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# Contents

<b>Business measures</b>	<b>01</b>
• Business rates reduction	01
• Capital allowances – Clarification of allowances for costs of altering land	01
• Capital allowances – First year allowance for electric vehicle charge points	02
• Capital allowances – New Structures and Buildings Allowance	02
• Capital allowances – Reduction of rate of special writing down allowance	03
• Capital allowances – Temporary increase of the Annual Investment Allowance	04
• Capital allowances – Withdrawal of enhanced allowances for energy and water efficient plant and machinery	04
• Controlled foreign companies – Changes in 2019	05
• Corporate capital loss restriction	06
• Digital Services Tax	06
• Hybrid capital instruments	07
• HMRC tax collection powers in distress and insolvent situations	08
• Income tax – Offshore receipts in respect of intangible property	09
• Intangibles – Degrouping	10
• Intangibles – Reinstatement of relief for acquired goodwill	10
• Property Tax – Non-resident chargeable gains tax and corporation tax changes	11
• Research and development tax relief – Reintroduction of PAYE/NIC cap for claims by small and medium sized enterprises	12
• Stamp taxes on shares consideration	12
• Stamp taxes on share consideration consultation	13
<b>Indirect tax measures</b>	<b>14</b>
• Alcohol duty rates and bands	14
• Climate change levy – Rebalancing the main rates	14
• Energy tax – Carbon price support and carbon pricing following EU exit	15
• Excise duty – Post duty point dilution	16
• Fuel duty	16
• Gaming duty accounting periods and bands	17
• Remote gaming duty	17
• Tobacco duty and minimum excise tax	18



# Contents (continued)

• VAT and vouchers	<b>18</b>
• VAT – Domestic reverse charge in the construction industry	<b>19</b>
• VAT grouping	<b>19</b>
• VAT – Insurance intermediary looping	<b>20</b>
• VAT – Price adjustments	<b>21</b>
• VAT registration thresholds maintained	<b>21</b>
• VAT – Split payment method for cross border e-commerce	<b>22</b>
• VAT – Unfulfilled supplies	<b>22</b>
<b>Individuals measures</b>	<b>23</b>
• Changes to entrepreneurs' relief	<b>23</b>
• National Insurance Contributions Bill	<b>24</b>
• Off payroll working in the private sector	<b>25</b>
• Private residence relief restrictions	<b>26</b>
• Property Tax – Non-resident chargeable gains tax and corporation tax changes	<b>27</b>
• Rates and allowances	<b>28</b>
• Self-funded work-related training	<b>29</b>
• Stamp duty land tax – 3% higher rates for additional dwellings repayments	<b>29</b>
• Stamp duty land tax – Changes to the filing and payment process	<b>30</b>
• Stamp duty land tax – Consultation on charge for non-residents	<b>30</b>
• Stamp duty land tax – First time buyers' relief and shared ownership	<b>31</b>
<b>Employers measures</b>	<b>32</b>
• Apprenticeship levy reforms	<b>32</b>
• Employment allowance reform	<b>33</b>
• National Insurance Contributions Bill	<b>33</b>
• National Living Wage	<b>34</b>
• Off payroll working in the private sector	<b>35</b>
• Self-funded work-related training	<b>36</b>
• Short term business visitor reporting	<b>36</b>



# Business measures

## Business rates reduction

### The measure

Today, the government announced a reduction of one-third to business rates for properties with a rateable value below £51,000 which are classified as retail premises; these will typically be shops, pubs, restaurants and cafes.

### Who will be affected?

The reduction should benefit any occupier of premises within the prescribed category, including businesses which occupy multiple retail premises, if some of the sites are valued below the threshold, but any relief obtained by multiple occupiers will be limited by the EU state aid rules.

Businesses with premises with a rateable value of £15,000 and below already benefit from existing reliefs or exemptions and so occupiers of retail premises below this threshold will see less benefit from today's announcement than occupiers of more valuable sites.

### When will the measure come into effect?

The government states that the reduction will be effective from 1 April 2019 and will last for two years.

### Our view

This will bring some welcome relief to hard-pressed retail occupiers, many of whom have been experiencing challenging trading conditions. It does appear that many of the challenges facing retail occupiers represent long term structural trends and so they will be keen to understand what the position will be after the two year duration of the reduction announced today.

## Capital allowances – Clarification of allowances for costs of altering land

### The measure

The measure clarifies that only capital expenditure incurred on alterations to land necessary to install plant or machinery is eligible for plant and machinery allowances. Expenditure on other alterations to land is confirmed to be not eligible.

### Who will be affected?

Businesses that claim capital allowances on the cost of altering land for the purposes of installing plant or machinery.

### When will the measure come into effect?

The measure will have effect for capital allowances claims on or after 29 October 2018.

### Our view

The impact of this measure is to restrict new claims following a recent tax case and is unlikely to have a broad application.



## Capital allowances – First year allowance for electric vehicle charge points

### The measure

The government is to extend the current 100% first year allowance for expenditure incurred on electric vehicle charge point equipment for a further four years up to 31 March 2023 for corporation tax purposes and 5 April 2023 for income tax purposes.

### Who will be affected?

Businesses incurring qualifying expenditure on the acquisition of new and unused electric vehicle charge points.

### When will the measure come into effect?

The extension will have effect for expenditure incurred on or after 1 April 2019 until 31 March 2023 for corporation tax purposes and on or after 6 April 2019 until 5 April 2023 for income tax purposes.

### Our view

The scheme was due to expire in 2019 and this measure will extend the availability of the first year allowance until 2023, which should encourage investment in electric vehicle charging infrastructure.

## Capital allowances – New Structures and Buildings Allowance

### The measure

The introduction of a new Structures and Buildings Allowance (SBA) represents the most significant change to the capital allowances regime since the abolition of Industrial Buildings Allowances, and many taxpayers will no doubt see the SBA as a direct replacement.

The SBA will be available for new construction expenditure on non-residential buildings and structures and will be given over 50 years at a rate of 2% per annum. It will also be available for the acquisition of new properties from developers that meet the relevant criteria (any land element being ineligible).

The initial indication is that SBAs will not be available for assets that qualify for plant and machinery allowances (PMAs). Therefore, taxpayers must continue to claim PMAs on qualifying fixtures (including integral features) attached to buildings and structures.

### Who will be affected?

Most businesses will be entitled to claim the SBA, subject to incurring qualifying expenditure.

As with PMAs, there will be special provisions dealing with property leases; allowing both landlords and tenants to claim in respect of their qualifying expenditure.

Further, because the SBA will cover all property types (other than land and residential), it will be widely available, and has the potential to benefit a large number of taxpayers. In particular expenditure on office and retail structures is in scope.



## When will the measure come into effect?

The headline is that the new relief will apply for construction works commencing on or after 29 October 2018. However the commencement provisions are relatively complex, and include anti-avoidance measures to prevent taxpayers altering existing arrangements to fall within the relief.

The key requirement is that all contracts for the physical construction works must be entered into on or after 29 October 2018. Where this is not the case, the SBA will not be available to the current owner or to any successors in title (in respect of the relevant construction works). The structure or building must also be in use (or used within the last two years) in order to claim the annual allowance, which is a key difference to PMAs.

### Our view

We welcome this further form of capital allowances to incentivise investment in buildings and infrastructure assets that are used by businesses in the charge to UK tax. Following the issue of primary legislation in Finance Bill 2018/19, the government intends to consult on some of the features of this new regime. We recommend businesses participate in the consultation, and familiarise themselves with the qualifying criteria.

## Capital allowances – Reduction of rate of special writing down allowance

### The measure

The measure reduces the rate of writing down allowance available on the plant and machinery special rate pool from 8% to 6% per annum (reducing balance basis). This reduction has been introduced in conjunction with the new Structures and Buildings Allowance.

### Who will be affected?

Businesses investing in plant and machinery which qualifies for special rate writing down allowances. This is likely to have application to businesses across a broad range of industries as it covers integral features and long life assets amongst other assets.

### When will the measure come into effect?

The 6% rate will be effective from 1 April 2019 for businesses within the charge to corporation tax, and from 6 April 2019 for businesses within the charge to income tax.

