The Construction Industry
Joint Taxation Committee

JTC

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Autumn Budget 2021

When the Chancellor had been talking for an hour and had only mentioned tax a few times it became obvious that there was going to be little of interest from a tax perspective. The key announcements about the new Health and Social Care levy and increases to dividend tax rates had already been announced by the Prime Minister in September.

The tax highlight of the day was the extension of the 30-day reporting and payment deadline for Capital Gains Tax (CGT) on residential property sales, which has immediate effect for disposals completing on or after 27 October 2021. A sensible solution to a practical problem. With no further tax rises announced, a deficit in the region of £16 billion and all this new spending, it does rather feel as though the Chancellor is putting off the inevitable. ■

Autumn Budget 2021: At a glance

The Chancellor Rishi Sunak presented his Autumn Budget and Annual Spending Review on 27 October 2021.

Income Tax, NICs, claims & reliefs

New announcements:

- Payments made through the Household Support Fund and similar schemes in the devolved administrations to be exempt from Income Tax.
- The NIC's Upper Earnings Limit and Upper Profits Limit are to be maintained at 2021-22 levels.
- Income Tax bands and personal tax allowances including the marriage and savings allowances remain at 2021-22 levels.
- A small increase to the blind person's allowance.

As announced in September 2021:

- From 6 April 2022: a temporary 1.25% increase to NIC's.
- From 6 April 2023: a new Health and Social care levy of 1.25%.

Employers

From April 2022:

- National Living Wage to increase to £9.50 per hour.
- Van benefit and fuel benefit charges to increase in line with inflation.

Further changes

- HM Treasury to be granted powers to make regulations to provide Income Tax and NICs relief on employee expenses/benefits in the event of a disaster or emergency of national significance.
- Legislation to be introduced to make top-up payments directly to low-earning individuals saving in a pension scheme using a Net Pay Arrangement.

Savings & Dividends

No changes for 2022-23:

- ISA , junior ISA and child trust funds limits remain at £20,000, £9,000 and £9,000.
- The starting rate for savings income limit remains at £5,000.

As announced in September 2021:
From 6 April 2022:

- An increase in Dividend Tax rates of 1.25%.

Capital Gains Tax

From 27 October 2021:

- The 30-day reporting and payment deadline for disposals of UK residential property is extended to 60 days.

Inheritance Tax

No changes

- All rates, allowances, reliefs and exemptions remain unchanged.
- The nil rate band was frozen until 2026 at £325,000 by Finance Act 2021.

Land & Property

From April 2022

- The Annual Tax on Enveloped Dwellings (ATED) will rise by 3.1% in line with inflation for the April 2022-23 chargeable period.

- The rate of the new Residential Property Developer Tax announced in May 2021 is set at 4% and applies to profits exceeding £25 million.
- No changes to Stamp Duty Land Tax (SDLT) rates.

Corporation Tax

As previously announced, from 1 April 2023:

- Increase in the rate of Corporation Tax from 19% to 25%.

New announcements:

From April 2023

- The bank levy will be reduced from 8% to 3%.

For expenditure from 27 October 2021

- Rate of relief to double until 31 March 2023 when it will reduce, then revert to current rates from April 2024.

R&D tax relief

From April 2023

- The scope of the relief is to be expanded to include cloud computing and data costs.
- Other reforms to refocus support towards innovation in the UK and to target abuse and improve compliance.

Capital Allowances

- The £1 million AIA (Annual Investment Allowance) limit is extended to 31 March 2023.
- Legislation for vehicle emissions to be amended to reflect the new comprehensive vehicle type approval scheme due to be introduced in 2022.
- Finance Bill 22 to confirm the Worldwide Harmonised Light Vehicle Test Procedure CO2 emissions figure will apply for capital allowance purposes.

Tax Administration & Penalties

As already announced:

- Making Tax Digital (MTD) for Income Tax delayed until April 2024.
- Finance Bill 22 to include provisions to simplify the basis period rules for the self-employed and partners from April 2024.
- A new requirement for large businesses to notify HMRC when they take a tax position in their returns for VAT, Corporation Tax, or Income Tax (including PAYE) that is uncertain.

