The Construction Industry
Joint Taxation Committee

JTC

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The Budget Autumn 2018

So what was in the Budget that will change our lives? Not a lot that we didn't already know. Although the end of austerity, if it is at an end, was a bit of a surprise, the need to avoid changes that require a great deal of work by legislators was obvious. Most civil servants are currently engaged in Brexit planning so there are few available to design tax changes. The Chancellor has had to opt for simplicity. It is a budget where more has been left unchanged than has been changed.

Construction industry reverse charge

The Government has confirmed its intention to introduce a domestic reverse charge on the supply of certain construction services made in the UK with effect from 1 October 2019.

Under the new rules, a VAT-registered business which supplies construction services to another VAT-registered business will be required to issue a VAT invoice stating that the service is subject to the reverse charge. The recipient must then account for the VAT on that supply itself through its VAT return, instead of paying the VAT to the supplier. The recipient may then recover that VAT amount as input tax, subject to the normal rules. Specifically, the reverse charge will apply where the recipient then makes an onward supply of the same construction services.

Firms **must** plan, and have a budget for new software and training. It is important to consider how you will manage your firm's cash flow if the amount of VAT you collect on work done diminishes significantly, especially in the autumn 2019 when you will have to pay VAT collected in the summer of 2019 but have no more VAT coming in. ***Consider your cashflow carefully.*** ■

Employment or Self-employment?

Off-payroll rules extended to the private sector

In April 2017, the Government changed the rules for public sector bodies engaging workers through Personal Service Companies (PSCs). This shifted the responsibility for establishing whether IR35 applied to the engagement from the worker and their PSC to their engager. Consequently, if the engager thinks IR35 applies, it is required to deduct PAYE from the payment it makes to the PSC and pay employer's NIC on that payment.

Following a consultation, the Government has announced its intention to extend the rules that currently apply in the public sector to the private sector. The change will be introduced from April 2020.

Small organisations will be exempt, but no details of which organisations will qualify for this exemption have yet been released. The Government expects to raise £1.1bn from this measure in 2020/21 and a further £1.9bn by the end of 2023/24, suggesting it perceives significant non-compliance in this area.

Once it has reformed practises in the 'large trader' sector, you must expect the same measures to be introduced down to small SMEs. ■

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Car and van benefits
The amount to which the appropriate percentage is applied in determining the taxable benefit of company car fuel is £24,100 for 2019/20 (£23,400 for 2018/19). The cash equivalent of the benefit of a company van for 2019/20 is £3,430 (£3,350 for 2018/19). The cash equivalent of the benefit of van fuel for 2019/20 is £655 (£633 for 2018/19). ■

Apprenticeship levy reform
Since April 2018, levy-paying employers have been able to share up to 10% of their funds with employers in their supply chain. This limit will be lifted to 25% although we do not yet have detail of when this will come into effect. As this sharing will trigger the 'State Aid' rules, it is also important to continue to monitor the total 'State Aid' received during any three-year period to ensure it remains below the €200,000 limit.

The co-investment rate for apprenticeship training will be halved from 10% to 5%. ■

Freeze of VAT registration threshold to 2022
The VAT registration threshold will be frozen at £85,000 until 31 March 2022. The Office of Tax Simplification had identified the threshold as an obstacle to business growth and as having a distortive effect on the market in some business-to-consumer sectors. It seems as if the easy answer is to let the threshold erode by inflation over time. The deregistration threshold will also remain frozen at £83,000. ■

Employer's NIC charge on termination payments is delayed until 6 April 2020
The Government has announced further delays to the proposed employer's NIC charge on termination payments over £30,000. It is now intended that the proposed reform will take effect from 6 April 2020. It is still important for employers to consider the other employment tax termination rule changes that did take effect on 6 April 2018. ■

Tax abuse and insolvency
The Government is aiming to raise an additional £35m by 2023-24 through the introduction of a measure designed to make directors liable for business taxes owed where there is a risk of a company deliberately entering insolvency to avoid or evade tax. Directors, as well as other persons involved in a company's tax avoidance, evasion or phoenixism, will be jointly and severally liable for the business's tax liabilities that are outstanding.

From 6 April 2020, when a business enters insolvency, HMRC will act as the preferred creditor for taxes paid by the business's employees and customers. This reform will apply to taxes collected and held by businesses on behalf of other taxpayers, including PAYE income tax, employee NIC, VAT and Construction Industry Scheme deductions. The rules will remain unchanged for taxes owed by businesses directly to HMRC, such as corporation tax and employer NIC.

Be warned, because HMRC will get first bite in any insolvency to collect PAYE, VAT etc there will be less available for other creditors and this may be you. It seems like an uncontroversial change but in construction where insolvency is common, there will be pain for those supplying subcontract services or materials. ■

Stamp Duty Land Tax and first-time buyers' relief
The Government will extend first-time buyers' relief in England and Northern Ireland so that all qualifying shared ownership property purchasers can benefit, whether or not the purchaser elects to pay Stamp Duty Land Tax on the market value of the property. This change will apply to relevant transactions with an effective date on or after 29 October 2018. It will also be backdated to 22 November 2017 so that eligible purchasers who have not previously claimed first-time buyers' relief will be able to amend their return to claim a refund. ■

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Business rates
For the next two years all retail properties in England with a rateable value of up to £51,000 will receive a one third reduction in their business rates. This relief will then be superseded by the rates revaluation due to take place in 2021. In addition, special reliefs will apply for local newspapers and public lavatories.
A consultation will take place on the criteria whereby businesses providing self-catering accommodation and holiday lettings become chargeable to business rates rather than council tax, to ensure that only genuine businesses benefit from business rates and the reliefs that apply to them. ■

Land value uplifts
It has been announced that a simpler system will be introduced for local authorities to obtain contributions from developers towards local infrastructure. The current system whereby local authorities receive contributions towards local infrastructure from property developers includes the community infrastructure levy and Section 106 agreements entered into as part of the planning process. These can include financial contributions towards infrastructure such as roads and utilities, and commitments to incorporate beneficial characteristics into a development, such as a certain percentage of affordable housing. It is considered that neither of these systems gives local authorities a fair share of the uplift in the value of land arising from development. They also give rise to uncertainty for developers and local authorities.

