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AUTUMN STATEMENT – FINANCIAL PLANNING HIGHLIGHTS

in conjunction with Technical Connections and Tony Wickenden

Once upon a time, the government's Autumn Statement only dealt with the country's economic position and strategies to improve it..... and it was called the 'Pre-Budget Report'.

Now it has become an intrinsic part of the overall Budget process and gives the government a chance to unveil some of its proposed tax changes within the context of the overall economic strategy.

Whilst there will, inevitably, be new proposals made in March 2015, the Autumn Statement contains information on many tax proposals. With the government (despite positive growth statistics) still under constant pressure to improve public finances, the importance of taxation to the overall "business plan" of 'UKPlc' cannot be underestimated.

As for previous years, anti-avoidance features strongly. At Jill Turner Associates taxation issues are important to our clients, whilst we are not tax consultants or accountants, we want to ensure that you utilise your tax allowances effectively when it comes to personal and business financial planning.

1. INCOME TAX

Personal allowance and tax bands

From 6 April 2015 the standard personal allowance will increase from £10,000 to £10,600.

While the personal allowance will increase the basic rate limit will reduce from £31,865 to £31,785. With the increased personal allowance and changes in the tax bands, this means an individual can have an additional £520 of income before a liability to higher rate tax.

The age-related personal allowance of those born before 6 April 1938 will remain at £10,660. For those born between 6 April 1948 and 5 April 1938 the age-related personal allowance will be aligned with the standard personal allowance and the total income limit will be increased to £27,700.

From 6 April 2015 we will also see the introduction of a 0% starting rate band of £5,000 for savings income which will only apply where someone has non-savings income of less than £15,600.

The additional rate band threshold remains unchanged at £150,000.

Transferable income tax allowance

From April 2015, spouses and civil partners will be entitled to transfer £1,060 of their personal allowance to their spouse or civil partner provided the recipient is not subject to income tax at the higher or additional rate.

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Tax credits
From April 2015 tax credit payments will be reduced in-year where, due to a change of circumstances, a claimant would otherwise receive an overpayment. This change is to prevent claimants building up unnecessary overpayments that must be repaid at a later stage.

Gift Aid
The government will publish draft legislation to help administer gift aid and will also extend the review of donor benefits to include consideration of the rules for claiming Gift Aid on membership and entrance fees. An update will be provided at Budget 2015. The government will also work with the sector on updating the guidance and making it easier to understand.

Remittance basis charge
It was announced that the annual charge payable by a non-domiciled individual who is resident in the UK and who wishes to retain access to the remittance basis of taxation will be increased in some circumstances.

- The charge paid by those who have been UK resident for 7 out of the last 9 tax years will remain at £30,000.
- The charge paid by those who have been UK resident for 12 out of the last 14 tax years will increase from £50,000 to £60,000.
- A new charge of £90,000 will be introduced for those who have been UK resident for 17 of the last 20 tax years.

The government will also consult on making the election apply for a minimum of 3 years.

Employee benefits and expenses
The government will simplify the administration of employee benefits and expenses as announced at Budget 2014.

From April 2015 the government will provide a statutory exemption for trivial benefits in kind costing less than £50.

From April 2016, the government will remove the £8,500 threshold below which employees do not pay income tax on certain benefits in kind and replace it with new exemptions for carers and for ministers of religion.

2. NATIONAL INSURANCE CONTRIBUTIONS

The National Insurance upper earnings and upper profits limits will increase to stay in line with the higher rate threshold of £42,385.

Employer contributions
From April 2016 employer NICs up to the upper earnings limit for apprentices aged under 25 will be abolished.

Employment allowance
From April 2015 the £2,000 annual Employment Allowance for employer NICs will be extended to care and support workers. This means that a family will be able to employ a care worker on a salary of up to £22,500 and pay no employer NICs.

3. CAPITAL GAINS TAX

Annual exemption
As previously announced the annual exempt amount will increase from £11,000 to £11,100 for tax year 2015/16.