Tax Penalties

As already announced:

- New penalties for the late submission and late payment of tax for Income Tax Self-Assessment (ITSA) from 6 April 2024 for taxpayers in ITSA in MTD, and 6 April 2025 for all other ITSA taxpayers.

Review of business rates

- Following the 2020 business rates consultation there are to be more frequent revaluations. Every three years from 2023.
- A new business rates investment relief for green technology and for improving the business property.
- Additional 50% discount for 2022-23 for the hospitality and leisure sector.

Miscellaneous reliefs and taxes

- Air Passenger Duty (APD): a lower rate of APD to be introduced for UK domestic flights from April 2023. Higher rates to be introduced for long haul flights to capitals over 5,500 miles from London.
- Landfill Tax: a new standard and lower rates in line with RPI from 1 April 2023.
- Aggregates Levy rate remains unchanged.
- Gaming duty banding to be raised in line with inflation from April 2022.
- There will be changes to restrictions to rebated diesel and biofuels from April 2022.
- Technical changes will be made to the Plastic Packaging Tax legislation to reflect policy intent.

Duties

- Planned duty increases on spirits cancelled and sparkling wine duty reduced to match that for still wines.
- Planned rises to fuel duty scrapped.
- Vehicle Excise Duty (VED) to be increased in line with RPI from April 2022, except for Heavy Goods Vehicles (HGV) where it will be frozen until August 2023.
- Tobacco duty to be increased from 6pm on 27 October 2021 by inflation plus two per cent on all products and four per cent on rolling tobacco.

Benefits

- Universal Credit taper to be cut by 8% by no later than 1 December 2021. ■

HMRC guidance for employment agencies

HMRC has published new guidance for businesses using temporary workers. HMRC is encouraging all businesses using temporary workers to familiarise themselves with new guidance providing advice on applying supply chain due diligence and warning about mini-umbrella company fraud. It focuses on umbrella companies operating tax avoidance arrangements e.g. disguised remuneration schemes and payroll fraud and advises businesses how to avoid them. Such schemes could include payments that are said to be untaxed. These payments include:

- Loans.
- Grants.
- Capital Payments.
- Credit facilities.
- Profit shares.

HMRC highlight their view that most of the schemes do not work and involvement in such a scheme could lead to tax compliance checks, unexpected tax liabilities and penalties.

Payroll Fraud involves an umbrella company failing to pay over the Income Tax and National Insurance Contributions deducted from workers' wages to HMRC.

- It is a business's responsibility to understand how their workers are engaged, who is responsible for paying them and how they are paid.
- You can protect yourself and ensure that any umbrella company you engage with is operating correctly and is fully compliant by:
  - o Adding a clause to contracts with agencies who provide workers to you requiring your authorisation before the agency sub-contracts with a third party. This allows you to know who is involved in the supply chain and the details of any umbrella company involved.
  - o Request payslips from the umbrella companies involved in your supply chains to conduct sample checks and confirm that PAYE is being operated correctly.

If you have any concerns about an umbrella company in your supply chain **report them**. ■

Fail to pay your tax and what might HMRC do?

HMRC have recently published guidance on how they deal with people who do not pay the tax that is owed. This includes how and when debt enforcement powers are used.

Where taxpayers are unable to pay what they owe in full, and on time, HMRC can offer support to settle debts as quickly as possible and in a manner that is affordable.

This support varies based on the taxpayer's individual needs and circumstances, but may include:

- Agreeing a Time to Pay arrangement (a payment plan).
- Offsetting previously overpaid tax against debts.
- Adjusting PAYE tax codes to collect debts.

Communicating with HMRC is key. Where taxpayers who owe tax do not engage with HMRC, an officer may visit the taxpayer's home or business address to try to agree on how best the debt can be settled. Where an agreement cannot be reached, HMRC may use their enforcement powers to collect the debt.

HMRC enforcement powers

HMRC's enforcement powers are used as a last resort measure to collect outstanding taxes. Typically, this is where contact cannot be made or the taxpayer refuses to pay what is owed.

Powers available to HMRC include:

- Taking possessions to cover the debt.
  - o The opportunity to pay the amount owed will be given before possessions are removed.
  - o Possessions essential for security and wellbeing will not be taken.
  - o Additional charges will be levied, such as £75 for a Notice of Enforcement (in England and Wales), auction fees and fees for taking control of possessions.

