Although no additional measures are proposed at present, the separation of the rates does pave the way for different rates for trusts in the future. *See: OOTLAR (para 1.1).*

VAT: construction sector labour fraud

The government will publish a consultation on 20 March 2017 on various options to combat supply chain fraud in supplies of labour within the construction sector including:

- a reverse charge mechanism so that the recipient accounts for the VAT; and
- changing the criteria for gross payment status within the construction industry scheme.

See: Spring Budget 2017 (para 3.48) and OOTLAR (para 2.30).

VAT: mobile phone services

The government will remove the VAT use and enjoyment provision for mobile phone services provided to consumers. This will resolve the inconsistency where UK VAT is applied to mobile phone use by UK residents when in the EU, but not when outside the EU. It will also ensure mobile phone companies are unable to use the inconsistency to avoid UK VAT. This removal will bring UK VAT rules into line with the internationally agreed approach. Secondary legislation to effect the change, together with a TIIN, will be published before the parliamentary summer recess. *See: Spring Budget 2017 (para 3.47) and OOTLAR (para 2.29).*

VAT: registration and deregistration thresholds

From 1 April 2017 the VAT registration threshold will increase from £83,000 to £85,000 and the deregistration threshold from £81,000 to £83,000, in line with inflation. The registration and deregistration threshold for relevant acquisitions from other EU member states will also be increased from £83,000 to £85,000 from 1 April 2017, in line with the VAT registration threshold. *See: Spring Budget 2017 (para 3.36), OOTLAR (para 2.27) and TIIN: VAT registration threshold.*

VAT: 'split payment' model

The government will publish a call for evidence on 20 March 2017 on proposals to introduce a new VAT collection mechanism for online sales. This would harness technology to allow VAT to be extracted directly from transactions at the point of purchase (often referred to as 'split payment'). This measure is a further step in tackling the non-payment of VAT by some overseas traders who sell goods online to UK consumers and follows the announcement at Budget 2016 in respect of HMRC's increased powers to combat the VAT fraud associated with online marketplaces. *See: Spring Budget 2017 (para 3.50) and OOTLAR (para 2.28).*

VAT: penalty changes in fraud cases

As announced in AS 2016 the government will introduce a new and more effective penalty for participating in VAT fraud in FB 2017. Minor changes have been made to the draft legislation and a company officer will only be named where the amount of VAT due exceeds £25,000. *See: OOTLAR (para 1.39).*

Venture capital schemes

As announced at AS 2016, the government confirmed at Spring Budget 2017 that it will amend the requirements of the enterprise investment scheme (EIS), the seed enterprise investment scheme (SEIS) and venture capital trusts (VCTs). The amendments, which follow wholesale changes made in November 2015 and small tweaks in FA 2016, will:

- clarify the EIS and SEIS share conversion rights on shares issued on or after 5 December 2016 (when the draft FB 2017 legislation was published);
- provide additional flexibility for follow-on investments made by VCTs in companies with certain group structures, to align with EIS provisions, for investments made on or after 6 April 2017;
- introduce the power for the government to make regulations in the context of share for share exchanges in the VCT regime, with effect from the date of Royal Assent of FB 2017 (expected to be in July 2017).

The government also announced that a summary of responses to a consultation on options to streamline and prioritise the advance assurance service will be published after Spring Budget 2017. *See: OOTLAR (para 1.5).*

Withholding tax on interest

At Spring Budget 2017, the government responded to the double taxation treaty passport (DTTP) scheme review consultation by confirming that it will renew and extend the DTTP scheme, which simplifies access to reduced withholding tax rates on interest that are available in the UK's network of double tax treaties. With effect from 6 April 2017, the DTTP scheme should apply to 'all types of lenders and UK borrowers' and not be restricted (as it is prior to 6 April 2017) to corporate lenders and corporate UK borrowers. The government has confirmed that revised terms and conditions and guidance on the DTTP scheme will be published on gov.uk on 6 April 2017.

The government also announced that it will introduce a withholding tax exemption for interest on debt traded on a multilateral trading facility and that it will consult on this exemption in spring 2017. The Spring Budget 2017 states that this exemption will remove a barrier to the development of UK debt markets.