The revised annual exempt amount for trustees will be £5,550 - subject to a reduction to a minimum of £1,110 where the same settlor has, broadly, created more than one trust.

Entrepreneurs' relief (ER)
The Government will allow gains which are eligible for ER, but which are instead deferred into investments which qualify for the Enterprise Investment Scheme (EIS) or Social Investment Tax Relief (SITR), to remain eligible for ER when the gain is realised.

This will benefit qualifying gains on disposals that would be eligible for ER but are deferred into EIS or SITR on or after 3 December 2014 meaning that gains which qualify for relief are taxed at 10%, subject to a cumulative lifetime limit of £10 million.

4. INHERITANCE TAX

Treatment of relevant property trusts

Background

For some time now, HMRC has been considering ways in which it can simplify the IHT treatment of relevant property trusts. As part of this simplification, there was also an intention to deal with any unacceptable tax avoidance – most notably in the area of "Rysaffe planning" through which an individual could establish several trusts on different days with a view to each being entitled to a full IHT nil rate band.

The background to the changes is that on 21 March 2006 as well as discretionary trusts, any newly created flexible trusts and new accumulation and maintenance trusts (basically, any trust other than absolute/bare trusts) were brought within the relevant property regime for inheritance tax. This means that increasing numbers of trusts are now subject to these tax rules which, until 2006, only really applied to discretionary trusts.

The current rules are very complicated with calculations requiring much (often historic) information. HMRC has therefore been seeking ways in which the tax system can be simplified without negatively impacting on the overall tax revenues from trusts.

Over the last couple of years HMRC have put forward 3 proposals for simplifying the system. It is the last set of proposals – as set out in a Consultative Document on 6 June 2014 – that formed the basis of the rules that they suggested would apply from 6 April 2015.

These proposed new rules were intended to work as follows:

- a settlor would be given a settlement nil rate band (SNRB) equal to the nil rate band that is in existence at the appropriate time – currently this is £325,000

- this SNRB would be in addition to their own nil rate band that can continue to be used (as it has to date) to determine whether, and if so how much, tax will be chargeable on non-exempt transfers made during lifetime or on death

- the settlor could choose how to allocate the SNRB amongst all trusts that are subject to the new rules ie. those created after 6 June 2014. The allocation could, in certain circumstances, be changed

- when calculating inheritance tax on the trust at (say) the first 10 year anniversary, it would be necessary to take the value of the trust, deduct the allocated nil rate band and charge the balance to tax at a flat rate of 6%. No account would need to be taken of the settlor's cumulative total in the 7 years before the trust is created

- the "Rysaffe" rule would no longer be capable of being used in planning for new trusts. In other words, it will not be possible for separate trusts established on separate dates to each qualify for their own nil rate band.

The latest position

In the Autumn Statement, the Government have announced that they will not now introduce the single settlement nil-rate band (the so-called SNRB). Instead they intend to simplify the calculation of the inheritance tax rules on trusts and introduce new rules to target avoidance through the use of multiple trusts. Draft legislation will be included in the Finance Bill 2015.

The Finance Bill is due to be published on 10 December 2014 and more will be revealed then. In the meantime it is difficult to speculate on what might happen. One way to simplify matters would be to remove the need to take account of 7 year cumulative total of transfers by the settlor and introduce a flat rate of tax of 6% on the value of the trust that exceeds the trust's nil rate band.

As far as neutralising the IHT benefits of multiple trusts is concerned, this could be achieved in a number of ways. For example, we could see changes to treat trusts as "related" if

- they are created by the same settlor within a set time frame and/or

- where property is added to several lifetime trusts on the same day (ie. by bequest under a Will).

Under current legislation, the value of a "related" trust when it is created is aggregated with the value of other related trusts in order to calculate inheritance tax.

We shall have to wait and see the detail in the Finance Bill before considering what the new rules will mean and what planning might be appropriate.

