

Tax update

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1. General

1.1 Budget delayed to Spring

The Government has provided an update on next steps following the Growth Plan, confirming that a 'medium term fiscal plan' will be issued, alongside forecasts from the Office of Budget Responsibility (OBR).

It has been confirmed that there will not be a full Autumn Budget this year. Instead, a 'medium term fiscal plan' will be issued by the Chancellor, alongside an OBR forecast. The date was initially set as 23 November, although this date may be brought forward. A full Budget will be delivered in the Spring with a further set of OBR forecasts.

www.gov.uk/government/news/update-on-growth-plan-implementation

1.2 Changes to Land Transaction Tax

Following September's changes to SDLT, the Welsh Government is making similar changes to its equivalent, Land Transaction Tax (LTT).

As part of the Government's Growth Plan, the Chancellor announced that the starting nil rate band of SDLT would be doubled to cover the first £250,000 of purchase price on residential property. The Welsh Government has now announced changes to the main residential rates of LTT. With effect from 10 October, the nil rate band will increase from £180,000 to £225,000. At

the same time, the LTT rate for the portion from £225,000 to £400,000 will increase to 6%. This means that anyone buying a home in Wales costing more than £345,000 will see a small increase in LTT payable.

<https://gov.wales/homebuyers-to-benefit-from-new-tax-rules>

<https://gov.wales/land-transaction-tax-rates-and-bands>

1.3 GAAR panel opinion on extraction of cash from close company

The panel found that the arrangements, using trust interests, limited liability partnership and the novation of loans, were abusive.

The GAAR panel looked at a case where a settlor established several settlements as part of an elaborate arrangement ostensibly to avoid a loans to participators charge on a close company. Some were amalgamated, and funds were extracted by assigning a beneficiary's rights under and debt obligations to the settlement elsewhere, before the rights were transferred to an LLP as an asset. The overall effect of the arrangements was essentially to create an arrangement whereby the shareholder effectively borrowed £950,000 from a company without the charge arising, although the GAAR panel did not make a decision as whether or not alternative dividend or remuneration charges were the more appropriate alternative tax treatment.

The opinion was that both entering into and carrying out the tax arrangements was "not a reasonable course of action in relation to the relevant tax provisions".

www.gov.uk/government/publications/gaar-advisory-panel-opinion-of-30-june-2022-extraction-of-cash-or-equivalent-using-trust-interests-limited-liability-partnership-and-the-novation

1.4 HMRC guidance on choosing a tax agent

HMRC has published guidance on how a taxpayer can choose a suitable agent. It is partly designed to help taxpayers identify scams.

Points covered in HMRC's new guidance include whether or not the taxpayer can manage their affairs themselves, checking what services are covered, and looking at reviews. It also covers what being a member of a professional body means.

www.gov.uk/guidance/how-to-choose-a-tax-agent

1.5 HMRC civil tax dispute resolution procedure

HMRC has published information about its internal procedures for resolving civil tax disputes.

This covers the general approach, including the HMRC charter, and how HMRC maintains fairness internally. It briefly explains the alternative dispute resolution procedure, reviews, appeals, the GAAR, accelerated payment notices, and follower notices.

www.gov.uk/government/collections/how-hmrc-resolves-civil-tax-disputes

2. Private client

2.1 Higher rate of income tax to remain in place

The Chancellor has announced that his planned abolition of the higher rate of income tax will not go ahead.

The Chancellor announced, that the higher rate of income tax would be abolished from 6 April 2023, as part of his Growth Plan on 23 September. The proposed abolition of the band garnered significant press coverage given that, as with a number of the measures announced, it is those on the highest levels of income who would benefit the most. The proposal was not widely well received and the Chancellor confirmed on 3 October that this abolition will no longer go ahead.

www.bbc.co.uk/news/uk-63114279

2.2 SDLT discovery assessment valid

The FTT has found that a discovery assessment can be valid, even if one particular discovering officer cannot be named.

The taxpayer then a QC, purchased the property in 2008, and submitted an SDLT return stating that the consideration was £120,000. Almost five years later, HMRC raised the issue that the Land Registry had consideration recorded as being much higher, and that the taxpayer was thought to have used an ineffective SDLT mitigation scheme. The taxpayer's disagreement was rejected in 2017.

The issue of the SDLT due was not before the FTT, merely the validity of the discovery assessment. HMRC had investigated this return after a stamp office became concerned about many taxpayers using SDLT reduction schemes. This return was flagged up when historic SDLT returns were reviewed to find any with this issue. This was a team effort, and HMRC could not identify one individual officer responsible for the discovery. The FTT found for HMRC that if it is evident that an officer must have made the discovery, then the particular officer does not need to be identified. It also found that the other tests for validity, including the reasonable belief of an officer that there was a loss of tax, was met. The discovery assessment was upheld.

Wilby v HMRC [2022] UKFTT 348 (TC)

www.bailii.org/uk/cases/UKFTT/TC/2022/TC08589.html

2.3 HMRC factsheet on penalties for facilitating avoidance schemes

This document sets out details about the information notices that may be issued if HMRC suspects an individual may be liable for a penalty for facilitating an avoidance scheme involving a non-resident promoter.

It explains what an information notice is, what happens if it is not complied with, and the appeal rights, among other general information.

www.gov.uk/government/publications/compliance-checks-information-notices-penalties-for-facilitating-avoidance-schemes-involving-non-resident-promoters-ccfs71

3. Tax publications and webinars

3.1 Webinars

The following client webinars are coming up soon.

- 13 October - [Editions by Evelyn Partners: Employment Ownership Trusts](#)

4. And finally

4.1 Hopping around the year

So, that's the Autumn Budget off again (article 1.1). Not that we didn't get plenty of tax announcements in September, but given the record of the last few years, *And finally* is starting to wonder if the move of the Budget from Spring to Autumn is actually remembered at all levels of Government.

Spring is a lovely time of the year, but knowing when to expect a Budget could almost be lovelier.

Glossary				
Organisations		Courts	Taxes etc	
ATT – Association of Tax Technicians	ICAEW – The Institute of Chartered Accountants in England and Wales	CA – Court of Appeal	ATED – Annual Tax on Enveloped Dwellings	NIC – National Insurance Contribution
CIOT – Chartered Institute of Taxation	ICAS – The Institute of Chartered Accountants of Scotland	CJEU – Court of Justice of the European Union	CGT – Capital Gains Tax	PAYE – Pay As You Earn
EU – European Union	OECD – Organisation for Economic Co-operation and Development	FTT – First-tier Tribunal	CT – Corporation Tax	R&D – Research & Development
EC – European Commission	OTS – Office of Tax Simplification	HC – High Court	IHT – Inheritance Tax	SDLT – Stamp Duty Land Tax
HMRC – HM Revenue & Customs	RS – Revenue Scotland	SC – Supreme Court	IT – Income Tax	VAT – Value Added Tax
HMT – HM Treasury		UT – Upper Tribunal	LBTT – Land and Buildings Transaction Tax	

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