The OOTLAR also seems to confirm that draft FB 2017, clause 12 and schedule 4 will remain unchanged following consultation. This means that with effect for payments made on or after 6 April 2017, there will no longer be a requirement to deduct UK income tax at source from interest on peer-to-peer (P2P) lending (which broadly puts the interim non-statutory withholding tax exemption from P2P interest that has applied since 8 January 2016 on a statutory footing) or from interest distributions (i.e. dividends that are treated as yearly interest) from open-ended investment companies, authorised unit trusts or investment trust companies. *See: Spring Budget 2017 (para 3.14) and OOTLAR (paras 2.14, 2.37 and see also under the heading: 'Measures unchanged following consultation on the draft legislation').* ■

This commentary was derived from Lexis®PSL Tax and Private Client services, with additional material from Tolley Guidance. The Lexis®PSL Tax and Private Client services provide lawyers with practice notes and precedents, with links to trusted sources. Tolley Guidance is an online service for tax practitioners that combines tax technical commentary with practical guidance.

Tax rates and allowances

Income tax allowances

	2017/18	2016/17
	£	£
Personal allowance	11,500	11,000
Income limit	100,000	100,000
Transferable marriage allowance[1]	1,150	1,100
Married couple's allowance[1] (relief at 10%)		
Partner born before 6.4.1935	8,445	8,355
Income limit	28,000	27,700
Minimum where income exceeds limit	3,260	3,220
Blind person's allowance	2,320	2,290
Trading allowance[2]	1,000	N/A
Property income allowance[2]	1,000	N/A
Dividend allowance	5,000	5,000
Personal savings allowance		
Basic rate taxpayers	1,000	1,000
Higher rate taxpayers	500	500

Income tax rates

Taxable income £	Rate %
2017/18	
0 – 33,500[3]	20
33,501 – 150,000[3]	40
Over 150,000	45
2016/17	
0 – 32,000	20
32,001 – 150,000	40
Over 150,000	45

A 0% starting rate for savings income only applies to the extent that such income falls within the first £5,000 of taxable income. If taxable non-savings income exceeds the limit, the starting rate does not apply. A 0% rate applies to savings income falling within the personal savings allowance. Income taxable at the starting rate for savings does not fall within the personal savings allowance.

A 0% rate applies to dividend income within the dividend allowance.
The trust rate of income tax is 45%. The dividend trust rate is 38.1%.

1 Available for civil partners.
2 For 2017/18, profits are not charged to income tax where receipts do not exceed allowance.
3 For 2017/18 for Scottish taxpayers the basic rate band is £31,500. This applies only to non-savings, non-dividend income.

National insurance contributions

2017/18
Class 1 (Earnings related)

Employees

Weekly earnings	
First £157	Nil
£157.01 – £866	12%
Over £866	2%

Employers

Weekly earnings	
First £157	Nil
Over £157	13.8%

Employees' rates are reduced to 5.85% for married women with valid certificates of election but the 2% rate above £866 still applies. Rates are nil for employees over state pensionable age. Normal employers' contributions are still payable. Employers' rates for employees under 21 and apprentices under 25 are nil on earnings up to £866 per week.

Employment allowance
(per employer) – £3,000 a year.

Class 1A and Class 1B – 13.8%
Class 2 (Self-employed) – Flat rate £2.85 a week.
Small profits threshold £6,025 a year.
Class 3 (Voluntary contributions) – £14.25 a week.
Class 4 (Self-employed) – 9% of profits between £8,164 and £45,000 a year.
2% of profits above £45,000 a year.

Inheritance tax

	2017/18	2016/17
Nil-rate band[1]	£325,000	£325,000
Residence nil-rate band[1]	£100,000	N/A
Rate of tax on excess	40%[2]	40%[2]
Chargeable lifetime transfers	20%	20%

Annual gifts of up to £3,000 per donor are exempt.

1 Unused nil rate band is transferable to spouse or civil partner.
2 36% where 10% or more of the net estate is left to charity.