Extension of death on active service exemption
The government has announced that it is to extend the exemption for death on active service to people who die as a result of their activities whilst on active service to the emergency services (this will include firefighters, ambulance crews, coastguards and the police) and humanitarian aid workers responding to emergency circumstances. The changes will be effective from 6 April 2015 and will apply to deaths which occur on or after 19 March 2014.

No inheritance tax is payable on the death of a person from wound, accident or disease contracted whilst on active service against an enemy (or on service of a similar nature) during that time or from aggravation during that time of a previously contracted disease. This exemption applies when HMRC Inheritance Tax receives a valid certificate issued by the Ministry of Defence.

The following information should be provided

- the deceased's service number;
- a copy of the death certificate; and
- any relevant supporting medical evidence, such as a post-mortem report.

Exemption applies to a person certified by the Defence Council or the Secretary of State as dying from the above causes inflicted or incurred whilst in the armed forces or, if not a member of those forces, whilst subject to the law governing any of those forces by reason of association with or accompanying them. The wound does not have to be the only or direct cause of death, provided it is a cause.

This means that, soldiers who die in the line of duty, or whose death is "hastened by injury incurred in the line of duty", will be able to pass on all their estate - including their homes, shares and other assets - to their relatives and other beneficiaries without having to pay IHT. The death may occur sometime after the injury. For example, a veteran who dies in 2015 from an injury suffered in the Gulf War in 1991 would qualify for the exemption.

This exemption will also now apply to people who die as a result of their service in the fire brigade, ambulance crew, the police force, being a coastguard and because they were a humanitarian aid worker responding to emergency circumstances.

5. PENSIONS

Reforms - Taxation of pensions income
The main pension changes announced in the Autumn Statement were as follows:

- On death before age 75, the recipient of a joint life or guaranteed term annuity will be able to receive any future payments from such policies tax free.

- In line with the changes to income drawdown on death, the tax rules will also be changed to allow joint life annuities to be passed on to any beneficiary.

- In order to assess means-tested benefits for those over the pension credit qualifying age, the government will change the notional income rules applied to pension pots which have not been accessed, or have been accessed flexibly. The notional income rules will change from 150% to 100% of the income an equivalent annuity would offer, or the actual income taken if higher.

- Pensions tax relief: the age 75 rule – Following informal consultation since Budget 2014, the government has decided not to make changes to the age limit at which tax relief can be claimed on pension contributions. This will remain at age 75.

A massive number of pension reforms are taking place which will become effective from 6 April 2015.

The Chancellor used the Autumn Statement as an opportunity to announce a further reform in the taxation of annuity payments. With regard to any pension annuity coming into effect from 6 April 2015, any pension paid to a survivor (ie a widow/widower) on the death of a member who dies under age 75 will be tax free. This brings the tax treatment of pension scheme annuities into line with the payment of death benefits. Where the pension scheme member dies on or after age 75, pension payments made to the survivor will be taxed as earned income of the survivor.

Mr Osborne had previously announced at the Conservative Party Conference at the end of September that he would abolish the "death tax" as he called it and give more freedom on who could receive death benefits from pension schemes.

What he actually did was to abolish tax on all death benefits (lump sum or drawdown) paid out when a pension scheme member dies before age 75 – whether that person's pension benefits are crystallised or uncrystallised. Lump sums paid out on death as a result of the member dying at age 75 or above, would be taxed at 45% or, if paid as a drawdown pension, taxed at the recipient's appropriate rate of income tax. One could not therefore call this an abolition of tax!

This means that in the run up to age 75, even more people may be encouraged to keep their money invested in a pension plan in the knowledge that, if they die before age 75, benefits can be paid as a lump sum or as drawdown, completely free of tax. This applies irrespective of whether the pension plan is in a crystallised or uncrystallised format and irrespective of whether it is paid as a lump sum or as drawdown.