### Our view

The impact of this measure is likely to be relatively significant for businesses that have large special rate pool balances as well as those that will have special rate qualifying expenditure exceeding the maximum amount of the Annual Investment Allowance.



## Capital allowances – Temporary increase of the Annual Investment Allowance

### The measure

From 1 January 2019 the maximum amount of the Annual Investment Allowance (AIA) available to businesses investing in plant and machinery will temporarily increase from £200,000 to £1m.

From 1 January 2021 the AIA will once again be capped at £200,000.

### Who will be affected?

Businesses investing more than £200,000 in plant and machinery in any year.

### When will the measure come into effect?

The measure will have effect from 1 January 2019 for a temporary period of two years.

#### Our view

The impact of this measure is likely to be significant for small and medium size businesses as it will allow far more taxpayers to benefit from an in-year deduction for all their expenditure on plant or machinery.

## Capital allowances – Withdrawal of enhanced allowances for energy and water efficient plant and machinery

### The measure

The first year allowance and associated first year tax credit for products on the energy technology list (ETL) and water technology list (WTL) will be withdrawn in April 2020.

In the interim, there are various updates to the list of energy saving assets qualifying for the accelerated 100% first-year allowance, to reflect developments in eligible technologies.

### Who will be affected?

Businesses purchasing qualifying plant and machinery, as listed on the ETL and WTL.

### When will the measure come into effect?

The first year allowance and first year tax credit for products on the ETL and WTL will end with effect from 1 April 2020 for companies and from 6 April 2020 for unincorporated businesses.

#### Our view

This measure is likely to impact businesses investing in energy efficient and environmentally beneficial plant and machinery, and may discourage some from investing in such technologies.



# Controlled foreign companies – Changes in 2019

## The measure

As previously announced in July 2018, two amendments will be made to the UK's controlled foreign company (CFC) rules with the intention of bringing them into line with Council Directive (EU) 2016/1164, also referred to as the Anti-Tax Avoidance Directive (ATAD).

First, the definition of control will be broadened so that the interests of non-resident associates are taken into account when considering whether a foreign company is a CFC.

Second, the Chapter 9 finance company rules will be amended so that the full or partial exemption will not be available in respect of profits attributable to UK significant people functions (SPFs).

## Who will be affected?

It is expected that the first measure will affect corporate taxpayers where UK persons do not themselves have sufficient rights in a foreign company for it to be regarded as a CFC, but will be regarded as doing so when the rights of associated entities are taken into account. For example if a foreign company is 20% owned by a UK resident company, and 80% owned by the UK resident company's non-UK parent, it is expected that the foreign company will become a CFC under the new rules.

The second measure will affect taxpayers relying on the Chapter 9 full or partial exemption in respect of non-trade finance profits arising in CFCs. To the extent a CFC's non-trade finance profits are attributable to UK SPFs, it is likely they will in future be subject to a full CFC charge, unless the CFC qualifies for an entity level exemption.

## When will the measure come into effect?

The changes will take effect from 1 January 2019.

## Our view

We look forward to seeing the draft legislation setting out the detail of these changes.

The change to the definition of control will bring some additional foreign companies within the scope of the UK CFC rules. The impact will likely be greatest for non-UK parented groups and a number of these will face new compliance obligations.

The change with respect to Chapter 9 will be relevant for the many taxpayers who rely on the finance company full or partial exemption. Although HMRC have referred to the change as "minor" it will require those taxpayers to undertake a detailed factual analysis that was simply not needed previously. This comes alongside the current uncertainty in relation to the Chapter 9 regime that has been caused by the European Commission's State Aid challenge.



## Corporate capital loss restriction

### The measure

Under current rules companies can offset up to 100% of their chargeable gains against capital losses brought forward from prior accounting periods. From 1 April 2020, it is proposed that the proportion of chargeable gains that may be relieved by losses brought forward will be limited to 50% for gains in excess of £5m. The first £5m of chargeable gains will remain eligible to be fully offset.

This change will bring the treatment of capital losses brought forward in line with other categories of tax losses brought forward, following changes in 2017.

### Who will be affected?

The measure will affect companies which generate chargeable gains of £5m or more in an accounting period and have brought forward capital losses. We anticipate that the £5m will be a group wide threshold.

### When will the measure come into effect?

The 50% limitation on the offset of brought forward capital losses will apply from 1 April 2020. The government will consult on the detailed design of this change and legislate in Finance Bill 2019/20. The measure is subject to anti-avoidance rules that will apply with immediate effect.

### Our view

For some taxpayers this will be a significant change, and potentially unwelcome. Affected taxpayers may wish to participate in the consultation process to ensure that areas of complexity, such as the application of the rules to groups of companies, are adequately addressed.

## Digital Services Tax

### The measure

The government will introduce a new 2% tax on the revenues of certain digital businesses.

### Who will be affected?

Businesses with annual global revenues of at least £500m and annual UK revenues in excess of £25m where those revenues arise from the provision of social media platforms, online marketing platforms or search engines and those revenues are linked to the participation of UK users. It is stated that there will be exemptions or reliefs for businesses that generate losses or have very low profit margins. Notwithstanding this the measure is expected to raise £400m per year by 2022/23.

### When will the measure come into effect?

The tax will apply from April 2020. The government will consult on the detailed design of the rules and legislate in Finance Bill 2019/20.

### Our view

While understanding the pressure to act to ensure that the corporate tax system is sustainable and operates appropriately across all types of business, a global solution to the taxation of the digital economy, supported by the OECD and G20, would seem more likely to lead to a long term, sustainable position than unilateral action. As such the government's commitment to participate in ongoing discussions at an international level and to only apply the new tax until an international solution is in place is welcome.



# Hybrid capital instruments

## The measure

It was today announced that the Taxation of Regulatory Capital Securities Regulations 2013 will be revoked. These regulations deal with the tax treatment of certain regulatory capital securities issued by banking and insurance groups. Some of those provisions will continue to apply for a five-year transitional period (e.g. exemption from obligation to withhold UK income tax).

HMRC have issued a technical note detailing proposed new tax legislation on 'hybrid capital instruments'. The new legislation will not be specific to banks and insurers, but is expected to be of particular relevance to them.

A 'hybrid capital instrument' is intended to include loan relationships with the following features:

- the debtor is allowed to defer or cancel interest payments;
- there are no other significant equity features (e.g. voting rights);
- the debtor has made an irrevocable election within six months of issue; and
- there is no tax avoidance purpose.

The consequences of an instrument being a 'hybrid capital instrument' include that:

- amounts recognised in equity, except for exchange gains and losses, are brought into account for tax purposes;
- coupon payments will not generally be considered to be non-deductible distributions; and
- stamp duty will not be charged on their transfer.

These are similar to the provisions which currently apply to regulatory capital securities issued by banking and insurance groups.

There are a number of other proposals set out in the technical note. One is for new legislation to eliminate potential tax mismatches which could apply where a company applies fair value accounting.

There will also be consequential amendments to the hybrid mismatch legislation from 1 January 2019. The intention is to mirror the existing exemption for regulatory capital securities and to extend this to include certain new instruments that qualify under minimum requirement for own funds and eligible liabilities (MREL). Further changes are also expected in 2020 to meet the requirements of the EU Anti-Tax Avoidance Directive.

## Who will be affected?

Banking and insurance groups will be the main affected taxpayers.

These proposals will also be of interest to any other company which has issued a 'hybrid capital instrument' or intends to do so.

## When will the measure come into effect?

The proposals will apply with effect from 1 January 2019.

Draft legislation is expected to be published as part of the Finance Bill on 7 November 2018.



## Our view

The proposals cater for changes in the regulatory environment and the emergence of new MREL requirements for banks. Banking and insurance groups will need to assess whether their existing regulatory capital securities are impacted by these changes. They will also need to consider the impact on instruments to be issued in the future, in particular any new instruments to be issued this year to meet their MREL requirements that take effect from 1 January 2019.