Continued on next page

HMRC enforcement powers contd

- Using a Summary Warrant to recover the debt (Scotland only).
  - This is a type of court order which is granted for debts.
  - Fourteen days will be given to pay or agree on a payment plan before alternative actions are taken.
  - Alternative actions include recovering the debt from a bank account, seizing and selling possessions or recovering the debt through earnings.
- Recovering the debt directly from the taxpayer's bank account.
  - HMRC's Direct recovery of debt powers in England, Wales and Northern Ireland can be used where a debt is £1,000 or more and there are sufficient funds in the taxpayer's bank account to cover the debt and reasonable living costs.
- Charging orders.
  - These are court orders which prevent the sale of specified assets such as land, property, stocks and shares, without first paying what the court has ordered must be paid out of any proceeds.
  - Court action known as an 'order for sale', can force the taxpayer to sell the property.
- Attachment of earnings orders (or arrestment of earnings).
  - These allow deductions to be made from wages subject to PAYE.
- Third-party debt orders.
  - These allow third-party debts owed to the taxpayer to be collected directly by HMRC.
- As a final course of action, HMRC may start insolvency proceedings. These include:
  - Voluntary arrangements.
  - Company moratoriums using the Corporate Insolvency and Governance Act.
  - Bankruptcy and winding-up orders.

Due to the different legal frameworks applying in England and Wales, Scotland and Northern Ireland, different processes and terminology may apply.

HMRC use a number of different debt collection agencies. These are listed in the new guidance. ■

Employer Bulletin: October 2021

PAYE

Tax changes for health and social care

- From April 2022 National Insurance Contributions (NICs) will increase by 1.25% for one year for employees, employers and the self-employed.
- From April 2023, a new Health and Social Care Levy of 1.25% will be introduced for those who pay all Class 1, Class 1A and 1B, and Class 4 NICs.
- The levy will apply to anyone over State Pension age who is employed or self-employed with profits above £9,568.
- From 2023 to 2024, levy contributions will appear as a separate item on payslips.
- Self-employed individuals who pay NICs through Self-Assessment must report the rate increase on their 2022-2023 tax returns and the levy on their 2023 to 2024 tax returns.

From April 2022 the rate of Income Tax on dividend income will increase by 1.25%.

Reporting PAYE information in real-time when payments are made early at Christmas

HMRC have issued a reminder to employers that in respect of PAYE RTI filing (Real-Time Information), the contractual payment date should be reported rather than the actual payday. This applies whether the employees are paid early or late and is particularly likely to happen over Christmas.

- If employers pay their employees early or late, for example, due to a bank holiday or the Christmas holiday, they should still enter each employee's regular payday on the Full Payment Submission (FPS) as normal. The FPS should be submitted on or before the employee's payday.
- Early reporting can directly affect an employee's claim for Universal Credit: double monthly earnings can fall in one Universal Credit assessment period.
- This follows the Court of Appeal judgement in Secretary of State for Work and Pensions v Johnson & Ors [2020] EWCA Civ 778.
- Legislation in force from 16 November 2020 means that for cases affected by this issue, monthly earnings will be reallocated

Employer Bulletin: October 2021 contd

to another assessment period so that only one set of earnings will be taken into account rather than two when determining available allowances.

For example: if an employer pays on 17 December 2021 but the normal payment date is 31 December 2021, the employer should report the payment date as '31 December 2021'. In this example, the FPS would need to be sent on or before the 31 December.

Universal Credit and the importance of correct on time Full Payment Submission (FPS) reporting

- You need to send the FPS on or before your employees' payday and enter the usual date that you pay your employees, even if you pay them earlier or later, to avoid the issue of double monthly earnings in one Universal Credit assessment period.
- Legislation in force from 16 November 2020 means that for cases affected by this issue, monthly earnings will be reallocated to another assessment period so that only one set of earnings will be taken into account rather than two when determining available allowances.
- The change follows a Court of Appeal judgment concerning employees who receive two calendar monthly payments of earnings in one Universal Credit monthly assessment period, none in another and who lose out on the work allowance.
- The situation for people paid weekly, fortnightly or four-weekly is different and moving a payment would just move the issue to a different assessment period.