The change however is also helpful to people who, if they die before age 75, would wish their pension fund to be left to a by-pass trust. Because of the abolition of tax on death benefits paid on crystallised funds for somebody dying under age 75, a tax free lump sum can be paid to a by-pass trust in these cases, as well as in cases where the pension fund is uncrystallised. In such cases people may be encouraged to use a by-pass trust because they may offer protection against creditor's ex-spouses and local authorities as well as control over beneficiaries and the opportunity for ongoing inheritance tax planning.

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6. SAVINGS AND INVESTMENTS

Individual Savings Accounts (ISAs)
The government made three changes to the rules on ISAs:-

(i) In an unexpected move, the chancellor announced that the government will introduce legislation to allow a spouse/civil partner to inherit a deceased spouse's ISA holdings on his/her death. This would mean that the ISA of the deceased spouse would not need to be unravelled at that time. Moreover, the surviving spouse could keep the deceased spouse's ISA is force whilst at the same time contributing to their own ISA.

(ii) The government has confirmed that it will consult on whether to allow crowd-funded debt-based securities into ISAs and, if so, how this could be implemented.

(iii) The annual subscriptions to the ISA will increase to £15,240 in 2015/16. The annual subscription to the Junior ISA and Child Trust Fund will increase to £4,080. No mention was made of the ability to transfer a Child Trust Fund to a Junior ISA which is widely expected to be available from 6 April 2015.

The ability for a spouse/civil partner to inherit the ISA of a deceased spouse is good news. This means that it will no longer be necessary for the ISA to be unravelled and lose its tax favoured status at that time.

This relaxation comes as a further boost to ISA investors following the considerable improvements made with the introduction of NISAs in July 2014 which increased the annual subscription limit to £15,000.

OF course, one of the most heated discussions that has occupied the minds of financial advisers over the last few years is "which is best – pension or ISA?" Both forms of saving have received considerable recent boosts.

The announcements on pension flexibility may have slightly moved the goal posts in favour of the pension. The fact that there is now complete access to the pension fund post age 55 (albeit potentially taxable) with pre age 75 death benefits from both crystallised and uncrystallised pension plans being tax free, makes pensions very much more attractive. Against that the maximum annual contribution for an ISA has increased to £15,000 per annum, there is now more flexibility to move between the stocks and shares and cash element of an ISA and, of course, an ISA still gives completely tax free access at any time over or under age 55.

Whilst the chancellor has announced in his Autumn Statement that ISAs can now be passed between spouses on death without the need to unravel them, one possible downside that still exists with an ISA is that on the death of the investor, the ISA investments will form part of the deceased's estate. This can be an issue where the value of the investor's estate exceeds the available nil rate band(s) and the estate has been left in favour of someone other than a surviving spouse or charity.

Venture capital schemes: changes to scheme rules
All community energy generation undertaken by qualifying organisations will be eligible for social investment tax relief (SITR) with effect from the date of the expansion of SITR (likely to be from 6 April 2015), at which point it will cease to be eligible for the enterprise investment scheme (EIS), seed enterprise investment scheme (SEIS) and VCTs. All other companies benefiting substantially from subsidies for the generation of renewable energy will be excluded from also benefiting from EIS, SEIS and VCTs with effect from 6 April 2015. These measures will be included in the Finance Bill 2015.

Venture capital trusts/ Enterprise investment schemes
The government will introduce a new digital process for investors and companies qualifying for the tax-advantaged venture capital scheme (EIS, SEIS and SITR) in 2016, making it easier to use the schemes. A new format for VCT returns will also be developed.

7. PROPERTY TAX

Stamp Duty Land Tax (SDLT)
There has been much criticism of the so called 'slab basis' of applying SDLT which led to unfairly high taxation for those bringing properties just over the various thresholds.

As a result SDLT on purchases of residential property is being reformed with effect from 4 December 2014. SDLT will be payable at each rate on the portion of the purchase price which falls within each band, rather than at a single rate on the whole transaction value.