It is not clear whether the new definition of a hybrid capital instrument will include all instruments that are within the current definition of regulatory capital securities and those that are issued to meet MREL requirements. This means that there is uncertainty over the tax deductibility of coupon payments on such instruments. We understand HMRC will be issuing updated guidance to address this concern.

The details of the election to qualify as a hybrid capital instrument are limited. For some instruments the six month time limit will already have expired. We would therefore expect that an alternative date will be included in the final legislation.

It is also possible the new provisions may be of some interest to those outside the financial services industry.

## HMRC tax collection powers in distress and insolvent situations

### The measure

The Chancellor today announced two provisions focused on tax recoveries from distressed and insolvent entities.

#### Protecting taxes in insolvency

Companies withhold or collect certain taxes from employees and customers such as income tax, employees' national insurance, VAT and amounts under the construction industry scheme as agent for HMRC. Going forwards, HMRC will claim those taxes as a priority payment on insolvency, in priority to other unsecured or floating charge creditors.

#### Making directors liable for company taxes owed

For many years HMRC has been concerned by 'phoenixism' – situations where a company runs up significant debts, enters insolvency and sells the business to a new company, leaving significant tax liabilities amongst the debts left unpaid.

In early 2018 the government released a consultation document looking to target this issue and provide draft legislation enabling HMRC to pursue directors and officers of a company in certain situations. The intention to address this issue has now been confirmed.

### Who will be affected?

Companies which become insolvent with unpaid tax liabilities.

### When will the measure come into effect?

The provisions to give HMRC priority over other creditors for certain unpaid tax liabilities in an insolvency process will come into effect from 6 April 2020.

The provisions to allow HMRC to make directors jointly and severally liable for company tax liabilities in certain situations will have effect from Royal Assent of Finance Bill 2019/20.



## Our view

It is important to distinguish between the behaviour HMRC are concerned about and the vast majority of insolvencies, which are not artificial, and relate to genuine commercial difficulties.

Whilst we support any attempt to address tax evasion, we remain concerned that the draft legislation could be applied far more broadly in commercial circumstances that are not abusive, with negative economic effects. For example the uncertainty of the present arrangements could easily discourage turnaround directors with the risk of an unmanageable personal exposure, when their role is specifically to bring specialist skills on board to save business after business.

There are already a range of alternative remedies already available to address genuine avoidance. It is to be hoped that the new measures will target inappropriate behaviour carefully and clearly.

## Income tax – Offshore receipts in respect of intangible property

### The measure

UK income tax will be charged at a rate of 20% on the gross receipts of a non-resident entity in respect of intangible property to the extent those receipts are referable to the sale of goods or the provision of services in the UK. In addition to various exemptions, the charge will not apply to entities located in jurisdictions with which the UK has a tax treaty containing non-discrimination provisions. It is stated that joint and several liability provisions will enable collection of the tax from connected parties in the event of non-payment by the non-resident entity. This measure replaces the broadening of the scope of the UK's royalty withholding tax rules proposed at Autumn Budget 2017.

### Who will be affected?

This measure will impact groups holding intangible property through entities in jurisdictions with which the UK does not have a tax treaty with non-discrimination provisions, and in respect of which income is derived from the UK.

### When will the measure come into effect?

This measure will have effect from 6 April 2019.

## Our view

This change significantly broadens the scope of the income tax regime as it relates to the taxation of intangible property, and ensures that receipts referable to the exploitation of intangible property in the UK are subject to income tax.



## Intangibles – Degrouping

### The measure

Following consultation earlier this year, the government has announced a reform of the degrouping rules in respect of post-2002 intangible fixed assets, such that they are more closely aligned with the equivalent chargeable gains rules. In short, this should result in degrouping charges not arising where the disposal giving rise to the degrouping event qualifies for relief under the substantial shareholding exemption.

### Who will be affected?

This measure will impact groups seeking to dispose of an entity holding post-2002 intangible fixed assets that were transferred within a group to that entity within the preceding six years.

### When will the measure come into effect?

This measure will have effect for degrouping events occurring on or after 7 November 2018.

#### Our view

This change should help to simplify the intangible fixed assets regime and remove an asymmetry between it and the chargeable gains code. This should be a welcome change for businesses.

## Intangibles – Reinstatement of relief for acquired goodwill

### The measure

The government has announced a partial reinstatement of relief for acquired goodwill. Relief was previously restricted in respect of goodwill acquired on or after 8 July 2015.

### Who will be affected?

This measure will affect companies acquiring goodwill.

### When will the measure come into effect?

It is intended this measure will have effect from April 2019. Proposals are expected to be published on 7 November 2018, followed by a consultation period.

#### Our view

This is a positive step in terms of encouraging inbound investment into the UK and should help to make the UK's intangible fixed assets regime more consistent with that of other major economies.



# Property Tax – Non-resident chargeable gains tax and corporation tax changes

## The measure

Following an announcement at Autumn Budget 2017, draft legislation was published in July 2018 covering the extension of non-resident chargeable gains tax (NRCGT) to non-resident commercial property owners from 6 April 2019. Further draft legislation and a technical note covering the application of NRCGT rules to funds will now be published on 7 November 2018. Additionally, the government announced that for UK property-rich REITs, the exemption for capital gains on disposals of properties will be extended to share sales of entities that are UK property-rich. Again, further details will be provided in draft legislation on 7 November 2018.

In addition, as previously announced from 6 April 2020 non-resident corporate landlords (NRLs) will be chargeable to corporation tax at 17% (rather than income tax at 20%) on rental income. This will require them to electronically file UK corporation tax returns on a financial year basis (rather than a fiscal year basis). Following initial draft legislation published in July, updated draft legislation was published alongside the Budget. HMRC expects to publish guidance on the transition during 2019.

Key aspects of the draft legislation include:

- bringing the loans and derivative contracts that a NRL is party to for the purposes of its property business within the scope of the existing corporation tax rules on loan relationships and derivative contracts, including the UK's corporate interest restrictions and anti-hybrid rules;
- confirming that carry forward income tax losses as at 5 April 2020 will transfer into the corporation tax regime, and be capable of offset against the NRL's future property business profits without restriction;
- bringing NRLs within the scope of the UK corporation tax loss restriction and group relief rules for any losses arising on or after 6 April 2020. This will include the restriction to the use of brought forward losses above £5 million per annum (on a group basis) to 50% of profits, together with the more flexible group relief rules that effectively now permit brought forward as well as current period losses to be surrendered to profitable group companies.
- confirming that capital allowances will transfer from the income tax regime to the corporation tax regime at tax written down value, i.e. on a tax neutral basis.

## Who will be affected?

Non-resident holders of UK real estate.

## When will the measure come into effect?

NRCGT changes are to be introduced from 6 April 2019.

NRLs will be chargeable to corporation tax on their rental income from 6 April 2020.

## Our view

The proposed changes were announced some time ago and should come as no surprise to non-resident owners of UK real estate. The draft legislation and the technical note covering NRCGT for funds will, when published on 7 November 2018, be of particular interest to a number of investors in UK real estate.



## Research and development tax relief – Reintroduction of PAYE/NIC cap for claims by small and medium sized enterprises

### The measure

Currently non tax-paying small and medium sized enterprises (SMEs) are able to claim an unrestricted cash credit under the research and development (R&D) SME scheme by surrendering their tax losses back to HMRC. It is now proposed that this cash credit will be capped at three times the amount paid to HMRC in respect of the PAYE and NICs liabilities for the accounting period in which the qualifying R&D expense is deductible in calculating the taxable profit.

### Who will be affected?

Reinstating a PAYE/NICs cap means that only SME companies that employ staff will be able to claim R&D cash credits. For those companies where a substantial proportion of the R&D expenditure is incurred as third party costs or payments for materials and software, the cash benefit of the SME regime will only be available up to the value of the cap. Any losses that the company cannot surrender for the cash credit may be carried forward to offset against future taxable profits.

### When will the measure come into effect?

The government will consult on this change, but have stated that it will have effect for accounting periods beginning on or after 1 April 2020.

### Our view

Whilst we acknowledge the need for HMRC to ensure that abusive or fraudulent R&D cash credit claims are not made, this restriction may adversely impact on companies that use significant third party staff and/or subcontracted resources to support their R&D activities.