Capital gains tax

Annual exempt amounts: 2017/18	£
Individuals, disabled trusts, personal representatives for year of death and two years thereafter	11,300
Trusts generally	5,650

Rates: 2017/18	
Individuals: Standard rate	10%
Higher rate	20%
Trustees and personal representatives	20%
Gains on residential property and carried interest	18%/28%
Gains to which entrepreneurs' relief applies[1]	10%

1 Subject to lifetime limit on gains of £10m.

Corporation tax

Financial year to:	31/3/2018	31/3/2017
Rate:	19%	20%

Stamp taxes

Shares and marketable securities	0.5%[2]

Transfers of land and buildings[3]

Residential (on band of consideration)[4, 5]	
£0 – £125,000	0%
£125,001 – £250,000	2%
£250,001 – £925,000	5%
£925,001 – £1,500,000	10%
Over £1,500,000	12%

Non-residential (on band of consideration)	
£0 – £150,000	0%
£150,001 – £250,000	2%
Over £250,000	5%

Leases (Rent – on band of net present value)[3]

Residential	Non-residential	Rate
£0 – £125,000	£0 – £150,000	Nil
Over £125,000	£150,001 – £5m	1%
N/A	Over £5,000,000	2%

Premiums[3]
Duty on premiums is the same as for transfers of land.

2 Rounded up to the nearest multiple of £5. Transactions of £1,000 or less exempt.
3 Transfers of land and leases in Scotland are chargeable to land and buildings transaction tax. Different rates of tax may apply.
4 Where the consideration exceeds £500,000 and the purchase is by – or by a partnership including – a company or collective investment scheme enveloping the property, the rate is 15% of the total consideration.
5 Rates are increased by 3 percentage points for certain purchases, including purchases of additional residential properties by individuals. Transactions under £40,000 are excluded.

Car benefit

CO2 emissions (2017/18)	% of list price	
grams per km	Petrol	Diesel
0-50	9	12

51-75	13	16
76-94	17	20
95-99	18	21
100-104	19	22
105-109	20	23
110-114	21	24
115-119	22	25
120-124	23	26
125-129	24	27
130-134	25	28
135-139	26	29
140-144	27	30
145-149	28	31
150-154	29	32
155-159	30	33
160-164	31	34
165-169	32	35
170-174	33	36
175-179	34	37
180-184	35	37
185-189	36	37
190 or more	37	37

A 9% charge applies to cars incapable of producing CO2.

Car fuel benefit

For 2017/18, car fuel benefit is calculated by applying the above car benefit percentage to a figure of £22,600.

Tax-free mileage allowances

Employee's own vehicle	
Motorcars and vans	**2017/18**
Up to 10,000 business miles	45p
Over 10,000 business miles	25p
Each passenger making same trip	5p
Motorcycles	24p
Cycles	20p

Advisory fuel rates for company car from 1 March 2017

Cylinder capacity	*Petrol*	*Diesel*	*LPG*
0-1,400 cc	11p	–	7p
0-1,600 cc	–	9p	–
1,401 cc - 2,000 cc	14p	–	9p
1,601 cc - 2,000 cc	–	11p	–
Over 2,000 cc	22p	13p	14p

Fixed rate deductions: unincorporated businesses

Vehicle expenditure *Motorcars and goods vehicles*	**Amount per mile**
Up to 10,000 business miles	45p
Over 10,000 business miles	25p
Motorcycles	24p

Business use of home **Hours worked per month**	**Amount per month**
25 or more	£10
51 or more	£18
101 or more	£26

Private use of business premises **Number of occupants**	**Disallowable amount per month**
1	£350
2	£500
3 or more	£650

Individual savings accounts

Limits	**2017/18**	**2016/17**
Annual limit	£20,000	£15,240
Junior ISA annual limit	£4,128	£4,080
Lifetime ISA annual limit	£4,000	N/A
Help to buy ISA monthly limit	£200	£200

Investment reliefs

	Investment limit	**Income tax relief rate**
Enterprise investment scheme	£1,000,000	30%
Venture capital trusts	£200,000	30%
Seed enterprise investment scheme	£100,000	50%
Social investment relief	£1,000,000	30%