The rates and thresholds are also being amended as part of this reform as follows:

- the portion of the transaction value up to £125,000 is charged at a rate of 0%,
- the portion of the transaction value between £125,001 and £250,000 is charged at a rate of 2%,
- the portion between £250,001 and £925,000 is charged at a rate of 5%,
- the portion between £925,001 and £1,500,000 is charged at a rate of 10%, and
- the portion over £1,500,001 is charge at a rate of 12%.

The new rules start on 4 December 2014 – but if you've already exchanged on a property you'll have a choice about whether to use the old or new rules.

If you exchange and complete (or in Scotland settle) your home purchase on or after 4 December you will pay stamp duty under the new rules.

If you completed on the purchase of your property on or before 3 December 2014, but have not yet filed your stamp duty return, you still have to pay stamp duty under the old rules.

If you exchanged contracts (or in Scotland, concluded missives) before 4 December but complete on or after that date you'll be able to choose whether the old or new rules apply. In the majority of cases you'll pay less tax under the new rules.

Annual tax on "enveloped" dwellings (ATED)
It is thought (understandably) to be unfair that some people try to avoid SDLT by purchasing and holding their homes through corporate "envelopes", such as companies. The government introduced a package of measures in Budgets 2012 and 2013 to tackle this tax avoidance and ensure that a fair share of tax is paid, including a higher charge of SDLT, the ATED and the related Capital Gains Tax charge. ATED raised 5 times the amount forecast for 2013-14, with significantly more properties above £2 million in envelopes than expected.

The Autumn Statement announces further action to tackle this avoidance by
increasing the rates of ATED by 50% above inflation.

From 1 April 2015, the charge on residential properties owned through a company will be as follows:

- properties and worth more than £2 million but less than £5 million will be £23,350;
- properties worth more than £5 million but less than £10 million the charge will be £54,450;
- properties worth more than £10 million but less than £20 million the charge will be £109,050, and
- properties worth more than £20 million the charge will be £218,200.

8. TAX AVOIDANCE

The government's relentless assault on tax evasion, avoidance and "aggressive tax planning" continues. As well as the "hard" tax revenue that this action delivers there is the all important need to be "seen to be doing something" to prevent unacceptable individual and corporate tax avoidance.

There has been previous consultation on some of the measures (notably the extension of and toughening of the DOTAS provisions) but there is a whole set of new provisions to consider.

Many of these are targeted at unacceptable corporate tax avoidance and many of these provisions will not be directly (or indirectly) relevant to the financial planning sector - so we haven't referenced them in this summary.

What follows is a short summary of the anti-avoidance provisions referenced in the Autumn Statement that we believe have direct or indirect relevance to the sector.

Anti-avoidance: Businesses
Base Erosion and Profit Shifting - Organisation for Economic Co-operation and Development (OECD) initiative

- *Diverted profits tax*

A new tax to counter the use of aggressive tax planning techniques by multinational enterprises to divert profits from the UK will be introduced. The Diverted Profits Tax will be applied, using a rate of 25%, from 1 April 2015.

This is a subject that has grabbed the headlines with "big names", such as Starbucks and Google, attracting much negative attention. There was an overwhelming feeling that "something had to be done".

- *Country-by-country reporting*

Legislation will be introduced that gives the UK the power to implement the OECD model for country-by-country reporting. The new rules will require multinational enterprises to provide high level information to HMRC on their global allocation of profits and taxes paid, as well as indicators of economic activity in a country.

- *Hybrid mismatches*

The government will consult on the UK's plans for implementing agreed OECD rules for addressing hybrid mismatch arrangements. The new rules will prevent multinational enterprises avoiding tax through the use of certain cross-border business structures or finance transactions.

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Corporation tax - restricting unfair tax advantages on incorporation

The government will restrict the corporation tax relief a company may obtain for the acquisition of the reputation and customer relationships associated with a business ('goodwill') when the business is acquired from a related individual or partnership. This will affect acquisitions on or after 3 December 2014.

Anti-Avoidance: Individuals

Capital gains tax - restricting entrepreneurs' relief (ER): restricting unfair tax advantages on incorporation

The government will prevent individuals from claiming ER on disposals of the reputation and customer relationships associated with a business ('goodwill') when they transfer the business to a related close company. This will affect transfers on or after 3 December 2014.