We do however welcome the cap being set at three times the PAYE/NIC liability, which is more generous than the previous cap that was abolished in 2012.

## Stamp taxes on shares consideration

### The measure

Stamp duty and stamp duty reserve tax will be charged on the market value of listed shares and securities where transferred to a connected company at an undervalue.

### Who will be affected?

Companies that purchase listed UK shares and securities at an undervalue from connected parties.

### When will the measure come into effect?

The new provision will apply to transfers of shares and securities from 29 October 2018.

### Our view

This change will have limited impact on commercial transactions and markets as it only applies to listed securities and is intended to stop “contrived arrangements”.



## Stamp taxes on share consideration consultation

### The measure

In addition to introducing a targeted market value rule for listed securities transferred to connected companies from today, the government is also going to issue a consultation on 7 November 2018 on applying stamp duty and stamp duty reserve tax to the market value of UK unlisted shares and securities where they are transferred at an undervalue or gifted between connected parties.

### Who will be affected?

Companies that acquire shares or securities from connected parties at an undervalue.

### When will the measure come into effect?

The consultation will be published on 7 November 2018. The proposed introduction date of the legislation is currently unknown.

### Our view

Unlike the measures announced today for listed securities, adopting a more general market value rule for UK shares and securities will affect many more transactions and may require more valuations of unlisted shares to be undertaken. Hopefully current reliefs such as that for intra-group transfers will remain to reduce the compliance and tax burden of this new charge.



# Indirect tax measures

## Alcohol duty rates and bands

### The measure

Duty rates on beer, most cider and spirits will be frozen. Duty on most wine and higher strength sparkling cider will rise by RPI inflation.

As announced at Autumn Budget 2017, the government will introduce a new duty band for still cider and perry from 6.9% to 7.5% alcohol by volume (abv), to target white ciders. A rate of £50.71 per hectolitre will be introduced.

### Who will be affected?

Businesses and individuals responsible for accounting for excise duty prior to consumption, as well as individuals that consume any of the products set out above.

### When will the measure come into effect?

Duty rate increases for wine and higher strength sparkling cider will come into effect from 1 February 2019.

The new duty band for still cider and perry will be legislated for in Finance Bill 2018/19, and will apply from 1 February 2019.

### Our view

The introduction of the new duty on still cider and perry is in line with expectations.

## Climate change levy – Rebalancing the main rates

### The measure

Climate change levy (CCL) is charged on energy supplied by utilities (and some others) to non-domestic consumers. Historically, the rate of CCL has varied according to the type of fuel, with higher rates applying to fuels with a higher carbon content.

In setting the CCL main rates for 2020/21 and 2021/22 the government will begin to converge the rates for gas and electricity. The CCL rate on gas will be raised so that it reaches 60% of the electricity main rate by 2021/22, whilst the electricity rate will be lowered in 2020/21 and 2021/22.

Intensive energy sectors with climate change agreements (CCA) with the government, are entitled to a reduction in the rate of CCL they incur on energy used in specific facilities, in return for meeting agreed energy targets. The level of CCL reduction available to CCA members from 2020 will be adjusted to recognise the revised CCL rates.

### Who will be affected?

Energy suppliers typically pass on their liability to account for and pay CCL by adding CCL on top of their charges for energy products. The announced changes in CCL rates will mean that suppliers will be required to account for slightly less CCL on relevant supplies of electricity, and more on relevant supplies of gas. It seems likely that, depending on the contractual terms in place, suppliers will reflect these changes in CCL liabilities in their charges to customers.

Sectors operating CCAs will need to examine how their agreements will address these changes.



## When will the measure come into effect?

The change of CCL rates announced by this measure will take place over two years: 2020/21 and 2021/22. CCL rates will be unaltered until 2020 and there have been no announcements about the prospect of further CCL rate alignment after 2022.

### Our view

The government could have sought to bring CCL rates for gas and electricity closer together by raising the CCL rate for gas to the higher rate currently applied to electricity. Doing so would have generated a sizeable increase in tax revenue and may have provided considerable encouragement for industry to further reduce energy consumption. However, the less dramatic measures announced today will serve to better equalise the CCL impact on competitive fuel sources while creating a less aggressive increase in fuel costs.

## Energy tax – Carbon price support and carbon pricing following EU exit

### The measure

The total carbon price is made up of the EU emissions trading system (ETS) price and the carbon price support (CPS) rate. The government will freeze the CPS rate at £18 per tonne of carbon dioxide for 2020/21. Thereafter, the government will seek to reduce the CPS rate if the total carbon price remains high.

In the event of a 'no deal' EU exit scenario such that the UK departs from the EU ETS in 2019, the UK would introduce a (new) carbon emissions tax applying to all stationary installations currently participating in the EU ETS. A rate of £16 would apply to each tonne of carbon dioxide emitted above an installation's emissions allowance.

### Who will be affected?

Businesses currently participating in the EU ETS regime and energy generators that use fossil fuel which is subject to the CPS rates of climate change levy will be affected by any future changes.

### When will the measure come into effect?

There are no changes to the CPS rate for 2020/21. In subsequent years, the CPS rate will only change in response to a continuing high carbon price.

In the case of EU ETS, whether a new replacement regime is implemented will depend upon the relevant terms of the UK's EU exit.

### Our view

These measures appear to be focussed on maintaining the status quo for those business sectors directly affected by EU ETS and electricity generators that use fossil fuel. Stability in these areas is welcome, but the government has been able to provide only short term comfort at this stage.



## Excise duty – Post duty point dilution

### The measure

Following a review by HMRC launched at Autumn Budget 2017, and in order to ensure a level playing field with other duty regimes, the government will legislate to ban post duty point dilution from April 2020. Post duty point dilution is the practice of diluting wine and made-wine after excise duty has been calculated.

### Who will be affected?

Businesses responsible for accounting for excise duty upon production and bottling of alcoholic beverages.

### When will the measure come into effect?

Post duty point dilution will be banned from April 2020.

#### Our view

This is in line with expectations following Autumn Budget 2017.

## Fuel duty

### The measure

Fuel duty will be frozen for a ninth successive year. Following review, the government will maintain the difference between alternative and main road fuel duty rates until 2032 to support the de-carbonisation of the UK transport sector, subject to review in 2024.

### Who will be affected?

Businesses producing and importing, and consumers of, hydrocarbon oils fuel products and alternative fuels.

### When will the measure come into effect?

With immediate effect.

#### Our view

The continued freeze in fuel duty should bring estimated cumulative savings of c.£1,000 by April 2020 for car users compared to what they would have paid under the pre-2010 escalator. This will allow households and businesses to maintain vehicle running costs at lower levels.

Maintaining the difference between alternative and main road fuel duty rates should encourage the use of alternative fuels.



## Gaming duty accounting periods and bands

### The measure

Businesses liable to gaming duty will be required to complete returns on a six monthly basis and will no longer be required to make payments on account part way through their accounting periods.

This measure also allows businesses to carry forward losses from one accounting period to be offset against future gaming duty liabilities.

The bands to determine payment of gaming duty will be frozen from April 2019 whilst the changes to gaming duty accounting periods are implemented.

### Who will be affected?

UK gaming and casino operators.

### When will the measure come into effect?

1 October 2019.

#### Our view

We would expect this measure to bring the administration of gaming duty more into line with other gambling duties.

## Remote gaming duty

### The measure

The rate of remote gaming duty (RGD) will be increased to 21%, from the current rate of 15%. This follows the government's announcement that the maximum stakes on fixed odds betting terminals (FOBTs) are to be reduced to £2 and the increased rate of RGD is aimed at replacing the lost revenues to the Exchequer from that change.

### Who will be affected?

Remote gambling operators who account for RGD.

### When will the measure come into effect?

The reduction in the maximum stake and the increased duty rate will come into effect from 1 October 2019.

#### Our view

This measure had been previously announced in principle, but the rate and application date have now been confirmed enabling operators to plan for the change.