Off-Payroll Working rules (IR35)

- HMRC drew attention in the August 2021 Employer Bulletin to guidance on 'contracted out services' and 'statement of works.' Anyone engaging contractors working through their own limited company via one of these contracts should ensure they are applying the rules correctly.

Student loans: Occupational Pension and Off-Payroll Working rules FPS Indicators

Student loan deductions are not due on:

- Occupational pension scheme payments.
- Payments that are subject to the Off-Payroll Working rules.

If you have selected the occupational pension or Off-Payroll Working rules indicator by mistake for employees who are subject to student loan deductions, you should unselect it immediately.

Student loan refunds

- Due to the COVID-19 situation, HMRC are writing to employees asking them to call or write with their bank account details to allow refunds to be processed for previous tax years.
- If your employee has any concerns about this letter tell them to call the HMRC Income Tax general enquiry helpline on 0300 2003300.

Making your PAYE Settlement Agreement (PSA) payment

- Electronic payments for a PSA for the tax year ended 5 April 2021 should have cleared into the HMRC bank account by 22 October 2021. Late payments may incur interest and/or penalty charges.
- To pay your PSA you must use the PSA reference number from the payslip sent to you, for example, XA123456789012. If you do not have this, contact the office dealing with your application.
- Do not use your PAYE Accounts Office reference. Payments received with this reference are allocated to your normal PAYE account, you will keep receiving reminders for the PSA even though you have paid.

PAYE Settlement Agreements (PSA): PSA1 form

- HMRC reminds employers who use PAYE Settlement Agreements (PSA) that their PSA calculations are now due and that the correct method of reporting is form PSA1. The PSA1 forms and guidance are available online.

Reporting benefits and expenses digitally
HMRC is encouraging employers to consider payrolling the expenses and benefits they pay to staff.

- The advantages are that employers will no longer need to submit multiple P11Ds and employees will be more likely to pay the correct tax due on their benefits during the tax year.
- You must register with HMRC before the start of the tax year to payroll benefits and expenses.
- If you are still submitting P11D and P11D(b) paper forms, consider submitting online using commercial software or HMRC PAYE Online service.

Coronavirus (COVID-19) updates and information

Coronavirus Job Retention Scheme
Final Coronavirus Job Retention Scheme (CJRS) claims for September should have been submitted by Thursday 14 October 2021.

- If you have not submitted your claim by the deadline, but believe you have a reasonable excuse, check if you can make a late claim.
- If you've claimed too much you must notify HMRC and repay the money by the latest of whichever date applies below:
  - o 90 days from receiving the money you're not entitled to.
  - o 90 days from the point circumstances changed so that you were no longer entitled to keep the grant.
  - o If you made a mistake in your claim that means you received too little money, you'll need to amend your claim within 28 calendar days after the month the claim relates to.
  - o The final deadline to amend claims for September was Thursday 28 October 2021.

CJRS from 1 November 2020
There is support available for employees if you are unable to bring them back to work. This can be found via the JobHelp website, which includes the Kickstart scheme and other Plan for Jobs support measures. **Remember: normal redundancy rules and protections apply to furloughed employees.** ■

Freezing UBR for 2022/23
As widely anticipated the Chancellor has confirmed that the UBR for 2022/23 will again be frozen. This is a measure that many federations have been calling for particularly following the announcement of the September CPI figures at 3.1% last week. The UBR in England for 2022/23 will therefore remain at 49.9p for small properties and 51.2p for large properties with an RV of £51,000 or more. ■

Consultation: Tax conditionality regulations for scrap dealers

HMRC are seeking views on draft regulations covering the additional requirements for license renewals for scrap metal dealers in England and Wales.

Finance Act 2021 has introduced a new requirement that certain licensed businesses must now complete a tax check as part of their license renewal process, a concept known as Tax conditionality.

HMRC have now released the statutory instruments explaining how these provisions will work and are seeking views from stakeholders.

The statutory instruments explain that a tax check can be completed by the trader either online or via phone and details can be obtained by the licensing body using an online portal. The statutory instruments do not confirm how the tax check itself will work or what information HMRC will require. ■

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