Capital gains tax - entrepreneurs' relief

The Government will allow gains which are eligible for ER, but which are instead deferred into investments which qualify for the Enterprise Investment Scheme (EIS) or Social Investment Tax Relief (SITR), to remain eligible for ER when the gain is realised. This will benefit qualifying gains on disposals that would be eligible for ER but are deferred into EIS or SITR on or after 3 December 2014.

Entrepreneurs' relief, delivering a 10% CGT rate on cumulative "lifetime" gains of up to £10 million, is incredibly valuable. Advisers will probably not advise directly on it but having an awareness of how it works and any constraints will be valuable in advising business-owning clients.

Income tax - miscellaneous loss relief

Legislation will be introduced to counter avoidance of income tax involving losses from miscellaneous transactions. Legislation denying loss relief where a miscellaneous loss, or miscellaneous income, arises from relevant tax avoidance arrangements will have effect from 3 December 2014. Legislation will also be introduced with effect from tax year 2015/16 to limit relief to miscellaneous income of the same type as the loss.

Promoters of tax-avoidance schemes

Legislation covering 'high-risk' promoters of tax avoidance schemes will be updated and clarified, ensuring that the 2014 legislation functions as intended. The changes will include a broader range of connected persons under the common control of a promoter in the regime and clarify the time limits within which HMRC can issue conduct notices to promoters who fail to disclose a scheme.

Disclosure of tax-avoidance schemes (DOTAS) - regime changes

Legislation will be introduced to strengthen the DOTAS regime, including through updating existing scheme hallmarks, adding new hallmarks, and removing 'grandfathering' provisions for the future use of schemes that were excluded by those provisions. There has been extensive consultation on this subject as the government sees it as a key component in its drive to improve "tax cash flow". The accelerated payments provisions, broadly speaking, permit HMRC to request tax payment "up front" on the basis that a scheme with a DOTAS number will fail to achieve its objective. So being able to issue DOTAS numbers to as wide a group of schemes as possible is

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imperative to help to achieve this objective. A new "DOTAS" task force is to be appointed to ensure avoiders cannot circumvent the DOTAS rules. Draft clauses (and, hopefully, guidance notes) are expected giving more detail on 10 December.

Offshore tax evasion

The government is committed to fighting tax evasion. It appears that almost all financial centres have now agreed to begin exchange of information under the new standard in 2017 or 2018. The UK has already signed agreements to this effect with 50 other countries and jurisdictions which will lead to a step change in HMRC's ability to tackle tax evasion. In advance of these agreements coming into force from the end of 2015, the government will increase the amount and scope of civil penalties for tax evasion, and review how best to enhance the incentives for obtaining information on offshore tax evaders.

Overarching contracts of employment and temporary workers

The government will review the increasing use of overarching contracts of employment by employment intermediaries such as 'umbrella companies'. These arrangements enable workers to obtain tax relief for home to work travel that would not ordinarily be available. The government will publish a discussion paper shortly to inform possible action at Budget 2015.

Special purpose share schemes

The government will legislate to remove the unfair tax advantage provided by special purpose share schemes, commonly known as 'B share schemes'. From 6 April 2015 all returns made to shareholders through such a scheme will be taxed in the same way as dividends.

Investment managers: disguised fee income

The government will introduce legislation, effective from 6 April 2015, to ensure that sums which arise to investment fund managers for their services are charged to income tax. It will affect sums which arise to managers who have entered into arrangements involving partnerships or other transparent vehicles, but not sums linked to performance, often described as 'carried interest', nor returns which are exclusively from investments by partners.

Close company loans to participators

The government has completed its review into the tax charge on loans from close companies to individuals, trusts and partnerships that have a share or interest in them. The government does not intend to make any changes to the structure or operation of the tax charge following this review. This will come as good news to many SME owners and their advisers.