## Tobacco duty and minimum excise tax

### The measure

Duty rates on all tobacco products will increase by two percentage points above RPI inflation until the end of this Parliament. Hand rolling tobacco duty will increase by an additional one percentage point.

The minimum excise tax for cigarettes will rise to £293.95 per 1,000 cigarettes.

The general impact of the change in excise duty rates will mean that the price of:

- a packet of 20 cigarettes will increase by approximately 33 pence;
- a 30g packet of hand rolling tobacco will increase by approximately 48 pence;
- 10g weight of cigars will increase by approximately 17 pence; and
- a 30g packet of pipe tobacco will increase by approximately 22 pence.

### Who will be affected?

Manufacturers, importers, distributors and consumers of tobacco.

### When will the measure come into effect?

The general rate increases and minimum excise tax will come into effect from 6pm on 29 October 2018.

### Our view

The increases are in line with expectations.

## VAT and vouchers

### The measure

Following consultation the government will implement legislation on the VAT treatment of vouchers.

Under current UK VAT legislation, the customer is deemed to be receiving two supplies: a voucher and an underlying supply of goods or services. Draft legislation released in July 2018 makes it clear that for VAT purposes there will no longer be a separate supply of a voucher. Instead, the rules will be simplified so that there is only the supply of the underlying goods or services.

This should prevent either non-taxation or double taxation of goods or services that relate to vouchers, ensuring that the correct amount of VAT is charged on what the customer pays, irrespective of whether the payment is with a voucher or other means of payment.

### Who will be affected?

Businesses such as retailers, intermediaries and distributors that are involved in the buying, selling or redemption of vouchers.

### When will the measure come into effect?

This measure is in respect of vouchers issued on or after 1 January 2019.



## Our view

Further to the publication of draft legislation in July 2018 this was an expected measure, which, in light of the EU Vouchers Directive 2016, must be implemented by Member States by 31 December 2018.

# VAT – Domestic reverse charge in the construction industry

## The measure

As announced at Autumn Budget 2017, and following consultation, the government will introduce a VAT domestic reverse charge to prevent VAT losses through 'Missing Trader' fraud. This occurs when traders collect VAT on their sales but go missing before passing that VAT on to HMRC. This will shift responsibility for paying VAT along the supply chain to the recipient of the services to remove the opportunity for it to be stolen by those traders.

## Who will be affected?

Businesses supplying and contracting for construction and related services will be affected by the measure.

## When will the measure come into effect?

The new rules will have effect from 1 October 2019 and the government is publishing secondary legislation alongside the Budget to implement this change.

## Our view

The implementation of the domestic reverse charge for construction services is as expected. In addition to understanding the scope of the rules, there are practical considerations for affected parties including configuring systems to manage these changes and identifying the various circumstances in which they make or receive construction services.

# VAT grouping

## The measure

The eligibility criteria to join a VAT group will be extended to include certain non-corporate entities.

In addition, revised VAT grouping guidance will be issued to:

- amend the definition of 'bought in services' to ensure that when such services are recharged by overseas branches they are subject to UK VAT; and
- provide clarity to businesses on HMRC's protection of revenue powers and treatment of UK fixed establishments.

## Who will be affected?

The change to the eligibility criteria may affect corporate groups that have within their group structure certain non-corporate entities (e.g. partnerships) which may benefit from VAT grouping.

It is anticipated that the revised definition of bought in services will affect UK VAT groups that are not entitled to full VAT recovery and that have overseas branches.



The clarification to protection of revenue powers and treatment of UK fixed establishments will be relevant to all taxpayers.

### When will the measure come into effect?

The government will legislate in Finance Bill 2018/19 to extend the VAT grouping eligibility criteria to include certain non-corporate entities.

The VAT grouping guidance changes will be published in draft and will be finalised by 1 April 2019.

#### Our view

Extending the eligibility criteria is as expected and follows an HMRC consultation.

Whilst we await further details it would appear that amending the definition of 'bought in services' follows a previous HMRC consultation and is as a consequence of the Court of Justice of the European Union decision in the case of *Skandia America Corporation (C-7/13)*.

## VAT – Insurance intermediary looping

### The measure

The government will legislate to prevent VAT structuring known as 'looping' that involves UK insurers setting up associates in non-VAT territories and using these associates to supply their UK customers. This 'looping' allows them to reclaim VAT on costs that UK based competitors are unable to reclaim.

### Who will be affected?

The measure will likely affect those UK based providers of insurance intermediary services who provide their services to insurance providers outside of the EU whose customers are located in the UK.

Following the production of draft legislation, the measure has been refined so that it only applies to insurance intermediary supplies and VAT recovery will only be restricted when the principal supply of insurance is made to consumers located within the UK, rather than within the EU as originally drafted.

### When will the measure come into effect?

Legislation is expected to be published in December 2018 and the changes will come into effect from 1 April 2019.

#### Our view

This measure was announced in July 2018 and is therefore a change the sector was expecting. It will have an impact on the extent to which UK providers of insurance intermediary services can recover VAT they incur on costs.



## VAT – Price adjustments

### The measure

The government will introduce stricter rules for how and when adjustments to VAT should be made following a reduction in price. Secondary legislation will tighten definitions in this area and will ensure a credit note is issued to customers.

This measure is intended to guarantee that businesses are transparent and do not benefit from VAT that is due to the consumer or the Exchequer.

### Who will be affected?

The changes will be relevant to all VAT registered business.

### When will the measure come into effect?

Draft legislation will be published in 2019 and a tax information and impact note (TIIN) for this measure will be published alongside the draft legislation.

The measure will come into force in September 2019.

### Our view

We will need to wait to see the specifics of these changes but the objective of this measure would appear to be to ensure that taxpayers do not obtain a VAT benefit that should accrue to another party (e.g. a customer) and that VAT adjustments are only made in respect of genuine price reductions.

## VAT registration thresholds maintained

### The measure

The VAT registration threshold (currently £85,000) and deregistration threshold (currently £83,000) will remain unchanged for a further two years until April 2022.

This follows the government publishing a call for evidence in March 2018 inviting views on the effect of the current threshold. However, the responses provided did not present a clear option for change.

The government will look again at the possibility of introducing a smoothing mechanism to the VAT registration threshold once the terms of EU exit are clear.

### Who will be affected?

Businesses whose taxable turnover is close to the existing VAT registration threshold of £85,000.

### When will the measure come into effect?

The current thresholds will remain until 31 March 2022.

### Our view

Whilst the Chancellor chose not to reduce the VAT registration threshold in the Budget, perhaps in part due to the backdrop of Making Tax Digital and Brexit, the concerns about the effect of the threshold distorting economic activity continue and a long-term solution will need to be considered in due course.



## VAT – Split payment method for cross border e-commerce

### The measure

HMRC are considering the introduction of a split payment model to reduce online VAT fraud by third country sellers and improve how VAT is collected on cross-border e-commerce. This measure should address the issue of overseas traders who fail to account for UK VAT when selling goods to consumers in the UK through online marketplaces.

### Who will be affected?

Non-EU businesses who are liable to account for VAT on sales to UK consumers.

An industry working group will be established to address some of the main challenges associated with this policy through close cooperation with stakeholders.

### When will the measure come into effect?

Following the consultation launched at the Spring Statement 2018, the government will publish a response document on 7 November 2018. The proposed implementation date is not yet known.

#### Our view

The implementation of a split payment model will require a technological solution to tackle the non-payment of VAT but that also minimises any adverse impact on e-commerce activity.

## VAT – Unfulfilled supplies

### The measure

The measure will bring pre-payments for goods and services into the scope of VAT where customers have been charged VAT but have either failed to:

- collect the goods; or
- use the service.

It will not apply in circumstances where prepayments have been made and customers receive a refund.

### Who will be affected?

Suppliers who receive pre-payments for their goods and services.

### When will the measure come into effect?

The rules will be amended from 1 March 2019.

#### Our view

The objective of this policy measure appears to be ensuring that where a business has charged VAT on a pre-payment but does not fulfil the supply, it cannot make an adjustment to its VAT account such that the VAT is not paid to HMRC and the amounts collected from the customer are retained.