Capital allowances

	Rate %
Dredging	
(straight-line basis)	
Writing-down allowance	4
Know-how	
(reducing balance basis)	
Writing-down allowance	25
Mineral extraction	
(reducing balance basis)	
Writing-down allowances	
General	25
Acquisition of mineral asset	10
Patent rights	
(reducing balance basis)	
Writing-down allowance	25
Plant and machinery	
(reducing balance basis)	
Annual investment allowance (max £200,000)	100
First-year allowances	
Energy-saving or environmentally beneficial assets	100
New cars with CO2 emissions not exceeding 75g/km	100
New zero-emission goods vehicles	100
New assets for use in designated areas of enterprise zones	100
New electric charge-point equipment	100
Writing-down allowances	
General	18
Cars (other than low-emission cars)	8
Special rate expenditure (including integral features and thermal insulation)	8
Long-life assets	8
Research and development	
Allowance	100

VAT

Standard rate	**20%**
Lower rate	**5%**
Registration threshold from 1 April 2017	£85,000 pa
Deregistration limit from 1 April 2017	£83,000 pa
Annual accounting scheme turnover limit	£1,350,000 pa
Cash accounting scheme turnover limit	£1,350,000 pa
Flat rate scheme turnover limit	£150,000 pa

Registered pension schemes

Individual contributions

Maximum tax-relievable contributions are the higher of:
• 100% of taxable UK earnings; or
• £3,600 (where the scheme applies tax relief at source).

2017/18	
Annual allowance	£40,000
Income limit	£150,000
Minimum where income exceeds limit	£10,000
Lifetime allowance	£1,000,000

2016/17	
Annual allowance	£40,000
Income limit	£150,000
Minimum where income exceeds limit	£10,000
Lifetime allowance	£1,000,000

Any unused annual allowance can be carried forward for up to three years.

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- **Tax rulings and state aid:** State aid expert Conor Quigley QC (Serle Court) argues that the EC's approach misunderstands the whole purpose of tax rulings concerning transfer pricing.
- **Apple:** Dominic Robertson and Isabel Taylor (Slaughter and May) answer questions on that controversial Apple state aid decision.
- **Where next?** Liesl Fichardt (Clifford Chance) considers whether potential future targets could include so called 'negative state aid' measures.
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2. **Professional conduct in relation to taxation** (Malcolm Gammie, 2.3.17)
3. **MTD: where are we now?** (Tina Riches, 2.3.17)

What's ahead

March

13 **Cases:** UT scheduled to hear company's appeal in *Crescent of Cambridge Ltd v HMRC* (VAT: default surcharge)

14 **Compliance:** Quarterly corporation tax instalment for large companies depending on accounting year end; EC sales list deadline for monthly paper return.

15 **Cases:** Supreme Court is scheduled to hear the liquidator's appeal in *RFC 2012 Plc (in liquidation) (formerly The Rangers Football Club Plc) (Appellant) v Advocate General for Scotland (Respondent) (Scotland)* (PAYE/NIC: payments to EBTs).

17 **Consultation:** Comments close on Department for Business, Energy and Industrial Strategy call for evidence on the use of limited partnerships in Scotland (see www.bit.ly/2jXeRNi).

19 **Compliance:** Pay PAYE, NI, construction industry scheme and student loan liabilities for month ended 5 March 2017 if not paying electronically; file monthly CIS return.

20 **Consultation:** Comments close on EC's three consultations as part of the ongoing work on its action plan on VAT, launched in April 2016. **Finance Bill 2017:** Due to be published.

21 **Compliance:** File online monthly EC sales list; submit supplementary intrastat declarations for February 2017.

22 **Compliance:** PAYE, NI and student loan liabilities should have cleared HMRC's bank account.

24 **Consultation:** Comments close on evidence on corporate liability for economic crime (see ww.bit.ly/2jQT3RB).

28 **Cases:** Court of Appeal scheduled to hear taxpayer's appeal in *R (oao Hely-Hutchinson) v HMRC* (Judicial review: *Mansworth v Jelley* losses); Court of Appeal scheduled to hear taxpayer's appeal in *HMRC v Blackwell* (CGT deductibility of payment for release from obligation).

31 **ESC:** Withdrawal of ESC A94 (theatre angels). **Compliance:** Last date to reclaim tax paid by close company on loan to participator under CTA 2010 s 455 if loan repaid during y/e 31 March 2013; HMRC should have received CT SA returns for companies with accounting periods ended 31 March 2016; and more (see our website).

For a 'what's ahead' which looks further ahead, see taxjournal.com (under the 'trackers' tab).

Coming soon in Tax Journal:

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