The Government has announced that the system is to be reformed to enable local authorities to capture a greater share of the uplift in land values to fund infrastructure and affordable housing. ■

Tax on plastics
A new tax on the production and import of plastic packaging is to be introduced. The new tax is intended to encourage a change in behaviour so that plastic packaging that contains less than 30% recycled content is no longer utilised. Subject to consultation, packaging that does not contain enough recycled content will be taxed from 1 April 2022. Any revenues raised are intended to support research into better methods of recycling. Details of how the new tax will work will be the subject of consultation. ■

Personal tax allowance and higher rate threshold targets reached one year early
The Government's commitment to raise the higher rate threshold to £50,000 will be reached one year early.

The personal allowance will go up to £12,500 (from £11,850) from 6 April 2019. The basic rate band will be increased to £37,500 (from £34,500) so taxpayers with incomes of less than £50,000 a year will only pay 20% income tax. A taxpayer with an annual income of £50,000 will see a reduction in their income tax liability of £860 per year, although this will be clawed back in part by an increase in employee's NIC.

The personal allowance and basic rate band will remain at these new levels for 2020/21, and thereafter will increase annually in line with the Consumer Price Index. The personal allowance will also continue to be tapered for those with incomes in excess of £100,000. The level at which the additional rate of income tax of 45% applies will remain at £150,000. ■

Annual Investment Allowance
The Chancellor announced a temporary increase in the Annual Investment Allowance (AIA), raising the limit from £200,000 to £1m for a period of two years from Jan 2019 to encourage investment in plant and machinery. ■

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Structures and Buildings Allowance

There will be a new Structures and Buildings Allowance (SBA) for new non-residential structures and buildings, allowing the eligible costs of construction to qualify for relief at the rate of 2% per annum on a straight-line basis, thereby incentivising capital investment in new commercial buildings.

The relief will be available for qualifying expenditure on projects where construction costs are incurred on or after 29 October 2018. Where a contract for physical construction works has been entered into before 29 October 2018, the relief will not be available.

The relief will be limited to the original construction or renovation cost of the property across a fixed 50-year period, regardless of ownership changes, periods of disuse or periods where the building is being used for non-qualifying purposes. The benefit will simply pass between owners at the written-down value.

Expenditure on residential property will not qualify for the SBA. Expenditure on land or acquiring rights over land and the associated legal and stamp duty costs will also not qualify for the relief. Structures and buildings include offices, retail and wholesale premises, walls, bridges, tunnels, factories and warehouses and so goes significantly beyond the limits of the old Industrial Buildings Allowance (IBA) which was phased out from 2008. SBA expenditure will not qualify for the Annual Investment Allowance (AIA), so businesses seeking to maximise tax relief are still encouraged to identify separately the construction costs of such structures and buildings that will qualify for capital allowances. ■

Research & Development (R&D) regime review

The Government has sought to prevent abuse of the R&D tax relief for loss-making Small and Medium-sized Enterprises (SMEs) by re-introducing a PAYE and NIC limit. The SME payable tax credit available to loss-making SMEs will be subject to a restriction of three times the company's total PAYE and NIC liability for accounting periods beginning on or after 1 April 2020. ■

Entrepreneurs' relief

The Government has introduced two important changes to Entrepreneurs' Relief (ER). ER reduces the rate of capital gains tax (CGT) on disposals of certain business assets from 20% to 10%. The changes make ER more difficult to claim for business owners and their management teams.

Longer holding period for Entrepreneurs' Relief

The Chancellor announced an increase to the holding period for business assets and shares held by individuals. Individuals will need to hold the assets or shares for at least two years, as opposed to the current twelve months, before they can claim ER on the disposal.The change will apply to disposals made on or after 6 April 2019. Individuals who have held their assets or shares for more than one year but less than two at the date of disposal will not be eligible for ER.

Changes to the definition of 'personal company' - 5% 'economic interest' test

The second change introduces two additional tests that must be satisfied before ER is available – both take effect from 29 October 2018.

These changes mean that the existing condition that an individual holds 5% of the ordinary share capital and votes will be extended to:

- 5% of distributable profits (dividends); and
- 5% of assets available on a winding up of the company.

This means that to qualify for ER an individual must have a 5% 'economic interest' in the company. ■

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Capital Gains Tax Private Residence Relief
Private Residence Relief (PRR) is a relief from Capital Gains Tax (CGT) on the sale of an individual's main home. Where an individual is selling a property that has been their main home for only part of the period of ownership, the last 18 months of ownership is always deemed a period of qualifying occupation for PRR purposes.

The Government proposes that this period will be reduced to the last nine months of ownership for property disposals after 6 April 2020. Individuals buying a new home, before selling their old one, will need to ensure a sale of the old property takes place within nine months to avoid a potential CGT charge.

Lettings Relief
The Government is also proposing a change to lettings relief. This relief applies where an individual sells a property that has been their main home and which has also been let out for a time.

Currently, letting relief can exempt up to £40,000 of any gain on disposal. From 6 April 2020, lettings relief will only apply in situations where the owner of the property is in shared occupancy with the tenant. ■

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