# Individuals measures

## Changes to entrepreneurs' relief

### The measure

Entrepreneurs' relief applies a reduced 10% capital gains tax rate where an individual sells their business or shares in their employer. To qualify, they must have held the interest for at least 12 months prior to sale.

The government have announced that, for sales occurring on or after 6 April 2019, the required holding period will be extended to 24 months.

To qualify for entrepreneurs' relief on the sale of shares, an individual must be an employee or director of that business and own shares entitling them to at least 5% of the votes in the company and at least 5% of the ordinary share capital. The company must also be a trading company (or the holding company of a trading group).

It was announced that, with effect from today, disposals of shares will only qualify for entrepreneurs' relief where the individual's shares also entitle them to at least 5% of the company's distributable profits and at least 5% of the company's net assets.

This does not affect shares acquired under the enterprise management incentive scheme (where there is no minimum shareholding requirement).

Following on from consultation earlier in 2018, updated draft legislation has been published introduces that permits individuals to elect to crystallise a capital gain at the time of a genuine commercial share issue in which they are diluted below 5%, such that their entitlement to entrepreneurs' relief is preserved. The taxpayer may also make a second election such that the gain will not be taxed until there is an actual disposal of their shares.

### Who will be affected?

Individuals who own an interest in a business or shares in their employer.

### When will the measure come into effect?

The extension to the 5% test will apply to sales occurring on or after 29 October 2018.

The extension to the holding period will apply to sales occurring on or after 6 April 2019.

The changes that permit a taxpayer to crystallise a qualifying gain, apply where the relevant share issue happens on or after 6 April 2019.

### Our view

There was widespread speculation in advance of the Budget that entrepreneurs' relief would be withdrawn. It is pleasing to see that the government has decided to retain this relief.



# National Insurance Contributions Bill

## The measure

The government has confirmed, as previously announced in September 2018 that it will not abolish Class 2 National Insurance Contributions (NIC) during the lifetime of the current Parliament.

The government has also announced that, in respect of the two remaining measures in the draft NIC Bill published on 5 December 2016 – reforms to the NIC treatment of termination payments and income from sporting testimonials – it still intends to legislate for these reforms from 6 April 2020. These reforms were due to be implemented from 6 April 2019, therefore this measure defers the implementation by a year.

## Who will be affected?

The deferral of the two remaining measures in the draft NIC bill will affect employers paying qualifying termination payments in excess of £30,000 and individual sportsmen and women earning income from sporting testimonials.

The non-abolition of Class 2 NIC will affect self-employed individuals and those individuals working abroad who pay Class 2 NIC as a voluntary contribution.

## When will the measure come into effect?

Reforms to the NIC treatment of termination payments and income from sporting testimonials will be implemented from 6 April 2020.

## Our view

Employers will welcome confirmation that the government intends to defer the new NIC charge on certain termination payments, beyond the 6 April 2019 date that was expected, to 6 April 2020.

Self-employed individuals and those individuals working abroad who pay Class 2 NIC as a voluntary contribution will welcome the government's confirmation that it will not abolish Class 2 NIC during the lifetime of the current Parliament. This is because self-employed individuals would otherwise have no alternative option available at this time for payment of contributory NIC to build up their entitlement to contributory social security benefits such as state pension, and individuals working abroad who pay voluntary NIC would otherwise have to pay relatively more expensive Class 3 NIC.

Individual sportsmen and women will welcome the additional clarity regarding the NIC treatment of the income they receive from sporting testimonials in terms of understanding their compliance and reporting obligations, although the cost implications remain to be seen.



# Off payroll working in the private sector

## The measure

The Chancellor confirmed that the proposed reform to the taxation of personal service companies (PSCs) in the private sector is to be implemented from 6 April 2020. Further, it was announced that this reform will not apply to the smallest 1.5 million businesses.

It is intended that the new private sector rules should largely mirror those implemented from 6 April 2017 in the public sector. This means that the responsibility for undertaking employment status assessments should now be the responsibility of the entity using the services of the worker, whilst the responsibility for operating PAYE withholding will be that of the entity paying the PSC.

Additional commentary has also been released alongside the announcement which confirms that HMRC are looking to improve their check employment status for tax (CEST) tool for undertaking employment status assessments, and that PSCs should not automatically find their historical tax affairs enquired into if the status decision that is reached now differs from the position it took in prior tax years.

## Who will be affected?

All large and medium sized businesses. At this stage, the definition of a small business for these purposes is yet to be confirmed.

## When will the measure come into effect?

This measure will be implemented with effect from 6 April 2020.

### Our view

Even though this announcement was expected and the extended implementation timeframe is welcomed, it will still offer significant administrative, organisational, and technical challenges for businesses to be ready.

The timeframe gives nearly a year and a half for businesses to prepare for the changes and to ensure that processes and controls have been put in place to manage compliance risk. Our experience from the public sector is that it takes between nine to twelve months to prepare properly, and so action should be considered at an early stage to ensure readiness for April 2020.

The fact that the smallest businesses will be excluded from the changes, whilst welcome for some, adds complexity to the proposals, creating tiers within the private sector.

Businesses will be pleased to hear that HMRC intends to continue improving its CEST tool and its accompanying guidance, as this can form the basis for completing employment status assessments in a manner acceptable to HMRC.

Additionally, PSCs can take some comfort from the fact that HMRC will not automatically begin investigations into the operation of the tax rules in prior years where these new rules result in an employer determining a different employment status from that which the PSC had previously applied.



## Private residence relief restrictions

### The measure

The Chancellor announced two changes to restrict private residence relief (PRR), the relief exempting gains realised on the disposal of a taxpayer's main residence from capital gains tax (CGT).

Currently, the period relating to the final 18 months of ownership of a property which has been a taxpayer's main residence at some point in the past is exempt from CGT. The logic is that this will cover a period in which the homeowner has moved home but not yet sold their old property. This exemption will be cut to nine months. This follows a previous reduction in the final period exemption from 36 months to 18, effective April 2014.

The second change is to 'lettings relief', which currently exempts from CGT gains accruing in a period when the main residence is let out up to a maximum of £40,000. This relief will now be restricted to apply only to periods where the owner jointly occupies the property.

### Who will be affected?

These changes will affect homeowners who have not been in continuous occupation of their main residence, potentially restricting the relief available to them under PRR.

In particular, homeowners who are compelled to relocate and struggle to sell their property are more likely to face a potential CGT charge.

### When will the measure come into effect?

These restrictions will be effective from 6 April 2020.

### Our view

As noted by the Chancellor in his Budget speech, these restrictions will target the relief more specifically to owner-occupiers.

The impact of these changes is not expected to be financially significant overall, and should be restricted to a limited number of circumstances. Illustratively, HM Treasury estimate that these restrictions will only raise an extra £50m of revenue in 2020/21. However there will undoubtedly be instances where the changes adversely impact individuals whose circumstances change unexpectedly and for reasons outside of their control.



# Property Tax – Non-resident chargeable gains tax and corporation tax changes

## The measure

Following an announcement at Autumn Budget 2017, draft legislation was published in July 2018 covering the extension of non-resident chargeable gains tax (NRCGT) to non-resident commercial property owners from 6 April 2019. Further draft legislation and a technical note covering the application of NRCGT rules to funds will now be published on 7 November 2018. Additionally, the government announced that for UK property-rich REITs, the exemption for capital gains on disposals of properties will be extended to share sales of entities that are UK property-rich. Again, further details will be provided in draft legislation on 7 November 2018.

In addition, as previously announced from 6 April 2020 non-resident corporate landlords (NRLs) will be chargeable to corporation tax at 17% (rather than income tax at 20%) on rental income. This will require them to electronically file UK corporation tax returns on a financial year basis (rather than a fiscal year basis). Following initial draft legislation published in July, updated draft legislation was published alongside the Budget. HMRC expects to publish guidance on the transition during 2019.

Key aspects of the draft legislation include:

- bringing the loans and derivative contracts that a NRL is party to for the purposes of its property business within the scope of the existing corporation tax rules on loan relationships and derivative contracts, including the UK's corporate interest restrictions and anti-hybrid rules;
- confirming that carry forward income tax losses as at 5 April 2020 will transfer into the corporation tax regime, and be capable of offset against the NRL's future property business profits without restriction;
- bringing NRLs within the scope of the UK corporation tax loss restriction and group relief rules for any losses arising on or after 6 April 2020. This will include the restriction to the use of brought forward losses above £5 million per annum (on a group basis) to 50% of profits, together with the more flexible group relief rules that effectively now permit brought forward as well as current period losses to be surrendered to profitable group companies.
- confirming that capital allowances will transfer from the income tax regime to the corporation tax regime at tax written down value, i.e. on a tax neutral basis.

## Who will be affected?

Non-resident holders of UK real estate.

## When will the measure come into effect?

NRCGT changes are to be introduced from 6 April 2019.

NRLs will be chargeable to corporation tax on their rental income from 6 April 2020.

## Our view

The proposed changes were announced some time ago and should come as no surprise to non-resident owners of UK real estate. The draft legislation and the technical note covering NRCGT for funds will, when published on 7 November 2018, be of particular interest to a number of investors in UK real estate.



## Rates and allowances

### The measure

#### Income tax

The Chancellor has increased the income tax personal allowance to £12,500 (from £11,850) and the basic rate band to £37,500 (from £34,500), giving a higher rate threshold of £50,000 for 2019/20. This increase means the Chancellor will meet the Conservative Manifesto pledge for a personal allowance of £12,500 and higher rate threshold of £50,000 a year earlier than planned.

The combined personal allowance and higher rate threshold changes will mean that a basic rate taxpayer will save £130 in 2019/20 compared to 2018/19 and a higher-rate taxpayer will save £860 in 2019/20 compared to 2018/19. Those with income over £125,000 who do not receive a personal allowance will see a tax saving of £600.

The Chancellor has also announced that the rates will remain the same in 2020/21 and will then increase in line with CPI from April 2021.

#### National insurance contributions

The national insurance contribution (NIC) limits for 2019/20 will rise broadly with the Consumer Prices Index (CPI). The upper earnings limit (above which the NIC rate is 2%) rises to £50,000 in line with the higher rate threshold, and the primary threshold for employees (above which NICs are payable) increases from £8,424 per annum to £8,632.

Taking account of NIC, a basic rate taxpayer will see an overall saving of £155 (income tax saving of £130 and NIC saving of £25), and a higher rate taxpayer will see a net saving of £520 (tax saving of £860 and NIC increase of £340). Those with income over £125,000 will see a net saving of £260 (tax reduction of £600 and NIC increase of £340).

#### Capital gains tax

The annual exemption will increase to £12,000 (from £11,700) from April 2019.

### Who will be affected?

All individual taxpayers.

### When will the measure come into effect?

6 April 2019

#### Our view

The increases in the personal allowance, higher rate threshold and annual exemption will be welcome news to all taxpayers. Although national insurance costs will increase for many taxpayers, the income tax savings will offset this.



## Self-funded work-related training

### The measure

The Chancellor announced that the government will not be taking forward proposals to introduce tax relief on self-funded work-related training.

Responses to a consultation over the summer found that introducing such relief would be unlikely to incentivise training, so the government is instead:

- Maintaining the existing work-related training tax reliefs available for both employees and self-employed workers
- Launching a National Retraining Scheme (a government funded upskilling or retraining initiative) to more directly support those looking to develop their skills

### Who will be affected?

Any individual considering self-funding their own work-related training.

### When will the measure come into effect?

This measure will not be implemented.

### Our view

The measure as originally proposed would have been unlikely to make significant change to the approach taken by individuals to work-related training. The alternative of a National Retraining Scheme would appear to offer more direct support on this matter where required, while existing arrangements in place for both employees and self-employed workers will continue to offer tax relief.

## Stamp duty land tax – 3% higher rates for additional dwellings repayments

### The measure

The time limit for claiming a repayment of the 3% higher rate of stamp duty land tax (SDLT) for additional dwellings will be extended for individuals who pay it on the purchase of a new property which they intend to be used as a main residence, and who sell their previous main residence within three years of that purchase.

Under the new rules, a repayment claim will need to be made on or before the later of:

- 12 months of the sale of the previous main residence (previously three months), or
- 12 months of the filing date of the SDLT return for the new residence, on which the 3% higher rate for additional dwelling was paid.

### Who will be affected?

Individuals seeking a refund of the higher rate of SDLT for additional dwellings.

### When will the measure come into effect?

The time limit changes will apply where the effective date of sale of the old home is on or after 29 October 2017.



## Our view

This is a welcome change which will give individuals more time within which to claim a refund of the 3% higher rate of SDLT for additional dwellings.

# Stamp duty land tax – Changes to the filing and payment process

## The measure

The time limit to file a stamp duty land tax (SDLT) return and pay the tax due will reduce from 30 days after the effective date of the transaction to 14 days. The 14 day time limit will apply to transactions to purchase real estate in England and Northern Ireland.

Who is affected?

All purchasers of real estate in England and Northern Ireland.

## When will the measure come into effect?

The 14 day time limit will apply to transactions with an effective date on or after 1 March 2019.

## Our view

This has previously been announced and consulted on.

# Stamp duty land tax – Consultation on charge for non-residents

## The measure

The government will publish a consultation in January 2019 on a stamp duty land tax (SDLT) surcharge of 1% for non-residents buying residential property in England and Northern Ireland.

## Who will be affected?

Non-residents buying residential property in England and Northern Ireland.

## When will the measure come into effect?

The proposed introduction date is currently unknown.

## Our view

This was previously announced at the Conservative Party conference. At a level of only 1% rather than the 3% higher rate of SDLT on additional dwellings, the measure is likely to increase the tax take but not significantly change the amount of property purchased by non-residents.



## Stamp duty land tax – First time buyers' relief and shared ownership

### The measure

Relief for first time buyers will be extended to purchases of qualifying shared ownership property where the purchaser chooses not to make a market value election but to pay stamp duty land tax (SDLT) in stages.

Where the market value of the shared ownership property is £500,000 or less, the SDLT rates for first time buyers will be applied to the first share purchased. Relief will also apply to the rental payments. Purchasers who make a market election are already eligible for the relief for capital payment but not rents. The proposal will also allow purchasers who have made a market election to reclaim SDLT previously paid on rents.

### Who will be affected?

Any first time buyer buying property under qualifying shared ownership arrangements.

### When will the measure come into effect?

The changes will take effect on 29 October 2018 and will apply retrospectively from 22 November 2017.

A refund of tax can be claimed if the effective date of the purchase was on or after the 22 November 2017, a return was filed and SDLT paid as if no relief was due and the purchase would now qualify for first time buyers' relief.

### Our view

This is a welcome change which puts first time buyers of shared ownership property on an equal footing with other first time buyers.



# Employers measures

## Apprenticeship levy reforms

### The measure

Since 6 April 2017, employers have been required to pay the apprenticeship levy. The levy is set at a rate of 0.5% of an employer's annual pay bill and is collected through the PAYE system. Employers receive an annual allowance of £15,000 to offset against payment of the levy, and therefore the levy is payable only by employers who have pay bills in excess of £3 million per year.

The government has announced that it will introduce a package of reforms to strengthen the role of employers in the apprenticeship programme, so they can develop the skills they need to succeed. As part of this:

- the government will make up to £450 million available to enable levy paying employers to transfer up to 25% of their funds to pay for apprenticeship training in their supply chains;
- the government will provide up to £240 million, to halve the co-investment rate for apprenticeship training from 10% to 5%;
- the government will also provide up to £5 million to the Institute for Apprenticeships and National Apprenticeship Service in 2019/20, to identify gaps in the trainer provider market and increase the number of employer-designed apprenticeship standards available to employers. All new apprenticeships will start on these new, higher quality courses from September 2020;
- the Exchequer Secretary to the Treasury and the Minister for Apprenticeships and Skills will work with a range of employers and providers to consider how they are responding to the apprenticeship levy across different sectors and regions in England.

### Who will be affected?

All employers and businesses who offer apprenticeship programmes and pay the apprenticeship levy.

### When will the measure come into effect?

These measures will be implemented from 6 April 2019.

### Our view

Employers and businesses who offer apprenticeship programmes and pay the apprenticeship levy will welcome these measures, and particularly the government's willingness to work with them in the interests of aligning apprenticeships more closely to business need.



## Employment allowance reform

### The measure

The employment allowance currently provides businesses and charities with up to a £3,000 reduction in their employer NIC bill.

The government has announced that it will now focus the employment allowance on smaller businesses.

From April 2020 it will therefore restrict access to employers with an annual NIC bill below £100,000.

The government estimates this means that 99% of micro-businesses and 93% of small businesses will still be eligible for the employment allowance.

### Who will be affected?

Businesses with an annual NIC bill of £100,000 or more will no longer be eligible to claim the employment allowance from April 2020.

### When will the measure come into effect?

This measure will be implemented from 6 April 2020.

### Our view

Small businesses and micro-businesses with an annual NIC bill below £100,000 will welcome the fact they will continue to be able to access the employment allowance.

## National Insurance Contributions Bill

### The measure

The government has confirmed, as previously announced in September 2018 that it will not abolish Class 2 National Insurance Contributions (NIC) during the lifetime of the current Parliament.

The government has also announced that, in respect of the two remaining measures in the draft NIC Bill published on 5 December 2016 – reforms to the NIC treatment of termination payments and income from sporting testimonials – it still intends to legislate for these reforms from 6 April 2020. These reforms were due to be implemented from 6 April 2019, therefore this measure defers the implementation by a year.

### Who will be affected?

The deferral of the two remaining measures in the draft NIC bill will affect employers paying qualifying termination payments in excess of £30,000 and individual sportsmen and women earning income from sporting testimonials.

The non-abolition of Class 2 NIC will affect self-employed individuals and those individuals working abroad who pay Class 2 NIC as a voluntary contribution.

### When will the measure come into effect?

Reforms to the NIC treatment of termination payments and income from sporting testimonials will be implemented from 6 April 2020.



## Our view

Employers will welcome confirmation that the government intends to defer the new NIC charge on certain termination payments, beyond the 6 April 2019 date that was expected, to 6 April 2020.

Self-employed individuals and those individuals working abroad who pay Class 2 NIC as a voluntary contribution will welcome the government's confirmation that it will not abolish Class 2 NIC during the lifetime of the current Parliament. This is because self-employed individuals would otherwise have no alternative option available at this time for payment of contributory NIC to build up their entitlement to contributory social security benefits such as state pension, and individuals working abroad who pay voluntary NIC would otherwise have to pay relatively more expensive Class 3 NIC.

Individual sportsmen and women will welcome the additional clarity regarding the NIC treatment of the income they receive from sporting testimonials in terms of understanding their compliance and reporting obligations, although the cost implications remain to be seen.

## National Living Wage

### The measure

The Chancellor announced that the main rate of the National Minimum Wage, the National Living Wage, will be increased from £7.83 per hour to £8.21 per hour.

Similar increases will also be applied to lower rates of the National Minimum Wage as follows:

- for 21 to 24 year olds, from £7.38 to £7.70 per hour;
- for 18 to 20 year olds, from £5.90 to £6.15 per hour;
- for 16 to 17 year olds, from £4.20 to £4.35 per hour; and
- for apprentices, from £3.70 to £3.90 per hour.

### Who will be affected?

All workers entitled to receive the National Minimum Wage, and their engagers.

### When will the measure come into effect?

This measure will be implemented with effect from 6 April 2019.

## Our view

The increase to the National Living Wage reflects the positive fiscal outlook described by the Chancellor in the Budget.

Given recent increases in HMRC's activity in respect of National Minimum Wage and National Living Wage rules, engagers who are required to pay these increased hourly rates should ensure that they take appropriate steps, so as to avoid inadvertently paying workers below the prescribed levels.



## Off payroll working in the private sector

### The measure

The Chancellor confirmed that the proposed reform to the taxation of personal service companies (PSCs) in the private sector is to be implemented from 6 April 2020. Further, it was announced that this reform will not apply to the smallest 1.5 million businesses.

It is intended that the new private sector rules should largely mirror those implemented from 6 April 2017 in the public sector. This means that the responsibility for undertaking employment status assessments should now be the responsibility of the entity using the services of the worker, whilst the responsibility for operating PAYE withholding will be that of the entity paying the PSC.

Additional commentary has also been released alongside the announcement which confirms that HMRC are looking to improve their check employment status for tax (CEST) tool for undertaking employment status assessments, and that PSCs should not automatically find their historical tax affairs enquired into if the status decision that is reached now differs from the position it took in prior tax years.

### Who will be affected?

All large and medium sized businesses. At this stage, the definition of a small business for these purposes is yet to be confirmed.

### When will the measure come into effect?

This measure will be implemented with effect from 6 April 2020.

### Our view

Even though this announcement was expected and the extended implementation timeframe is welcomed, it will still offer significant administrative, organisational, and technical challenges for businesses to be ready.

The timeframe gives nearly a year and a half for businesses to prepare for the changes and to ensure that processes and controls have been put in place to manage compliance risk. Our experience from the public sector is that it takes between nine to twelve months to prepare properly, and so action should be considered at an early stage to ensure readiness for April 2020.

The fact that the smallest businesses will be excluded from the changes, whilst welcome for some, adds complexity to the proposals, creating tiers within the private sector.

Businesses will be pleased to hear that HMRC intends to continue improving its CEST tool and its accompanying guidance, as this can form the basis for completing employment status assessments in a manner acceptable to HMRC.

Additionally, PSCs can take some comfort from the fact that HMRC will not automatically begin investigations into the operation of the tax rules in prior years where these new rules result in an employer determining a different employment status from that which the PSC had previously applied.



## Self-funded work-related training

### The measure

The Chancellor announced that the government will not be taking forward proposals to introduce tax relief on self-funded work-related training.

Responses to a consultation over the summer found that introducing such relief would be unlikely to incentivise training, so the government is instead:

- Maintaining the existing work-related training tax reliefs available for both employees and self-employed workers
- Launching a National Retraining Scheme (a government funded upskilling or retraining initiative) to more directly support those looking to develop their skills

### Who will be affected?

Any individual considering self-funding their own work-related training.

### When will the measure come into effect?

This measure will not be implemented.

### Our view

The measure as originally proposed would have been unlikely to make significant change to the approach taken by individuals to work-related training. The alternative of a National Retraining Scheme would appear to offer more direct support on this matter where required, while existing arrangements in place for both employees and self-employed workers will continue to offer tax relief.

## Short term business visitor reporting

### The measure

The PAYE special arrangement covering short term business visitors was introduced in 2015/16 following a review by the Office of Tax Simplification. It allows a simplified form of payroll reporting to be operated in respect of short term business visitors from overseas who are unable to meet the criteria for exemption under a double tax treaty, provided that certain conditions are met.

Following a consultation over the summer on the tax and administrative treatment of short term business visitors, the government has decided to extend the current PAYE special arrangement in two ways. First, the number of UK workdays a short term business visitor may have that are subject to the special arrangement will be doubled from 30 to 60 days per tax year. Second, the deadline for submission of the reporting required by the employer will be extended from 19 April following the end of the tax year to 31 May.

### Who will be affected?

The measure will affect employers who have business visitors to the UK, for whom no treaty exemption applies. The categories of business visitors where no treaty exemption applies will typically include business visitors from non-treaty countries and those employed via overseas branches of UK companies.

### When will the measure come into effect?

The measure will take effect from 6 April 2020.



## Our view

We welcome the extension of the PAYE special arrangement, and the extension of the reporting deadline in particular as this in practice was the greatest constraint on employers' ability to use it. A more generous timeframe would have been appreciated by some taxpayers, especially bearing in mind that pay data has to be gathered internationally to complete the required reporting.

The consultation had also considered the possibility of a tax exemption, equivalent to that in tax treaties, for UK employers with a branch rather than subsidiary based group structure. This appears to have been abandoned, which will be disappointing to employers who have short term business visitors from foreign branches of UK employing companies.



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